



STATE OF WASHINGTON

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

February 10, 2009 Monthly Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the February 10, 2009 monthly meeting to order at 905 Plum Street S.E., Room 301, at 1:30 p.m.

2. ROLL CALL

Council members present were:

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

Staff in attendance were:

Allen Fiksdal – EFSEC Manager, Stephen Posner – Compliance Manager, Jim La Spina – EFS Specialist, Kyle Crews - AAG AGO, and Tammy Talburt - Administrative Assistant.

Guests in attendance were:

Mark A Miller – PacifiCorp Chehalis, Travis Nelson - WDFW, Robert Nielson – Energy Northwest, Greg Cullen – Energy Northwest, David Steeb – Desert Claim Wind Power, Kirk Deal – PNWRCC, Mark Anderson – Community Trade & Economic Development, Scott Williams – PSE, Darrel Peeples – Attorney, Steve Johnson – Triad Associates and Tim McMahan – Stoel Rives.

Guests attending via phone:

Jennifer Diaz – PSE, Karen McGaffey – Perkins Coie, and Kyle Davis – PacifiCorp.

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 January 13, 2009 monthly meeting minutes and January 22, 2009 special meeting minutes for the Council's approval.

Motion: Council member Wilson moved the Council approve the January 13, & 22, 2009 meeting minutes with edits from the Council. The motion was seconded by Council member Fryhling. The motion was approved.

5. PROJECT UPDATES

Desert Claim Wind Power Project

<i>Project Update</i>	<i>David Steeb, Desert Claim</i>
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Chair Luce gave a short history of the Desert Claim Wind Power project for which the Council received a Revised Application on February 6, 2009. The project was first presented to EFSEC November 3, 2006 after being initially filed with Kittitas County. The project was last before the Council on May 8, 2007. There is a Council order that is relevant, Council Order No. 830, which the Council determined the applicant satisfied the rule requirement that all reasonable efforts to satisfy non-compliance with land use have been made and provided an additional 30 days to work with Kittitas County. The application has been on hold since that time. Chair Luce noted that there was one intervening event which may impact this application and that was the Kittitas Valley litigation which was decided on November 20, 2008. Mr. Luce said in the Revised Application the project proponent is seeking an extension of the application process until December 31, 2009. Chair Luce also reported that with the submission of the Revised Application there will be a Supplemental Environmental Impact Statement (SEIS) issued and then the process calls for the start of the adjudicative process with intervention of parties and adjudicative hearings.

Mr. David Steeb, Desert Claim Wind Power presented the Council with a reconfigured map of the project site. As originally presented to the Council in 2007 there were 90 – 2 megawatt turbines proposed for an output of 180 megawatts. The reconfigured site has 95 – 2 megawatt turbines for an output of 190 megawatts. Mr. Steeb said the changes that occurred were a result of the Kittitas Valley project and the Council’s determination for a set back from existing non-participating residences to turbines of 4 times the turbine height. He noted that in original discussions with Kittitas County planning staff the County wanted a set back of 2500 feet. Mr. Steeb said that the original site layout would have had 29 non-participating residences within 2500 feet of a turbine. He reported that the reconfiguration has dropped the non-participating residences within 2500 feet of a turbine to 7. Part of the reconfiguration is a 500 acre increase in the size of the project. Mr. Steeb stated that Desert Claim has been diligent to reduce the impact to non-participating land owners with the revised project.

Council member Wilson asked for clarification of the extension period, would the December 31, 2009 be to begin adjudication or complete adjudication? Chair Luce stated that he didn’t know if the adjudication would be completed but that he assumed that the December 31st extension would be enough time to complete the adjudication. Mr. Allen Fiksdal, EFSEC Manager stated that extensions could be granted in the event adjudication was not completed. Chair Luce reiterated that a multitude of extensions would not be the preferred route to accomplish the process, but that it would be preferred to complete the adjudication within the time allotted prior to December 31, 2009.

Motion: Council member Fryhling moved the Council approve the extension of the application review period to December 31, 2009. The motion was seconded by Council member Byers. The motion was approved unanimously.

Mr. Fiksdal reviewed the process for issuance of a Supplemental Environment Impact Statement (SEIS). First, Desert Claim has submitted additional information to update the SEIS, second, staff is working on amending the contract with the consultants. The process is slow due to the Governor's freeze on personal service contracts; the process requires that Community Trade and Economic Development (CTED) Director approve the contract prior to submission for the amendment to the Office of Financial Management (OFM). Third, staff intends to have the SEIS available in draft form to be released in March which will include a 30 day comment period for the SEIS. Fourth, there will be a discussion with the Administrative Law Judge (ALJ) to determine when the issuance of the notice of interventions will be released.

Chehalis Generating Station

<i>Project Update</i>	<i>Mark Miller, Chehalis Power</i>
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Mr. Mark Miller, Chehalis Power, reported that there has not been a lost time accident at the facility in 2300 days. Chehalis Power maintains an effective safety program through a behavioral-based approach.

Mr. Miller reported that the second of four sets of Green House Gas testing was completed during the week of February 3, 2009. The test results have been sent to Southwest Clean Air Agency (SWCAA) and EFSEC. Relative Accuracy Test Audit (RATA) and biennial Compliance tests were conducted the week of February 3, 2009. Preliminary data indicate no issues, but Chehalis Power is waiting for the actual results. Particulate testing will occur in March 2009. There were no storm water exceedances in the past year. Site had one exceedance for zinc during the January testing (spec 1.4 ppm, reading was 2.1 ppm); resample indicated a zinc level of 0.122 ppm. (it has been more than 3 years since the last exceedance) The site remains in excellent shape. Currently, the plant is fully staffed at 18 employees.

Mr. Miller said the Plant was shut down for almost the entire month of January. In addition, public concern regarding plant noise has greatly diminished in the past two years and Chehalis Power has received no complaints about the noise in over a year, while plant personnel continue to conduct routine daily noise tests on-site and weekly off-site, as required by the Site Certification Agreement.

<i>Greenhouse Gas</i>	<i>Jim La Spina, EFSEC Staff</i>
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Mr. La Spina reported to the Council that PacifiCorp had filed a request for certification that the project is in compliance with the emission performance standards for greenhouse gases under RCW 80.80. Staff had forwarded to the Southwest Clean Air Agency (SWCAA) for verification of the data submitted by the project. SWCAA recommended approval based upon calculations that showed the project was emitting 895 pounds of carbon dioxide per megawatt hour and below the 1100 pounds of carbon dioxide per megawatt hour limit. The staff informed the Council that based on the SWCAA recommendation it intended to issue a certification letter on the Council's behalf.

<i>Request for Proposal</i>	<i>Kyle Davis, PacifiCorp</i>
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Mr. Kyle Davis, PacifiCorp reviewed several sections of the Draft Request for Proposal (RFP) for Washington Carbon Offset Projects with the Council. In particular he outlined Section 2.1 Project Type the listed the projects to be considered eligible for consideration. These projects must demonstrate either:

1. forestry terrestrial sequestration,

2. livestock-related methane capture,
3. landfill-related methane capture project, or
4. geologic sequestration.

Chair Luce inquired as to the reason the RFP limited the project types to just four types. Mr. Davis stated that the first 3 are called out as part of the Western Climate Initiative Offset Program which had been identified in the original Cap & Trade Program. There was a focus on forestry and agriculture because there was more information provided from the two workgroups. He noted that geologic sequestration was relatively straight forward, it is just a matter of developing a methodology; however, at this time several regulatory and economic issues must be resolved before geologic sequestration becomes a viable option. He also said that the technology for the landfill option was understood and is a popular project to pursue in Washington.

Council member Byers expressed concern of tying the project to a protocol that may or may not be used by the Department of Ecology. Mr. Fiksdal noted that there were other protocols available within the RFP. . Chair Luce requested that Section 2.4 items 1-4 not be a requirement of determining a viable project. Mr. Davis stated that items 1 & 2 are needed to enable the forestry and agriculture projects. Item 4 could be modified to say "modifications to the protocol IF necessary" and strike the rest. Council members noted agreement on those edits. Mr. Davis said the RFP would be forwarded to the PacifiCorp procurement department and sent out by the end of February. Mr. Davis asked for a determination on the time period for which the RFP would be open. Staff will be advising Mr. Davis later in the week on any changes to the time frame offered in the draft RFP.

Columbia Generating Station

<i>Project Update</i>	<i>Robert Nielson, Energy Northwest</i>
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Mr. Robert Nielson, Energy Northwest (ENW), reported to the Council that Columbia Generating Station is offline. The Station automatically disconnected from the electrical grid at 11:25 a.m. on Sunday. The plant automatically shutdown when monitoring equipment indicated problems with systems that regulate steam flow across the blades of the main turbine. The turbine drives the plant's generator to produce electricity. The facility was online for 80 days when the plant systems safely shut down the reactor.

The plant will remain in a safe, stable shutdown condition while crews investigate and repair the Turbine Control System. We estimate the plant will remain offline for no less than two days. The Bonneville Power Administration has already made arrangements to replace the electricity output from the plant. Energy Northwest has issued a press release regarding the shutdown.

On January 27, 2009, Energy Northwest provided EFSEC with an NPDES Discharge Noncompliance Summary letter describing actions taken to correct the noncompliance. Following the January 8, 2009 NPDES compliance inspection at Columbia Generating Station, a final summary letter was provided to EFSEC. An Operations and Maintenance (O&M) document is currently being prepared and will be provided to EFSEC upon completion, which should be before the next council meeting in March 2009. Energy Northwest wants to acknowledge that the efforts of Mr. La Spina and Ms. Smith and Mr. Ayres of the Department of Ecology, during the site visit were beneficial in the resolution of the noncompliance issues.

On January 26, 2009, Energy Northwest submitted a notification letter and a project summary to EFSEC for a proposed CGS paint and blast facility to be located in

an unoccupied building at the Industrial Development Complex (IDC). The facility will be used by CGS personnel to support CGS coating activities. Ecology provided a technical review of the project proposal and provided recommendations to EFSEC. Energy Northwest anticipates an EFSEC Order will be issued for the project that will limit toxic air emissions.

Regarding the Ecology and EPA close-out inspection conducted in September and November 2008, a formal close out has yet to be scheduled. Ecology has proposed a formal on-site close out meeting; but to date, a meeting has not been scheduled. No issues have been identified.

Mr. Jim La Spina, EFS Specialist reported to the Council that the compliance inspection has been completed with the Department of Ecology. Ecology is preparing its recommendation which would be that Energy Northwest compiles a comprehensive operation and management plan for the circulating cool water system. The plan would be forwarded to Ecology's engineers for review. Ecology will not be recommending any further enforcement action for the NPDES non-compliance issues.

Mr. Stephen Posner, EFSEC Compliance Manager, requested Council consideration for an Order to allow ENW to conduct painting and blasting operations at Building 69, located at the Industrial Development Complex, also known as WNP 1-4. These activities will support operations at the Columbia Generating Station. The Department of Ecology has assisted EFSEC in reviewing the information submitted by ENW and recommends issuing the Order. This order will ensure that operations of the proposed facility are in compliance with all applicable air emissions requirements.

Mr. Fiksdal stated the Council member Adelsman shared concerns over the Council dealing with issues that are not directly related to the production of energy on the site. Mr. Fiksdal stated that if Ms. Adelsman were present she wouldn't vote for the order. Council member Fryhling stated that he shares Ms. Adelsman's concerns, and asked where does the Council's permitting authority end. Mr. Kyle Crews, Assistant Attorney General, said he has reviewed the Site Certification Agreement (SCA). Mr. Crews said the decision comes down to the Council determining if there is enough of a relationship between the paint shop and the production of energy. Chair Luce stated that the SCA addresses the land, not just the reactor itself but the associated facilities.

Motion: Council member Fryhling moved the Council approve the order for paint shop activities. The motion was seconded by Council member Byers. The motion was approved unanimously.

Council recessed at 2:35 pm for a public hearing.

Council resumed session at 2:45 pm.

Satsop Combustion Turbine Project

<i>Project Update</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Todd Gatewood, Grays Harbor Energy had been detained due to weather conditions but has submitted a report for the Council's review. Mr. Fiksdal drew the Council's attention to the activities Grays Harbor Energy has conducted on the Noise issues at the bottom of the handout.

Mr. La Spina reported that staff received an assurance of compliance that was required by the Notice of Incident issued by EFSEC in November 2008. The assurance of compliance explains the causes of permit noncompliance and the steps GHE staff

have taken to prevent future re-occurrences. GHE replaced the original pH neutralization system that proved to be inadequate. In addition, some exceedances were caused by errors in the permit due to the permit writer not having actual discharge data to calculate effluent limits. After GHE provides a comprehensive wastewater characterization, EFSEC staff will modify the effluent limits and sampling portions of the permit to reflect the actual discharge characteristics and operations of the facility.

Wild Horse Wind Power Project

<i>Project Update</i>	<i>Scott Williams, Puget Sound Energy</i>
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Mr. Scott Williams, Puget Sound Energy (PSE), reported that January Wind Production totaled 58,027 MWh with a capacity factor of 34.1%, giving the Wild Horse Wind Power Project an annual capacity factor of 34%. The Solar Demonstration Project generated approximately 36,842 KWh over the past month. There were no lost-time accidents or safety incidents to report for January. Results from the 4th Quarter 2008 Wildlife Incident Reporting and Handling System (WIRHS) were submitted to EFSEC and the TAC. Only three avian fatalities were documented during this quarter. None of them were turbine related; two were related to window collisions with the visitor center and one was due to an automobile collision. PSE is taking steps to protect birds from windows collisions at the visitor center by installing an anti-reflective material directly to the glass surface on some of the windows. The monthly Discharge Monitoring Report (DMR) for January was submitted to Ecology and EFSEC. Unseasonably high temperatures combined with a heavy rain storm the evening of January 6th caused snow drifts up to 3 feet deep in areas to melt rapidly. Overall the site and BMPs responded very well to this event. Other than a few maintenance needs all stormwater BMPs are in good condition and the site remains in compliance with the Operations SWPPP.

Mr. Allen Fiksdal, Council Manager, reminded the Council that Amendment No. 5 to the Site Certification Agreement (SCA) was approved at a special meeting on January 22, 2009. Staff has been working with PSE on the scheduling of the beginning of construction.

PSE presented EFSEC staff with notice that the ownership of PSE has been changed. Mr. Fiksdal determined that the Council rules requires no action by EFSEC or any change or amendment to the Wild Horse Wind Power Project Site Certification Agreement due to the up-stream ownership change of Puget Sound Energy.

6. INDEPENDENT QUALIFIED ORGANIZATIONS

<i>Request for Qualifications</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Mr. Allen Fiksdal, Council Manager reported to the Council that under Revised Code of Washington (RCW) 80.70 power plants are required to mitigate 20% of the carbon dioxide (CO₂) they emit and that they have a choice to achieve that mitigation through payments to a third party who would invest in CO₂ mitigation. RCW 80.70 also directed EFSEC to create a list of third party Independent Qualified Organizations from which those wishing to choose the third party payment option may select companies or an organization from the list maintained by EFSEC. A Request for Qualifications for Independent Qualified Organization was issued by the Council with a closing date of January 14, 2009.

Mr. Fiksdal reported that by the deadline three organizations submitted their qualifications on time to EFSEC. These were: Black & Veatch, The Climate Trust and ERM-West. The day after the deadline passed a company called 3Degrees Group

contacted Mr. Fiksdal and asked if they may submit a late application. Mr. Fiksdal told 3Degrees that they could submit their qualifications, but the Council would determine if it should be accepted.

Mr. Fiksdal and staff's review of the proposal's showed that The Climate Trust answered all the questions in the RFP and provided the information and data requested and were well qualified. Black & Veatch while voluminous answered all the questions which showed that much of their experience is in studies for energy projects but also have experience and expertise with the purchase/solicitation for projects that mitigate CO₂. Staff's general impression of ERM was that their experience and expertise was to conduct mostly studies for how industry could mitigate CO₂ not the purchase or implementation of CO₂ mitigation projects. Mr. Fiksdal also said that ERM would need to modify their organization to monitor offset and they didn't answer all the questions in the RFQ.

Mr. Fiksdal noted that the 3Degrees proposal demonstrated that they have the experience and expertise that would be required of an Independent Qualified Organization and that their operation was similar to the Climate Trust. Of the four organizations that submitted their qualifications, it is staff's recommendation that the proposal from 3Degrees be accepted and that Black & Veatch, The Climate Trust and 3Degrees Group be placed on the Council's Independent Qualified Organization List. Staff's recommendation did not include ERM-West.

Council member Byers wanted to know if the list was exclusive. Could the power plant choose someone not on the list? Mr. Fiksdal stated that the list is exclusive for that option that allows for the plant to select to pay a third party for up to 20 percent of mitigation. Mr. Fiksdal also noted that the Council only maintains the list; it doesn't have any obligation regarding the actual performance of the firms placed on the list.

Motion: Council member Fryhling moved the Council accept the late submittal of 3Degrees and approve Black & Veatch, the Climate Trust and 3Degrees Group to be placed on the list maintained by the Council. The motion was seconded by Council member Byers. The motion was approved unanimously.

Mr. Fiksdal asked the Council for direction on what the list should look like, what information should appear on the list that would be placed on EFSEC's website. The Council requested that the website should list the company name, their website, and a contact person. Chair Luce stated that there needs to be a disclaimer in the purpose of the list and EFSEC does not warrant or represent that companies are approved for anything other than being on the list. That those seeking CO₂ mitigation should do their own due diligence with respect to listed firms as appropriate.

7. OTHER

Legislation	<i>Jim Luce, Chair</i>
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Chair Luce stated that EFSEC does not have any requested legislation and there are not current bills that impact the Council. He noted that the Governor has announced that she will be abolishing some boards, councils and commissions, but EFSEC is not one of those being abolished. The Governor has also announced that she may be retooling the Department of Community Trade and Economic Development (CTED) into a Department of Commerce. This restructuring could affect how the EFSEC staff are positioned within a division of the restructured agency.

Mr. Fiksdal stated that there are some interesting bills in the legislature, one that would require significant legislative rules are approved by the Governor, a bill on adjudicative proceedings that would add certain sentences and descriptions in notices of adjudication. Another bill would require that all public meetings be recorded and documented. Another bill that would possibly impact EFSEC it is HB 2002 – concerning the generation of electricity in carbonless energy parks, amending RCW 80.50.300 creating a new section. Mr. Fiksdal read a new section of the bill: “If a certificate holder requests a modification of the site for the purpose of creating a carbonless energy park, the council must amend the site certification agreement to release those portions of the site for use as a carbonless energy park. For all or a portion of sites that have been released after January 1, 2009, the following condition applies: The department of ecology must continue any authorization under the site certification agreement for the use of water at an energy park in good standing and bearing the same date as the issuance of the site certification agreement for an amount of water up to thirty cubic feet per second as requested by, and for use by, the recipient of all or a portion of the site. The certificate holder shall assign such authorization to the recipient of such site.” Mr. Fiksdal stated that in his opinion it was not a very good bill because it has the legislature determining water issues which are controversial and should be guided by water law not by the legislature. . If this bill were to become a law it could set a precedent that other authorizations that EFSEC may issue for new projects could be commandeered again by the legislature. Chair Luce agreed with Mr. Fiksdal, that if the project doesn’t exist then the water authorizations shouldn’t either.

Mr. Fiksdal reported that another bill would require placement of special meeting notices at the main entrance of agency’s principle location if the meeting is not being held in that location. Another bill requires that all the meeting agendas would need to be placed on the agency website. Mr. Fiksdal noted that all of EFSEC’s meeting agendas are placed on its website.

Chair Luce mentioned the small wind bill which sets the standards for small wind projects, and provides that they can be licensed by local jurisdictions, upon following the standards. Those small wind facilities could now come to EFSEC under expedited processing. Chair Luce also noted that there are 12 difference bills to amend I-937.

8. ADJOURN

The meeting was adjourned at 3:13 pm.