WASHINGTON STATE

ENERGY FACILITY SITE EVALUATION COUNCIL

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Conference Room 206
Olympia, Washington
Tuesday, July 15, 2014
1:32 p.m.

MONTHLY COUNCIL MEETING
Verbatim Transcript of Proceeding

REPORTED BY:  SHERRILYN SMITH, CCR# 2097

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Council Members Present:

Bill Lynch, EFSEC Chair
Liz Green-Taylor, Department of Commerce
Cullen Stephenson, Department of Ecology
Andrew Hayes, Department of Natural Resources
Joe Stohr, Fish and Wildlife

Attorney General's Office:
Ann C. Essko, Assistant Attorney General

Local Government and Optional State Agency:
Bryan Snodgrass, City of Vancouver
Larry Paulson, Port of Vancouver
Jeff Swanson, Clark County
Christina Martinez, Department of Transportation

Staff in Attendance:
Stephen Posner
Sonia Bumpus
Jim LaSpina
Tammy Talburt
Kali Wraspir
Joan Aitken

Guests in Attendance:
Mark Miller, PacifiCorp Energy
Rich Downen, Grays Harbor Energy
Jennifer Diaz, Puget Sound Energy
Haley Edwards, Puget Sound Energy

Guests in Attendance Via Phone:
Shannon Khounnnala, Energy Northwest
Eric Melbardis, Kittitas Valley Wind Power Project
OLYMPIA, WASHINGTON, JULY 15, 2014

1:32 p.m.

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PROCEDINGS

CHAIR LYNCH: Good afternoon and welcome. Today is July 15th, 2014, and it's the regular Council meeting of the Energy Facility Site Evaluation Council. Could we please have Staff call the roll.

MS. TALBURT: Department of Commerce.

MS. GREEN-TAYLOR: Ms. Green-Taylor here.

MS. TALBURT: Department of Ecology.

MR. STEPHENSON: Cullen Stephenson here.

MS. TALBURT: Fish & Wildlife.

MR. STOHR: Joe Stohr is here.

MS. TALBURT: Department of Natural Resources.

MR. HAYES: Andy Hayes is here.

MS. TALBURT: Utilities and Transportation Commission.

CHAIR LYNCH: Mr. Moss is excused.

MS. TALBURT: Local governments and optional state agencies. Department of
Transportation.

MS. MARTINEZ: Christina Martinez here.

MS. TALBURT: City of Vancouver.

MR. SNODGRASS: Bryan Snodgrass here.

MS. TALBURT: Clark County.

MR. SWANSON: Jeff Swanson is here.

MS. TALBURT: And Port of Vancouver.

MR. PAULSON: Larry Paulson is here.

MS. TALBURT: Chair, there is a quorum.

CHAIR LYNCH: Thank you.

I would like to make one small change in the order of the agenda that you have in front of you today. The update on the Wild Horse Wind Power Project will follow the update from the Grays Harbor Energy Center.

Are there any other suggested changes or additions to the agenda?

MR. STEPHENSON: No.

CHAIR LYNCH: Seeing none, we will just go ahead and I would entertain a motion for approval of minutes from the June 17th, 2014 Council hearing.

MR. STEPHENSON: I will move approval of those minutes.

CHAIR LYNCH: Do we have a second?

MS. GREEN-TAYLOR: I'll second.
CHAIR LYNCH: It's been moved and seconded that the Council approve the meeting minutes form the June 17th, 2014 hearing. All those in favor say aye.

MULTIPLE SPEAKERS: Aye.

CHAIR LYNCH: Opposed? Motion carries.

So let's go ahead and turn to the updates from our various facilities. Mr. Melbardis, Kittitas Valley Wind Project.

MR. MELBARDIS: Good afternoon, Chair Lynch and EFSEC Council. This is Eric Melbardis with EDP Renewables for the Kittitas Valley Wind Project. We have nothing nonroutine to report for this month.

CHAIR LYNCH: Very good. Any questions for Mr. Melbardis?

I am remiss. I wanted to do something before we got to those updates. First of all, it's to introduce a new Staff person, Joan Aiken.

Joan, do you want to raise your hand so that the councilmembers know what you look like?

MS. AIKEN: (Complies.)

CHAIR LYNCH: Joan is an administrative assistant in our office and she fills in very well for Kali, who -- who knows where she went at the moment. Anyway, Joan, we are pleased to have you on board and
welcome.

And also I wanted to let the councilmembers know that Administrative Law Judge Adam Torem will be leaving the UTC at the end of the month. So Adam has provided a lot of good advice to the Council over the years. And this is not the final good-bye at this time, but we want to thank Adam for his good service to the Council.

And I also forgot to ask, is there anybody on the phone who chooses to identify themselves at this time?

MR. BRICKLIN: Yes. This is Dave Bricklin. I am representing Friends of the Columbia Gorge.

MS. BOYLES: Kristen Boyles, Chairman Lynch, with Earthjustice representing several conservation groups.

MS. LARSON: This is Linda Larson representing Columbia Waterfront, LLC.


CHAIR LYNCH: Okay. Very good. And can we now move forward and hear from Ms. Khounnala, Columbia Generating Station and WNP 1 and 4.

MS. KHOUNNALA: Good afternoon, Chair
and EFSEC Council. For the record, this is Shannon Khounnala from Energy Northwest, and I will begin with the Columbia Generating Station operational update. As you can see from your packet, there are no events or safety incidents or regulatory issues to report.

I would like to mention to the Council, however, that the end of June marks the end of Columbia's fiscal year and this has been a record-setting year for Columbia where we have achieved a record 9.7 million megawatt hours of generation this fiscal year. In addition, we are currently in a record-setting pace of 385 days of continuous online operations, and we have now achieved four and a half years without an unplanned shutdown.

So those are a few of the highlights amongst many other records that we have achieved this fiscal year that we are really proud of and happy to have achieved, and we thought we had pass that information along to the Council.

CHAIR LYNCH: Thank you, Ms. Khounnala. Does anyone have any questions for Ms. Khounnala regarding the Columbia Generating Station?

Ms. Khounnala, just go ahead and proceed to WNP 1 and 4, then.
MS. KHOUNNALA: Sure. In regards to the WNP 1 and 4 water rights process, the public notice for the water rights application, which is being submitted on our behalf by the Department of Energy, was posted for the first week on June 24th/25th time frame. It was posted for a two-week period. Following completion of that, the Department of Energy will provide the Department of Ecology with notice of the completion of that public notice, and our water rights application process will continue. We believe that there will be a site visit with the Department of Energy, as well as the Department of Ecology, that will happen later this summer as part of that application process. So we continue with the process as of now.

Any questions?

CHAIR LYNCH: Any questions for Ms. Khounnala?

Very good. Thank you.

MS. KHOUNNALA: Thank you.

CHAIR LYNCH: Let's turn to Mr. Miller at the Chehalis Generation facility. It's always good to see you, Mr. Miller.

MR. MILLER: Yes, it is as well.

Good afternoon, Chair Lynch and EFSEC
councilmembers. My name is Mark Miller, I am the plant manager at the PacifiCorp Energy Chehalis Generating facility.

I have one nonroutine comment regarding the update on the path forward to committing the balance of the carbon offset mitigation funds. PacifiCorp Environmental staff, policy staff, and I met with Mr. Posner and Mr. LaSpina on the 24th of June. We discussed options to complete in a timely fashion the financial commitment for greenhouse gas mitigation as per the EFSEC order 836. As noted in the last segment of this report, we are moving forward on two fronts. One is a proposed energy efficiency improvement that's consistent with our greenhouse -- the greenhouse offset strategy plan originally approved by EFSEC, and also Initiative 937. And I provided to Mr. LaSpina a report that was generated by a consultant issued last May of 2013 on some of those projects that we could implement that also would receive a secondary benefit of carbon production.

The second is related to the farm power project that has produced some more offsets than previously had -- they had forecasted, so possibly contracting for additional offsets. And as I stated in the report, our commercial and trading folks are --
have entered into those conversations.
   And that's all.

   CHAIR LYNCH: Good. I'm pleased to hear the progress that is being made to address the carbon offset.

   Mr. LaSpina, is there anything that you would like to add?

   MR. LASPINA: No, Chair Lynch.

   CHAIR LYNCH: Thank you.

   Does anyone have any questions for Mr. Miller?

   Thank you, Mr. Miller.

   MR. MILLER: Thanks.

   CHAIR LYNCH: Mr. Downen, Grays Harbor Energy Center. Now I feel compelled to say it's nice to see you as well. I started down that road and I have to say it for everybody.

   MR. DOWNEN: Thank you, Chair Lynch, EFSEC Council and Staff. My name is Rich Downen, I'm the plant manager at Grays Harbor Energy. In our monthly report for the month of June, the only out of ordinary things were Item 5, site visits. We had an Office of the State Fire Marshal visit, and an annual inspection, and he had three deficiencies: A couple of doors that didn't close, didn't latch, but we repaired those while he was on site, and the annual
emergency lighting testing that we do, and the annual
fire protection sprinkler system testing wasn't done
at the time of this visit. It's scheduled for July.
He is going to come back in August and just see the
results of those.

And the only other out of normal item is that
we are fully staffed for the first time in a while, so
that's nice. That's all I have.

CHAIR LYNCH: Very good.

MR. DOWNEN: That is very good. That's
all I have.

CHAIR LYNCH: Are there any questions
for Mr. Downen?

Mr. Stephenson.

MR. STEPHENSON: This isn't specifically
for Mr. Downen. But if I am getting it right, and I'm
starting to keep a notebook on these things, this is
maybe the third time I've heard hatches as an issue.
Two of them got people on the finger. I'm just --
there was -- it's not you, but you and others, so I
just -- are we doing good hatch safety? If we want to
have safe operations around here, I just want to make
sure that we are doing that.

MR. DOWNEN: So hatch safety. I'm
not -- so this was -- these items that I mentioned
were like the door leaving this room in our office building that just didn't latch.

    MR. STEPHENSON: Okay.

    MR. DOWNEN: So you had to adjust the closing mechanism just so it would latch shut. I think we are talking about some different things. I think you are talking about a spring-closed door that might have gotten somebody's finger in one of -- I forget which report it was in the past few months, but it wasn't from our facility.

    MR. STEPHENSON: Okay.

    MR. DOWNEN: I think we are talking about two different things. But that is something that we do have a policy for. Those are more of the fire doors that are spring-shut. These were just regular office doors that weren't fire-rated doors, they are just normal, like a door to my office or something like that.

    MR. STEPHENSON: Okay. Thank you.

    MR. DOWNEN: Does that answer your question?

    MR. STEPHENSON: Yes.

    MR. DOWNEN: Okay.

    CHAIR LYNCH: Any other questions?

    Thank you, Mr. Downen.
MR. DOWNEN: Thank you.

CHAIR LYNCH: And we are pleased to have Ms. Diaz here with Puget Sound Energy to put a face with a voice now.

MS. DIAZ: All right. Thank you, Chair Lynch and councilmembers. For the record, my name is Jennifer Diaz, I'm the environmental manager for Puget Sound Energy at the Wild Horse Wind facility. I'll be providing the operational update today. To my right is Haley Edwards, she's the senior resource scientist for Puget Sound Energy and she will be providing information regarding the avian incident that's listed on the agenda.

I only have two nonroutine items to update you on for the operational update under Safety and Compliance and Environmental. Under Safety, no lost time accidents or safety incidents to report in June. Site staff participated in fall protection, rescue training and annual first-aid/CPR refresher training.

And under Compliance/Environmental, invasive weeds are being sprayed in accordance with the postconstruction range land management and grazing plan.

In addition, I would like to extend an invitation to councilmembers to visit Wild Horse, for
those of you who have not been able to yet. So anytime you are more than welcome.

And Haley will take it from here.

CHAIR LYNCH: Thank you.

MS. EDWARDS: So during the wind turbine maintenance on June 18th, Vestas technicians discovered the remains of a raptor near wind turbine F2 and reported it to PSE's environmental manager on site, Jennifer Diaz. In accordance with our wild life incident reporting and handling system, the environmental manager responded immediately to the incident location and collected data, took photos and retrieved the raptor. Our avian protection group, which is myself and Mel Walters, we were contacted and we conducted a site visit the next day, June 19th, to confirm what type of bird it was. We determined it was a juvenile golden eagle.

While investigating the area we also found a second golden eagle about 50 yards away. And it appeared that the two incidents happened at the same time, and we took additional data and photos for that second bird.

In accordance with our site certification agreement and our fish and wildlife service special utility permit, we immediately notified Fish &
Wildlife Service Office of Law Enforcement, who is Corky Roberts, our agent, WDFW, Justin Allegro and Mike Ritter, and Mike Ritter and Jim LaSpina. In addition, we also submitted data to the U.S. Fish & Wildlife Service Regional Migratory Bird Permitting Office, as required by our special purpose utility permit.

The following Monday, June 23rd, we met with our enforcement agent on site to discuss the incident and conduct a site visit at F2, and we transferred the eagles directly to him at that time. We provided him with the baseline incident wildlife report for both Phase 1 and 2, which includes the preconstruction raptor nest surveys. We also provided additional documents to Agent Roberts. Both Phase 1 and Phase 2 postconstruction raptor nest and Lek surveys, our monitoring reports, the WDFW comments to EFSEC regarding expansion, and also on the SEIS for the expansion area. We also provided copies of our bird and bat conservation strategies documents and our corporate avian protection plan.

I have a little bit of background information regarding the preconstruction nest surveys and the fixed-point avian use surveys, and WEST do those surveys. WEST determined that the overall risk to
golden eagles is low at the site and predicted that a few individuals would glide with the turbines during the life of the project.

We have maps of our preconstruction golden eagle flight paths. There have been no active golden eagle nests identified within two miles of the project. The WDFW confirmed that the nearby nest was not active this year. And during those preconstruction surveys, no golden eagles were observed in flight in that area.

During postconstruction monitoring, F2 is included in the monitoring plot with F3 in 2007. There were no birds identified at that turbine during those surveys. There were a few birds that were found along the F-string turbines, including a kestrel, a kinglet and some other small birds at F3 and F4, and one unidentified small bird at F5 in 2010.

We also have many BMPs and avian protection measures that we have implemented on site, including avian safe power line design, a carcass removal program to reduce the number of eagles that would be attracted to the site.

For the next steps, we are working cooperatively with the Fish & Wildlife Service law enforcement to resolve this. We are planning to
develop an eagle conservation plan which we communicated with the service back in February when we met. We will continue to work on that.

Because the U.S. Fish & Wildlife Service law enforcement is the lead agency responsible for enforcing the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act, this incident is under federal jurisdiction of the Fish & Wildlife Service. U.S. Fish & Wildlife Service Office of Law Enforcement and the Department of Justice will ultimately determine the outcome of this incident, including any proposed mitigation.

They are currently reviewing preconstruction surveys and protocol, our raptor nest surveys, prior consultation and our postconstruction monitoring results. The DOJ and U.S. Attorney are requesting a meeting with PSE's attorneys to discuss options for resolving this case and moving forward with an eagle conservation plan and applying for an eagle take permit under the Bald and Golden Eagle Protection Act.

We will be notifying the TAC of this incident at our upcoming meeting this Thursday, July 17th. And according to the SCA the purpose of TAC is to ensure that monitoring data is considered in a forum in which independent and informed parties can collaborate with
the certificate holder and make recommendations to EFSEC if the TAC deems additional studies or mitigation are warranted to address impacts that were either not foreseen in the application or the environmental impact statement, or exceeds impacts that were projected.

This incident is within the predicted level of take, and is under the authority of the U.S. Fish & Wildlife Service. U.S. Fish & Wildlife Service will determine what course of action is required to resolve this case, including any proposed mitigation.

Although the TAC has no direct role in this incident or enforcement authority over the Bald and Golden Eagle Protection Act, PSE will provide ongoing updates to the TAC as this case progresses.

As a condition of the SCA, EFSEC has the authority over approving additional mitigation that is recommended by the TAC in response to impacts that were not foreseen or exceeded projected impacts. However, EFSEC does not have the authority over the enforcement of the Bald and Golden Eagle Protection Act, which is under the jurisdiction of U.S. Fish & Wildlife Service Office of Law Enforcement and DOJ.

PSE is committed to open communication with EFSEC and will continue to coordinate with the Council
as this case progresses. EFSEC will be informed of any proposed mitigation that is identified through consultation with Fish & Wildlife Service.

CHAIR LYNCH: Thank you. I'm sure there will be some questions for you and I will start off with one. Can you please tell me what the nature of an eagle conservation plan would look like?

MS. EDWARDS: Yes, the Fish & Wildlife Service has developed an eagle conservation plan guidance. It has kind of step-by-step instructions on how to develop that eagle conservation plan. It involves looking at your preconstruction survey protocol and postconstruction monitoring and doing some risk modeling to look at what the level of risk of eagles on site would be. And then you develop some, what they call advanced conservation practices, so things that will provide additional benefit to birds. And then if there is any additional take, then you look at compensatory mitigation.

It's a new process and so it looks at what the population can sustain in our region. It looks at the larger population and -- and it will be done in consultation with Fish & Wildlife Service.

CHAIR LYNCH: I know some facilities, wind facilities have -- I'm not sure if I'm saying
this correctly, but perch inhibitors or something to prevent perching particularly of raptors. Is this something that's being done at your facility or is that something that would make sense at your facility?

MS. EDWARDS: Well, our transmission lines and our -- transmission lines don't pose much electrocution risk to raptors because of the spacing of the conductors, and not much collision risk because of the size of the conductors, they are very visible. Also our distribution line there, where there is smaller spacing, we have wide enough crossarms where there is sufficient spacing between conductors.

The perch discouragers work in limited applications. Mel Walters and myself are members of the Avian Power Line Interaction Committee, so we are very familiar with the suggested practices for avian safe power line design. We did consider that at the site. We have also marked any guide wires on towers that we have. But yeah, we have used avian safe design.

CHAIR LYNCH: And the technical advisory committee includes a representative of U.S. Fish & Wildlife Service?

MS. EDWARDS: Correct.

MS. DIAZ: Gregg Kurz is his name.
CHAIR LYNCH: Okay.

MS. DIAZ: He's out of Wenatchee.

CHAIR LYNCH: And the TAC meets a couple
days from now?

MS. DIAZ: Thursday.

CHAIR LYNCH: I would expect that
following that meeting, you will be contacting
Mr. LaSpina of Staff and we can have another update
next month?

MS. DIAZ: Jim will be at the meeting in
person.

CHAIR LYNCH: Very good.

Are there any other questions from the
Council? Mr. Stohr.

MR. STOHR: Thank you, Haley. Would you
consider these kinds of impacts as being not foreseen
or exceed projected? I guess you dealt with the
projected, but...

MS. EDWARDS: Yes, this was not an
unforeseen impact. This is within the limits of what
was projected, yes.

MR. STOHR: So the TAC discussion around
mitigation will be to -- how does that go? How does
that work?

MS. DIAZ: Well, any mitigation in this
case will be in consultation with U.S. Fish & Wildlife Service. Really, when we have the TAC meeting, we will be informing them of the process and will be providing them with ongoing updates as we work with U.S. Fish & Wildlife Service to resolve the case.

MS. EDWARDS: It's the Office of Law Enforcement.

MR. STOHR: So that discussion could go on for some time?

MS. EDWARDS: It could.

So we -- we did have a prior incident at another site and we were able to resolve the case, but it took two years, from the time that it occurred until it was resolved. To move forward with our eagle conservation plan and apply for a take permit, we need to resolve any previous take, which would include this incident.

MR. STOHR: Thank you.

CHAIR LYNCH: Any other questions?

MR. HAYES: Yes.

CHAIR LYNCH: Yes.

MR. HAYES: Thank you, Chair.

So the facility has been up and running for a number of years. I'm wondering if you could give me some insight into what determines sort of the time
frame for developing the eagle conservation plan. In other words, it's been -- obviously you have had the facility up and running for a number of years.

MS. EDWARDS: Yes.

MR. HAYES: What determines why it wasn't in place before now or what's the process you go through?

MS. EDWARDS: It's a brand-new mechanism under the Bald and Golden Eagle Protection Act. There was never an allowance for take under that act until very recently. And so they have just developed the eagle conservation plan guidance, and through the Avian Power Line Interaction Committee, we have had a lot of conversations with the service as they have developed this process. It is, it's just very new.

With our level of risk at our site, we weren't certain that it was the right choice for us. And more recently the service has been recommending that wind facilities in particular -- it's focused on wind at this time, that wind facilities in particular start moving in that direction and go through the process.

And so when we met with our agent in February, we asked him if this would be a good choice, you know, something for us to proceed with. His feeling was that it is. They feel that they are at a stalemate
because no one else has really gone through this process, at least in this area. They feel that it would be helpful for both parties, for us to move forward with it.

We just feel that it's -- it's the direction that things are going, and we were kind of watching to see if others were taking that first step. It's just -- they are just getting it started, so that's why.

MR. HAYES: Thank you. That's helpful.

CHAIR LYNCH: Thank you, Mr. Hayes.

My understanding is U.S. Fish & Wildlife Service is just in the process of adopting a new rule regarding eagle takes; is that right?

MS. EDWARDS: They are determining whether the duration of the project should be five or 30 years. I think that's the next decision that they are -- or that they -- there are questions about that, whether it should be five years or 30 years. There is a reevaluation after five.

CHAIR LYNCH: Thank you.

And I'm sorry, your last name again is --

MS. EDWARDS: Edwards.

CHAIR LYNCH: Edwards.

MS. EDWARDS: Yes.
CHAIR LYNCH: Thank you.

MS. GREEN-TAYLOR: Mr. Chair, I have a question as well.

CHAIR LYNCH: Yes. Ms. Green-Taylor.

MS. GREEN-TAYLOR: Just out of curiosity, how certain is it that the deaths were caused by collision with the turbine blades?

MS. EDWARDS: Fairly certain.

MS. GREEN-TAYLOR: Okay.

MS. EDWARDS: One of the birds was about 20 yards from the base of the turbine and the other was about 50 away. And we found bone fragments and other things that indicated that it was a turbine collision.

MS. GREEN-TAYLOR: Thank you.

CHAIR LYNCH: Thank you.

Any more questions for Ms. Edwards?

Thank you for -- both of you for being here today.

MS. EDWARDS: Thank you.

MS. DIAZ: Thank you.

CHAIR LYNCH: And we will look forward to your update next month.

MS. DIAZ: Sounds good.

MR. HAYES: Chair?
CHAIR LYNCH: Yes, Mr. Hayes?

MR. HAYES: I wonder if we might hear from Staff briefly about sort of what the role of the eagle conservation plans or this aspect of the SCA is, sort of what EFSEC's role would be moving forward.

CHAIR LYNCH: Mr. LaSpina, are you able to give us just a quick overview of what accompanied the Wild Horse Wind facility approval in terms of the avian monitoring plan and all of those other aspects?

MR. LaSPINA: Well, I can inform the Council that the -- I believe PSE just finished their routine avian monitoring efforts that were required by SCA. As far as the eagle protection plan in this incident, we -- as the PSE rep said, we don't have a large role in this situation. I would say that after U.S. Fish & Wildlife has finished its investigation and negotiated with PSE for mitigation or whatever the settlement is, we're not -- we don't really have a big role in this situation.

CHAIR LYNCH: I can probably follow up a little bit, Mr. Hayes. After this incident occurred, I pulled the SCA and looked through a number of documents for this facility and there was some required monitoring for a certain time period, though I think we might have reached the end of that routine
monitoring period.

The Technical Advisory Committee remains ongoing so that -- and they are the entity that kind of does the follow-up investigations for incidents like that and report back to us. And we are, as the licensing facility, licensing entity, we can require more -- we can require what we think we need from this facility if for some reason we think appropriate steps aren't being taken.

MR. HAYES: So is that to say that once the process is done with U.S. Fish & Wildlife Service, the TAC will review that process, the outcomes, and then will make an independent judgment about whether they feel like any additional mitigation or work is required?

CHAIR LYNCH: My understanding is they will be making recommendations to us and then we would have the final say.

MR. HAYES: Thank you.

CHAIR LYNCH: And, Ms. Diaz, if I said anything wrong, Mr. LaSpina, please wave your hand.

MR. LaSPINA: I guess in terms of context, just FYI to the Council, the wind farm proponent does a lot of up-front work when the project is being planned and constructed. For instance, the
turbines are sited in areas that are not likely to
impact avian life, those sorts of things. So I -- I
guess what I'm trying to say is a lot of up-front
planning went into the development of the wind farm
right up front.

I also reviewed sections of the EIS and the --
the EIS determined that the likelihood of harm to the
large raptors like the eagles was low, however, there
was some prediction that maybe over the life of the
project there may be some mortality. Actually, the
mortality at the Wild Horse Wind Farm is quite a bit
below what was predicted in the EIS.

That might give you a little bit of context to
this situation.

MR. HAYES: Thanks, I appreciate that,
Jim. I think my interest is in just, you know, when
we approve these sites, we look at the impacts as we
understand them at that time and those are based on
certain assumptions. I just want to make sure as we
move through the process that we are continuing to
reevaluate information as we have, the best
information that we do, and make adjustments as we
need to. I appreciate that feedback.

MR. LaSPINA: Yes. And the TAC has an
iterative function to -- to consider new developments
and that sort of thing, so...

    CHAIR LYNCH: You both make good points. Something just as simple as habitat improvement might be more -- as these types of birds move into the area, so the likelihood of incidents might increase. You are right, it is an iterative process that we just keep on top of.

    So I believe it's time for our Tesoro update. I believe Ms. Wraspir, are you going first or Ms. Talburt?

    MR. POSNER: Chair Lynch, Staff has a number of updates. What I would recommend, we have -- first off we would like to start with an update on the EFSEC website, and then Sonia can give an update on the review of the application for site certification, SEPA and environmental permits. And then I will give an update on our efforts concerning tribal consultation. And then lastly, we will talk about the land use consistency.

    CHAIR LYNCH: Ms. Wraspir, you can proceed whenever you are ready, or Ms. Talburt.

    MS. TALBURT: Good afternoon, Chair Lynch, Councilmembers. Kali and I would like to share with you today a resource that we hope will assist you in your evaluation of the EFSEC projects.
CHAIR LYNCH: Excuse me, I'm going to stop you just for a moment. Councilmembers, if you feel a need to move your chair to be able to see these screens at all -- oh, that's right, we have these monitors here as well. Please feel free to do what you need to do.

Please go ahead.

MS. TALBURT: We hope that the website will help assist you in evaluation of EFSEC projects. So it's at www.efsec.wa.gov. From the home page on the right side there is a link for projects under review. Right now there's Tesoro/Savage. And today we're going to look at the Tesoro/Savage pages.

Before we go there, on the home page is the Permitted. Below the Under Review section is a link for permitted projects and that's where the existing permitted projects are, and they have home pages like we'll see under Tesoro/Savage.

This is the main Tesoro page. There's a brief description of the project and applicant information, and there's a site map linked here for your review. And then back to the main Tesoro page. Under the main page there is a space for records, and there are several links there to individual pages with subjects such as Application.
We're going to go to the application page. This page is designed based upon the original application that was submitted in August of 2013. That's on the far left. The green column is the amended sections by section that was submitted in January of 2014. And then the changes are in the yellow column as incorporated. These changes were initiated by the technical review of the August 13th application.

The technical review was conducted by Cardno ENTRIX, EFSEC's consultant, WDFW, Ecology and DAHP, Department of Archaeology and Historical Preservation.

At the top of the original application and the top of the yellow column, the incorporated changes column, there are complete Volumes I and II versions. And then lower in the page there are by individual sections.

I believe that you also all have a CD of this information electronically.

So any questions on that?

The main page, back to the records section. This is the scoping comments page. The scoping comments are grouped in 100s. Agency scoping comments are all 22 in one group. Individual agency comments are at the bottom of the page. There's an index of
commenters by last name, so you would open that up -- sorry, I got ahead of her.

At the top of the page.

If you are looking for a specific comment by a specific individual, this is an index alphabetical by last name. You would identify the comment number.

Go back to the other page.

Identify which group it would be in, so 17 -- 1719. There. And then there are all -- there's 200 and some pages in this group, but there's 100 comments here.

Back to the main page. And the next page is public comments which is very similar to the scoping comments page. This page doesn't have an index to tell you who the comment belongs to, as the scoping page does, and Staff will work on that if Council believes that will be an asset. The land use link goes to a land use page. Here there are links for the transcripts, the notices, as well as scans of the exhibits that were submitted in writing at the land use hearing.

Back to the main Tesoro page, please.

And then we have Recent Activities below Records. Staff updates this section with activities on the project review. It's also a quick link to
notices, scoping comment page and notices as they are processed. And then at the bottom of all EFSEC web pages there is contact information.

And back to the home page. The home page has other useful information on it. Midway down the right-hand side there's a calendar. It lists upcoming important dates and the calendar has agendas for the meetings on it.

And then the Project Highlights section on the home page, this is a snapshot of current and upcoming milestones for all the projects. Staff posts notices and links to comments and other items that may be of particular interest to you.

And then finally, the links on the left-hand side of the web site for more useful information.

Thank you, Chair Lynch.

CHAIR LYNCH: Thank you. Any questions for Ms. Talburt?

Thank you. That was helpful.

MR. POSNER: Chair Lynch, I would just like to also add one other thing that we have done over the last couple of weeks. Kali and Tammy worked with me and we worked with the other appropriate state agencies to develop a list serve for the mailing list. That will help us to more efficiently provide
information for individuals who -- groups who are interested in this project.

As you know, we have a -- we have quite a few people who are interested in this project and we believe this will be a more efficient way for us to get information out on upcoming meetings and activities associated with this project.

CHAIR LYNCH: In connection with that, Mr. Posner, my understanding is there has been a number of duplicates, in the hundreds or possibly even thousands that have been identified and removed; is that correct?

MR. POSNER: We have received quite a few. I don't have the exact number, quite a few returns, requesting that people be taken off of the project mailing list.

CHAIR LYNCH: Thank you.

So are we ready for Ms. Bumpus's update? And you have a number of things that you are intending to cover.

MS. BUMPUS: Yes. Thank you. Good afternoon, Chair Lynch and councilmembers. I do have a few areas that I would like to cover in the update today. I'm going to break this apart into three areas. The first will be a status update on the
application for site certification review.

The second will be on the environmental review, the SEPA environmental review that’s being done and what the status is and where we are on that.

The third will be over permits that we have been working on for this project proposal.

To start off for ASC review update, the first application, the first ASC EFSEC conducted, along with our consultant and other agencies, some technical review of the document and provided the comments to the applicant. In January 2014, the revised application was submitted to EFSEC, taking into consideration our technical review comments on the first submittal. And so we have picked that back up and are now reviewing the January ASC that was submitted. Cardno ENTRIX has just finished their review, and we have a few other agencies that are also helping EFSEC with performing a technical review of that information for consistency with the comments.

So before I move on to the second, does anyone have any questions about that update?

Okay. So for the SEPA environmental review update, EFSEC has requested the preliminary draft EIS from the applicant. We would like to begin a gap analysis of the information that’s in that document,
and the applicant has indicated that they will likely submit at least part of that in about two weeks. So we're looking at around the end of July, possibly early August. And we are expecting to receive chapters 1 through 4 right now. That's the plan right now.

And then the second part of the document would be handed over around two to three weeks following receiving Chapters 1 through 4. And that would be Chapters 5, 6 and 7, and then 8, which is a references portion of the document.

CHAIR LYNCH: Excuse me, Ms. Bumpus. So the request for this information was first made roughly when?

MS. BUMPUS: We requested the preliminary draft EIS from the applicant towards the middle, end of June.

CHAIR LYNCH: Now it looks like, at least at this point in time, the first chunk will be at the end of this month and then the remaining portion about the middle of August?

MS. BUMPUS: That's correct.

CHAIR LYNCH: Thank you.

MS. BUMPUS: And so I would like to go over just sort of how we see that playing out. We
would receive Chapters 1 through 4, given that we do receive those. We would do a gap analysis of the information, determine if any additional analysis needs to be done, update the Phase 2 technical scoping document with the methodologies and polish that to provide to the Council for review. This way we get some feedback earlier rather than later. We would do the same with the remaining chapters that we would receive.

CHAIR LYNCH: And the remaining chapters would more likely contain information about cumulative impacts, things like that?

MS. BUMPUS: That's right, Chapters 5, 6 and 7 cover the vessel and rail analysis, the alternatives analysis and the cumulative impacts analysis.

So just moving on. For permits, currently EFSEC is working and has been working with Ecology on three permits. The wastewater permits are for an NPDES stormwater construction permit and for an NPDES stormwater industrial permit. Ecology reviewed the applications for those permits that were enclosed in the ASC and has provided comments on that requesting additional information which we will be requesting from the applicant shortly.
For the air permit, we received an application, an NOC that Ecology has helped us with a review on. And Ecology made an incompleteness determination and the applicant responded to that and provided some additional information. And then at that point the applicant looked at some revisions to the facility. And so essentially what we are waiting on right now is those revisions, which would be in Section 5, which are the air permits -- well, it's actually all the permits, but it contains the air permit application. We are waiting for those revisions to be submitted so that an additional review can be done.

That's I think basically all I have to cover the permits. I can try to answer any questions you may have on any of those.

CHAIR LYNCH: Any questions for Ms. Bumpus on where we are in the process so far?

MS. GREEN-TAYLOR: Chair, I have a couple.

CHAIR LYNCH: Yes, Ms. Green-Taylor.

MS. GREEN-TAYLOR: What does NOC stand for, sorry?

MS. BUMPUS: Notice of construction.

CHAIR LYNCH: And do you just want to
describe quickly what that means?

MS. BUMPUS: So the notice of construction is to address the state air quality regulations, basically. So Ecology is -- that's the reason why Ecology is helping do that review.

MS. GREEN-TAYLOR: And I guess I could use a little bit of instruction on how that -- the permit development process goes relative to our review of the project. It sounds like those are working in parallel.

MS. BUMPUS: For the air permit it's a little less clear to me, but we do have a public comment period for these permits. We will get to that point, and there could be comments and interest on the permit and we may have a hearing. But I think it's more clear to me for the NPDES side, but I would have to get some clarification, some more information by looking at the regulations for how we would handle specifically the NOC, the air permit.

CHAIR LYNCH: Ms. Green-Taylor, so the permits are envisioned to be not part of the adjudication. There's a question about the air permit at this time, but what -- so like any permit that's adopted, say by Ecology, they -- you have a proposed permit out there for comment, you have a sheet
that accompanies the permit. People are allowed to -- there are public comments on the proposed permit and then the Council would review those comments and then issue the permits.

But as it is envisioned in the EFSEC process, that they are separate from the adjudication, but the air permit itself is not as clear-cut. There might be, depending -- it might make more sense to have that part of the adjudication, we're not exactly sure at this point, but I guess -- yeah, I don't think I can really add much more to that.

MS. GREEN-TAYLOR: So I'm still feeling like I'm a little confused about the relationship between the permits that we are talking about and the site certification.

CHAIR LYNCH: You have different processes that the -- there's plenty of reason to be confused, first of all. Anyone who looks at this EFSEC process scratches their head a little bit because you have a number of parallel processes that all meet up together at the end. So you have the SEPA process that's being developed, so the environmental impact statement that comes together is generally not considered part of the adjudication. You have the permits that are developed separately. And then you
have the adjudication process. The adjudication process is dealing with -- it's like a minitrial. Well, it's like a -- it's adjudication, it's like a trial in front of the councilmembers, where we sit and make decisions on whether certain -- and decide a number of issues that have been brought to the Council.

All of those come together at the end, and then the Council makes a recommendation to the governor based upon all of this information. But they -- it is -- so there are parallel processes and Staff was just letting us know today where we are in these various processes. It's not just all wrapped up tidy in a bow as you might think it would be. It's just something that all comes together in the end that we consider.

MS. GREEN-TAYLOR: So the permits that are being developed don't actually take effect until after we make a recommendation to the governor and the governor then acts on our recommendation?

CHAIR LYNCH: That's a very good question. Yes, the permits are tied directly to the project itself. So the site certification agreement would have to be approved by the governor in order for the permits to take effect.
MS. GREEN-TAYLOR: Okay. Thank you.

CHAIR LYNCH: Mr. Stephenson.

MR. STEPHENSON: Thank you, Mr. Chair.

Maybe just a more assertive statement would help because I think Ms. Green-Taylor has a good question here. So we've got multiple processes going on, and I would just like to hear from the Staff. So we think between the permit and the adjudication and the site certification and the land use and the SEPA processes that we are going to address the many significant potential issues that we saw and have sometimes been raised by councilmembers through the process; is that right?

MS. BUMPUS: That's correct. And I did just want to add, in the WAC that covers the for EFSEC, the process that's followed for getting to an issuance of a permit is very similar to what Ecology would do. There's a draft permit. Essentially there's a tentative determination made by the Council after a review has been done, which is where we are right now. Right now Ecology is helping us do a review of the permit application, and we're in that phase where we are doing reviews, asking for more information to get a complete application so that we can move forward. And then at that point, Council
would make a tentative determination which essentially
gets you to a draft permit that you can then notice
for and go out to comment on. And if there is reason
to have a hearing, you could have a hearing at that
point.

So not to go too far down that road, but it's
very similar to how Ecology might handle the permit if
not for EFSEC.

MR. STEPHENSON: And I would just like
to add basically that the process is relatively clear.
We have a separate track for permits like Sonia was
describing, we have a separate track for the
adjudication, which the application is basically
center stage of, and then you have the SEPA process,
which is essentially a third track. They essentially
move along independently to a certain degree, and then
they come together at the end, which I think Sonia was
alluding to, and Chair Lynch as well.

Some of the uncertainty I believe is just as a
result of the timing, when things are going to happen.
You know, we are working closely with the applicant,
so as far as getting the information we need, and then
also in working with Ecology, mainly Ecology, our
contractor. So I think some of the lack of clarity is
a result of not having specific time frames on some of
these things, so I just wanted to add my 2 cents.

MS. GREEN-TAYLOR: And I assume that the permits are subject to changes based on the final EIS and some of the other things that we will be reviewing; is that correct?

MS. BUMPUS: Yes.

MS. GREEN-TAYLOR: Thanks.

CHAIR LYNCH: Any other questions?

MR. STOHR: Yes.

CHAIR LYNCH: Mr. Stohr.

MR. STOHR: Ms. Bumpus, could you run out the time line for the EIS? We will see a preliminary draft, versions 1 and 2, between now and middle of August, but what does it look like in terms of getting a draft EIS out for the public and our review?

MR. POSNER: I'll attempt to answer that question. What I would say is that we don't have a clear time frame at this point. Sonia mentioned earlier that we are expecting to get information from the applicant. They have been putting together information which will serve as the basis for Chapters 1 through 4. Once we get that information, I think we will have a better understanding of what condition it's in, what gaps there are. And then I think that
will help us kind of be able to establish a clearer
time frame.

But I'd say at this point, we don't really --
we can't really say with a great deal of certainty in
terms of timing when the draft EIS may be out for
public comment.

MR. STOHR: The more gaps we see, the
more work that would have to be done, the more time it
would take.

MS. BUMPUS: Yes, exactly.

MR. STOHR: Thanks.

CHAIR LYNCH: And councilmembers might
remember it's the draft EIS which is kind of the
driver for the rest of the process, because we were
not planning on -- because once you have the draft EIS
out, then we are going to initiate the adjudicative
process, which means the identification of the
intervenors, the site visit, a number of those other
things get started after the draft EIS is ready. So
that's the -- the big driver for this process is the
draft EIS.

Any other -- Mr. Stephenson.

MR. STEPHENSON: Thank you, Mr. Chair.

That's a helpful summary, and I think what we are
trying to get to is to make progress somehow towards
our duty of making a decision and a recommendation. And there's all of these processes that are going on, I think it was said three but I count more. I'm seeing land use and site certification, SEPA and permitting and -- I'm missing something. But there's all the processes moving forward, and what I just heard from Staff is that those things are covering the bases of what we have heard and what we have said in Council, and that's what I want to hear so that we can then start thinking about somehow to move forward.

CHAIR LYNCH: That's correct. And like the adjudication, that will depend upon the issues that the parties identify that they want to have as issues in the case. So it's -- but I think Council is familiar with probably what a lot of those issues will be just upon what the comments have been to the Council so far.

MS. BUMPUS: And just to address Mr. Stephenson's comment. Stephen and I are sharing -- Mr. Posner and I are sharing the workload basically for this project. I am handling the SEPA environmental review, the permits, the applications, technical review. Those are all -- they are connected but they are all very separate also in their paths forward. And then Mr. Posner will be
providing an update on the land use piece and that's something that he has continued to manage as we have been moving forward.

So I think it -- you will continue probably to have information coming in in these updates from both of us on just these different pieces.

CHAIR LYNCH: Any other -- yes, Ms. Green-Taylor.

MS. GREEN-TAYLOR: Yes, thank you. We are coming up on the one-year anniversary of when we first received the application. Could you describe how and when we would go about deciding and implementing additional time for the process?

MS. BUMPUS: We are actually at that point now where we would work with the applicant for additional time to continue processing the application.

CHAIR LYNCH: In essence, the applicant would make a request of the Council for an extension of time. That's my understanding.

MS. BUMPUS: That is mine also.

CHAIR LYNCH: Any further questions?

Mr. Posner, you are going to update us on tribal consultations.

MR. POSNER: Yes, Chair Lynch. I
thought -- and councilmembers. I thought it would be helpful just to update Council on our efforts to include tribes in the process.

There is what's referred to as a centennial accord plan. The Washington Utilities and Transportation Commission has such a plan, and I believe most, if not all state agencies have a similar plan. And one of the directives of that plan is for agencies to establish a government-to-government relationship with tribes and to consult with tribes on projects or areas that the tribes may be interested in.

And to that effort, we have, at the Staff level, coordinated with a number of tribes. We actually have 37 different tribes that are on the project mailing list for this project. And of those, six individual tribes provided SEPA scoping comments. And I have personally spoken to representatives of each one of those tribes and offered to answer any questions they might have. And, you know, basically gave them an opportunity to call me anytime if they have questions about the process.

So we are very concerned about tribal input and I just wanted to make sure the Council is aware of that.
CHAIR LYNCH: Thank you. I appreciate the proactive approach that Staff is taking with the tribes, because we take our consultation responsibility with them very seriously and appreciate that you are out in front on this.

Are we ready to talk about land use consistency at this point, then?

MR. POSNER: Yes, I believe so. And just to give you sort of a quick overview of how we intend to have this discussion. Ann Essko, our assistant attorney general, is going to start off with basically sort of a legal framework of what we are doing here or what the Council's obligations are in making a land use consistency determination.

I will go ahead and just briefly summarize what we heard during the land use hearing, basically the testimony that we received from the applicant and from the City of Vancouver, and then we will make a Staff recommendation and a request for Council action.

CHAIR LYNCH: Thank you.

Ms. Essko.

MS. ESSKO: Thank you. This afternoon I'm going to present a suggested analysis that the Council could consider as it makes a land use decision following its May 28th land use public hearing.
The primary issue before the Council is whether the Vancouver Energy Distribution Terminal site is consistent and in compliance with the portions of the City of Vancouver's land use plan and zoning ordinances as those plans and ordinances meet the statutory definitions of those terms under EFSEC statutes.

Again the Council's analysis concerns only the site of the project and not its operational and construction conditions. The Council's analysis also only concerns the portion of the land use plan and zoning ordinances that fall within the statutory definitions.

According to the Council's statutes and rules, the Council held a public hearing at which the local government had an opportunity to provide a certificate as prima facie proof that the proposed site is consistent and in compliance with the plan and local land use provisions.

As you know, the City did not do so, so the burden of proof remains with the project applicant, Tesoro/Savage, to prove that the site is consistent with the land use plans. Again, the project's construction and operational conditions are not at issue at this time.
I want to talk briefly about why land use is called out and treated separately from the operational and construction conditions of the project. This has to do with an artifact of the early creation of EFSEC.

Early in the 1970s, EFSEC did not have the power to preempt local land use plans. In other words, there would be a land use hearing to compare the site with the local land use provisions. If they were inconsistent, that was fatal to the project, the project could not move forward. During the 1970s, the legislature changed that provision so that EFSEC could preempt local land use plans as they are narrowly defined in the statute. And the land use hearing remained as part of the EFSEC process.

So you can see that while the land use hearing still remains a part of the process, it does not have the overwhelming significance that it did early in EFSEC's lifespan.

Today the significance of the land use hearing is as a precursor to the Council's decision to preempt a narrowly defined set of land use provisions. All of the other comprehensive plan provisions and ordinances have already been preempted by state law.

So now I want to talk briefly about what portion of the City of Vancouver's land use provisions
are pertinent to the Council's comparison with the site.

The statute defines land use plans as the comprehensive plan or land use element thereof adopted pursuant to one of the listed planning statutes. If you want to look at the statutory citation, it's RCW 80.50.020(14).

EFSEC in the past has interpreted this statute as referring to the portions of the comprehensive plan that do two things and only two things. That outline proposals for an area's development typically by assigning general uses such as housing to land segments and then specifying desired concentration and design goals. In other words, again we are comparing the site, not the operational construction, conditions to a plan's proposals for an area development, typically dealing with uses divided up among land segments.

If something in a comprehensive plan falls outside of this narrow definition, that is not part of the land use consistency decision before EFSEC. Those other provisions of the comprehensive plan are important but they will be addressed later during the EFSEC process, through SEPA, through the adjudication and through the permitting process that Sonia has
already talked about.

The statute also defines the sort of zoning ordinances that EFSEC is to be looking at in evaluating land use consistency. The statute defines land use ordinances as those regulating the use of land. And again, not everything in the city zoning ordinances meets this narrow definition.

EFSEC has also interpreted this statute and said that it refers to those ordinances that regulate land by creating districts and restricting uses in the districts such as the number, size, location, type of structures and lot size in order to promote compatible uses. Ordinances that do not meet this definition are important, but they do not fall within the narrow land use consistency decision that EFSEC is faced with now.

So if the Council restricts its land use analysis to the site and excludes from its consideration the project's construction operational conditions, will the Council nonetheless consider those construction and operational conditions? As I indicated earlier the answer to that question is yes. EFSEC will consider those important operational and construction conditions but it will not be through the land use process.

A related question is if the Council restricts
its land use analysis by excluding consideration of
land use provisions that do not meet the statutory
definitions, will the Council nonetheless consider
those substantive areas. And the answer again is yes,
EFSEC will consider the substantive areas addressed in
the comp plan and zoning ordinances that are not part
of the land use consistency analysis through SEPA,
through the adjudication and through the permitting
processes.

The test that the Council applies to evaluate
whether the site is consistent with local land use
plans has been established by EFSEC president. Under
the test previously established by the Council, the
Council considers whether the pertinent provisions of
the city's comprehensive plan and zoning ordinances,
quote, prohibit, unquote, the site expressly or by
operation clearly, convincingly and unequivocally. If
the site is permitted either outright or
conditionally, the site is consistent and in
compliance.

So once the Council applies that test to the
pertinent portions of the land use provisions, the
Council makes a finding of land use consistency.

Following the Supreme Court's decision in the
Friends case, which is the recent Supreme Court
decision about the Whistling Ridge Wind Farm project, the court held that the project need only be consistent with either the land use plans or the zoning ordinances. It does not need to be consistent with both in order to be consistent and in compliance.

In other words, if the pertinent land use provisions -- excuse me. If the pertinent land use plan and zoning ordinances prohibit the site, the site is inconsistent and not in compliance. In all other circumstances, the site is consistent and in compliance.

So if the site is consistent with both, the comp plan and ordinances, the site is consistent. If the site is consistent with either the comp plan or the zoning ordinances, the site is consistent.

So that is the basic legal framework that I am suggesting based on EFSEC statute and EFSEC precedent and the Supreme Court's decision in Friends.

Before I turn it over to Stephen for application to this particular project, does the Council have any questions?

MR. SNODGRASS: I do, Mr. Chair.
CHAIR LYNCH: Yes, Mr. Snodgrass.
MR. SNODGRASS: One quick question of law that I believe you talked about in the executive
session in response to another question, but I just want to go a little bit further on it to make sure I understand the parameters, and this is in applying the basic test here of consistency. Obviously one needs to be cognizant of what is proposed on the site in some manner. And so would it be fair to say that the site consistency test is applied for an oil terminal -- on this site for an oil terminal of this general magnitude?

MS. ESSKO: The -- I believe the consistency test is applied for an oil terminal in general at sort of the 30,000 foot level. The specifics of this particular oil terminal and its potential pros and cons are evaluated during the more detailed later analysis. Again, remember the land use consistency forum is a single land use hearing at which no one need provide an expert witness, there's no discovery, nobody is cross-examined, there's no prefilled testimony. It is a single public hearing.

In my personal opinion, that is not well suited to evaluating complex technical and scientific issues around this particular site. I believe that the statute is set up so that the multidisciplinary approach of SEPA, the adjudication where multiple parties hire witnesses and lawyers and everybody takes
their best shot at everybody else's evidence, and the
rigorous permitting processes are the places where the
specifics of this project are best evaluated to
produce the most robust and defensible results.

CHAIR LYNCH: Any other questions of
Ms. Essko before we turn it over to Mr. Posner?

Mr. Stohr.

MR. STOHRL: So if I'm understanding
this, Ms. Essko, this is -- this decision we make
about land consistency is one more around procedure
than it is around an endorsement or a rejection of the
project? This is a fairly high level review of the
site itself and whether the designation of this site
is industrial, allows for the consideration of an oil
transport facility at that location, and the pros and
cons, the positives and negatives of this proposal
will be dealt with vigorously but in other places?

MS. ESSKO: Yes, that's right.

CHAIR LYNCH: Mr. Stephenson, did you
have a question?

MR. STEPHENSON: No.

CHAIR LYNCH: Thank you.

Mr. Posner?

MR. POSNER: Thank you, Chair Lynch,
councilmembers. So leaving off of Ann's presentation,
just to summarize what we heard at the land use
hearing and what was provided in testimony provided by
the applicant and the City of Vancouver -- and by the
way, all of this information is on our website, it has
been on our website for a while now. The land use
hearing was on May 28th, so the exhibits that were
submitted, which I'm basically quoting from, are on
the website.

First of all, I would like to just describe
briefly what the applicant provided, just a quick
general summary of the testimony they provided and
their position on the proposed site.

They believe -- and this is in their
testimony -- that the site is consistent with the land
use plan, heavy industrial subtype designation. And
that subtype is intended to include industrial
manufacturing, service production for storage
involving heavy truck, rail or marine traffic.

They also provided testimony where they stated
that they believed the site was consistent with the
zoning ordinance, city municipal code, which is also
heavy industrial. And permitted uses under the zoning
code include storage and movement of large quantities
of materials or products associated with truck and/or
rail traffic.
Also in their testimony was information concerning -- actually it was a -- not information, but it was a report, it was a draft determination of consistency and compliance which was prepared by Staff from the City of Vancouver, which concluded that the proposal was or could be conditioned and designed to be consistent with all City requirements.

And then for the City, the City provided testimony that said the proposed site of the oil terminal is in an area designated as industrial by the comprehensive plan. Further, they went on to say that the development of the proposed oil terminal is consistent with this designation. They also said the site is zoned heavy industrial, and this particular zone is intended for intensive uses associated with shipping and storage.

The uses provided within this zone are allowed outright. The applicant has shown that the proposal meets the applicable standard. That was part of the City's testimony. They also said that they believe that the site may be inconsistent with a variety of community development policies and believes more information is needed before a decision should be made.

Further, they said that the site may be
inconsistent with certain elements in the land use plan, including economic development, housing and environmental policies. And they requested that a decision be deferred until additional information is generated through the SEPA process.

So Staff's summary and recommendation. Staff believes that the proposed site may be permitted either outright or conditionally. Therefore, the site is consistent and in compliance with the pertinent provisions of the comprehensive plan and zoning ordinances. And Staff recommends that the Council direct Staff and our administrative law judge to prepare a draft order of land use consistency for the Council's consideration and approval.

CHAIR LYNCH: Any questions for Mr. Posner?

I would like to open it up to discussion now amongst councilmembers. I will lead off briefly. I thought we would have a little bit of discussion before we took up the issue of bringing up a motion or not.

I would have to agree with our AG's analysis, Ms. Essko, and our Staff, Mr. Posner's analysis of -- just the focus on the fact that this is a very narrow decision that we are making today, a very narrow
decision. We are not looking at off-site impacts, we are not looking at how to mitigate for those off-site impacts. So things that were brought up by the City of Vancouver, like concerns, that they noted they were on sole source aquifer and they were concerned about stormwater contamination.

We have a permit process with NPDES permits. There was concerns about service availability in case of spills or fire. How are proposed neighborhoods and existing neighborhoods going to be affected by the scale and the potential impacts from such a project?

These, as Ms. Essko and Mr. Posner said, will all be addressed in other parts of the -- of this EFSEC process, either through adjudication or through the permitting or through SEPA. And approval of this land use consistency determination, the Council does that today, that does not by any means translate into an approval of the proposed project. It's just a recognition that this project meets the very narrow question of what the Council is looking at today.

And with that -- and I would also like to say that I have done quite a bit of, along with our AG, looking at the history of this particular statute, how EFSEC has interpreted it, the legislative history. And everything that I look at supports a very narrow
construction of this -- of this law. And so we are actually talking about two things today, is whether -- whether we should approve this proposed order. And then the other question is should we defer further action until SEPA is -- there was a request by the City of Vancouver and some of the NGOs about, well, maybe we should just defer acting on this until SEPA is done.

My concern with that is that that can potentially muddy the waters once you get into an adjudicatory proceeding and actually make it a little confusing as to what the legal analysis ultimately is. So my feeling is, is that we have enough information now to act on approving this land use consistency determination and still allow the issues that have been raised by the various parties in their comments to move forward at a later time in the process.

So I would just like to open that up to other councilmembers.

Yes, Mr. Snodgrass.

MR. SNODGRASS: I have sort of a question on that past history, either for Mr. Posner or for you, Chair.

In looking briefly at the previous cases it appeared that -- particularly in the more modern
cases, in this century, it appeared that there are several under very different circumstances, for very perhaps different reasons, where the land use issue was not resolved until the final order. I wanted I guess a sense of -- of what -- from either of you having looked at that record, is that the case, how many of those were there where it was not resolved until the final order or close thereof?

CHAIR LYNCH: Ms. Essko, do you want to address that?

MS. ESSKO: I could not tell from the face of the orders themselves and I wasn't representing EFSEC at the time, so I don't have any information separate from -- from what's on the face of the orders.

CHAIR LYNCH: Let me jump in a little bit. Just the land use consistency determination itself was at one time held the same day as the general information hearing. You might remember at the end of October when we -- this project was first presented to the public down in Vancouver, the land use consistency hearing was held the same day, so that strongly suggests that this level of review is at a very high level. The legislature later decoupled it so that they didn't have to be held the same day.
Subsequent changes to the law, such as -- and there has been a little bit of confusion on the part of EFSEC at times, what should be considered or not considered. The shoreline management provisions are a good example of where the Council wasn't always consistent in its determination.

But when you look at the -- when GMA got added to the list of statutes that the Council looked at to see consistency with local land use planning and zoning -- well, GMA, as you know includes development regulations and there is a lot under the concept of development regulations including critical area ordinances. That made us wonder, should Shoreline provisions be looked at.

But if you look at the bill analyses that were prepared by Staff to the legislature at that time, there was no mention of an expanded scope of review at that time. So it just -- in my mind it's a simple recognition that some jurisdictions plan under GMA, some still plan under the old 3670, so -- Chapter 3670. There was nothing that, in my mind, ever called for an expanded review of ordinances.

Besides, if you had that situation come up, it would -- you would have a -- the odd situation of a -- one jurisdiction that doesn't plan under GMA so the
Council would not be looking at their shoreline provisions, you would have another jurisdiction that did plan under GMA, and so if you pulled the development -- all of their development regulations you would look at their shoreline regulations. I don't -- I don't think that sort of inconsistency was ever contemplated for EFSEC review. I think it was always meant to be at a very high level.

I hope that helps a little.

Any further discussion?

MR. SNODGRASS: Would it be helpful very briefly to step through some of the Vancouver standards that I think are at issue here? Not arguing one way or the other, but I think like just briefly share with the Council what are the Vancouver land use ordinances and the comprehensive plan?

CHAIR LYNCH: Please. I don't know if you need to mention all of them.

MR. SNODGRASS: What I guess I want to convey is a sense of their scope.

CHAIR LYNCH: Yes.

MR. SNODGRASS: And I guess I am concerned with an unqualified finding of land use consistency because I believe all of the Vancouver comprehensive plan and a good deal of the Vancouver
zoning ordinances meet the statutory test of -- were adopted pursuant to the various ordinances that Ms. Essko cited.

So the comprehensive plan briefly, it's about 150 pages, it has, as most comprehensive plans do, several chapters running from the things you expect, capital facilities, the environment, housing, economic development, community development, essentially the land use element. We even -- within the land use element it has policies that go with that. For instance, one policy addresses sustainability. Another policy in the land use element addressing public health.

All of the comprehensive plan was adopted whole cloth in 2001. I believe all of it would be arguably found consistent with the site if we issued an unqualified finding land use consistency. The zoning ordinance is several hundred pages. I can pull it up here, it's three pages [sic] thick. It's adopted over time in a more organic manner. It has a purpose statement within it. I can provide you the citation if you want. It says that it is intended to be interpreted that to implement the comprehensive plan and also lead to Growth Management Act.

I think arguably many portions of it, perhaps
that land use code includes the city's SEPA provisions, the city's shoreline management provisions, critical lands provisions, other nonenvironmental provisions such as off site impacts. I think arguably, most of those, perhaps with the exception of SEPA, would be found -- a finding -- an unqualified finding of site consistency could be argued to be a finding that the site is consistent with all of those.

And so where I am going with this is not a concern of -- clearly there are aspects of this -- of what's on the table here, that both the City and applicant believe that the designation issues -- I'm concerned about the scope of an unqualified finding of land use consistency and what the implications of that are.

CHAIR LYNCH: Thank you, Mr. Snodgrass. I think what you have heard me say and Staff say so far, that we intend -- we interpret this to be a very narrow scope, and we would intend that the order -- any order that go out from this Council be very narrow in scope.

Things that you are mentioning in terms of what -- concerns by the City, just to go back to some things that Ms. Essko mentioned. The nature of the
hearing itself I think guides a lot of interpretation of what's supposed -- of what's intended by it. Much of the concerns that the City has is how -- under what conditions should this -- if this facility were to operate, what are the appropriate conditions or what are the off-site impacts, what are the things that can happen as a result of this facility being cited here? And those, as Ms. Essko said, are better left for a full hearing, where you would have both sides being able to bring the pros and cons for the Council to weigh, as opposed to -- this is almost like a summary judgment proceeding, where you are just looking at some basic provisions of the law and the facts as -- applied to that law -- or the law applied to those facts. It's just a very narrow decision that the Council would be making today.

I hope that -- I certainly understand your concerns and the City's concerns.

MR. SNODGRASS: I think the intent is certainly appreciated. It's just having a finding that reflects it in title and in verbiage, that narrowness.

CHAIR LYNCH: All right. Very good.

Any other discussion by councilmembers?

MS. GREEN-TAYLOR: Yes.
CHAIR LYNCH: Yes, Ms. Green-Taylor.

MS. GREEN-TAYLOR: I just wanted to agree with Mr. Snodgrass's wish to make sure that the order conveys that narrowness of what we are agreeing is consistent and just making sure that that verbiage is in the order.

CHAIR LYNCH: Very good. Thank you, Ms. Green-Taylor.

Anybody else have anything? I guess at this point I would just see if there is a motion to direct the Staff to prepare such an order.

Mr. Stephenson.

MR. STEPHENSON: I'll take a crack at this.

And I think it's going to need to be in a couple parts to capture what we have just heard. So let me see if I can do this right.

I will move that the Council direct EFSEC Staff to prepare an order -- is that right? Yes -- that says that this proposal for the Vancouver energy distribution terminal is consistent and compliant with the local land use plans and zoning ordinances.

That's the first part.

I think the second part needs to be that the order really has to include a statement that this
order doesn't preclude the significant potential complex issues from being raised during the -- I'm getting this right -- adjudication or permit or SEPA processes that are going on right now.

And then the third part I think should be in there, which is -- we have heard a bunch of things and I hope I get this list right. The order should include a statement that potential issues of significance have to include off-site impacts, shorelines, management, stormwater, critical area ordinances, service availability in the community in case of fire or spill, impacts on other neighborhoods, spill avoidance. And that shouldn't be a completely inclusive list.

CHAIR LYNCH: Including but not limited to.

MR. STEPHENSON: Thank you for your friendly amendment.

CHAIR LYNCH: Thank you.

Without trying repeat all of that --

MR. STEPHENSON: Because I couldn't if you wanted me to.

CHAIR LYNCH: -- do we have a second?

MR. HAYES: Yes, Chair, I will second that motion.
CHAIR LYNCH: Mr. Hayes has seconded the motion. All those in favor say aye.

MULTIPLE VOICES: Aye.

CHAIR LYNCH: Opposed.

MR. SNODGRASS: I will oppose.

CHAIR LYNCH: One opposed.

MR. PAULSON: Chair Lynch.

CHAIR LYNCH: Yes.

MR. PAULSON: I should say I do not have a vote on this and thus did not vote.

CHAIR LYNCH: You're right. Thank you, Mr. Paulson. The Port is a nonvoting member of the Council on this. So having received a majority, the Council has directed the Staff to prepare such an order of consistency.

We still have on our agenda today, Mr. Posner, do you want to just mention the first-quarter cost allocation?

MR. POSNER: Yes, thank you. Chair Lynch, councilmembers, as we do at the beginning of every quarter, we recalculate our nondirect cost allocation for our projects. Basically we look at past work for the last quarter and then projected work and then we come up with percentages that we believe reflect the work that will be done in the upcoming
And then our -- EFSEC projects and applicants get charged a certain percentage of the overall nondirect costs, EFSEC nondirect costs.

So for the first quarter of fiscal year 2015, which started July 1st, ends September 30th, the rates are: Kittitas Valley Wind Power project 5 percent; Wild Horse, 7 percent; Columbia Generating Station, 20 percent; the WNP 1 and 4 site, 3 percent; Whistling Ridge Energy Project, 3 percent; the Satsop Combustion Turbine project is 9 percent; Chehalis Generation is 9 percent, Desert Claim Wind Power Project is 2 percent; BP Cogeneration Project is 2 percent; Grays Harbor Energy Project is 3 percent; Tesoro/Savage is 37 percent.

And that concludes my presentation.

CHAIR LYNCH: Thank you, Mr. Posner.

Before adjourning, I wanted to thank the councilmembers and the Staff for their hard work on this land use consistency determination. I know that you all spent a lot of time looking at this, asking questions, making us dig deep as to an understanding of the law. So I appreciate all the hard work that you all put into this.

And with that, no further business in front of the Council, we are adjourned.
(Executive session adjourned 3:10 p.m.)
CERTIFICATE

STATE OF WASHINGTON
COUNTY OF KING

I, Sherrilyn Smith, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

_____________________
SHERRILYN SMITH
Kittitas Valley Wind Power Project
Monthly Project Update

July 15, 2014

Project Status Update

June Production Summary:
MWh 44,759 MWh
Wind 10.6 m/s or 23.7 mph
CF 61.7%

Safety:
No incidents

Compliance:
Project is in compliance as of July 14, 2014.

Sound:
No complaints

Shadow Flicker:
No complaints

Environmental:
None
EFSEC Monthly Operational Report

1. Safety and Training:
   1.1. There were no accidents or injuries to plant staff during the month of June.
   1.2. Conducted monthly safety training.
   1.3. Conducted monthly safety committee meeting.

2. Environmental:
   2.1. Submitted the May Discharge Monitor Report (DMR) for Outfall 001 to the Energy Facilities Site Evaluation Council (EFSEC).
   2.2. Scheduled opacity training for those maintaining certification to get recertified.
   2.3. Submitted a revised Environmental Commitment Book to EFSEC meeting the requirements of Article VI of the Site Certification Agreement (SCA) for updating and submitting plans.

3. Operations & Maintenance:
   3.1. Grays Harbor operated 2 days during the month of June.
   3.2. The capacity factor (CF) was 4.3% in June, and 9.6% YTD.
   3.3. The availability factor (AF) was 97.4% in June, and 91.5% YTD.

4. Noise and/or Odor:
   4.1. There were no complaints received during the month of June.

5. Site Visits:
   5.1. The Office of the State Fire Marshal conducted an annual inspection of the facility. The inspector noted three deficiencies which will require re-inspection in August.
      5.1.1. Two doors did not latch when closed, but were repaired before the inspection was completed.
      5.1.2. Emergency lighting annual testing had not been completed. This testing is scheduled for July.
      5.1.3. Fire protection sprinkler system annual testing had not been completed, and is scheduled for July.

6. Other:
   6.1. Grays Harbor is fully staffed with 22 employees.

1813 Bishop Road Chehalis, WA 98532
Phone (360) 748-1300, FAX (360) 740-1891

15 July 2014

Safety:
- There were no recordable incidents this reporting period and the plant staff has achieved 4241 days without a Lost Time Accident.

Environment:
- Waste water monitoring results are in compliance with the permit limits for the month of June 2014.

Personnel:
- Authorized plant staffing level is currently 19 with 17 positions filled. The Operations Manager position and a Control Room Operator are open.

Operations and Maintenance Activities:
- The Plant generated 151,410 megawatt-hours at a capacity factor of 43.1% for the month of June and the year-to-date capacity factor is 50.5%.
- The Plant performed an annual maintenance outage working on several balance of plant systems as well as inspections of the combustion turbines. There were 80 contractors working on-site with no safety incidents.
- The Washington State Department of Labor and Industries conducted their annual inspection of the water and gas sides of heat recovery steam generators and related pressure vessels with no issues noted.

Regulatory/Compliance:
- There were no air emissions deviations, waste-water or stormwater deviations or spills during the month of June 2014.
- Sound monitoring: There were no noise complaints to report.
Carbon Offset:

PacifiCorp environmental policy staff and plant management met with EFSEC staff on June 24, 2014 to discuss Greenhouse Gas offset options to finalize the financial commitment of the balance of dollars as required by Order 836.

The discussions identified a two pronged approach to meeting the requirement in a timely fashion while also realizing the best benefit alternative to the PacifiCorp rate payers. The first approach will evaluate potential energy efficiency projects at Chehalis that will reduce GHG emissions. Consistent with the Chehalis’s GHG mitigation plan and Washington State policy, specifically Initiative 937, PacifiCorp has researched possible application of increased energy efficiency of certain plant auxiliary equipment energy consumption. These operating systems were identified during an engineering analysis evaluation of plant-wide energy conservation measures. The report was finalized in May 2013 and specifically identified two systems that would save 2,041 megawatt-hours per year in energy consumption. There is also a corresponding carbon dioxide emissions reduction of 404 tons per year as an additional benefit.

PacifiCorp will be submitting to EFSEC staff during July the specifics of the I-937 projects for consideration including a proposed implementation schedule.

In the second approach, the PacifiCorp Energy Commerciaal and Trading is also beginning discussions with the The Climate Trust to evaluate the availability and conditions of purchasing additional offsets from the Farm Lynden project since the project is outperforming initial projections. This would extend the existing contract to cover the remaining balance of committed funds for additional offsets.

Respectfully,

Mark A. Miller
Manager, Gas Plant
PacifiCorp-Chehalis Power
1813 Bishop Road
Chehalis, WA 98532
360-827-6462

Chehalis Generation Facility
Below is the monthly operational/compliance update for Wild Horse. Also attached is a report regarding the golden eagle incident. Please let me know if you have any questions.

**Wind Production:** June generation totaled 70,618 MWh for an average capacity factor of 35.98%.

**Solar Production:** The Solar Demonstration Project generated 92 MWh in June.

**Safety:** No lost-time accidents or safety incidents to report in June. Site staff participated in fall protection/rescue training and annual first aid/CPR training.

**Compliance/Environmental:** Invasive weeds are being sprayed in accordance with the Post-Construction Rangeland Management and Grazing Plan.
I. Columbia Generating Station Operational Status

Columbia is currently operating at 100% power, generating 1115 megawatts, and has been online for 385 days. This is a power generation record for continues days online for the station.

There are no other events, safety incidents, or regulatory issues to report.

II. WNP 1/4 Water Rights

The Department of Energy Water Right application for the WNP 1/4 property entered a public notice period on June 24th. The notice was posted for two consecutive weeks. Energy Northwest expects to be notified by the Department of Energy and Department of Ecology for the coordination of a site visit later this summer.
Wild Horse Wind Facility Avian Incident Report

During wind turbine maintenance on June 18, Vestas technicians discovered the remains of a raptor near wind turbine F2 and reported the find to PSE’s Environmental Manager on site (Jennifer Diaz).

In accordance with the Wildlife Incident Reporting and Handling System, the Environmental Manager responded immediately to the incident location where she collected data, took photos, and retrieved the raptor. PSE’s Avian Protection group (Haley Edwards and Mel Walters) was contacted to confirm the species.

On June 19th Avian Protection conducted a site visit and confirmed that the bird was a juvenile golden eagle. While investigating the area of the incident, a second juvenile golden eagle was discovered approximately 50 yards from where the first golden eagle was found. It appeared that the two incidents occurred at the same time. Additional data was collected and photos were taken.

Notifications:

In accordance with the EFSEC Site Certification Agreement and the USFWS Special Purpose Utility Permit, PSE immediately notified USFWS Office of Law Enforcement (Corky Roberts), WDFW (Justin Allegro/Mike Ritter), and EFSEC (Jim LaSpina). In addition, PSE submitted data to USFWS Regional Migratory Bird Permit Office (Jennifer Miller) within 48 hours as required by the Special Purpose Utility Permit.

Meeting with USFWS Enforcement Officer:

On June 23rd, PSE met with USFWS Special Agent Corky Roberts to discuss the incident, conduct a site visit at F2, and transferred the eagles. PSE provided Agent Roberts with the Baseline Wildlife Report for Wild Horse Phase I and II, which includes pre-construction raptor nest surveys.

Additionally, PSE provided the following documents to Agent Roberts:

- Phase I Post-construction Raptor Nest and Lek Surveys
- Phase II Post-construction Raptor Nest and Lek Surveys
- Second Annual Monitoring Report (2011)
- WDFW Comments to EFSEC regarding the Expansion
- WDFW Comments to EFSEC on the SEIS for the Expansion Area
- Bird and Bat Conservation Strategies for PSE’s Wind Facilities
- PSE’s Corporate Avian Protection Plan
Background Information:

According to pre-construction raptor nest surveys and diurnal fixed-point avian use surveys, WEST determined that overall risk to golden eagles is low and predicted that only a few individuals would collide with the turbines during the life of the project (Wild Horse Baseline Study Report 2003).

- Pre-construction surveys (Flight paths of eagles, nest locations, predicted mortalities)
  - No active golden eagle nests were identified within the project area or one-mile buffer during baseline surveys (2008). There are no known golden eagle nests within 2 miles of the project.
  - The nearby Quilomene nest was confirmed to be inactive in the 2014 nesting season. (WDFW personal comm.)
  - No golden eagles were observed in flight near the F turbine string during pre-construction fixed-point surveys. Overall, the site has very low raptor nest density.

- Post-construction monitoring
  - F2 was included in a monitoring plot with F3 during 2007 monitoring.
  - No other birds have been identified at F2 incidentally or during post-construction monitoring.
  - Other birds found near F-string turbines include 1 American kestrel and 1 golden-crowned kinglet at F3 in 2007; 1 Townsend’s warbler, 1 gray partridge, and 1 white-throated swift at F4 in 2010; and 1 unidentified small bird at F5 in 2010.

- BMPs and Avian protection measures
  - Distribution line built avian safe with sufficient spacing between conductors to reduce electrocution risk. Built transmission underground where possible.
  - Carcass removal program to reduce potential for attracting eagles.
  - Minimal site disturbance during construction and restoration of habitat and spring areas after construction.
  - Grazing management to prevent overgrazing and habitat degradation.
  - Conservation easement with WDFW.
  - Provide funding to raptor rehabilitation facilities.
  - Hunter outreach and education.
  - General public outreach and education regarding shrub-steppe wildlife and habitat.

Next Steps:

PSE is working cooperatively with USFWS to resolve this incident, and will continue with the development of an Eagle Conservation Plan in consultation with USFWS.

The Role of USFWS

Because the USFWS is the lead agency responsible for enforcing the Migratory Bird Treaty Act and Bald and Golden Eagle Act, this incident is under federal jurisdiction of USFWS. USFWS Office of Law Enforcement (OLE) and the Department of Justice (DOJ) will ultimately determine the outcome of this incident, including any proposed mitigation.
USFWS OLE is currently reviewing pre-construction surveys and protocol, raptor nest surveys, prior consultation, and post-construction monitoring results. The DOJ and U.S. Attorney are requesting a meeting with PSE’s attorneys to discuss options for resolving the case and moving forward with an Eagle Conservation Plan and applying for an Eagle Take Permit under the Bald and Golden Eagle Protection Act.

The Role of the Technical Advisory Committee

PSE will inform the TAC of the incident at the upcoming TAC meeting on July 17, 2014. According to Article IV.F.4. of the SCA, the purpose of the TAC is to ensure that monitoring data is considered in a forum in which independent and informed parties can collaborate with the Certificate Holder, and make recommendations to EFSEC if the TAC deems additional studies or mitigation are warranted to address impacts that were either not foreseen in the Application or the Environmental Impact Statement, or exceed impacts that were projected.

This incident is within the predicted level of take, and is under the authority of the USFWS. As the lead agency for this case, USFWS will determine what course of action is required to resolve this case, including any proposed mitigation. Although the TAC has no direct role in this incident or enforcement authority under the Bald and Golden Eagle Protection Act, PSE will provide ongoing updates to the TAC as this case progresses with USFWS.

The Role of EFSEC

As a condition of the SCA, EFSEC has authority over approving additional mitigation that is recommended by the TAC in response to impacts that were not foreseen or exceed projected impacts. However, EFSEC has no authority over the enforcement of the Bald and Golden Eagle Protection Act, which is under the jurisdiction of USFWS OLE and DOJ.

PSE is committed to open communication with EFSEC and will continue to coordinate with the Council as this case progresses. EFSEC will be informed of any proposed mitigation that is identified through consultation with USFWS.
Energy Facility Site Evaluation Council

Non Direct Cost Allocation
for
1st Quarter FY 2015
July 1, 2014 – September 30, 2014

The EFSEC Cost Allocation Plan (Plan) was approved by the Energy Facility Site Evaluation Council in September 2004. The Plan directed review of the past quarter’s percentage of EFSEC technical staff’s average FTE’s, charged to EFSEC projects. This information is used as the basis for determining the non-direct cost percentage charge, for each EFSEC project. In addition, the Plan allows for adjustment due to anticipated work load and the addition of new projects.

Based on the levels of work during the 4th quarter of FY 2014, using the procedures for developing cost allocation, and allowance for new projects, the following percentages shall be used to allocate EFSEC’s non direct costs for the 1st quarter of FY 2015:

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Stephen Posner, EFSEC Manager

Date: 7/2/14
### Summary of FY 2015 Non Direct Allocation Rates

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### Summary of FY 2012 Non Direct Allocation Rates

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