



# Washington State Energy Facility Site Evaluation Council AGENDA

**MONTHLY MEETING**  
Tuesday, February 17, 2015  
**1:30 PM**

1300 S Evergreen Park Drive SW  
Olympia, WA 98504  
Hearing Room 206

1. Call to Order .....Bill Lynch, EFSEC Chair
2. Roll Call .....Tammy Mastro, EFSEC Staff
3. Proposed Agenda .....Bill Lynch, EFSEC Chair
4. Minutes      **Meeting Minutes**..... Bill Lynch, EFSEC Chair
  - January 20, 2015
5. Projects      **a. Kittitas Valley Wind Project**
  - Operational Update.....Eric Melbardis, EDP Renewables**b. Wild Horse Wind Power Project**
  - Operational Update.....Jennifer Diaz, Puget Sound Energy**c. Grays Harbor Energy Center**
  - Operational Update.....Rich Downen, Grays Harbor Energy**d. Chehalis Generation Facility**
  - Operational Update.....Mark Miller, Chehalis Generation Staff**e. Columbia Generating Station**
  - Operational Update.....Shannon Khounnala, Energy Northwest**f. WNP - 1/4**
  - Operational Update.....Shannon Khounnala, Energy Northwest**g. Tesoro/Savage Vancouver Energy Distribution Terminal**
  - Project Update.....Sonia Bumpus, EFSEC Staff
  - Extension of Application Processing Time Request....Stephen Posner, EFSEC Staff

*The Council may consider and take **FINAL ACTION** on the Tesoro/Savage request to extend the time for processing of Application 2013-01.*
6. Other      **a. EFSEC Council**
  - Legislation Update .....Bill Lynch, EFSEC Chair
7. Adjourn .....Bill Lynch, EFSEC Chair

**Note: "FINAL ACTION"** means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. RCW 42.30.02

	Page 1
1	
2	
3	
4	-----
5	WASHINGTON STATE
6	ENERGY FACILITY SITE EVALUATION COUNCIL
7	Richard Hemstad Building
8	1300 South Evergreen Park Drive Southwest, Conference Room 206
9	Olympia, Washington
10	Tuesday, January 20, 2015
11	1:30 P.M.
12	-----
13	
14	
15	MONTHLY COUNCIL MEETING
16	Verbatim Transcript of Proceeding
17	
18	
19	
20	REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028
21	Buell Realtime Reporting, LLC
22	1411 Fourth Avenue
23	Suite 820
24	Seattle, Washington 98101
25	206.287.9066   Seattle
	360.534.9066   Olympia
	800.846.6989   National
	www.buellrealtime.com

	Page 2
1	A P P E A R A N C E S
2	
3	Councilmembers Present:
4	Bill Lynch, Chair
5	Liz Green-Taylor, Department of Commerce, via telephone
6	Cullen Stephenson, Department of Ecology
7	Joe Stohr, Department of Fish and Wildlife
8	Dan Siemann, Department of Natural Resources
9	Dennis Moss, Utilities and Transportation Commission
10	Local Government and Optional State Agency:
11	Christina Martinez, Department of Transportation
12	Bryan Snodgrass, City of Vancouver, via telephone
13	Larry Paulson, Port of Vancouver
14	Assistant Attorney General:
15	Ann Essko, Assistant Attorney General
16	Staff in Attendance:
17	Stephen Posner
18	Jim LaSpina
19	Tammy Mastro
20	Sonia Bumpus
21	Kali Wraspir
22	Joan Aitken
23	Cassandra Noble
24	Guests in Attendance:
25	Mark A. Miller, PacifiCorp Energy
	Matt Kernutt, CFE
	Mark Anderson, Commerce
	Jay Derr, Van Ness Feldman
	Pete Valinske, Chehalis Generation Facility
	Greg Poremba, Parametrix
	Jared, Vancouver Energy
	Marion Ward
	Pat Freiberg
	Diana Gordon
	(Continued...)

	Page 3
1	Guests in Attendance Via Phone:
2	James Campbell, PacifiCorp
3	Susan Drummond, City of Vancouver
4	Natalie Currie, EDP Renewables
5	Shannon Khounnala, Energy Northwest
6	Jennifer Diaz, Puget Sound Energy
7	Haley Edwards, Puget Sound Energy
8	Karen McGaffey, Perkins Coie
9	Timothy L. McMahon, Stoel Rives
10	Randy Utley, Department of Health
11	Bryan Telegin, Bricklin Newman, et al.
12	Julie Carter, Columbia River Inter-Tribal Fish Commission
13	Linda Larson, Marten Law
14	Kristen Boyles, Earthjustice
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

	Page 4
1	OLYMPIA, WASHINGTON, JANUARY 20, 2015
2	1:30 P.M.
3	-o0o-
4	
5	P R O C E E D I N G S
6	
7	CHAIR LYNCH: Good afternoon. Today is January 20,
8	2015, and this is the regular January meeting of the Energy
9	Facility Site Evaluation Council.
10	And could we please have Staff call the roll.
11	MS. MASTRO: Department of Commerce?
12	CHAIR LYNCH: She'll be calling in by telephone. I
13	don't know if she's on the phone yet.
14	MS. MASTRO: Department of Commerce?
15	Department of Ecology?
16	MR. STEPHENSON: Cullen Stephenson here.
17	MS. MASTRO: Fish and Wildlife?
18	MR. STOHR: Joe Stohr is here.
19	MS. MASTRO: Natural Resources?
20	MR. SIEMANN: Dan Siemann here, if I can get this to
21	work.
22	Dan Siemann here.
23	MS. MASTRO: Utilities and Transportation Commission?
24	MR. MOSS: Dennis Moss is here.
25	MS. MASTRO: Local Governments and Optional State

Page 5

1 Agencies.

2 Department of Transportation?

3 MS. MARTINEZ: Christina Martinez here.

4 MS. MASTRO: City of Vancouver?

5 MR. SNODGRASS: Bryan Snodgrass on the phone.

6 MS. MASTRO: Clark County?

7 CHAIR LYNCH: Excused.

8 MS. MASTRO: And Port of Vancouver?

9 MR. PAULSON: Larry Paulson here.

10 MS. MASTRO: Chair, there is a quorum.

11 CHAIR LYNCH: Thank you.

12 Are there any suggested changes or corrections to the

13 minutes -- excuse me -- to the agenda?

14 Hearing none, let's proceed.

15 And what I would like to hear from: Are there any

16 people on the phone who would like to identify themselves at

17 this time for the record, though you're not required to?

18 MR. CAMPBELL: James Campbell with PacifiCorp.

19 MS. DRUMMOND: Susan Drummond with the City of

20 Vancouver.

21 MS. CURRIE: Natalie Currie with EDP Renewables.

22 MS. KHOUNNALA: Shannon Khounnala with Energy

23 Northwest.

24 MS. DIAZ: Jennifer Diaz with Puget Sound Energy.

25 MS. EDWARDS: Haley Edwards with Puget Sound Energy.

Page 6

1 MS. McGAFFEY: Karen McGaffey, Perkins Coie.

2 MR. McMAHAN: Tim McMahan, Stoel Rives.

3 MR. ~~HUNDLEY~~: Randy Utley, Washington State

4 Department of Health. Utley

5 MR. TELEGIN: Bryan Telegin with Bricklin Newman,

6 with Friends of Columbia Gorge, Columbia Riverkeeper, Climate

7 Solutions, ForestEthics, Sierra Club, and Washington

8 Environmental Council.

9 MS. CARTER: Julie Carter with Columbia River

10 Inter-Tribal Fish Commission.

11 MS. LARSON: Linda Larson with Marten Law.

12 MS. BOYLES: Kristen Boyles with Earthjustice.

13 CHAIR LYNCH: Anybody else? Thank you.

14 And we have two sets of minutes for review and

15 approval.

16 First of all, let's take a look at the December 16,

17 2014 minutes.

18 Are there any suggested changes?

19 Hearing none, I'd entertain a motion for their

20 approval.

21 MR. MOSS: Chair Lynch, I would move the approval of

22 the minutes of the December 16, 2014 monthly meeting of the

23 Council.

24 CHAIR LYNCH: Is there a second?

25 MR. STEPHENSON: I'll second.

Page 7

1 CHAIR LYNCH: It's been moved and seconded that the

2 minutes for the December 16, 2014 Council hearing be approved.

3 All those in favor say "aye."

4 MULTIPLE SPEAKERS: Aye.

5 CHAIR LYNCH: Opposed? Motion carries.

6 Now, if we could turn to the minutes for the special

7 Council meeting for January 7, 2015.

8 MR. MOSS: I do have one suggested change, Chair

9 Lynch.

10 CHAIR LYNCH: Yes. Please, Mr. Moss.

11 MR. MOSS: At page 6, line 23, the word

12 "distribution" appears. I believe the word should be

13 "discretion."

14 CHAIR LYNCH: I agree with that, and I agree with

15 that change.

16 Any other suggested changes?

17 MS. MARTINEZ: On page 57, where it says

18 "MS. MARTINEZ." The word "legislation," it should be changed to

19 "legislative."

20 CHAIR LYNCH: Excuse me. Are you back on the

21 December 16th minutes?

22 MS. MARTINEZ: Oh, yes. I'm sorry.

23 CHAIR LYNCH: That's okay. We can go back.

24 Oh, I see. So page 57, line 20.

25 MS. MARTINEZ: Correct.

Page 8

1 CHAIR LYNCH: Strike the word "legislation" and

2 insert "legislative."

3 MS. MARTINEZ: Thank you.

4 CHAIR LYNCH: Certainly.

5 Let's go back to the proposed minutes for the January

6 special Council meeting.

7 Any other suggested changes?

8 At this point, I'd entertain a motion for their

9 approval as amended.

10 MR. MOSS: Chair Lynch, I would move the approval of

11 the December 16, 2014 minutes as amended and the January 7, 2015

12 minutes as amended.

13 CHAIR LYNCH: Do we have a second?

14 MR. STEPHENSON: I will second.

15 CHAIR LYNCH: All those in favor of approving the

16 December 16, 2014 minutes and the January 7, 2015 minutes as

17 amended say "aye."

18 MULTIPLE SPEAKERS: Aye.

19 CHAIR LYNCH: Opposed? Motion carries. Thank you.

20 Now, let's go ahead and turn to the updates from our

21 various facilities. We'll start first with the Kittitas Valley

22 Wind Project.

23 Mr. Melbardis?

24 MS. CURRIE: This is Natalie Currie. Eric's out of

25 town.

Page 9	Page 11
<p>1 CHAIR LYNCH: Sorry for calling you Mr. Melbardis.</p> <p>2 MS. CURRIE: That's okay.</p> <p>3 Good afternoon, Chair Lynch and EFSEC Council. This</p> <p>4 is Natalie Currie with EDP Renewables for Kittitas Valley Wind</p> <p>5 Power Project. We have nothing nonroutine to report for this</p> <p>6 month.</p> <p>7 CHAIR LYNCH: It was hard to hear you, but I think</p> <p>8 you said that there was nothing new to report at this time; is</p> <p>9 that correct?</p> <p>10 MS. CURRIE: That's correct.</p> <p>11 CHAIR LYNCH: Okay. Any questions?</p> <p>12 Thank you very much.</p> <p>13 MS. CURRIE: Thank you.</p> <p>14 CHAIR LYNCH: Now, let's go ahead and turn to the</p> <p>15 Wild Horse Wind Power Project.</p> <p>16 Ms. Diaz?</p> <p>17 MS. DIAZ: Yes, sir. I'm here.</p> <p>18 Good afternoon, Chair Lynch and Councilmembers. The</p> <p>19 only nonroutine update I have is regarding the Eagle</p> <p>20 Conservation Plan and the process for applying for an eagle take</p> <p>21 permit.</p> <p>22 Last month PSE filed a preliminary draft Eagle</p> <p>23 Conservation Plan with the U.S. Fish and Wildlife Service for</p> <p>24 consideration of issuance of an eagle take permit. Submittal of</p> <p>25 the preliminary draft Eagle Conservation Plan initiates the</p>	<p>1 MR. STEPHENSON: No.</p> <p>2 CHAIR LYNCH: Oh, I'm sorry. You were just waving</p> <p>3 "hi."</p> <p>4 MR. STEPHENSON: Hi, Ms. Diaz.</p> <p>5 CHAIR LYNCH: I don't think she can see you.</p> <p>6 Thank you, Ms. Diaz.</p> <p>7 And let's go ahead and have our update from the Grays</p> <p>8 Harbor Energy Center.</p> <p>9 Welcome.</p> <p>10 MR. VALINSKE: Chair Lynch and Council, my name is</p> <p>11 Pete Valinske from Grays Harbor Energy covering for Rich Downen.</p> <p>12 You should have our monthly report input in your</p> <p>13 packets, and we have nothing further to add for the month of</p> <p>14 December.</p> <p>15 CHAIR LYNCH: Thank you very much.</p> <p>16 Any questions for Mr. Valinske?</p> <p>17 Thank you.</p> <p>18 What I would like to do is direct those people who</p> <p>19 are listening in by the telephone to please mute your phone.</p> <p>20 And the people who are talking right now, you're coming over our</p> <p>21 system, so please mute your phone.</p> <p>22 Thank you. So thank you for muting your phone.</p> <p>23 Mr. Miller, Chehalis Generation Facility.</p> <p>24 First, just please give your operational update, and</p> <p>25 then we'll see if there's --</p>
Page 10	Page 12
<p>1 consultation and review process with the Service. The draft</p> <p>2 Eagle Conservation Plan is considered predecisional by the</p> <p>3 Service and is not publicly available at this time. Once the</p> <p>4 Service has had an opportunity to review and comment on the</p> <p>5 preliminary draft Eagle Conservation Plan, PSE will consult with</p> <p>6 the Service to complete a final ECP. Then, once the final Eagle</p> <p>7 Conservation Plan is complete, PSE will provide a copy of the</p> <p>8 Eagle Conservation Plan to the TAC and to EFSEC. The possible</p> <p>9 issuance of an eagle take permit is subject to the National</p> <p>10 Environmental Policy Act. And during the NEPA process, the</p> <p>11 Service will provide an official notice in the Federal Register</p> <p>12 seeking public comment, and the Service will release a draft</p> <p>13 environmental assessment for Wild Horse at that time.</p> <p>14 In support of the Eagle Conservation Plan and</p> <p>15 possible issuance of a take permit and in an effort to gather</p> <p>16 additional data about eagle use of the project area, PSE plans</p> <p>17 to conduct one year of eagle use surveys and eagle fatality</p> <p>18 monitoring at Wild Horse which is scheduled to begin in March of</p> <p>19 2015. PSE will provide the protocols for surveys and monitoring</p> <p>20 to the TAC for review prior to implementation, and we expect to</p> <p>21 provide them those protocols before the end of this month.</p> <p>22 And that's all I have.</p> <p>23 CHAIR LYNCH: Thank you. Very good.</p> <p>24 Any questions for Ms. Diaz?</p> <p>25 Yes. Mr. Stephenson?</p>	<p>1 MR. MILLER: Okay.</p> <p>2 CHAIR LYNCH: -- questions and then we'll move on</p> <p>3 from there.</p> <p>4 MR. MILLER: Good afternoon, Chair Lynch and</p> <p>5 Councilmembers. My name is Mark Miller. I am the plant manager</p> <p>6 at the PacifiCorp Energy Chehalis Generating Facility. I have</p> <p>7 no nonroutine comments this month.</p> <p>8 CHAIR LYNCH: Any questions for Mr. Miller about the</p> <p>9 general operations?</p> <p>10 Very good. Then we'll just go ahead and turn -- I</p> <p>11 don't know if we should just open with Mr. LaSpina or have</p> <p>12 Mr. Miller have some opening comments.</p> <p>13 MR. LaSPINA: I prepared a real short presentation.</p> <p>14 CHAIR LYNCH: Okay. Why don't we have Mr. LaSpina</p> <p>15 just hit the highlights of that, and Mr. Miller is here to</p> <p>16 answer any questions.</p> <p>17 MR. MILLER: Okay.</p> <p>18 MR. LaSPINA: Thank you, Chair Lynch and</p> <p>19 Councilmembers. This matter involves the In-Plant Energy</p> <p>20 Efficiency -- oh. I'm sorry. The microphone's not on. Thank</p> <p>21 you.</p> <p>22 This matter involves the In-Plant Energy Efficiency</p> <p>23 proposal put forward by PacifiCorp Chehalis. The background</p> <p>24 is -- you have a memo to the Council on a white piece of paper</p> <p>25 in your packets, which you've probably read, but I'll just give</p>

Page 13	Page 15
<p>1 a very short summary.</p> <p>2 Since 2008, PacifiCorp Chehalis Facility has</p> <p>3 implemented a multiphase greenhouse gas mitigation program. The</p> <p>4 initial phase of the program was to install an auxiliary boiler</p> <p>5 that resulted in a reduction of pollution emissions to the</p> <p>6 atmosphere during startup and shutdown. That part of the</p> <p>7 program has been implemented for a number of years and is</p> <p>8 working successfully.</p> <p>9 About three years ago, the company established or</p> <p>10 basically arranged to purchase verifiable emission reductions at</p> <p>11 a project called "Farm Power Lynden," and that program has also</p> <p>12 been working very successfully.</p> <p>13 We are here today to consider the company's proposal</p> <p>14 to implement In-Plant Energy Efficiency Measures that would</p> <p>15 result in significant reductions in emissions.</p> <p>16 Mark, I'm not sure.</p> <p>17 Did you want to go into -- describe those measures,</p> <p>18 or I can do it.</p> <p>19 MR. MILLER: Sure. What we proposed -- there are a</p> <p>20 number of energy measurements made a couple of years ago in</p> <p>21 early recognition of Initiative 937, which is the Energy</p> <p>22 Efficiency Implementation Project, created by that initiative.</p> <p>23 We did not implement any of those at the time because -- I don't</p> <p>24 recall what the company's position was, but as we tried to find</p> <p>25 other projects, such as the Farm Power Lynden projects, there</p>	<p>1 And that's where we are today, looking for discussion</p> <p>2 and the Council's consideration of approving those --</p> <p>3 implementing those projects.</p> <p>4 CHAIR LYNCH: Thank you, Mr. Miller.</p> <p>5 Mr. LaSpina, anything else to add?</p> <p>6 MR. LaSPINA: Yes, Chair Lynch. I just wanted to</p> <p>7 point out that Department of Ecology Air Quality Program has</p> <p>8 reviewed the proposal. A summary of their comment letter is</p> <p>9 that installation of variable frequency drives and installation</p> <p>10 of LED lighting are very common practices to reduce energy</p> <p>11 consumption within the plant, and on that basis, EFSEC Staff</p> <p>12 recommends that the Council approve the proposal.</p> <p>13 CHAIR LYNCH: And I'm correct in that this, if</p> <p>14 approved, will fulfill the remaining obligation for greenhouse</p> <p>15 mitigation that the Chehalis facility has?</p> <p>16 MR. LaSPINA: Yes, sir.</p> <p>17 CHAIR LYNCH: And we are still, however, going to go</p> <p>18 likely -- is it next month? -- to open up the -- our list of</p> <p>19 proposed facilities that can serve as mitigation sponsors.</p> <p>20 And if a facility wants to go through credits through</p> <p>21 them in the future, they can do that?</p> <p>22 MR. LaSPINA: Yes, sir.</p> <p>23 CHAIR LYNCH: Okay. Thank you.</p> <p>24 Is there any discussion on this before we call this</p> <p>25 for a vote? Any questions for Mr. Miller or Staff? Any</p>
Page 14	Page 16
<p>1 really -- the market hasn't really developed.</p> <p>2 And so one of the alternatives after PacifiCorp met</p> <p>3 with Chehalis -- or met with the EFSEC Staff was to revisit the</p> <p>4 2001 greenhouse gas mitigation plan that was created by the</p> <p>5 original owners, and one of those components was energy</p> <p>6 efficiency.</p> <p>7 So in discussions with Staff, then we selected some</p> <p>8 key projects that were within the value range of the remaining</p> <p>9 monies to be committed per the order, 836, which PacifiCorp</p> <p>10 committed 1.5 million to, and then we also provided information</p> <p>11 on those projects to Staff. And I believe they were reviewed by</p> <p>12 Alan --</p> <p>13 MR. LaSPINA: Newman.</p> <p>14 MR. MILLER: -- Alan Newman of Ecology, and so he had</p> <p>15 a few questions and answers. And I provided some feedback here</p> <p>16 this last month, and I think that's where we're at today. Those</p> <p>17 three projects include variable frequency drives on closed</p> <p>18 cooling water system fans. Those cooling water cools the</p> <p>19 lubricating oils on the various machines. We also would install</p> <p>20 or replace current lighting with high-efficiency lighting, and,</p> <p>21 thirdly, we would put variable frequency drives on our reverse</p> <p>22 osmosis pumps which is part of our water treatment facility.</p> <p>23 And those totaled approximately 230 tons per year, but over a</p> <p>24 30-year life, that adds up to be quite significant, over 6500</p> <p>25 tons.</p>	<p>1 discussion?</p> <p>2 Okay. At this point in time, I would entertain a</p> <p>3 motion for the Council to approve the final mitigation measures</p> <p>4 proposed by the Chehalis Generation Facility.</p> <p>5 Do I have a second -- or do I have a motion?</p> <p>6 MR. MOSS: So move.</p> <p>7 CHAIR LYNCH: Do I have a second?</p> <p>8 MR. STEPHENSON: I will second it.</p> <p>9 CHAIR LYNCH: It's been moved and seconded that the</p> <p>10 Council will approve the proposed final greenhouse gas</p> <p>11 mitigation measures offered by the Chehalis Generation Facility.</p> <p>12 All those in favor say "aye."</p> <p>13 MULTIPLE SPEAKERS: Aye.</p> <p>14 CHAIR LYNCH: Opposed? Motion carries.</p> <p>15 Thank you, Mr. Miller.</p> <p>16 MR. MILLER: Thank you, sir.</p> <p>17 CHAIR LYNCH: I'm pleased to -- it's been --</p> <p>18 what? -- seven years. I'm pleased to conclude this.</p> <p>19 MR. MILLER: We'll get started on these projects</p> <p>20 right away.</p> <p>21 CHAIR LYNCH: Thank you very much.</p> <p>22 Let's go ahead and take up WNP 1 and 4.</p> <p>23 Ms. Khounnala, Energy Northwest?</p> <p>24 MS. KHOUNNALA: Yes. Okay. We'll start with WNP 1</p> <p>25 and 4.</p>

Page 17	Page 19
<p>1 As of right now, the Department of Energy is</p> <p>2 formalizing an internal review process with the lease extension</p> <p>3 for WNP 1 and 4. The lease extension will actually act as the</p> <p>4 implementation process for the water rights that were obtained</p> <p>5 from the Department of Ecology.</p> <p>6 So the actions are with Department of Energy right</p> <p>7 now. We do expect to hear from the -- signing a new lease</p> <p>8 within the next 30 to 60 days.</p> <p>9 And that completes the update for WNP 1 and 4.</p> <p>10 CHAIR LYNCH: Any questions regarding WNP 1 and 4?</p> <p>11 Okay. Now, Ms. Khounnala, do you want to continue on</p> <p>12 with the Columbia Generating Station update?</p> <p>13 MS. KHOUNNALA: Sure. So there's really only one</p> <p>14 item I would like to mention during our Council meeting today</p> <p>15 that's nonroutine, and that's an update of a project and an</p> <p>16 effort that has been long in the development in having a</p> <p>17 formalized public presentation and educational outreach</p> <p>18 opportunity at the new Reach museum that has opened in the</p> <p>19 Tri-Cities area. That museum opened in Kennewick in July of</p> <p>20 2014. And this fall and winter, Energy Northwest worked with</p> <p>21 the Reach staff to come up with a display presentation for</p> <p>22 installation at the museum.</p> <p>23 Over the various years, both Energy Northwest, as</p> <p>24 well as EFSEC Council, have been a supporter of the Reach. And</p> <p>25 on my tour of the Reach museum in December, both Energy</p>	<p>1 Do you want to update the Council?</p> <p>2 MR. LaSPINA: Thank you, Chair Lynch and</p> <p>3 Councilmembers. This next matter, this proposed final action,</p> <p>4 involves the issuance of a fugitive radionuclides emissions</p> <p>5 license. The background to this issue is early in 2013, during</p> <p>6 the development of the NPDES program, which was recently issued,</p> <p>7 Energy Northwest proposed construction of a wastewater treatment</p> <p>8 system which resulted in the removal of a discharge to ground</p> <p>9 water. And I wanted to point out that Energy Northwest</p> <p>10 volunteered this, so it was not required by the permit, so the</p> <p>11 facility was completed in 2014. Last year it came to EFSEC's</p> <p>12 notice that the facility, the evaporation ponds, would need a</p> <p>13 fugitive radionuclides emissions license. The license has been</p> <p>14 drafted by the Department of Health, whose bailiwick that that</p> <p>15 license is a part of, and at this time, we would like to propose</p> <p>16 that the Council approve issuance of the license. I would also</p> <p>17 like to point out that Mr. Randy Utley, of the Department of</p> <p>18 Health in Richland, who drafted the license, is on the phone if</p> <p>19 you have any technical questions.</p> <p>20 CHAIR LYNCH: Thank you, Mr. LaSpina.</p> <p>21 And just for the Council's reminder, we have already</p> <p>22 approved the engineering design for this facility. We have</p> <p>23 already approved, I believe, an operation and maintenance manual</p> <p>24 for this facility. We've actually done all the heavy lifting</p> <p>25 here, but we were thinking that it was the Department of Health</p>
Page 18	Page 20
<p>1 Northwest and EFSEC are prominently displayed at the entrance as</p> <p>2 supporters of that facility.</p> <p>3 So this Reach museum really was -- we worked with the</p> <p>4 Council in the past back in 2002, I believe, when Energy</p> <p>5 Northwest needed to close our public information center out at</p> <p>6 CGS. We worked with the Council on a resolution that the Reach</p> <p>7 could be used as a way to network out to the public and inform</p> <p>8 them of Columbia operations. So we're very happy that the</p> <p>9 museum has been built and opened and our installation has been</p> <p>10 formalized.</p> <p>11 And I would encourage if there's any members of the</p> <p>12 Council or Council Staff that are coming through the area or</p> <p>13 visiting this part of the state to stop in at the museum. It's</p> <p>14 a very beautiful facility.</p> <p>15 And I have no other events or safety incidents to</p> <p>16 report.</p> <p>17 CHAIR LYNCH: Thank you, Ms. Khounnala.</p> <p>18 Are there any questions for Ms. Khounnala?</p> <p>19 And once again I would encourage people strongly who</p> <p>20 are on the phone to mute your phones. Mute your phones.</p> <p>21 Thank you. So -- and I'm still hearing a lot of</p> <p>22 shuffling of papers around, so please mute your phones. Thank</p> <p>23 you.</p> <p>24 And, Mr. LaSpina, we still have some business</p> <p>25 regarding the Columbia Generating Station.</p>	<p>1 that issued the license, but we're the ones that actually issue</p> <p>2 the license.</p> <p>3 So this is the last remaining piece of paper</p> <p>4 regarding this particular operation, and it's in front of you as</p> <p>5 Council Order No. 874: "Order to Manage and Regulate Fugitive</p> <p>6 Radionuclide Emissions from the Evaporation Pond Wastewater</p> <p>7 Treatment System."</p> <p>8 Is there any questions of Department of Health staff</p> <p>9 or Mr. LaSpina?</p> <p>10 MR. UTLEY: No questions from the Department of</p> <p>11 Health.</p> <p>12 CHAIR LYNCH: In that case, is there any discussion</p> <p>13 among Councilmembers?</p> <p>14 At this point in time, I would entertain a motion for</p> <p>15 approval of Council Order No. 874.</p> <p>16 MR. STEPHENSON: Chair Lynch, I'll move that the</p> <p>17 Council approve this, Council Order No. 874.</p> <p>18 CHAIR LYNCH: Do we have a second?</p> <p>19 MR. MOSS: I second that motion.</p> <p>20 CHAIR LYNCH: It's been moved and seconded that the</p> <p>21 Council issue Order No. 874.</p> <p>22 All those in favor say "aye."</p> <p>23 MULTIPLE SPEAKERS: Aye.</p> <p>24 CHAIR LYNCH: Opposed? Motion carries. Very good.</p> <p>25 And at this point in time, let's go ahead and turn to</p>

Page 21

1 the Staff update regarding the Tesoro/Savage Vancouver Energy  
 2 Distribution Terminal. I would like to hear the project update  
 3 from Ms. Bumpus first, and we can ask her questions regarding  
 4 how the proposal is being processed at this time. And then  
 5 we'll take up with question of the commencement of adjudication,  
 6 and we'll hear from our ALJ, Cassandra Noble then.

7 So, Ms. Bumpus, the floor is yours.

8 MS. BUMPUS: Thank you. Good afternoon, Chair Lynch  
 9 and Councilmembers.

10 To start off, I wanted to talk a little bit about the  
 11 Application for Site Certification. To my knowledge in the  
 12 past, EFSEC has not had a proposal that requires certain  
 13 facility plans that are required for this proposal. Those plans  
 14 are under WAC 173-182 and WAC 173-180. And they're relative to  
 15 oil spill handling facilities, and so I wanted to just talk  
 16 about those briefly.

17 Recently, EFSEC completed a review of the preliminary  
 18 draft oil spill contingency plan, and we provided a checklist  
 19 with review comments to the applicant last week. So we're going  
 20 to be working with them to complete that plan and have continued  
 21 review of it with the Department of Ecology's Spills Program,  
 22 but there are other plans that are also required specific to  
 23 this facility that we anticipate doing reviews for. One would  
 24 be the oil facility handlings operations manual. There is also  
 25 an oil spill prevention plan, which we have a preliminary draft

Page 22

1 for, so we're going to be doing a review of that and providing  
 2 feedback to the applicant.

3 One of the reasons I wanted to point these out is  
 4 because they are a new type of plan for EFSEC to review. We  
 5 haven't had a facility that required them in the past, which I  
 6 have pointed out already, and the other thing about this is that  
 7 we do anticipate that we will have all of these reviewed and  
 8 finalized before we have a recommendation to the Governor.

9 And I bring that up because to my knowledge in the  
 10 past, there's certain plans that have been reviewed and  
 11 finalized after the SCA is complete. And so in this case, we do  
 12 expect that the applicant is going to give us all the  
 13 information we need so that we can review all of these plans and  
 14 finalize them before we go to the step of having a  
 15 recommendation sent to the Governor. So that's sort of the  
 16 thing that's unique about them.

17 And before I move on to anything else, I want to know  
 18 if there are any questions about these plans.

19 MR. MOSS: Yes, I have a question.

20 CHAIR LYNCH: Yes, please, Mr. Moss.

21 MR. MOSS: These oil spill plans, for what sort of  
 22 incident or incidents do they cover? Are we talking about  
 23 spills at the port facility itself, spills at a train accident  
 24 and so forth?

25 MS. BUMPUS: So these plans are only plans that are

Page 23

1 related for the facility itself, so they wouldn't be dealing  
 2 with, you know, offsite spills. But there is a contingency plan  
 3 which deals with what they would do in the event of a spill  
 4 during operations at the facility, and then there is the  
 5 prevention plan that deals with how they go about preventing an  
 6 incident to begin with.

7 There are also, as I mentioned, several other plans  
 8 associated with these, and they are pretty detailed. An  
 9 operations manual, for instance, is one that we expect we'll  
 10 review and finalize before we have a recommendation to the  
 11 Governor.

12 MR. MOSS: Okay. Thank you.

13 CHAIR LYNCH: Ms. Bumpus, to follow up with  
 14 Councilmember Moss's question, just to make it perfectly clear,  
 15 the draft EIS will be looking at spills not only offsite but  
 16 onsite as well?

17 MS. BUMPUS: Correct.

18 CHAIR LYNCH: Okay.

19 MR. SNODGRASS: Mr. Chair, Bryan Snodgrass here on  
 20 the phone. I have a question.

21 CHAIR LYNCH: Yes. Please go ahead.

22 MR. SNODGRASS: In following on your comment,  
 23 Mr. Chair, I just wonder if there could be just a little bit  
 24 more discussion from Staff on the role of these plans in the EIS  
 25 and adjudicative processes.

Page 24

1 CHAIR LYNCH: Go ahead, Ms. Bumpus, as much as you're  
 2 are able to.

3 MS. BUMPUS: So I can speak to that just a little  
 4 bit.

5 We are still very early in beginning the preparation  
 6 of the DEIS. How much additional information will come from  
 7 these plans and inform the DEIS is a bit of an unknown at this  
 8 point.

9 As I mentioned, we are not done with our review of  
 10 the preliminary spill prevention plan. We've only just finished  
 11 the review of the contingency plan, so it may be that we ask the  
 12 applicant for additional details to complete the DEIS. But we  
 13 will be looking at prevention measures relative to spills on the  
 14 site, and we'll be looking at response as well and what they  
 15 would do in the event of a spill at the facility.

16 MR. SNODGRASS: Thank you.

17 CHAIR LYNCH: Any other questions?

18 MS. MARTINEZ: I have a question.

19 CHAIR LYNCH: Yes, Ms. Martinez?

20 MS. MARTINEZ: Ms. Bumpus, so is it safe to say that  
 21 the spill plans would become -- implementation of the plans, I  
 22 should say, would become requirements of the site certification  
 23 eventually?

24 MS. BUMPUS: Yes.

25 MS. MARTINEZ: And so perhaps we don't need to

Page 25	Page 27
<p>1 approve those plans now or as a part of the draft EIS, but we</p> <p>2 would know that those plans would have to be in place or would</p> <p>3 become -- implementation of them would become requirements of</p> <p>4 the certification?</p> <p>5 MS. BUMPUS: Yes, that's my understanding.</p> <p>6 MS. MARTINEZ: Okay. And then are we talking about</p> <p>7 spill plans associated with the construction of the facility, as</p> <p>8 well as operation of the facility, just to clarify?</p> <p>9 MS. BUMPUS: So I have only mentioned just a few.</p> <p>10 I'm just barely scratching the surface with respect to the</p> <p>11 number of plans that this facility would require for</p> <p>12 construction and operation, so there are a number of other</p> <p>13 construction-related plans that are going to be required for</p> <p>14 this facility as well.</p> <p>15 And I'll be sharing more information with you as I,</p> <p>16 you know, get more information about when we'll see these</p> <p>17 preliminary drafts of these other plans. I'll be keeping you</p> <p>18 informed and updated about these other plans.</p> <p>19 CHAIR LYNCH: Right. And if I can just interject for</p> <p>20 a moment.</p> <p>21 Ms. Martinez, the facility, if there was approval for</p> <p>22 this proposed facility, they'd have to have a construction</p> <p>23 stormwater permit, and so they'd have to follow that.</p> <p>24 So I think the spill plans are more aimed at a</p> <p>25 completed facility with a product --</p>	<p>1 contractor there at Ecology.</p> <p>2 And that's pretty much all I have on the application</p> <p>3 review piece. And I -- well, that covers permits, for the air</p> <p>4 permit, at least.</p> <p>5 For the HPA, the hydraulic project approval</p> <p>6 application, we are planning on providing the HPA advisory</p> <p>7 permit conditions that we have. These are draft conditions.</p> <p>8 We'd provide those to the applicant within the next week.</p> <p>9 Another review is going to be needed by DFW after SEPA's</p> <p>10 completed, so these are strictly just advisory conditions that</p> <p>11 have been set based on information that we have now for that</p> <p>12 permit application.</p> <p>13 Are there any questions about the HPA?</p> <p>14 CHAIR LYNCH: Any questions for Staff?</p> <p>15 Please go ahead. Do you have more, Ms. Bumpus?</p> <p>16 MS. BUMPUS: On the NPDES permits, I have heard from</p> <p>17 the applicant that they plan to respond to our August 1, 2014</p> <p>18 letter, requesting more information about their stormwater NPDES</p> <p>19 permit applications. This is both for construction and</p> <p>20 industrial permits. And they're going to respond to that</p> <p>21 request for additional information in February, so there will be</p> <p>22 more to update on those permits and the development of those</p> <p>23 permits once we get their information and we review it with the</p> <p>24 contractors at Ecology. So more to follow on that. So that</p> <p>25 concludes the permits.</p>
Page 26	Page 28
<p>1 MS. MARTINEZ: Okay.</p> <p>2 CHAIR LYNCH: -- moving back and forth, but they</p> <p>3 would have to follow any construction stormwater permit</p> <p>4 constraints.</p> <p>5 Ms. Bumpus, go ahead and continue.</p> <p>6 MS. BUMPUS: So I think that will pretty much cover</p> <p>7 it for most of the application review. The only other thing to</p> <p>8 update on our review of the application is that the air permit</p> <p>9 contractor at Ecology that's working on the NOC is doing a</p> <p>10 review of the application and --</p> <p>11 CHAIR LYNCH: Excuse me. A lot of people don't know</p> <p>12 what these various acronyms are, so if you could --</p> <p>13 MS. BUMPUS: Sure.</p> <p>14 CHAIR LYNCH: -- just say what "NOC" means.</p> <p>15 MS. BUMPUS: Sorry about that.</p> <p>16 CHAIR LYNCH: Thank you.</p> <p>17 MS. BUMPUS: So notice of construction for the air</p> <p>18 permit, that review for that permit application is being done by</p> <p>19 Ecology's Air Quality Program on behalf of EFSEC, and that same</p> <p>20 contractor's also reviewing the Application for Site</p> <p>21 Certification, Air Emissions sections, to provide comments and</p> <p>22 request additional information if it's needed to supplement the</p> <p>23 application.</p> <p>24 So that was completed last week, and I think that</p> <p>25 we'll have some feedback for the applicant this week from our</p>	<p>1 Now, I'm going to talk a little bit about the DEIS.</p> <p>2 I just wanted to let you know that at this point, it looks like</p> <p>3 we still are within the timeline that we showed you at the last</p> <p>4 meeting. We haven't found anything that we think is going to</p> <p>5 cause any delay at this point, so we're still on track for that.</p> <p>6 We are coordinating meetings with Cardno and the regulators at</p> <p>7 the agencies, our contractors, to talk about impacts, prevention</p> <p>8 measures, mitigation measures for the impact analysis and the</p> <p>9 DEIS.</p> <p>10 And one more thing just to add to that. We had a</p> <p>11 data request that we mentioned at our last month's Council</p> <p>12 meeting where we wanted to go back to the applicant and ask for</p> <p>13 additional information from them on their approaches and methods</p> <p>14 in the preliminary draft EIS, and we did receive the applicant's</p> <p>15 response last week. So we're currently reviewing that</p> <p>16 information, and we may need to request more information from</p> <p>17 them as we continue.</p> <p>18 CHAIR LYNCH: Thank you.</p> <p>19 Any questions for Ms. Bumpus?</p> <p>20 Yes, Mr. Stephenson?</p> <p>21 MR. STEPHENSON: Thank you, Chair.</p> <p>22 Sonia, so we're still on the books for a DEIS to us</p> <p>23 for review in March? I think that's what we put last time</p> <p>24 according to the...</p> <p>25 MS. BUMPUS: Right, right. About end of March, early</p>



Page 29

1 April.

2 MR. STEPHENSON: Great.

3 MS. BUMPUS: Yes.

4 MR. STEPHENSON: I'm trying to schedule our time.

5 CHAIR LYNCH: Right. And at least at this point, we

6 can give approximate ranges. And, you know, there's still a

7 number of things outside of our control, so we're doing our best

8 to give as accurate and as narrow a time range as we can. But

9 at least in this point of time, that's the best we can do.

10 MR. STEPHENSON: Got it.

11 CHAIR LYNCH: And if something changes one big way or

12 another, we'll certainly let you know.

13 MS. BUMPUS: Yes.

14 MR. SNODGRASS: Mr. Chair? Bryan Snodgrass with a

15 question.

16 CHAIR LYNCH: Yes. Mr. Snodgrass?

17 MR. SNODGRASS: A question for Ms. Bumpus.

18 A little further on your description of the materials

19 in response to Data Request 1, and it's actually where we are in

20 terms of the availability of the information. In reading that,

21 at least from my mind, it seems if we're further -- there are

22 various pieces of information, at least, described in your

23 e-mail, that it's not a matter of refining them, but they're not

24 there yet.

25 So I just wanted to, if you will, just a couple of

Page 30

1 questions on that just to find out if that's the case.

2 One of the things that it mentions is that some of

3 the -- in the PDEIS (phonetic) as it now stands, some chapters

4 are missing information required under SEPA.

5 Can you describe that? Is that substantial?

6 MS. BUMPUS: Well, I think overall there's -- there

7 are many areas of the document that need some supplemental

8 information, so an example that I mentioned in the e-mail with

9 respect to things that are required under SEPA, the regulatory

10 framework chapter. That needs to be updated.

11 There's additional information that we need to add

12 that better describes and outlines EFSEC's role and our process

13 and we what intend to do in the DEIS. There are lots of areas

14 within the first couple of chapters of the document that are

15 missing small pieces of information, but, collectively, it's

16 quite a bit of additional information that needs to be added to

17 get those up to par.

18 MR. SNODGRASS: I guess my reading of the e-mail was

19 that there's information that's not just being refined, it's new

20 information having to be generated; is that a fair assessment

21 or...

22 MS. BUMPUS: Do you mean with respect to additional

23 analyses?

24 MR. SNODGRASS: Well, it looks like from the e-mail

25 there's information about the analytical approaches that isn't

Page 31

1 there, and there's also -- in one case that reveals some

2 information about your example of the one-tank-car-spill volume

3 issue.

4 MS. BUMPUS: Right. So I gave that example because I

5 wanted to just give one idea of a lot of the small pieces of

6 information that we are working to refine. And, you know, we

7 have an understanding of what the applicant's approach is, but

8 there are several small details about some of their approaches

9 that we want to change; that we want to look at doing a little

10 bit differently. So there is just a lot of areas where we could

11 supplement it where we could change some of the assumptions in

12 the models that were done.

13 So there's just a pretty wide range of, you know,

14 information that we need to look at closely and determine if we

15 want to refine it or adjust it or do something a little

16 differently to capture the most current data that we have

17 available.

18 CHAIR LYNCH: Just as a quick follow-up, Ms. Bumpus.

19 You mentioned the one-car-spill scenario, and I

20 believe that's in reference to that the previous consultant did

21 a spill analysis, but they used one tanker spilling its

22 contents. And for purposes of this Council it was felt that

23 that was insufficient; that the Council would most likely want

24 information of more than one car.

25 So what would happen if more than -- if the contents

Page 32

1 of more than one tanker car spilled, and so that's one of the

2 things you are working with with our consultant; is that

3 correct?

4 MS. BUMPUS: That's correct.

5 And as I said, there are several areas in the

6 document that are similar. We have a similar issue where we

7 agree generally with the methodology that was used. It's not

8 necessarily the analysis itself, but it's details within the

9 analysis, technical parameters that are set within the analysis

10 itself that we want to adjust or refine or at least look at very

11 carefully and determine if we want to do something differently

12 and if there is data that's more current to justify doing that.

13 So that was one of the best examples I could think

14 of, but there are several others that I could go into more

15 discussion and detail about.

16 MR. SNODGRASS: Thank you.

17 CHAIR LYNCH: Mr. Stohr.

18 MR. STOHR: Sonia, I'm interested in the sequencing

19 of the gap analysis that we discussed at the last couple of

20 meetings.

21 How does that fit into the review scenario?

22 MS. BUMPUS: Into your review of the DEIS?

23 MR. STOHR: Yes.

24 MS. BUMPUS: Can you explain a little bit more?

25 MR. STOHR: Sure. When we talked about this in the

Page 33

1 last couple of meetings, Staff was undergoing the gap analysis  
 2 to work with the contractor and with the applicant to make sure  
 3 that we had a complete document and at some point -- I think  
 4 pretty soon -- you were going to come to the Council with that  
 5 gap analysis and make us aware of those areas that you saw  
 6 needed, you know, more work and I think ask us if we saw  
 7 anything else; if we agree if there were, indeed, other subject  
 8 areas that we thought ought to be included in the draft EIS.

9 MS. BUMPUS: My recollection is that one of the  
 10 things that we deferred for discussion later was the  
 11 alternatives analysis. And I think that we wanted to revisit  
 12 that, but it was going to most likely be Ms. Essko that was  
 13 going to provide some legal analysis on that before Staff  
 14 presented that information.

15 CHAIR LYNCH: Actually, I think I'm going to  
 16 interrupt you a little bit, Ms. Bumpus. I think I know what  
 17 Mr. Stohr is getting at, and, yes, you're correct, that there  
 18 has to be more done in terms of the alternatives analysis.

19 But the Council early on was -- we talked about the  
 20 ability to weigh in and review the -- prior to the draft EIS,  
 21 we'd have a chance to review the document. And I think where we  
 22 are right now is at the last Council meeting, some of the  
 23 highlights that were in the gaps analysis were presented to the  
 24 Council but that there are many numerous changes that need to  
 25 occur like -- and as Ms. Bumpus said, a lot of it is just

Page 34

1 rewriting the narrative in a different fashion.

2 But at the last Council meeting our consultant  
 3 indicated that instead of getting that matrix that we had talked  
 4 about at one time and looking at documents along with the  
 5 matrix, it was going to be a much more polished product that you  
 6 were going to be looking at. They would actually have the  
 7 methodologies that were being used as part of that, so you're  
 8 still going to have the opportunity to look at what's being  
 9 presented, look at how the different ways different tasks are to  
 10 be accomplished, and you'll have the ability to weigh in on  
 11 that.

12 But it was felt that in order -- that there were so  
 13 much in the gaps analysis that needed refining that it was  
 14 better to just give the Council the highlights of where the  
 15 major differences were, and then we'll come back at a later time  
 16 with a more polished product that you will still be able to  
 17 weigh in on and make suggestions where things are missing or not  
 18 adequate. I hope that answers your question.

19 MR. STOHR: Yeah. I mean, that's an answer to the  
 20 question. That's a different scenario, though, than what I had  
 21 been anticipating or operating under and -- and a little bit of  
 22 a surprise I'd have to say.

23 CHAIR LYNCH: Well, I'm sorry if that's a surprise,  
 24 but I believe that's what we said at the last Council meeting  
 25 that we were going to -- because it is correct. It's a little

Page 35

1 bit different, but at the last Council meeting I asked Staff  
 2 some questions to make sure that we were fully intending the  
 3 Council to weigh in just as much as they would otherwise; that  
 4 we were not preempting any sort of Council review, but we  
 5 were -- rather than have the Council review things and comment  
 6 on inadequacies that were going to be fixed anyway and had been  
 7 identified as necessary to be fixed that that was not the best  
 8 use of the Council's time; that it was better that a lot of  
 9 those things be, in fact, fixed, and so you'd have a more  
 10 refined product. You'd also have a description of the  
 11 methodologies that were used so that you'd be able to -- it  
 12 would be a lot cleaner product so you wouldn't have to go back  
 13 and forth between documents later.

14 So it was more seen as an opportunity -- as a chance  
 15 for the Councilmembers to still have full review but it would be  
 16 a more efficient use of your time.

17 MR. POSNER: Chair Lynch, can I just piggyback off of  
 18 that comment?

19 CHAIR LYNCH: Yes.

20 MR. POSNER: Just to reassure you, Mr. Stohr, that  
 21 basically -- you know, we have an independent consultant. We  
 22 have multiple state agencies, your agency as well, helping us  
 23 review what we received from the applicant, and there is a fair  
 24 amount of work that still needs to be done. So what we at the  
 25 Staff level want to do -- and I believe we have shared this with

Page 36

1 the Council. The approach is to clean this document up  
 2 significantly so that -- to save everybody a lot of time, give  
 3 it to the Council, allow you ample time to review it and comment  
 4 on it before it reaches a draft public -- you know, where it  
 5 goes out to the public so you'll have ample time to comment on  
 6 it and provide suggestions before it goes public.

7 But at this point, there's quite a bit of work that's  
 8 being done by various entities, state agencies, local agencies,  
 9 and our independent consultant, as well as EFSEC Staff, that we  
 10 at the Staff level just -- I personally do not feel it would be  
 11 a good use of Councilmember time to enter in the review process  
 12 at this time. I think it would slow us down significantly.

13 And I also think because we've had this experience  
 14 where we have duplication of comments where we've had -- we  
 15 provided comments and we realize that our consultant is already  
 16 on it, they've made the comment, they're making the change, so  
 17 we're just trying to make it as efficient as possible, get it to  
 18 a certain point, and then provide it to the Council and let you  
 19 take a look at it and give us your input.

20 MR. STOHR: Yeah. I mean, don't mistake me. I know  
 21 that the Staff's doing a lot of quality work. I know the  
 22 contractor's working hard on it. I know the applicant is  
 23 working hard. I just was under the impression that we were  
 24 going to sometime, fairly soon here, be given an analysis that  
 25 talked about strengths and weaknesses in that document and have

Page 37

1 some time to digest that and understand that.  
 2 So if that's indeed still the case, then it's just  
 3 different terms we're using. But I wasn't hearing anybody talk  
 4 about gap analysis like I had been, and so I wanted to  
 5 understand how that was flowing and how that was going to work.  
 6 MR. POSNER: I would just say that, you know, the gap  
 7 analysis, it's an iterative process. I mean, we're still  
 8 performing in the gap analysis and cleaning up the document as  
 9 we identify gaps. The gaps are being documented so that we have  
 10 a record of it, so that -- I mean, that information, if need be,  
 11 can be shared with the Council, at least, to show you how --  
 12 where we started and all the steps that got us to the point to  
 13 where we actually make the document or, you know, bring it to  
 14 you and say, We think it's in good shape now, and we would like  
 15 to get your input.  
 16 MR. STOHR: Thanks.  
 17 CHAIR LYNCH: Any further questions?  
 18 Ms. Bumpus, did you have anything else?  
 19 MS. BUMPUS: Well, I just wanted to make another  
 20 comment with respect to Councilmember Stohr's concerns.  
 21 One of the things I talked about several Council  
 22 meetings ago -- I don't know how many -- we worked on a Phase II  
 23 scoping matrix quite a while back, and the intention had been to  
 24 share that with Councilmembers so that you could see what the  
 25 approaches were going to be, what the methods were going to be

Page 38

1 to address the impact analysis and to perform it.  
 2 And what we found was that it was really, really  
 3 difficult to get very much out of that information without  
 4 seeing the actual discussions of the impact analysis and seeing  
 5 it laid out and seeing it applied. It just didn't make sense to  
 6 provide it in that way, and I think that the method section is  
 7 going to do a good job of putting -- you know, laying it out  
 8 before you get into the section of the DEIS that's actually the  
 9 narrative. It's going to outline all the methods that are used  
 10 within that particular section to talk about that resource area.  
 11 And so that was -- I think that that was just one of  
 12 those changes that we made along the way because we realized it  
 13 was much more valuable if we could provide you with the document  
 14 and the methods as well to go with it.  
 15 CHAIR LYNCH: Ms. Martinez?  
 16 MS. MARTINEZ: I think I was the one that originally  
 17 requested the methodology before seeing that written up in the  
 18 draft EIS because the concern would be if we don't weigh in on  
 19 the methodology early, we could at a later point in time request  
 20 for different methods or a different -- you know, a different  
 21 approach. And so that's just the risk, I think, of waiting  
 22 until we see it all in the draft EIS. There might be people on  
 23 the Council that want to weigh in on the methodology.  
 24 So to that, with regards to kind of that comment, I'm  
 25 wondering what is the Council's influence on the draft EIS

Page 39

1 because is this -- I mean, is the draft EIS really an EFSEC or a  
 2 UTC document? I mean, the Council isn't the SEPA lead, I don't  
 3 think, or are they?  
 4 So can you kind of weigh in on that, Bill, or  
 5 somebody?  
 6 MR. POSNER: Well, EFSEC is the SEPA lead agency.  
 7 EFSEC is the lead agency. We're not technically a state agency,  
 8 but we are the SEPA lead agency for purposes of issuing the  
 9 draft EIS and the final EIS. And I, as the EFSEC manager, am  
 10 the SEPA responsible official. And in my role -- and I have a  
 11 fair amount of discretion in terms of overseeing the work that's  
 12 being done on developing the draft EIS.  
 13 Typically, as far as the Council's role in SEPA and  
 14 draft EIS's has been -- I would say that my experience with  
 15 EFSEC, this Council is playing a much larger role in the  
 16 development of this draft EIS. Typically, past councils have  
 17 had very minimal input at this stage in the process. Obviously,  
 18 they were kept informed of what was happening.  
 19 But as far as playing a role of reviewing  
 20 methodologies, reviewing technical information, the Council  
 21 typically has deferred to the Staff. The Staff has the  
 22 expertise. The Staff hires -- the Council hires an independent  
 23 consultant where we feel that expertise lies, as well as with  
 24 our state agency contractors who work under contract to assist  
 25 us in those areas.

Page 40

1 So I would say that, obviously, we want the Council's  
 2 input, but I guess there's a fine line between where it becomes  
 3 beneficial and are we duplicating. Are we sort of overloaded  
 4 with expertise and how much expertise do we need. We certainly  
 5 want your input, but I guess the question is at what point is it  
 6 best to receive that.  
 7 MS. MARTINEZ: Thank you, Mr. Posner. I recall that  
 8 you made those comments at the last Council meeting, and it just  
 9 helps to reiterate and clarify, I think, because as a  
 10 Councilmember, I'm, you know, always asking myself what level of  
 11 review do I need to provide to something and, you know, really,  
 12 what's my role, so I'm trying to figure that out as we go along.  
 13 I do have another question not related to the draft  
 14 EIS, but did anybody else have a question related to the draft  
 15 EIS before I -- okay.  
 16 CHAIR LYNCH: Mr. Stephenson.  
 17 MR. STEPHENSON: Thank you, Chair. I just want to  
 18 add in the tension that we're feeling here is potentially a good  
 19 tension. I mean, what you've heard is your Council actually  
 20 wants to get this document and start picking through it and  
 21 looking at it.  
 22 And so what we hear is, Well, we'll make it perfect  
 23 for you so we can give it to you, and we're saying, Give it to  
 24 us.  
 25 So I think that's a good tension, and so I think we

Page 41

1 should think of that as positive. It's not saying Staff is not  
 2 doing a good job. It's not saying, as you've heard, that we  
 3 don't trust Staff and think that Staff is good, but we want to  
 4 get at it, too. It's, you know, we're the darn Council, so let  
 5 us at it when you can.

6 CHAIR LYNCH: We're all used to being the people who  
 7 dive in there and make the recommendations to our bosses. So  
 8 we're used to diving in at an early stage, so that's probably  
 9 part of the reason why we're a little impatient.

10 Any further questions?

11 Ms. Martinez, you had another one, I believe.

12 MS. MARTINEZ: I have one that's more related to  
 13 schedule than the document itself in that we had a question come  
 14 up at the last Council meeting about an overall schedule for the  
 15 effort, and I think we have seen another letter come in from the  
 16 applicant since then.

17 And are we responding to the applicant's request for  
 18 a schedule, or is that something we're going to be talking about  
 19 next in the -- as we start to talk about adjudication?

20 MR. POSNER: Ms. Martinez, we do have the letter. We do  
 21 received it from the applicant. It's dated December 17. We do  
 22 intend to respond to that letter.

23 MS. MARTINEZ: Okay.

24 MR. POSNER: And I have talked to the applicant's  
 25 representative about some of the concerns we have about the

Page 42

1 schedule, and we do plan to respond.

2 Currently, the application review period, it was  
 3 extended several months ago until I believe the beginning of  
 4 March, so we would expect to receive an extension request letter  
 5 from the applicant for the Council's consideration so that they  
 6 could consider it probably at the February Council meeting.

7 MS. MARTINEZ: Okay. Thanks for that update.

8 CHAIR LYNCH: Councilmember Siemann, do you have a  
 9 question?

10 MR. SIEMANN: Just a comment to weigh in on the  
 11 earlier conversation. Being new and talking about the  
 12 methodology specifically, I'm just wondering if there is an  
 13 opportunity for me to have some input into that methodology if  
 14 we're going to be answering or trying to understand and analyze  
 15 the situation; asking the questions we want to -- we want to be  
 16 sure we're asking the questions that we want to have answers to,  
 17 and I'm sure that others have already had that opportunity to  
 18 weigh in. I have not, so I'm just wondering if there is going  
 19 to be that opportunity to see that methodology.

20 CHAIR LYNCH: Well, I'll just mention a couple of  
 21 things. I don't know if you've had a chance to see yet,  
 22 Councilmember Siemann, but the scoping comments for the -- that  
 23 were made on this proposed project, those are on our website.  
 24 And there's a number of -- besides all the individuals who  
 25 commented -- there were thousands, but the different state

Page 43

1 agencies made comments, which are good to look at. Various  
 2 tribes did, so there's a lot of -- plus a number of nonprofit  
 3 organizations did. And that's a good thing to take a look at  
 4 and see where some of the concerns that they have just at the  
 5 very front end of the project are and some of the questions that  
 6 they would like to have answered.

7 So that's a good place to do a little bit of initial  
 8 research, but certainly feel free to contact me or the Staff if  
 9 you have some thoughts of this project.

10 MR. SIEMANN: (Nods head.)

11 CHAIR LYNCH: Thank you for your interest.

12 Any other questions for Mr. Posner or Ms. Bumpus?

13 MS. BUMPUS: I just wanted to mention for  
 14 Councilmember Siemann that I believe the presentation we did on  
 15 the gap analysis which -- it was just -- major components that  
 16 resulted from the gap analysis is on the EFSEC website.

17 CHAIR LYNCH: I think at this point we're ready to  
 18 hear a presentation by Ms. Noble, who is our administrative law  
 19 judge for this project, and she's going to talk to us about the  
 20 commencement of the adjudication.

21 Please proceed.

22 MS. NOBLE: Thank you, Chair Lynch and  
 23 Councilmembers. As Mr. Lynch said, I am the administrative law  
 24 judge who will be handling the adjudication for the  
 25 Tesoro/Savage Vancouver Energy Distribution Terminal, EFSEC

Page 44

1 Application No. 2013-01.

2 As you all know, one of EFSEC's primary duties is to  
 3 ensure that its decisions are made timely and without  
 4 unnecessary delay, and that obligation comes from  
 5 RCW 80.50.010(5).

6 Now, EFSEC's parallel processes, as required by  
 7 RCW 80.50.090, are either accomplished already or are well  
 8 underway except for the adjudication proceeding. The initial  
 9 informal public hearing is done. The land use consistency  
 10 hearing and decision are done. The SEPA review is, as you have  
 11 heard, ongoing, and our draft EIS is expected in the spring.  
 12 The permit and plan development is ongoing, and the draft Site  
 13 Certification Agreement must be done last and then only if the  
 14 Council recommends approval.

15 The adjudicative proceeding is the only process  
 16 that's required of you that hasn't even been started yet. The  
 17 Council is required to conduct an adjudicative proceeding under  
 18 Chapter 34.05 RCW, the Administrative Procedure Act, which means  
 19 that it will be similar to a trial. That means also that  
 20 there's going to be much to be done in preparation for the  
 21 taking of evidence before the sitting Councilmembers hear  
 22 evidence and listen to the arguments and the witnesses and  
 23 consider exhibits.

24 This adjudication is expected to be more complex than  
 25 prior adjudications, and it'll also be different in some ways.

Page 45

1 I thought about all of the tasks that need to be done before you  
 2 sit and listen to the evidence, and I counted up about 26  
 3 different things, big tasks that have to be done by myself and  
 4 the parties before we are ready to actually have you sit and  
 5 listen to the evidence.

6 In the past, for instance, there have been many  
 7 prehearing orders that have been issued about various subjects  
 8 that came before the Council prior to even sitting, and the  
 9 administrative law judge had to issue 17 prehearing orders. And  
 10 that is just in the previous hearing that was far less complex  
 11 than this one promises to be.

12 And in this case, it will be somewhat different. For  
 13 example, this time it's going to be an electronic process on the  
 14 whole. The parties will have to prepare for that and figure out  
 15 how they're going to be submitting their exhibits and their  
 16 prefiled testimony electronically, and we will have to be  
 17 presenting to the Council some training, essentially, in how to  
 18 manage that and how that's going to work. But it is different.  
 19 So in addition to being more complex, this hearing is going to  
 20 be different in several ways.

21 The parties themselves need to know who the other  
 22 major parties are going to be, and that has to be established in  
 23 the intervention process, which takes some time. Most of the  
 24 intervention process will follow the commencement of the  
 25 adjudication, and after that, the parties will need time to line

Page 46

1 up witnesses, conduct discovery, decide on issues, and begin  
 2 assembling the evidence that they want to put before the  
 3 Council. And they will also need time to reach any potential  
 4 agreements that there might be, agreements to conduct informal  
 5 discovery or agreements as the authenticity of documents, or  
 6 other such things that will help to make the process more  
 7 efficient and go along smoothly.

8 I want to emphasize that the opening of the  
 9 adjudication does not mean that intervention by some party or  
 10 parties is not possible later in the process. I also want to  
 11 emphasize that opening the adjudication at this point and  
 12 getting started with the work associated with it does not mean  
 13 that issues arising out of the SEPA process but not maybe  
 14 previously realized cannot be brought into the adjudication at a  
 15 later time as the issues evolve and become finalized.

16 And with regard to SEPA, EFSEC's own rule,  
 17 WAC 463-47-060, states that the Council may initiate the  
 18 adjudicative process -- the adjudicative proceeding, rather,  
 19 required by RCW 80.50.090 prior to the completion of the draft  
 20 EIS. Although issues may develop as the case progresses, most  
 21 of the framework of the case for the parties is sufficiently  
 22 known at this time so that work can be done in preparing the  
 23 cases.

24 And even under the most speedy preparation of the  
 25 parties' cases and the preliminary work is completed, the

Page 47

1 adjudication's evidentiary hearings before a sitting council  
 2 could not practically be scheduled until after the draft EIS is  
 3 issued and the associated public comment is taken, so I would  
 4 just state that it would be actually inefficient to wait to even  
 5 start the process, the only one that hasn't been started, and,  
 6 therefore, it's appropriate and efficient to open the  
 7 adjudication now so that the parties can have adequate time to  
 8 prepare their cases and EFSEC can effectively manage all the  
 9 concurrent tasks that constitute its facility site application  
 10 review process.

11 Are there any questions?

12 CHAIR LYNCH: Any questions for Ms. Noble?

13 I would like to add a little bit of my own commentary  
 14 here. Ms. Noble and I have had ongoing conversations about this  
 15 adjudicative process along with our other Staff, of our AG, to  
 16 make sure that we operate in an efficient manner, and by no  
 17 means are we rushing this process at all. It just is just  
 18 queuing up things for the -- so that when we do start taking  
 19 evidence, start hearing from witnesses, that we would have  
 20 gotten a lot of these preliminary matters out of the way in the  
 21 first place. For example, issues come up like should there be  
 22 early identification of expert witnesses. When should that --  
 23 should there be a deadline associated with that.

24 And, of course, when you're having electronic  
 25 testimony, there's a lot of nuances that go along with that.

Page 48

1 And having been a presiding officer myself over scores and  
 2 scores of hearings -- some of them -- many get quite  
 3 complicated -- that I know that there's a lot that goes into the  
 4 preparation of a hearing before you even gavel that hearing to  
 5 its opening on the first day.

6 And so what we're doing is just trying to be more  
 7 efficient instead of waiting for the draft EIS to be done, and  
 8 then we start all these preliminary things that need to be done  
 9 before you can open the adjudication. We're just trying to  
 10 queue up the hearing for after the draft EIS is prepared.

11 So, Ms. Noble, did you want to add something else?

12 MS. NOBLE: I did want to add something. Your  
 13 comments made me remember that I was going to mention to the  
 14 Council that we have received three letters: two that were  
 15 objecting to opening the adjudication at this time by the  
 16 opponents of -- or I'm assuming they're opponents of the  
 17 project -- and one by the applicant.

18 And I just wanted to emphasize that in no way is this  
 19 rushing the process or starting it earlier or anything of this  
 20 sort. It is just giving everyone an opportunity to get started  
 21 with the preliminary work, as you've said, that needs to be  
 22 done.

23 MR. MOSS: Did I understand you to say that the  
 24 applicant has protested the idea of initiating the hearing  
 25 process?

Page 49

1 MS. NOBLE: Not at all.

2 MR. MOSS: Okay.

3 MS. NOBLE: The applicant wrote a letter in support

4 of...

5 MR. MOSS: I misunderstood what you said, then.

6 MS. NOBLE: I'm sorry.

7 MR. MOSS: That's all right.

8 MS. NOBLE: Yes. It was the applicant who wrote a

9 letter in support --

10 MR. MOSS: Okay.

11 MS. NOBLE: -- basically raising some of the same

12 things that I just mentioned.

13 And then this has not also been a suggestion that is

14 made at the behest of the applicant in any way. It just makes

15 sense. I also have conducted many hearings, and I am well aware

16 of all that has to be done to get it ready.

17 MR. MOSS: Do you have in mind the date on which you

18 would propose to have a notice of a prehearing conference or

19 other stage of the proceeding?

20 MS. NOBLE: It would be an order commencing the

21 adjudication, and it could easily go out before the end of the

22 month. After that, the parties have to have opportunity to file

23 petitions for intervention.

24 MR. MOSS: Yes.

25 MS. NOBLE: And that would be the first part of the

Page 50

1 process that takes place, and then opponents to the various

2 applications for intervention petitions would have to have time

3 to respond to the petitions, and then those who are petitioning

4 would have to have time to reply.

5 MR. MOSS: Also having some familiarity with the

6 complex hearing process myself, after having done this for many

7 years, I feel that I'm in a position to support the idea of

8 commencing the process and would propose -- I would make a

9 motion to that effect that we authorize Judge Noble to issue a

10 notice of prehearing conference or other stage of proceeding so

11 as to commence the adjudicative process in an appropriate

12 fashion that will, I'm sure, be a long and drawn out process in

13 terms of developing a procedural schedule as well as

14 interventions and so on and so forth. So I would make a motion

15 to that effect.

16 CHAIR LYNCH: It's been moved that we direct Staff to

17 initiate the adjudication process.

18 Do we have a second?

19 And I can take further discussion after I have a

20 second.

21 MR. PAULSON: I'll second it.

22 CHAIR LYNCH: It's been moved and seconded that we

23 direct Staff to commence the adjudicative process.

24 And so just Councilmembers know, it's not a hundred

25 percent clear. It just says the Council shall commence the

Page 51

1 adjudication, and so for a belt-and-suspenders approach, I'm

2 going to call for a vote on this. I'm not a hundred percent

3 sure it's necessary, but I think just to be safe, that's what I

4 would like to do.

5 Yes. Councilmember Siemann?

6 MR. SIEMANN: I'm sorry, but being new, I'm just a

7 little cautious on all of this. I would like to see the letters

8 both pro and con to understand the arguments here. I'm not just

9 familiar enough with this to feel comfortable.

10 CHAIR LYNCH: We can furnish those letters to you.

11 Essentially, the argument made against commencing the

12 adjudication was that they thought it was inefficient that they

13 would have to come back and do some -- that if people intervened

14 later, then you're going to have to talk to them about the

15 process as well, and you're going to have to introduce new

16 issues, and why not do all that later on at one time as opposed

17 to potentially opening it up again. That's, in a nutshell, what

18 the -- their concern is are we rushed. And, again, the point I

19 made about are we rushing to anything, and they're, I guess, not

20 sure what we meant when we said we were commencing an

21 adjudication. And we are not starting the trial-like portion.

22 All we're doing is queueing the case up for potential hearing.

23 So all we're doing is, again, setting up a structure

24 for how the case will flow from there, such as, you know, like I

25 said, identification of witnesses, how you're going to take

Page 52

1 testimony, when is the site visit going to be held, who's going

2 to be on the site visit, just all those sorts of questions that

3 you need to have answered.

4 So I think the letters reflected just some

5 uncertainty about what it was that we're going to do, and then

6 the -- they were questioning whether it would be efficient. And

7 I guess the response by the project applicant said that -- you

8 know, they noted that we can start our adjudication process

9 anytime under the law. In fact, it has been initiated much

10 earlier in previous petitions and previous applications in front

11 of the Council.

12 And they recognized the fact that we don't have to

13 start taking testimony as well in order to begin the

14 adjudication, so I still would like to -- I guess if I can give

15 you that assurance that that's what was in the letters -- and I

16 can provide you copies of those later -- I would still like to

17 continue with the motion today.

18 MR. STEPHENSON: I have a question.

19 MS. NOBLE: Chair Lynch?

20 CHAIR LYNCH: Excuse me.

21 MS. NOBLE: Could I just add one thing --

22 CHAIR LYNCH: Yes.

23 MS. NOBLE: -- to that?

24 My sense of the opposition letters was that there

25 wasn't a certainty about how the adjudication would proceed,

Page 53

1 vis-à-vis, the SEPA process. And I think a concern was that you  
 2 would be sitting hearing the evidence before the draft EIS was  
 3 out and the public comment was taken and your comment was taken.  
 4 That's not going to happen, so I just want those who are  
 5 listening and yourselves to know that that is not the plan.  
 6 CHAIR LYNCH: Mr. Stephenson?  
 7 MR. SNODGRASS: Chair --  
 8 CHAIR LYNCH: Excuse me. Mr. Snodgrass?  
 9 MR. SNODGRASS: I have a question. Bryan Snodgrass.  
 10 CHAIR LYNCH: Yes.  
 11 MR. SNODGRASS: Well, first of all, I had several --  
 12 or some discussion with Ms. Noble earlier, which was very  
 13 helpful in clearing up some of what's been discussed today, and  
 14 as a principle of -- to expedite matters beginning the  
 15 adjudicative process, I think, made sense.  
 16 Now, that said, is there any benefit to -- in looking  
 17 at particularly the discussion today and Ms. Bumpus's e-mail  
 18 from Friday that there's quite a bit more uncertainty, and in  
 19 some cases, information is just not there yet that -- that I had  
 20 thought at least, and so I would just lay it open for a question  
 21 and hear whoever wishes to respond.  
 22 Is there any benefit in commencing the adjudicative  
 23 process either in March, when our schedule calls for us to have  
 24 the PDEIS in front of us as a Council and we'd have a better  
 25 sense of when a hearing could take place, or even is there any

Page 54

1 benefit to doing it at our February meeting?  
 2 CHAIR LYNCH: Well, we've actually had some  
 3 discussion about this earlier, and we thought that it made --  
 4 amongst the Staff that it made the most sense to actually start  
 5 it now.  
 6 But, Ms. Noble, do you have anything that you would  
 7 like to add?  
 8 MS. NOBLE: The first thing that will happen is that  
 9 the call for intervention petitions will be made in the order  
 10 opening the adjudication -- and that will give the parties time  
 11 to bring their petitions -- and so by March it will be known who  
 12 the parties are going to be. That's the only thing that will  
 13 happen between now and March.  
 14 CHAIR LYNCH: Yeah. Whatever we do takes the parties  
 15 time to respond, so just, you know, recognize that if we start  
 16 something in February or March, then you start getting the  
 17 responses from the parties much later than that.  
 18 So we just thought in terms of being efficient, we  
 19 can just take some early identification of parties off the  
 20 table. There can be early issue formation, and sometimes -- in  
 21 fact, I remember on a case I was on that had to do with the  
 22 issuance of the municipal stormwater permits -- and you can  
 23 imagine how many attorneys and lawyers there were on that, and  
 24 they all had their sets of issues. And I gave it back to the  
 25 parties to see if they could stipulate to the issues, they would

Page 55

1 not, and so it came -- so it landed back on my desk and so you  
 2 had scores and scores and scores of issues of trying to sort  
 3 through them to see what was repetitive, what was in common from  
 4 all the different parties, and it took a long, long time just to  
 5 identify what the issues were in that case in a manner that then  
 6 the parties were then able to affirm.  
 7 So knowing that this case is every bit as big as some  
 8 of the ones I've sat on, I really recommend that the Council  
 9 take action today to initiate the process.  
 10 MS. NOBLE: And, if I may, the parties need time to  
 11 talk to each other about various kinds of agreements that they  
 12 can make, and we need to establish things that are somewhat  
 13 prosaic: service methodology, to start thinking about the  
 14 electronic record, exhibit organization, and all of that.  
 15 Parties need to be talking to each other. They need to know who  
 16 the other parties are so those kinds of things can get started  
 17 so that once the draft EIS is issued and the comment is taken,  
 18 we'll be able to proceed on with the process and hopefully get  
 19 the hearing accomplished, as quickly as it's possible to get it  
 20 accomplished, given all that the parties have to do.  
 21 CHAIR LYNCH: And just my last follow-up is: I don't  
 22 see any disadvantage to anybody for us taking action today.  
 23 Mr. Stephenson?  
 24 MR. STEPHENSON: Thank you, Chair Lynch.  
 25 I believe that it's hard to finish a process unless

Page 56

1 you start the process, so I'm a fan of what you're trying to  
 2 propose.  
 3 I just want to clarify: By starting the process,  
 4 we're not proscribing a schedule, so the schedule could still be  
 5 long, it could be short, it's going to be what it needs to be;  
 6 is that right?  
 7 MS. NOBLE: It will be, and a lot of it will be in  
 8 the control of the parties and intervenors. I don't know what  
 9 sort of skirmishes are going to take place, how long it's going  
 10 to take them to do their motions and their briefing, so a good  
 11 deal of it will be in the control of all those participants. We  
 12 are not establishing a schedule. We're just, as you say,  
 13 getting started.  
 14 MR. STEPHENSON: Thank you.  
 15 CHAIR LYNCH: Any other discussion?  
 16 Mr. Moss, I believe you were about to make a motion.  
 17 MR. MOSS: Actually, I believe I already did make a  
 18 motion.  
 19 CHAIR LYNCH: Okay. Mr. Moss, I appreciate that  
 20 because that was well-worded, and it's been seconded.  
 21 MR. MOSS: I can restate it, if you wish.  
 22 CHAIR LYNCH: No. I think that that's adequate,  
 23 thank you, and Mr. Stephenson has seconded it.  
 24 MR. STEPHENSON: Someone did second it.  
 25 CHAIR LYNCH: Or someone did. Oh, sorry.

Page 57	Page 59
<p>1 MALE SPEAKER: Mr. Paulson.</p> <p>2 CHAIR LYNCH: Mr. Paulson did.</p> <p>3 All those in favor say "aye."</p> <p>4 MULTIPLE SPEAKERS: Aye.</p> <p>5 CHAIR LYNCH: Opposed? Motion carries.</p> <p>6 So we are directing the Staff to initiate the</p> <p>7 adjudication, which, again, I want to emphasize does not mean</p> <p>8 that we will be opening the trial before the draft EIS is done.</p> <p>9 Thank you.</p> <p>10 And with that, I think we're done with our Tesoro</p> <p>11 update, and we just have a couple things left.</p> <p>12 First of all, I wanted to let the Councilmembers know</p> <p>13 that our draft bill has been introduced in the Senate. That's</p> <p>14 Senate Bill 5310, and that would update the enforcement actions</p> <p>15 that EFSEC can take at its facilities. It's legislation well</p> <p>16 overdue, and so that's just one of the cleanups to the statutes</p> <p>17 that we hope to make in the next few years.</p> <p>18 And, Mr. Posner, I believe you're going to give us a</p> <p>19 report on the third quarter cost allocation.</p> <p>20 MR. POSNER: Yes. Thank you, Chair Lynch.</p> <p>21 As we do at the beginning of every fiscal year</p> <p>22 quarter, we update our nondirect cost allocation percentages.</p> <p>23 And there is a white sheet of paper in your packets that list</p> <p>24 the percentages. These are the percentages that we have</p> <p>25 calculated for indirect charges to our applicants and</p>	<p>1 CHAIR LYNCH: And with that -- well, maybe I should</p> <p>2 rephrase that.</p> <p>3 And with that, we're adjourned.</p> <p>4 (Whereupon, the meeting was adjourned at 2:56 p.m.)</p> <p>5 -o0o-</p>
Page 58	Page 60
<p>1 certificate holders, and I'll just go ahead and read those</p> <p>2 percentages off for those folks who are still on the</p> <p>3 speakerphone.</p> <p>4 For the Kittitas Valley Project, it's 6 percent; Wild</p> <p>5 Horse is 7 percent; Columbia Generating Station, 18 percent; WNP</p> <p>6 1, 3 percent; Whistling Ridge, 3 percent; Grays Harbor 1 and 2,</p> <p>7 8 percent; Chehalis Generation, 9 percent; Desert Claim, 2</p> <p>8 percent; BP Cogeneration, 2 percent; Grays Harbor 3 and 4, 3</p> <p>9 percent; and Vancouver Energy, 39 percent.</p> <p>10 That's all I have.</p> <p>11 CHAIR LYNCH: Any questions for Mr. Posner?</p> <p>12 Any further business before the Council this</p> <p>13 afternoon?</p> <p>14 Thank you all for your participation.</p> <p>15 MS. GREEN-TAYLOR: Mr. Chair?</p> <p>16 CHAIR LYNCH: Yes?</p> <p>17 MS. GREEN-TAYLOR: Hi. This is Liz Green-Taylor.</p> <p>18 CHAIR LYNCH: Oh, yes.</p> <p>19 MS. GREEN-TAYLOR: I just wanted to let you know for</p> <p>20 the record that I have actually been on the call since</p> <p>21 Ms. Khounnala's presentation on WNP 1 and 4, so I was able to</p> <p>22 hear the discussion.</p> <p>23 CHAIR LYNCH: Thank you, Ms. Green-Taylor. I thought</p> <p>24 I recognized your breathing. Thank you.</p> <p>25 MS. GREEN-TAYLOR: Thank you, Chair.</p>	<p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 STATE OF WASHINGTON )</p> <p>4 )<sup>ss</sup> COUNTY OF KING )</p> <p>5</p> <p>6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter</p> <p>7 and Notary Public in and for the State of Washington, do hereby</p> <p>8 certify that the foregoing transcript is true and accurate to</p> <p>9 the best of my knowledge, skill and ability.</p> <p>10 IN WITNESS WHEREOF, I have hereunto set my hand and seal</p> <p>11 this 29th day of January, 2015.</p> <p>12</p> <p>13</p> <p>14 SHELBY KAY K. FUKUSHIMA, CCR</p> <p>15</p> <p>16 My commission expires:</p> <p>17 June 29, 2017</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



# Kittitas Valley Wind Power Project

## Monthly Project Update

February 17, 2015

### Project Status Update

#### January Production Summary:

MWh 5,318 MWh  
Wind 3.3 m/s or 7.3 mph  
CF 7.1%

#### Safety:

No incidents

#### Compliance:

Project is in compliance as of February 12, 2015.

#### Sound:

No complaints

#### Shadow Flicker:

No complaints

#### Environmental:

Winter has been wet with little snow – monitoring for stormwater discharge and mud.

**Wind Production:** January generation totaled 31,895 MWh for an average capacity factor of 15.73%.

**Safety:** No lost-time accidents or safety incidents to report in January.

**Compliance/Environmental:**

In accordance with Article VI.A.2 of the SCA, the Operations Spill Prevention, Control and Countermeasure Plan (SPCCP) was revised to include a new oil storage container and emergency diesel-powered generator. The revised plan was reviewed by the Department of Ecology and certified by a Professional Engineer. EFSEC staff formally approved the revisions on February 5<sup>th</sup>.

**Eagle Update:**

The protocols for eagle use surveys and fatality monitoring were submitted to TAC representatives for review and comment on January 23<sup>rd</sup>. A follow-up meeting was held on February 12<sup>th</sup> to discuss the protocols in detail and answer questions from TAC members. The protocols were revised slightly based on feedback from the TAC. The surveys and monitoring are scheduled to begin mid-March.



January, 2014

EFSEC Monthly Operational Report

1. Safety and Training

- 1.1. Conducted scheduled and required monthly training.
- 1.2. Conducted the scheduled safety committee meeting.

2. Environmental

- 2.1. Submitted 2014 Dangerous Waste Report to Ecology.
- 2.2. Submitted the 2014 Tier Two Emergency and Hazardous Chemical Inventory report to the County.
- 2.3. Submitted the 2014 Q4 EDR to EFSEC and EPA.
- 2.4. Submitted the December DMR to EFSEC.
- 2.5. Met with EPA and EFSEC to discuss the path forward for PSD Amendment 4. EPA's Bryan Holtrop requested more data and files for inclusion in the administrative record for Amendment 4. EPA thought the Amendment 4 draft could be delivered by January 31, 2015.
- 2.6. URS is consolidating and evaluating 2014 discharge data for a final draft Engineering Report.

3. Operations & Maintenance

- 3.1. Grays Harbor Energy operated 0 days and generated 0 MWh during the month of January.
- 3.2. The capacity factor (CF) was 0% in January, and 0% YTD.
- 3.3. The availability factor (AF) was 100% in January, and 100% YTD.

4. Noise and/or Odor

- 4.1. There were no complaints made to the site during the month of January.

5. Site Visits

- 5.1. Bryan Holtrop with EPA and Jim Laspina with EFSEC visited the site during the month of January for the meeting regarding the PSD Amendment 4.

6. Other

- 6.1. Grays Harbor is fully staffed with 22 employees.



**Chehalis Generation Facility----Monthly Plant Report to the Washington Energy  
Facility Site Evaluation Council – January 2015**

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

17 February 2015

---

**Safety:**

- There were no recordable incidents this reporting period and the plant staff has achieved 4457 days without a Lost Time Accident.

**Environment:**

- Waste water monitoring results are in compliance with the permit limits for the month of January 2015.

**Personnel:**

- Authorized plant staffing level is currently 19 with 19 positions filled.

**Operations and Maintenance Activities:**

- The Plant generated 76,703 megawatt-hours at a capacity factor of 20.3% for the month of January and the year-to-date capacity factor is 20.3%.

**Regulatory/Compliance:**

- There were no air emissions deviations, waste-water or stormwater deviations or spills during the month of January 2015.
  - Sound monitoring: There were no noise complaints to report.
-



**Carbon Offset:**

- Nothing to report this period.

Respectfully,

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



**Energy Northwest  
EFSEC Council Meeting  
February 17, 2015  
(Brad Barfuss)**

**I. Columbia Generating Station Operational Status**

Columbia is operating at 100% power, generating 1122 megawatts. The plant has 602 days of continuous online operation.

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

**II. WNP 1/4 Water Rights**

Energy Northwest and The Department of Energy received the formal water right permit from the Department of Ecology last month. The Department of Energy is formalizing their internal review process to approve a new land lease for WNP 1/4. The lease will serve as the implementation matrix for use of water provided in the new water right issued by Washington State Department of Ecology. The Department of Energy expects to finalize the lease process within the next two months.

## **SB 5310 - 2015 EFSEC AGENCY REQUEST LEGISLATION**

AN ACT Relating to enforcement actions at facilities sited by the energy facility site evaluation council

### **Statement of Need**

The Energy Facility Site Evaluation Council (EFSEC) is responsible for siting certain energy plants and transmission facilities within the state. If a project is sited through the EFSEC process, EFSEC retains monitoring oversight and enforcement authority over the project after it becomes operational.

The EFSEC enforcement statute contains numerous errors and has not been amended in recent years to reflect changes in other laws.

To give one important example of the need to update the law, the maximum penalty amount that EFSEC may impose is limited to \$5000 per day per violation, in contrast to the \$10,000 maximum daily penalty amount that the Department of Ecology may impose for a violation. Ecology has had this \$10,000 maximum penalty amount since 1985.

**\*\* Increasing the maximum penalty amount may be critical for agency efforts to seek delegation authority from EPA.** EPA requires state and local agencies to have the same maximum penalty authority as EPA in order to obtain and retain delegation authority. EFSEC is in the midst of a major effort to get out from a joint delegation agreement with EPA for the issuance of air permits, which could be at risk if the maximum penalty amount is not raised.

In addition, it is not clear whether the additional penalty under RCW 90.56.330 for oil spills may be imposed at energy facilities under the jurisdiction of EFSEC. [Ecology thinks it can do this already.]

### **Summary of the Major Provisions of the Bill**

1. Mistakes, omissions, and outdated material are all corrected.
2. Penalty amounts which may be imposed by EFSEC are increased from \$5000 per day to \$10,000 per day per violation.
3. Ecology is expressly authorized to issue additional penalties for oil spills at facilities under EFSEC jurisdiction.

**\*\* This bill was widely distributed among stakeholders and there is no known opposition.**

### **Staff Responsible for Questions**

Bill Lynch, EFSEC Chair, (360) 664-1361, [bilynch@utc.wa.gov](mailto:bilynch@utc.wa.gov)