



Washington State Energy Facility Site Evaluation Council

REVISED AGENDA

MONTHLY MEETING
****Friday, March 25, 2016****
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
 - February 16, 2016
- 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.....Pete Valinske, 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
 - Non-Operational Update.....Shannon Khounnala, Energy Northwest
 - g. Tesoro/Savage Vancouver Energy Distribution Terminal
 - Project Update.....Sonia Bumpus, EFSEC Staff
- 6. Action Items
 - a. Plan Approval Delegation
 - Activity Update.....Stephen Posner, EFSEC Staff

*The Council may consider and take **FINAL ACTION** on adoption of a policy to delegate approval of certain facility plans to the EFSEC Manager.*
- 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

WASHINGTON STATE
 ENERGY FACILITY SITE EVALUATION COUNCIL
 Richard Hemstad Building
 1300 South Evergreen Park Drive Southwest
 Conference Room 206

Monthly Council Meeting held before
 CHAIR BILL LYNCH
 Verbatim Transcript of Proceedings

1:30 p.m. - 2:38 p.m.
 February 16, 2016
 Olympia, Washington

Mary M. Paradise, CSR 2469

1 Guests in Attendance:

2 Mark Miller, PacifiCorp

3
4 Guests in Attendance Via Phone Line:

5 Bronson Potter, City of Vancouver

6 Jennifer Diaz, Puget Sound Energy

7 Brad Barfuss, Energy Northwest

8 Brooks Johnson, The Columbian and Vancouver

9 Eric Melbardis, Horizon Wind Energy

10 Pete Valinski, Grays Harbor Energy

11 * * * *

1 A P P E A R A N C E S

2 Council Members Present:

3 Bill Lynch, Chair

4 Greg Shafer, Clark County

5 Dennis Moss, Utilities and Transportation
Commission

6 Cullen Stephenson, Department of Ecology

7 Joe Stohr, Fish and Wildlife

8 Jaime Rossman, Department of Commerce
(Via phone line)

9 Assistant Attorney General:

10 Ann C. Essko, Senior Counsel

11 Administrative Law Judge

12 Cassandra Noble

13 Local Government and Optional State Agency:

14 Bryan Snodgrass, City of Vancouver
(Via phone line)

15 Larry Paulson, Port of Vancouver
(Via phone line)

16
17
18 Staff in Attendance:

19 Stephen Posner

20 Sonia Bumpus

21 Jim LaSpina

22 Joan Aitken

23 Kali Wrspir

24 Tammy Mastro

1 OLYMPIA, WASHINGTON FEBRUARY 16, 2016

2 1:30 p.m.

3 -o0o-

4 P R O C E E D I N G S

5
6 CHAIRMAN LYNCH: Let's go ahead and get
7 started. Good afternoon. Today is February 16th,
8 and it is the February meeting of the Energy
9 Facility Site Evaluation Council. If we could
10 please have staff call the roll. .

11 MS. MASTRO: Department of Commerce.

12 MR. ROSSMAN: Jaime Rossman present by
13 phone.

14 MS. MASTRO: Department of Ecology.

15 MR. STEPHENSON: Cullen Stephenson here.

16 MS. MASTRO: Fish and Wildlife.

17 MR. STOHR: Joe Stohr here.

18 MS. MASTRO: Department of Natural
19 Resources.

20 CHAIRMAN LYNCH: Dan Siemann is excused.

21 MS. MASTRO: Utilities and Transportation
22 Commission.

23 CHAIRMAN LYNCH: I believe Mr. Moss will
24 be coming in later.

25 MS. MASTRO: Local government and optional

Page 5

1 state agencies, Department of Transportation.
 2 CHAIRMAN LYNCH: Mr. Stone is excused.
 3 MS. MASTRO: City of Vancouver.
 4 MR. SNODGRASS: Bryan Snodgrass on the
 5 phone.
 6 MS. MASTRO: Clark County.
 7 MR. SHAFER: Greg Shafer present.
 8 MS. MASTRO: Port of Vancouver.
 9 MR. PAULSON: Larry Paulson on the phone.
 10 MS. MASTRO: Chair, there is a quorum for
 11 the regular council and for the Tosoro Savage
 12 Project.
 13 CHAIRMAN LYNCH: Thank you. And if we
 14 could please have the council review the proposed
 15 agenda for today and see if they have any suggested
 16 changes to the agenda, and you will note that there
 17 are no action items for today.
 18 Hearing no proposed changes, we will
 19 proceed. And could we please have those people who
 20 wish to identify themselves who are on the phone,
 21 other than the council members who have already
 22 identified themselves, please do so now.
 23 MR. POTTER: Bronson Potter from
 24 Vancouver.
 25 MS. DIAZ: Jennifer Diaz, Puget Sound

Page 6

1 Energy.
 2 MR. BARFUSS: Brad Barfuss, Energy
 3 Northwest.
 4 MS. McGAFFEY: Karen McGaffey, Perkins
 5 Coie.
 6 MR. JOHNSON: This is Brooks Johnson from
 7 the Columbian and Vancouver.
 8 MR. MELBARDIS: Eric Melbardis.
 9 CHAIRMAN LYNCH: We've got you,
 10 Mr. Melbardis. Thank you. Anybody else?
 11 Okay. Let's go ahead and move forward to
 12 the minutes. And first of all, let's take a look
 13 at the meeting minutes for the December 15th
 14 meeting. And we'll have the council members, we'll
 15 give them a minute to take a last look through
 16 these to see if there is any proposed changes. And
 17 when you're ready, I'll entertain a motion for
 18 their adoption.
 19 MR. STEPHENSON: Chairman Lynch, I'll so
 20 move.
 21 CHAIRMAN LYNCH: It's been moved that the
 22 minutes from the December 15th council meeting be
 23 adopted. Do we have a second?
 24 MR. STOHR: I'll second.
 25 CHAIRMAN LYNCH: It's been moved and

Page 7

1 seconded that the council meeting minutes from
 2 December 15th be adopted. All those in favor say
 3 aye.
 4 MR. STOHR: Aye.
 5 MR. STEPHENSON: Aye.
 6 MR. MOSS: Aye.
 7 MR. STONE: Aye.
 8 MR. SHAFER: Aye.
 9 MR. ROSSMAN: Aye.
 10 CHAIRMAN LYNCH: Opposed? Motion carries.
 11 Let's take a look at the council minutes for -- we
 12 had a special meeting, I believe, in January -- on
 13 January 19th. If you'd take a look at -- that had
 14 to do with the NPDES permit. We had a public
 15 hearing on that.
 16 MR. PAULSON: Mr. Chair --
 17 CHAIRMAN LYNCH: I'm sorry, could you
 18 either get a little closer to your phone or --
 19 we're having trouble hearing, and identify yourself
 20 again.
 21 MR. PAULSON: On page 8, line 6 --
 22 CHAIRMAN LYNCH: Page 8, line 6. And who
 23 is this speaking?
 24 MR. PAULSON: Sorry, this is council
 25 member Paulson.

Page 8

1 CHAIRMAN LYNCH: Okay. Thank you.
 2 MR. PAULSON: The comment there where it
 3 says section B, I believe it should say section D,
 4 on page 8, line 6 of the -- of the minutes. D as
 5 in dog, rather than B as in boy.
 6 CHAIRMAN LYNCH: Okay. And does the court
 7 reporter have that change? Any other suggested
 8 changes? Hearing none, I would entertain a motion
 9 for the adoption of the January 19th minutes, as
 10 amended.
 11 MR. STEPHENSON: I'll so move.
 12 CHAIRMAN LYNCH: And do we have a second?
 13 MR. STOHR: Second.
 14 CHAIRMAN LYNCH: It's been moved and
 15 seconded that the minutes from the January 19th
 16 meeting, as amended, be approved. All those in
 17 favor say aye.
 18 MR. STEPHENSON: Aye.
 19 MR. STOHR: Aye.
 20 MR. MOSS: Aye.
 21 MR. PAULSON: Aye.
 22 MR. SHAFER: Aye.
 23 MR. ROSSMAN: Aye.
 24 CHAIRMAN LYNCH: Opposed? Motion carries.
 25 Well, we were going to go a little bit out of order

1 today, and we have a resolution honoring past
2 council member Liz Green-Taylor, and unfortunately,
3 she's not actually here today, so -- but we have
4 these sad faced cookies that we brought for her
5 last -- to commemorate how we're feeling about her
6 not being here, but we'll just have to eat -- think
7 of her while we're eating these cookies later. So
8 we'll do the resolution honoring her for the next
9 council meeting.

10 So at this point in time, if we could have
11 an update on the Kittitas Valley Wind Project, and
12 Mr. Melbardis.

13 MR. MELBARDIS: Good afternoon, Chair
14 Lynch, EFSEC council. This is Eric Melbardis with
15 EDP Renewables for the Kittitas Valley Wind Power
16 Project.

17 CHAIRMAN LYNCH: I'm sorry, but Eric,
18 Mr. Melbardis, our court reporter can't hear you.
19 So is there a way you could move closer to the
20 phone?

21 MR. MELBARDIS: Yes, sir, I will try.
22 Good afternoon, Chair Lynch, EFSEC council. This
23 is Eric Melbardis with EDP Renewables for the
24 Kittitas Valley Wind Power Project, and we have
25 nothing non-routine to report.

1 CHAIRMAN LYNCH: All right. And we did --
2 you provided us a copy of your report indicating
3 that the no complaints, no incidences, and the
4 project is in compliance. Any questions for
5 Mr. Melbardis? No questions for Mr. Melbardis.
6 Thank you, sir.

7 Let's turn now to the Wild Horse Wind
8 Power Project. Ms. Diaz.

9 MS. DIAZ: Yes. Thank you, Chair Lynch.
10 Can you hear me?

11 CHAIRMAN LYNCH: Yes.

12 MS. DIAZ: All right. For the record
13 report, my name is Jennifer Diaz. I'm the project
14 manager for Puget Sound Energy at the Wild Horse
15 Wind facility. I have no non-routine updates for
16 the month of December 2015, and have one update for
17 January 2016.

18 We held a tax meeting on January 27th to
19 provide members with an update on the Eagle
20 Conservation Plan and to share results on sage-
21 grouse habitat monitoring.

22 The TAC also reviewed updates to the
23 written hunting plan that includes a new process
24 for issuing permits for hunt at Wild Horse.
25 Hunting permits will now be issued through the

1 Department of Fish and Wildlife on line, Hunt by
2 Reservation Program, and a limited amount of
3 permits will be issued during the modern firearm
4 general elk season.

5 The TAC unanimously recommended approval
6 of the revised plan, and EFSEC staff formally
7 approved revisions of the plan, based on the
8 recommendation from the TAC. And that's all I
9 have.

10 CHAIRMAN LYNCH: Any questions for
11 Ms. Diaz? Hearing none, thank you, Ms. Diaz.

12 And just for the council's benefit, you
13 heard me -- Ms. Diaz reference the hunting plan
14 that was approved by staff, and from time to time,
15 you've heard me say that that's not the sort of
16 plan that the full -- will come before the full
17 council, but we're actually very close to providing
18 the council with a draft policy, which lists all of
19 the -- Mr. Posner and I have been working on a
20 draft policy, which would list the type of plans
21 that come before the council and the ones that
22 probably shouldn't come before the council, and
23 there will be -- I'm not sure we'll be providing
24 that for purposes of the March meeting or the April
25 meeting, but we worked a lot on that and we're

1 fairly far along.

2 So that way, you'll have a -- you won't
3 have to keep wondering, is this the type of plan
4 that we approve or not approve. You'll just have a
5 pretty good overview of -- of how we do that.

6 MS. DIAZ: Great. I appreciate that. I
7 look forward to seeing the list.

8 CHAIRMAN LYNCH: Thank you.

9 MS. DIAZ: Thank you.

10 CHAIRMAN LYNCH: We'll turn now to
11 Mr. Valinski, Grays Harbor Energy Center.
12 Mr. Valinski, we've heard from you a few times when
13 Mr. Downen was unavailable. Welcome.

14 MR. VALINSKI: Thank you. Good afternoon,
15 Chair Lynch, council, EFSEC staff. My name is Pete
16 Valinski. I'm the new plant manager at Grays
17 Harbor Energy. You should have our January and
18 December reports in your folder, and we have
19 nothing new to report. No anomalies. No upsets.

20 CHAIRMAN LYNCH: Very good. Any questions
21 for Mr. Valinski? Thank you, Mr. Valinski. I
22 should have asked Mr. Valinski, when he was up at
23 the microphone, is it true that you were carrying
24 Mr. Downen all this time?

25 MR. VALINSKI: Just rumors.

Page 13

1 CHAIRMAN LYNCH: Just rumors. Okay.
 2 Thank you. And now we have Mr. Miller for the
 3 Chehalis Generation Facility.
 4 MR. MILLER: Good afternoon, Chair Lynch,
 5 council members and staff, I'm Mark Miller, the
 6 plant manager at the PacifiCorp Chehalis Generation
 7 Facility.
 8 I have a few non-routine comments to add.
 9 As I noted in the December 2015 report, the
 10 Washington state deputy fire marshall conducted a
 11 follow-up inspection regarding certain items that
 12 needed correction. During the subsequent visit, he
 13 found everything was satisfactorily addressed, and
 14 certified that the plant was in full compliance.
 15 The installation work on high efficiency
 16 lighting, which was related to the carbon offset
 17 requirements, the -- that was completed in the
 18 month of December 2015, and the Chehalis staff will
 19 be filing certification requests with EFSEC staff
 20 that this project has been completed, and request
 21 an acquisition commitment requirement be adjusted
 22 to reflect that financial expenditure.
 23 We are saving 246 megawatt hours per year
 24 with. This corresponds to 48 tons of CO2 emissions
 25 per year.

Page 14

1 There are two additional projects that I
 2 note in the January report that have not had any
 3 advancement at this time.
 4 Also, as noted in the previous report, the
 5 plant, in late November, experienced catastrophic
 6 failure of one of the compressor sections on the
 7 combustion unit number 2. The manufacturer,
 8 General Electric, has completed the refurbishment
 9 of that unit rotor, and it actually departed
 10 Greenville, South Carolina this morning, and we
 11 expect to have that unit back in operation the
 12 first of March.
 13 And finally, I have received a question
 14 from Mr. Stephenson after the December meeting, I
 15 guess it was, and I will address that after the
 16 meeting. I spoke with him earlier. It's in
 17 regards to the question he had on wastewater
 18 results. Are there any questions?
 19 CHAIRMAN LYNCH: Any questions for
 20 Mr. Miller? Very good. Thank you, Mr. Miller.
 21 MR. MILLER: Thank you.
 22 CHAIRMAN LYNCH: If we could now hear from
 23 Ms. Shannon Khounnala, Energy Northwest, for the
 24 Columbia Generating Station, and then WNP 1 and 4?
 25 MR. BARFUSS: Good afternoon, Chair Lynch

Page 15

1 and council members and staff. My name is Brad
 2 Barfuss. I am sitting in for Shannon Khounnala
 3 this afternoon.
 4 You'll see in our standard information in
 5 your packet, and while there are no other events,
 6 safety incidences or regulatory issues to report,
 7 I'd like to mention that Columbia Generating
 8 Station, in December, broke its monthly generation
 9 record. We've seen over 859,000 megawatt hours of
 10 net generation.
 11 This January, Columbia broke the monthly
 12 generation record for a second consecutive month,
 13 sending more than 860,000 megawatt hours of
 14 electricity to the grid, the most in a single month
 15 since the plant began commercial operation in 1984.
 16 We are proud of this accomplishment,
 17 attribute it to the work we did during the last
 18 refueling outage of having the expected results of
 19 increased generation. Are there any questions
 20 regarding the Colombia?
 21 CHAIRMAN LYNCH: Any questions for
 22 Mr. Barfuss regarding the Columbia Generating
 23 Station? Go ahead and proceed to WNP 1 and 4,
 24 Mr. Barfuss.
 25 MR. BARFUSS: Okay. Thank you. Regarding

Page 16

1 WNP 1 and 4, some progress this past month has been
 2 achieved with the Department of Energy on the
 3 development of the NEPA environmental assessment
 4 effort. That scope of work and cost estimate has
 5 been prepared and finalized.
 6 Energy Northwest is reviewing these
 7 documents, and if approved, the NEPA EA process
 8 would be completed in approximately October of this
 9 year. Energy Northwest has committed to responding
 10 to DOE by early March. Any questions regarding WNP
 11 1 and 4?
 12 CHAIRMAN LYNCH: And do you have anything
 13 else, Mr. Barfuss?
 14 MR. BARFUSS: Nothing else for me. End of
 15 report.
 16 CHAIRMAN LYNCH: Any questions for
 17 Mr. Barfuss? Thank you, Mr. Barfuss. I understand
 18 you're often confused with Ms. Khounnala. We'll
 19 try not to do that again.
 20 MR. BARFUSS: Not a problem.
 21 CHAIRMAN LYNCH: Thank you. At this point
 22 in time, I'd like to get a project update regarding
 23 the Tesoro Savage Vancouver energy distribution
 24 terminal from our staff, Ms. Bumpus.
 25 MS. BUMPUS: Thank you. Good afternoon,

1 Chair Lynch and council members. The comment
 2 period on the draft EIS closed January 22nd, 2016,
 3 and since that time, EFSEC staff and our
 4 independent consultant have been counting and
 5 sorting the comments that we received.
 6 This has taken quite a bit of time to do.
 7 We had some challenges in sorting these comments.
 8 They came in in various forms for the DEIS comment
 9 web site. We had submittals that came in with
 10 attachments, and within those attachments, we
 11 found, in some cases, tens of thousands of
 12 individual letters.
 13 And the same thing occurred with comments
 14 that we received by mail, where we received
 15 portable storage devices, such as CDs and flash
 16 drives, that also, when opened, had several
 17 comments enclosed.
 18 And so this is an approximate number, but
 19 I can tell you that as of today, we're thinking
 20 we're going to land somewhere around 248,900
 21 comments. So we're still checking for duplicates,
 22 but we are pretty confident with a number that's
 23 going to land somewhere there.
 24 Before I continue, are there any questions
 25 about the DEIS comment?

1 CHAIRMAN LYNCH: Any questions regarding
 2 the comments for staff?
 3 MR. STEPHENSON: Can you give us that
 4 number again? I think I blanked out.
 5 MS. BUMPUS: 248,900.
 6 MR. STEPHENSON: Thank you.
 7 CHAIRMAN LYNCH: And that's what you've
 8 counted so far, or is that what you expect to have?
 9 MS. BUMPUS: This is how many we expect to
 10 have.
 11 CHAIRMAN LYNCH: Okay.
 12 MS. BUMPUS: We're -- yes, we just need to
 13 doublecheck everything and make sure none of these
 14 are -- are duplicates. We're pretty confident with
 15 this number.
 16 CHAIRMAN LYNCH: Thank you.
 17 MR. STEPHENSON: To be clear, I'm happy
 18 that we have this much interest, just -- that's a
 19 lot of comments.
 20 MS. BUMPUS: Yes. So moving on for the
 21 rest of the project update, for permits, I just
 22 wanted to let council members know that for some of
 23 the permits, we are asking for additional
 24 information, such as the NPDES storm water
 25 industrial permit.

1 We're going to request some additional
 2 information from the applicants. Also, for the 401
 3 water quality certification review, and they are
 4 also going to be working with us as we move forward
 5 on the NOC draft air permit, and things like that.
 6 So I'll continue to keep you updated on the
 7 development of the permits.
 8 CHAIRMAN LYNCH: And NOC stands for notice
 9 of construction, right?
 10 MS. BUMPUS: Correct.
 11 CHAIRMAN LYNCH: Do you have anything
 12 else, Ms. Bumpus?
 13 MS. BUMPUS: That is all I have.
 14 CHAIRMAN LYNCH: And before we leave the
 15 update, I think this is a good time for the council
 16 to recognize the exemplary job that the staff did
 17 in putting on those comment -- public comment
 18 hearings, in the two hearings in Vancouver and the
 19 one hearing in the Spokane Valley.
 20 They were exceptionally well organized,
 21 both the area where the public could go into in the
 22 foyer, and there was the permit available for
 23 people to see. There was staff and our consultant
 24 available to answer questions. There was a court
 25 reporter there who could take down additional

1 testimony from people. There were poster boards up
 2 hitting the main points of the -- of the -- of the
 3 application -- excuse me -- not the application --
 4 of the draft EIS.
 5 And then how the council -- how the
 6 hearing was conducted by our prominent and
 7 efficient ALJ, Sandra Noble, who we'll be hearing
 8 from in a few minutes. She did a very good job of
 9 being courteous and yet efficient in moving people
 10 along, and I think at the end of the day, everybody
 11 was happy with us, or at least most people were
 12 happy with us, and that's about all you can hope
 13 for under a situation where you have thousands of
 14 people who are lined up trying to testify.
 15 And then I also want to thank all our
 16 council members who stayed late on all three of
 17 those evenings, with very limited breaks, to hear
 18 with great interest what the public had to say. So
 19 I want to thank each and every one of you for your
 20 good work on those three hearings. Thank you.
 21 So let's go ahead and turn to our
 22 procedural adjudication update by our ALJ,
 23 Cassandra Noble.
 24 MS. NOBLE: Thank you, Chair Lynch. I
 25 just want to give a brief procedural rundown of

1 what's happened so far for your benefit and for the
2 benefit of the public. You know most of this
3 already, but on February 3rd, I issued an order
4 clarifying EFSEC's process, modifying by
5 dispositive motion deadline that some are
6 preliminary issues, as they were expressed by the
7 parties, in setting hearing dates.

8 The adjudicative hearing was set in that
9 order to commence on June 27 and to run for five
10 weeks through the month of July, for four days each
11 week, so that we'll not be having formal hearings
12 on the Fridays of each week, or not having a
13 hearing on July 4th either.

14 We're having the hearing in Vancouver for
15 the first and the last week, so that the public can
16 make sure that they can come in person. And in
17 Olympia, in the intervening weeks. In Vancouver,
18 we will be at Clark College, and in Olympia, we'll
19 be in the large senate hearing room in Olympia,
20 Washington on the capitol campus.

21 Ms. Wraspir is working on the
22 communication electronically of the hearing so that
23 the public will be able to watch the whole thing.
24 We're -- we're even open to be able to get a live
25 feed, and Ms. Wraspir is working with TBW to see if

1 Ms. Wraspir, but I expect that mostly, you will be
2 looking at the pleadings on the SharePoint site,
3 and Tammy Mastro is the one to call about that, if
4 you have any difficulty in connecting up on the
5 SharePoint site.

6 So once we get rolling, and I think we are
7 kind of rolling already, the parties can file
8 motions and objections, and they will all have to
9 be dealt with. Everyone is allowed time to respond
10 and reply to any such filings. And already, in an
11 early order, I set the time frame for that, so that
12 for non-jurisdictional motions, people have seven
13 days to respond, and then the person filing the
14 motion/objection has four more days to reply to the
15 response.

16 But for the summary judgment motions, if
17 any are filed by March 29, the responses have to
18 come in within 30 days after the filing of the
19 motion, and any replies have to be done in seven
20 days. So you can see that a lot of time will be
21 taken up, and we will be busy, as will the parties
22 be busy. And that's your update on what's
23 happening in the adjudication.

24 CHAIRMAN LYNCH: Thank you, Ms. Noble.
25 Any questions for our ALJ, Ms. Noble? Thank you.

1 that's going to be possible for the public. But in
2 any event, it will at least be recorded and then
3 posted, so that everyone is going to be able to
4 watch.

5 We have -- I have also set a different
6 date for the parties' motions that are basically
7 summary judgment motions, big jurisdictional
8 motions. I moved that back to March 29, because
9 when the parties submitted their proposed issues
10 and exhibits and witnesses, it was really
11 voluminous, and you're going to have an awful lot
12 to do.

13 And in order for people to be able to
14 address the bigger motions, I reset the date for
15 that, because of the volume of issues to be dealt
16 with, eventually to March 29. So if parties are
17 going to be bringing summary judgment motions, they
18 will have to bring them by March 29. And if they
19 do, then they will be have to be dealing with them
20 after that.

21 All the major pleadings are being posted
22 on our web site, and also, they are going up on the
23 SharePoint site so that you all will be able to see
24 them on the SharePoint site. If you have any
25 trouble at all with the web site, you can contact

1 MS. NOBLE: Thank you.

2 CHAIRMAN LYNCH: We have a couple other
3 things to take care of. Mr. Posner, if you will
4 inform us about the third quarter cost allocations.

5 MR. POSNER: Good afternoon, Chairman
6 Lynch, council members. In your packet is the
7 non-direct cost allocation calculations for the
8 third quarter. We do this at the beginning of each
9 quarter. We re-calculate the non-direct costs that
10 we charge our applicants and certificate holders.

11 These percentages are based on a previous
12 quarter's work and current work and anticipated
13 work that technical staff is performing for the
14 various projects. The percentages are listed for
15 each of the projects, and for the benefit of those
16 who are on the line, I'll just go ahead and read
17 them off.

18 For the Kittitas Valley Wind Power
19 Project, 7 percent. Wild Horse Wind Project, 7
20 percent. Columbia Generating Station, 16 percent.
21 WNP 1, 3 percent. Whistling Ridge Energy Project,
22 3 percent. Grays Harbor 1 and 2, 8 percent.
23 Chehalis Generation Facility, 8 percent. Desert
24 Claim Wind Power Project, 3 percent. Grays Harbor
25 Energy 3 and 4, 3 percent, and Vancouver Energy, 42

1 percent. And that's all I have.
 2 CHAIRMAN LYNCH: Thank you. For the
 3 benefit of those listening, the council actually
 4 does not vote on these cost allocations. It's just
 5 information that we receive from our -- our EFSEC
 6 manager.
 7 Now, we're going to turn to -- and have an
 8 Open Public Meetings Act public records update
 9 Power Point by our senior counsel, Ann Essko. And
 10 this is something that the council members have had
 11 training on in the past, but this is a refresher
 12 that's being provided for us, and we thought it
 13 would be good if the public got an opportunity to
 14 see and hear the sort of background that we -- that
 15 we receive. So please, proceed, Ms. Essko.
 16 MS. ESSKO: Thank you, Chair Lynch. Thank
 17 you all for the opportunity to meet with you this
 18 afternoon. Today, I'm going to go over some
 19 important provisions of the Open Public Meetings
 20 Act and the Public Records Act.
 21 My office typically and routinely does
 22 these sorts of presentations for its clients who
 23 are board and commission members, and I know the
 24 council values transparency and openness, and so
 25 this is an opportunity to let EFSEC stakeholders

1 know about the standards that the council follows.
 2 There will be an opportunity for questions at the
 3 end, but if you have questions as I go along,
 4 please don't -- you don't need to wait until the
 5 end to pose the questions.
 6 There are two Washington Sunshine laws
 7 that I've referred to, and the name is significant,
 8 because their purpose is stated to be, and the
 9 court will interpret them in favor of transparency
 10 and liberal openness to government processes for
 11 the public.
 12 Both laws, as I said, are liberally
 13 construed, so if there's ever a time when you can't
 14 quite figure out whether you should or shouldn't do
 15 something, the guiding principle will probably be
 16 do the thing that makes the most information open
 17 to the public. And again, both laws are enforced
 18 by the courts, and we'll talk about the penalties
 19 later on, if there is a -- a violation of -- of one
 20 of the provisions in these laws.
 21 So I'm going to start with the Open Public
 22 Meetings Act and then finish up with the Public
 23 Records Act. So as you might tell from the name,
 24 the Open Public Meetings Act requires that the
 25 EFSEC meetings be open to the public, gavel to

1 gavel.
 2 The only exception is if there is a --
 3 either an exemption, an entire exemption from the
 4 Act for some activities, and we'll talk about
 5 that, because they will be significant for the
 6 Tesoro project, or if the Act itself allows a
 7 particular type of activity to occur in private.
 8 And we'll talk about that, also.
 9 So three general rules of the road. The
 10 public can attend meetings, but sometimes there are
 11 questions about whether this gives members of the
 12 public a right to participate, and the answer is
 13 no. Under the Act, at least, they have no right to
 14 do that.
 15 The council cannot impose conditions on
 16 attendants. For example, people cannot be required
 17 to sign in or identify themselves on the phone, but
 18 they certainly can elect to do so if they wish to.
 19 And also, the council can impose reasonable rules
 20 of conduct.
 21 So let's talk about what sorts of meetings
 22 are covered, and I'm going to delve into the
 23 definitions of some terms, and please bear with me
 24 on this. It can be a little bit boring, but the
 25 principles that I'm going to be talking about will

1 be really helpful to you as you sort through what
 2 sorts of conversations need to occur in what sort
 3 of forum.
 4 So in order to know what the OPMA
 5 requires, you need to know three things. What's a
 6 meeting? What's an action, and what's a quorum?
 7 And I want to talk a little bit about EFSEC's
 8 quorums. Your rules say that a majority of voting
 9 members for the conduct of council business
 10 constitutes a quorum.
 11 So remember, as you -- as you can tell
 12 from from when Tammy Mastro calls the order at the
 13 beginning of meetings, there are actually two
 14 EFSECs and two quorums related to those two EFSECs.
 15 There's the EFSEC that deals with Tesoro, which
 16 consist of additional members, one of whom is not a
 17 voting member, and then there is the EFSEC that
 18 deals with regular EFSEC non-Tosoro activities.
 19 So note with regard to the Tosoro EFSEC,
 20 that the council member -- that the Council Member
 21 Paulson is not a voting member. So when you're
 22 counting how many people you need to have a quorum
 23 and whether you've got a quorum, Council Member
 24 Paulson's presence or absence is not pertinent to
 25 that determination.

1 So again, we need to know what's a
2 meeting, what's a quorum and what's an action. So
3 an action is a transaction of official EFSEC
4 business, and this has probably a broader
5 definition than you might think at the outset.
6 It's taking public testimony, all deliberations,
7 discussions, considerations, reviews and
8 evaluations.

9 So you don't have to be taking a vote or
10 taking an action that changes things in three-
11 dimensional reality for there to be a final -- for
12 it to be considered an action, because you can see
13 those lists of things, you were just considering
14 something or reviewing it. You're not voting,
15 you're not making a decision.

16 When you're voting or making a decision,
17 you're making a collective thumbs up or thumbs down
18 decision, then that's what's called final action.
19 And so remember that term, final action is a subset
20 of action, because that will become important in
21 just a minute.

22 So to sum this -- to sum up this portion
23 of discussion, an open meeting has to occur. You
24 have to have a meeting in public whenever a quorum
25 takes an action. And that's whether or not a final

1 going to see that you are able to have executive
2 sessions in which portions of your proceedings can
3 take place in private. The important thing to
4 remember is even if a portion of your meeting is
5 allowed to be in private, voting about whatever
6 that subject is cannot occur in private. Voting
7 always has to occur in public.

8 And so the corollary to voting also has to
9 occur in public. So for example, sometimes you
10 could be in a room of people and you could say,
11 okay, well, we're not going to vote, but let's just
12 have a discussion, sort of get a general sense of
13 where people are standing. You can't do that in
14 private either. That has to occur in public. So
15 if it quacks -- if it quacks like voting, it's
16 voting. You can't do it in private. You have to
17 do it in public.

18 So here's another area that sometimes
19 trips up board -- board and commission members.
20 You'll see these in the case notes or in the news
21 articles in the paper sometimes. It's easy to
22 think of a meeting as just something like we're
23 what we're doing here, where we're all in the same
24 room or we're all on the phone at the same time,
25 and that sounds like a meeting.

1 action is taken. The only exceptions are if there
2 is an OPMA exemption from the coverage of the --
3 from coverage of the Act or you're allowed to have
4 an executive session. And again, you have to keep
5 in your mind that there are two -- two EFSECs.

6 So here's a little asterisk to what I just
7 said. EFSEC does not currently have any
8 committees. It has had committees in the past, so
9 if you ever do have a committee, keep this
10 principle in mind. Those committee meetings need
11 to be open to the public, and this requirement
12 pertains, regardless of whether there is a quorum
13 of council members or any council members on the
14 committee.

15 So if you designate a committee of EFSEC
16 staff members that contains no council members to
17 do something for you, to act on your behalf, that
18 committee meeting is open to the public under the
19 OPMA, whenever it's acting on behalf of the
20 council, conducting hearings or taking testimony or
21 public comment. So again, it does not pertain to
22 you now, but it could pertain to you in the future
23 if you have committees.

24 All right. So another aspect of the Open
25 Public Meeting Act is voting. In a minute, we're

1 But other things can include meetings, and
2 so here are some areas to be cautious about. First
3 of all, exchanges of e-mails by a quorum that are
4 action can be a meeting. So in other words, if
5 you've got a quorum of EFSEC and you're taking
6 action -- remember the things we talked about,
7 either final action or things like consideration or
8 discussions -- you will be having a meeting if one
9 council member e-mails a second council member who
10 e-mails a third council members who e-mails a
11 fourth council member, and that's a quorum. You've
12 now had a meeting, and that e-mail exchange had to
13 have occurred in public or there's a violation of
14 the Act.

15 A permutation of that is instead of a
16 serial A to B to C to D, the same thing can occur
17 if council member A sends an e-mail to council
18 member B, and then council member A sends an e-mail
19 to council member C, and so on, on the same subject
20 that falls within the definition of an action.
21 Again, a discussion that occurs that way is a
22 meeting that has to take place in public.

23 And you can -- you can see where I'm going
24 on meetings. The same thing can occur if -- if you
25 have a series of -- a series of meetings or if you

1 have one person having a meeting with various
2 council members on the same subject, and together,
3 it all constitutes a meeting.

4 So the difficulty is if you're just one
5 person in that stream, how do you know that you're
6 having a discussion that is one part of a larger
7 series that is actually a meeting? My
8 recommendation is that you ask, just to make sure
9 that it's just -- you can have a two-person
10 conversation about something, but if it starts
11 expanding, then you -- you are in danger of falling
12 afoul of this -- of this principle.

13 So two things -- two areas where people
14 frequently ask questions are is, well, can -- can
15 Stephen Posner send council members written
16 materials without triggering an OPMA meeting? So
17 for example, if a council packet comes to you a
18 week before a council meeting, does that violate
19 the OPMA? So far, the answer to that question is
20 no.

21 The same thing in reverse. If you each
22 individually send e-mails to the council manager,
23 does that constitute a meeting? So far, as best
24 anyone can speculate, the answer to that question
25 is also no. Both of those things are acceptable.

1 They are not violations of the Open Public Meetings
2 Act.

3 Okay. Two more terminology questions that
4 are -- that are kind of boring but have an
5 important point. The OPMA establishes two
6 different categories of meetings; regular meetings,
7 which you don't need to think about, because EFSEC
8 doesn't have regular meetings. Even these
9 meetings, which occur every month, are not regular
10 meetings, because the definition of a regular
11 meeting is one where the -- the dates of the
12 meetings are set in a rule or statute. You do not
13 have meetings where the dates are set in rule or
14 statute.

15 So by default, all you have is special
16 meetings. And for whatever it's worth, per your
17 rules, the chair or a majority of the voting
18 members can call a special meeting at any time.

19 So I'm going to talk about the notice --
20 special meeting notice requirements, because
21 there's a -- we'll get to the italicized language
22 at the end of what's on this slide, and that's the
23 important point where I'm heading. Written notice
24 for a special meeting has to be given to each
25 member, and it has to be given to certain media

1 outlets that have requested notice, and the notice
2 has to go to these entities 24 hours before the
3 meeting.

4 And unlike the case with regular meetings,
5 it has to specify not only the time and the place,
6 but also, the agenda. So what you'll see is that
7 the agenda, what's on that agenda will limit what
8 you can do at the meeting.

9 Okay. So -- and that's -- I'm going to
10 emphasize that with the next slide. What's
11 important here, in particular, is that final action
12 cannot be taken on any matter that isn't on the
13 agenda. So if some -- if somebody has a great
14 idea, wants to talk about it, the OPMA does not
15 allow that matter to be acted on because it wasn't
16 on the agenda.

17 And obviously, the reason is because the
18 public didn't know that it was going to be in it,
19 and the public has a right to be at your meetings,
20 and part of that is knowing what's going to be on
21 the agenda, so they know whether they want to be
22 there or not.

23 Now, there is the exception. If you are
24 meeting to discuss an emergency involving personal
25 injury or property damage and notice is impractical

1 and would increase damage, then these notice
2 requirements don't apply. So although this has
3 never happened, to my knowledge, if there was an
4 issue of some sort at an EFSEC facility and you
5 needed to meet to decide what to do, you can do
6 that without following these -- all of these
7 requirements.

8 All right. I promised you we would talk
9 about what the OPMA says about situations in which
10 you are allowed to meet in private, and these are
11 called executive sessions. And there's a list of
12 topics in the Act, and per your rules, the chair or
13 a majority of members can call an executive
14 session.

15 And for those of you who have been here
16 for executive sessions, you'll see what the chair
17 does. In the public meeting, he announces the
18 purpose of the session and the time it will end.
19 And then the members go in to have the executive
20 session. So that's when the public knows that, you
21 know, they have 10 minutes to go get a cup of
22 coffee, but you're going to be back in 20 minutes,
23 so they know to be back here when you -- when you
24 show up.

25 You also have notice that when you've gone

1 into executive session and it's going to take
2 longer than had been announced, the chair comes
3 back out at the time you were going to be back here
4 and tell us what the new extended time is. And
5 again, that's to give the public an opportunity to
6 be here and observe what you are doing.

7 So as I said, there are a list of possible
8 reasons to have an executive session, and the one
9 that is probably most pertinent to you and what you
10 do is meetings with legal counsel regarding
11 enforcement actions, litigation or potential
12 litigation, when public knowledge is likely to
13 result in adverse legal or financial consequences.
14 So this is litigation that's either been
15 specifically threatened or you have a reasonable
16 reason to think that there will be litigation on
17 this matter.

18 So earlier, I mentioned that in addition
19 to the provisions of the OPMA that allow you to
20 meet in private, there are some exemptions from the
21 OPMA. When one of these exemptions applies, then
22 you don't have to think about the OPMA at all,
23 because it just simply doesn't apply.

24 There are several, but the one that is
25 most pertinent to you is matters governed by the

1 APA, and you will be -- you have -- you are in
2 adjudication for Tesoro and you have done
3 rulemaking, so when you are doing those things, the
4 OPMA does not apply.

5 Although frequently, for example, when you
6 do rulemaking, the -- the agenda and the notice
7 will go out just like it was in OPMA meeting, just
8 because it's easier for staff to do it that way.
9 It's the most conservative way to give notice, but
10 as a matter of law, those provisions do not
11 actually apply to rulemaking or adjudications.

12 So here is the last slide on the OPMA
13 about the penalties for violating it. There is a
14 \$100 civil penalty to be paid by each council
15 member, and this is personal to them. The attorney
16 general, this session, is proposing legislation to
17 raise the penalty to \$500 for the first offense and
18 a thousand dollars for any repeat offense.

19 And then notice that costs and attorneys'
20 fees are awarded to the successful plaintiff. So
21 if somebody challenges EFSEC and wins, not only do
22 they get the statutory penalties, but they also get
23 all of their costs and all of their attorneys'
24 fees, which could be substantial.

25 And also, action taken at a meeting that

1 violates the OPMA can be declared void. And this
2 is where that distinction between action and final
3 action can matter. Any -- any violation -- any
4 time you take an action that violates the OPMA,
5 these penalties are potentially assessable against
6 the council.

7 But in addition, if you've taken final
8 action, that action can be declared void. And
9 because these lawsuits occur sometimes somewhere
10 down the road, it's hard to unwind the results of
11 the action that was taken six months ago.
12 Everybody has acted in reliance on that action, and
13 now it's void, and you have to go back and redo
14 that and then redo other things. So it can be --
15 it can be complicated and expensive to fix that.

16 Okay. Let's go on to the Public Records
17 Act. This is a shorter presentation than on the
18 OPMA. As you know, all public records are open and
19 accessible to the public unless they're within an
20 exemption, either in the Act itself or some other
21 law that the Act recognizes. And it's up to EFSEC
22 to prove that a withheld record is within a
23 particular exemption.

24 So let's talk about, what is a public
25 record. And it's a little bit broader than you

1 might think. It's any writing, and we'll talk
2 about what a writing is in a minute. It isn't just
3 a piece of paper.

4 Any writing that contains information
5 relating to the conduct of government or the
6 performance of a governmental function. But this
7 includes not only information that you prepare or
8 own, but it's also information that you use. So if
9 you use a book that you don't own, if you use a
10 report that you read on a web site from some other
11 agency, that could be a writing within this
12 definition.

13 All right. Again, another way that the
14 definition of public records could be broader than
15 you expect includes this list of things; e-mails,
16 voice mail messages, computer data, handwritten
17 notes, photographs, the metadata around those
18 things, if they're electronic, and day planners,
19 and just about anything that you can think of that
20 you use to communicate.

21 We'll go to the next slide. And this is
22 probably the most important thing to keep in mind
23 on this subject, if you've been reading the Tacoma
24 newspapers about whether text messages on an
25 elected official's personal phone are public

1 records. You'll see that this can be a thorny
 2 area.
 3 So regardless of whether the record is --
 4 if you have a record related to your work for
 5 EFSEC, whether it's on your private computer, your
 6 employing entity's computer, whether state or local
 7 government or a state agency or a private or
 8 employer entity's own handheld devices, all of
 9 those places could be where public records are
 10 located.

11 And that's why we always advise folks to
 12 use caution in having EFSEC records on those
 13 devices. And if they have them on those devices,
 14 to recognize that they're subject to the Public
 15 Records Act, and they are subject to records
 16 retention schedules. And that for your benefit,
 17 they -- all those records should be in a separate
 18 location on your device so that -- so there isn't a
 19 situation where they're interspersed within other,
 20 you know, private information that is not subject
 21 to the Public Records Act.

22 All right. Let's go to the next slide.
 23 So if EFSEC gets a public records request, they
 24 have got a very short time frame to get back to the
 25 requesting party to tell them what they're going to

1 So if you get a request, remember to
 2 think, okay, how do I make sure that these records
 3 are retained as long as they need to be retained.
 4 And if you have questions, call Stephen or Tammy or
 5 me, and we'll help figure out how to deal with
 6 that.

7 So what records are exempt from
 8 disclosure? There's a whole bunch. The one that's
 9 most pertinent for you are attorney-client
 10 privileged communications, and then preliminary
 11 drafts in which opinions are expressed or policies
 12 are discussed. That exemption only lasts as long
 13 as the decision has not yet been made. So once the
 14 decision is made, then those records will be
 15 released.

16 However, the fact that a record is exempt
 17 from disclosure doesn't mean that you don't have to
 18 disclose the existence of the record and explain
 19 why an exemption applies. So for example, if I
 20 wrote Stephen an attorney-client privileged memo
 21 and Kali filed a request for -- a public records
 22 request for that record, EFSEC would have to reveal
 23 to Kali that the record existed and explain that
 24 it's -- it's protected by the attorney-client
 25 privilege. In other words, there can't be any

1 do with the request and how long it's going to take
 2 to get them their records.

3 So all of us -- I know my office, the AG's
 4 Office, gets Public Records requests all the time,
 5 and we have to do very quick turnaround times to
 6 tell our public records officers whether we have
 7 records, and we are required to do an adequate
 8 search. We could be deposed and cross-examined on
 9 the adequacy of our search.

10 So if you get communications from Steve or
 11 Tammy or Kali or somebody saying, you know, go look
 12 for these records and hold onto them, this is the
 13 standard that all state employees follow, is you do
 14 an adequate search to make sure that you found --
 15 sorry -- an adequate, reasonable search to make
 16 sure you found records that are responsive.

17 So once you get that request, the records
 18 have to be retained. And so for those of you who
 19 don't work for EFSEC, you need to be thinking about
 20 whether those records are on a records destruction
 21 schedule that was put in place for your own agency,
 22 but -- but would not necessarily take EFSEC's needs
 23 into account and may not take the fact that there's
 24 a pending public records request into
 25 consideration.

1 silent withholding, where there's a responsive
 2 record and you're just not telling them that it
 3 even exists.

4 So what does this mean for council
 5 members? Pretty simple, I think. Respond to EFSEC
 6 staff requests for records, do it quickly, because
 7 they have got some time frames on them. And
 8 sometimes, they have court orders on them from when
 9 things have to be disclosed. Do an adequate
 10 search, a reasonable, adequate search. Hold on to
 11 your records when you're asked to do so. Think
 12 about whether your employing entity's records
 13 destruction protocols need to be halted in some
 14 way.

15 Like, if you've got an automatic system
 16 that destroys your e-mails in 45 days, you're going
 17 to have to figure out how to deal with that. In
 18 general, keep EFSEC records separate and secure.
 19 And if and when you leave the council, be aware
 20 that you should be transferring all of your records
 21 to EFSEC when you leave.

22 Now, that doesn't -- now, if your
 23 employing agency wants duplicates over there, that
 24 may be fine, but it's important, for EFSEC's
 25 purposes, that it have access to council member

1 records going into the future, even if that council
2 member has left.

3 So again, are there penalties? Yes, the
4 court can order destruction of the records. Again,
5 payment of attorneys' fees and costs and payment of
6 penalties ranging from zero to \$100 a day. An
7 outstanding issue that I think is still in the
8 Supreme Court is whether that \$100 a day penalty
9 applies per violation or per page. So if an agency
10 has withheld 10,000 documents and the court has
11 said that was done incorrectly, could the entity
12 end up paying \$100 per page per day for 10,000
13 records? We'll see what the Supreme Court says
14 about that.

15 The big dollar number, of course, is the
16 attorneys' fees. The agencies have paid 3, 4, 5,
17 \$600,000, \$700,000 in attorneys fees, costs and
18 penalties for some of these when -- when, you know,
19 as best you can tell from reading the newspaper
20 article, it -- nobody set out to violate the act.
21 It just -- it just happened, so it can -- it can be
22 a real -- a real problem.

23 So that's the end of my presentation. Do
24 you have any questions today? You can ask them now
25 or you can contact me. There's my contact

1 information.

2 CHAIRMAN LYNCH: Any questions for
3 Ms. Essko? Thank you. It's a nice overview of
4 both laws.

5 MS. ESSKO: Thank you.

6 CHAIRMAN LYNCH: Thank you. And before I
7 adjourn, I just want to point out that our March
8 meeting will most likely be moved a week back, in a
9 month. I'm sorry, we have -- I don't have a
10 calendar with me, but do we have a date for when
11 that would be, the following Tuesday? Ms. Wrspir?

12 MS. WRASPIR: Chair, I note March 22nd.

13 CHAIRMAN LYNCH: So our next meeting will
14 be March 22nd. Very good. Thank you. And I'd
15 like to thank Ms. Mary Paradise of Buell Realtime
16 Reporting, who is our court reporter today, and
17 Buell Realtime Reporting continually furnishes us
18 with prodigious and proficient court reporters, and
19 we thank them for that.

20 Is there any further business before the
21 council today? Hearing none, we're adjourned.
22 Thank you.

23 (The meeting adjourned at 2:38 p.m.)
24
25

CERTIFICATE

1
2
3
4 STATE OF WASHINGTON

5 COUNTY OF KING
6

7 I, Mary M. Paradise, a Certified Shorthand
8 Reporter in and for the State of Washington, do
9 hereby certify that the foregoing transcript of the
10 meeting minutes of the Energy Facility Site
11 Evaluation Council is true and accurate to the best
12 of my knowledge, skill and ability.
13

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand this 1st day of March, 2016.
16
17
18
19

20 _____
21 MARY M. PARADISE, CSR
22
23
24
25

Kittitas Valley Wind Power Project

Monthly Project Update

March 25, 2016

Project Status Update

February Production Summary:

Power generated: 10,386 MWh
Wind speed: 4.6 m/s or 8.1 mph
Capacity Factor: 14.8%

Safety:

No incidents

Compliance:

Project is in compliance as of March 14, 2016.

Sound:

No complaints

Shadow Flicker:

No complaints

Environmental:

No incidents

Wild Horse

Wind Production: February generation totaled 54,402 MWh for an average capacity factor of 29.70%.

Safety: No lost-time accidents or safety injury/illnesses to report in February.

Compliance/Environmental: Nothing to report

EFSEC Monthly Operational Report

February, 2016

1. Safety and Training

- 1.1. There were no accidents or injuries during the month of February.
- 1.2. Conducted scheduled and required monthly training.
- 1.3. Conducted the scheduled safety committee meeting.

2. Environmental

- 2.1. Submitted the January Discharge Monitor Report (DMR) to WebDMR.
- 2.2. Submitted the 2016 first quarter Storm Water Discharge Monitor Report (DMR) to WebDMR.
- 2.3. Submitted a request to EFSEC to revise the schedule of compliance for our NPDES permit. The proposed revision has us replacing the entire cooling tower structure during the 2017 outage rather than replacing the lower portion this year. This effort is a major step to meeting the AKART obligation for minimizing arsenic in the plant waste water discharge.

3. Operations & Maintenance

- 3.1. Grays Harbor Energy (GHE) operated 20 days and generated 248,726 MWh during the month of February.
- 3.2. The capacity factor (CF) was 57.6% in February, and 70.7% YTD.
- 3.3. The availability factor (AF) was 100% in February, and 100% YTD.

4. Noise and/or Odor

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

5. Site Visits

- 5.1. There were no site visits during the month of February.

6. Other

- 6.1. Grays Harbor is staffed with 21 personnel. We have one open position for the Maintenance Manager that we plan to fill with an internal candidate.



Chehalis Generation Facility
1813 Bishop Road
Chehalis, Washington 98532
Phone: 360-748-1300

Chehalis Generation Facility----Monthly Plant Report – February 2016 **Washington Energy Facility Site Evaluation Council**

03-21-2016

Safety:

- There were no recordable incidents this reporting period and the plant staff has achieved 4852 days without a Lost Time Accident.

Environment:

- There were no air emissions or stormwater deviations or spills during the month of February 2016.
- Waste water monitoring results were in compliance with the permit limits for the month of February 2016.

Personnel:

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

Operations and Maintenance Activities:

- The Plant generated 47,589 MWhrs in February 2016 for a total YTD capacity factor of 13.6%.
- Repair of the unit #2 combustion turbine continues with an expected completion date on or about March 3, 2016.

Regulatory/Compliance:

- No inspections or issues this period.

Sound monitoring:

- There were no noise complaints to report.



Carbon Offset Mitigation

- No updates on the remaining carbon offset mitigation projects.
 - Design engineering firms and equipment supply vendors are being researched for the variable frequency drives (VFD's) for the water treatment reverse osmosis pumps.
 - Design engineering firms and equipment supply vendors are being researched for the VFD's for the closed cooling water system.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Miller".

Mark A. Miller
Manager, Gas Plant

Energy Northwest
EFSEC Council Meeting
March 25, 2016

I. Columbia Generating Station Operational Status

Columbia is online at 100% power and producing 1143 MWs. The plant has been online for 271 days.

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

II. WNP 1/4 Water Rights

The Department of Energy and Energy Northwest have finalized the scope and budget to complete the NEPA Environmental Assessment (EA) for WNP 1/4. Work on the NEPA EA is expected to begin in April. Following completion of the EA, a new lease will be signed between EN and the Department of Energy. The new lease will allow for use of the water rights obtained in January 2015.



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

Energy Facility Site Evaluation Council

Delegating Certain Plan Approvals to the EFSEC Manager

Policy #16-01

March 25, 2016

POLICY PURPOSE

To establish a consistent and timely review and approval process for energy facility plans that do not require an amendment to a site certification agreement.

General Discussion

The Legislature intended, as part of the energy facility siting process, for EFSEC to: preserve and protect the quality of the environment, assure that sufficient operational safeguards are in place, and avoid costly duplication in the siting process and ensure that decisions are made in a timely manner. See RCW 80.50.010.

A number of specific powers implementing this legislative intent are set forth in both statutes and rules. RCW 80.50.040(2) gives the Council the power “[t]o develop and apply environmental and ecological guidelines in relation to the type, design, location, construction, and operational conditions of certification of energy facilities subject to this chapter.” Similarly, RCW 80.50.040 (9) authorizes the Council “[t]o prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification and/or permits issued by the council. . . .” WAC 463-68-050 states: “at least ninety days prior to start of construction . . . a certificate holder shall provide the plans and specifications required by the site certification agreement to the council for approval.” WAC 463-70-020 and 463-70-030 address compliance monitoring procedures and compliance determinations as prescribed by the council.

An energy facility must submit many types of plans to EFSEC for review and approval to ensure that the appropriate protocols are met. Many of the plans are detailed and contain technical/engineering documents for which EFSEC staff and state and local agencies have

expertise. To ensure EFSEC has access to additional expertise when needed, interagency agreements have been developed with appropriate agencies.

The Legislature has recognized that some work of the Council will be performed by Council staff. RCW 80.50.030(2)(b). The Council's rules also recognize the propriety and necessity of delegating some tasks to EFSEC staff. WAC 463-10-010 ("Council" means the energy facility site evaluation council ... and, where appropriate to the staff of the council"). Approval of this policy implements the legislature's directive by delegating to the EFSEC Council Manager the authority to review and approve technical plans related to facility construction and operation when an amendment to a site certification is not required.

Implementing this policy will contribute to timely completion of the plan review process and is consistent with EFSEC's past practice of delegating certain review and approval authorities to the EFSEC Manager. The adoption of this policy formalizes the delegation of this authority to the EFSEC Manager and specifies the type of plans to which this delegated authority extends.

Approval of plans by the EFSEC Manager may only occur after EFSEC staff and contractors, which may include state and local agencies, have identified and the certificate holder has addressed areas of concern. As a prerequisite to plan approval, EFSEC staff will obtain written verification from the appropriate agency documenting that review has taken place to ensure plans are compliant with applicable requirements. Deficiencies noted by EFSEC staff or reviewing agencies must be addressed before a plan may be considered for approval. EFSEC staff will update the Council of any plans which have been approved by the EFSEC Manager.

For plans subject to EFSEC Manager approval, the Manager shall consider whether any individual plan should be forwarded to the Council for review and, at the Council's discretion, Council approval. The Manager will forward to the Council for Council review any plan for which the EFSEC responsible official issues a SEPA Determination of Significance or a Mitigated Determination of Nonsignificance.

I. Plans Subject to EFSEC Manager Approval:

- Construction Best Management Practices Plan
- Construction Emergency Plan
- Construction Management Plan
- Construction Phase Health and Safety Plan
- Construction Phase Site Security Plan
- Construction Stormwater Pollution Prevention Plan
- Construction Spill Prevention, Control and Countermeasures Plan
- Construction Soil Management Plan
- Construction Traffic Management Plan
- Habitat Restoration Plan
- Hunting, Livestock Grazing Plan
- Technical Advisory Committee Rules of Procedure

- Erosion and Sedimentation Control Plan
- Cultural and Archeological Resources Plan
- Fire Control Plan
- Other Non-Specified Construction Plan
- Noise and Shadow Flicker Modeling Plan (wind facilities)
- Greenhouse Gases Mitigation Plan
- Environmental Monitoring Stop Work Criteria Plan
- Rare Plant Survey/Plant Conservation Plan
- Operations Stormwater Pollution Prevention Plan
- Operation Spill Prevention, Control and Countermeasure Plan
- Operations Emergency Plan
- Operations Fire Control Plan
- Forest Practices Application Class 1 and II
- Traffic Monitoring Plan
- Solid Waste Control Plan
- Operations Phase Health and Safety Plan
- Operations Phase Site Security Plan
- Facility Operations and Monitoring Plan
- Post Construction Avian Monitoring Plan
- Post Construction Bat Monitoring Plan

II. Plans/Actions Requiring Council Approval

- Initial Site Restoration Plan
- Forest Practices Application – Class III and IV
- Wetlands Compensation Mitigation Plan
- Post Construction Bald Eagle/Golden Eagle Plan
- Detailed Site Restoration Plan
- Site Preservation Plan