WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
SPECIAL MEETING
September 14, 2021
1:30 p.m.

Virtual Special Meeting
Verbatim Transcript of Proceedings

DATE TAKEN:   SEPTEMBER 14, 2021
REPORTED BY:  TAYLER GARLINGHOUSE, CCR 3358
Councilmembers:
KATHLEEN DREW, Chair
ROB DENGEL, Department of Ecology
KATE KELLY, Department of Commerce
STACEY BREWSTER, Utilities and Transportation Commission
LENNY YOUNG, Department of Natural Resources
MIKE LIVINGSTON, Department of Fish & Wildlife

Assistant Attorney General:
JON THOMPSON

Council Staff:
JOAN OWENS
SONIA BUMPUS
AMI HAFKEMEYER
KYLE OVERTON

Also Present:
MARK MILLER, Chehalis Generation Facility
CHIEF DREW: Good afternoon. This is Kathleen Drew, Chair of the Washington Energy Facility Site Evaluation Council, calling to order our special council meeting for September 14th, 2021.

The purpose of this meeting in the notice is to consider the Chehalis Generating Facility's request to purchase municipal water during a low flow period of the Chehalis River under Article VI.A.7.a of the site certification agreement.

The last sentence of the notice is an error as it says the Council may consider and take final action on granting expedited processing. We are not considering granting expedited processing. We are considering a resolution, as it says in the first paragraph, for the purpose of purchasing water for Chehalis generating Facility. I apologize for any confusion that may have caused for anyone. But as I said, it is specifically only for the purpose of considering the Chehalis Generating Facility's request to purchase municipal water.
water during a low flow period of the Chehalis River
under the site certification agreement.

So with that clarification, Ms. Owens, will you take the roll?

MS. OWENS: Department of Commerce?
MS. KELLY: Kate Kelly, present.
MS. OWENS: Department of Ecology?
MR. DENGEL: Rob Dengel, present.
MS. OWENS: Department of Fish and Wildlife?
MR. LIVINGSTON: Mike Livingston, present.
MS. OWENS: Department of Natural Resources?
MR. YOUNG: Lenny Young, present.
MS. OWENS: Utilities and Transportation Commission?
MS. BREWSTER: Stacey Brewster, present.
MS. OWENS: Assistant Attorney General?
MR. THOMPSON: Jon Thompson, present.
MS. OWENS: For Council Staff, Sonia Bumpus?
MS. BUMPUS: Sonia Bumpus, present.
MS. OWENS: Ami Hafkemeyer?
MS. HAFKEMEYER: Ami Hafkemeyer, present.
MS. OWENS: Amy Moon?
Kyle Overton?
MR. OVERTON: Kyle Overton, here.
MS. OWENS: Joe Wood?
Sean Chisholm?

And I will move on to our court reporter?

THE COURT REPORTER: Tayler Garlinghouse, present.

MS. OWENS: Thank you.

And for Chehalis Generation Facility?

MR. MILLER: This is Mark Miller representing the Chehalis -- PacifiCorp Chehalis Generation Facility.

MS. OWENS: Thank you.

Chair, there is a quorum for the regular Council.

CHAIR DREW: Thank you.

So let's bring up for the Council the resolution, and I believe you also have that in your inboxes. You may not have all seen it yet, but we will ask Mr. Overton to go through it in detail. I know that you have received the -- in writing the request from Chehalis generation -- Generating Facility. So Mr. Overton will walk through the resolution and answer any questions you have, and we also have Mr. Miller present to answer questions.

Mr. Overton?

MR. OVERTON: Yes, thank you. This is Kyle Overton, the EFSEC site specialist for the Chehalis
Facility. I have a kind of a brief overview, and then we can go through the resolution if there's any questions or any clarification or some additional information required.

So the facility mentioned in their August Council meeting update that on July 7th, the Chehalis River entered into a low flow period curtailing the purchases of -- the purchase of water by the facility. EFSEC Staff have been working with the facility and Department of Ecology to resolve this issue.

In Article VI of the Chehalis Facility's site certification agreement, or SCA, it limits the purchase of water from the City of Chehalis during low flow periods in the Chehalis River, and low flow periods are designated as times when the flow as measured at Grand Mound is below 165 cubic feet per second.

EFSEC was informed of this situation and received a formal request to purchase water under provisions identified in Article VI.A.7.a of the SCA to provide a letter and draft resolution outline the request, which allows for the purchase of 20 acre feet of water from the City of Chehalis.

And to the same extent that they're purchasing water, the facility is proposing to provide $25,000 to bill the City of Chehalis and the Chehalis
Basin Partnership funding of water conservation efforts, which is -- and that conservation funding is a requirement of that Article VI of the SCA in order to purchase during low flow periods.

The Department of Ecology was provided notice of this proposal on September 2nd by the facility, and Ecology indicated their support of the proposal during a meeting held on September 3rd with a representative of EFSEC, Jon Thompson, our AG, and the facility.

EFSEC Staff are requesting the Council to consider the request from Facility at this time.

Are there any specific questions or any clarification items that I could help out with?

CHAIR DREW: Councilmembers, do you have questions?

MR. YOUNG: Kyle, this is Lenny Young. Has any organization or individual come forth speaking against doing this?

MR. OVERTON: No, there hasn't been. There also hasn't really been a public input process here and it isn't required per the SCA. This -- the section of the SCA was in part developed when the -- an amendment was done several years back and was part of a negotiation between EFSEC, the facility, Washington
Department of Fish and Wildlife, and Ecology, which put in these requirements to allow for purchase of water. So there was public input at that time, and Jon Thompson may have a little more nuanced take on that, but that was when the public had the opportunity to comment on this process.

MR. YOUNG: Okay. Follow up on that, is the City of Chehalis amenable? Do we have any kind of a readout on where the City stands?

MR. OVERTON: Again, that's not a requirement of this, but I do believe Mr. Miller has been in touch with the City and they are supportive and they do have water to provide the facility. And --

CHAIR DREW: Mr. Miller, would you like to answer that?

MR. MILLER: Yes, that's correct. We -- we've been in discussions with Mr. Vasilauskas, the water department director, and also communicating with his staff on the availability of water to purchase. And we discussed also the -- the opportunity for us to become more engaged in their conservation activities. So the City is -- is aware, they know that we've curtailed purchases, obviously, and they have water available for us and are not opposed to us purchasing water immediately if this is approved.
MR. YOUNG: Thank you.

CHAIR DREW: Mr. Thompson, do you have anything to add to the questions that have been asked?

MR. THOMPSON: Just that -- well, maybe if we could scroll down to the actual language indented there in the resolution from the site certification agreement. A little bit further. Yeah, so what I want to just point out is the second sentence -- let me see, where it indicates that really the only notice is 15 days notice to Ecology in approval by the Council. So Ecology did receive notice, and I'm not certain whether the -- I counted the days, but -- but it's basically just an opportunity of at least, you know, 15 days for Ecology to be available to evaluate.

Because it was part of -- as -- as Mr. Overton mentioned, it was part a settlement agreement between WDFW, Ecology, and the applicant. And so this kind of protects Ecology's right to review what's being proposed, and they've had the opportunity to do that and weighed in it on -- with their approval of this approach. So that's all I would add.

CHAIR DREW: Thank you.

Are there additional questions from Councilmembers?

MR. YOUNG: Yeah, this is Lenny again.
Maybe more discussion within the Council, but Mike, does WDFW have any concerns about how this might affect low flows or fisheries or anything like that?

MR. LIVINGSTON: Thanks, Councilmember Young, there. I -- for the question. My assumption has been and I believe I've been able to get through the records here to confirm this is, is that this would be coming out of the City's already approved right of water, so it wouldn't have any more impact on in-stream flow. And maybe we can just get a confirmation on that. But that's been my assumption.

CHAIR DREW: Mr. Miller, do you have an answer on that?

MR. MILLER: This is Mark Miller. My understanding is yes, this is within the -- the water rights the City has, and they're -- they've primarily pulled water, I believe it's from the south fork of the Newaukum River, and there really hasn't been any other, you know, concern noted about impact. There were discussions with Mr. Gallagher of Ecology and -- just in anecdotally, you know, he doesn't seem to think the request would have any impact, and he also noted -- maybe, Mr. Overton, you can confirm that, that this was, you know, consistent within the City's water right.

MR. OVERTON: Right, yes, this is Kyle
Mr. Overton. I can -- basically the -- the facility has a requirement in the SCA to purchase all their water from the municipal supply. So it would -- and Mr. Gallagher indicated that, you know, they have a separate right, the City does, and that this would be the -- kind of beholden to that.

MR. LIVINGSTON: And this is Councilmember Livingston again. Thanks -- thanks for that confirmation. I -- given that information, which confirms what I was assuming, I -- I don't have any concerns from a Fish standpoint at this point.

CHAIR DREW: Thank you.

Are there questions or comments from Councilmembers?

MS. KELLY: Chair Drew, this is Kate Kelly. I -- just to make sure I understand, this is just like a temporary thing and then it goes back to -- it's just like temporary permission to -- to purchase water for a while?

CHAIR DREW: Mr. Overton, would you like to answer that?

MR. OVERTON: Yes, this is a one-time authorization to purchase 20 acre feet of water from the City during this low flow period of Chehalis River. It's not an ongoing approval.
would require an SCA amendment of some sort.

MS. KELLY: We expect -- we expect the flows
to go up?

MR. OVERTON: Yes, hopefully we get some
rain coming in and that is the case. But the facility,
and Mark can clarify this, has indicated that as of
September 19th, they will run out of reserve waters to
continue operation, which is why we're seeking this
authorization to purchase water during the low flow
period at this time.

CHAIR DREW: My -- my understanding, too,
about the history of this is that -- and Mr. Miller
maybe can correct me if I overstated or state it
wrong -- is that at the time of the site certification
agreement, the Council looked at the issue of purchasing
water and had concern about the water supply and
therefore, required a significantly larger holding
facility for water on site. And that has come into play
in this situation. So good foresight there, and then
put the limitation in terms of the water flow at that
point.

It may be -- certainly something given our
issues going forward, it may be something that is more
recurring and may require some additional investigation
in the future.
But is that correct on the history, Mr. Miller?

MR. MILLER: Yes, the history of this particular plant's design dates back into the '90s, late '90s, when many of these negotiations, and obviously Mr. Consen [phonetic], you know, on his research of the -- the settlement between the parties, they actually changed the original design from this plant using evaporative cooling powers, used air cooled condenser, which is technically something you would see in arid environments. And a lot of this was early in discussions around what they call the Centralia Reach. So there were low flow periods, and so the City of Centralia redesigned their waste water treatment facility and moved it downstream. And so there were total daily max -- you know, TMVL limits on -- as far as oxygen consumption in the river.

So there -- there's quite a bit of history there. We have, you know -- just in the last ten years, we've curtailed purchases seven of those ten years due to low flow, and yes, as part of the design change, there was a -- an -- you know, a consideration for greater amount of raw water storage and also the demineralized water.

So those -- those early design changes was
part of the settlement that was reached, but still left
in this particular constraint that when the river is
measured at the Grand Mound station for the USGS reached
165 cubic feet per second, we would curtail water to
mitigate further impacts.

So that was a long answer, yes, you're
correct, Chair Drew.

CHAIR DREW: No, I appreciate that, and I'm
sure the Council appreciates on the details on the -- on
the history as well.

MS. BREWSTER: This is Stacey Brewster. I
have one question. You mentioned that you've had to
curtail before, have you had to purchase water in the
past?

MR. MILLER: Not -- in the history of the
operation of the plant, there's been no period with
which we've come close to consuming our on-site storage.
Right now, you know, we -- we have approximately eight
to ten days left depending on, you know, losses within
the system, whether we have two weeks or not. But it's,
you know, we've always had at least a minimum of 30 days
left before the next rains have occurred.

And this river basin, as Mr. Gallagher noted
in our discussions with him, is, you know, primarily a
rain- and spring-fed river. So it doesn't rely on snow
melt. So the changes in the river flow are pretty --
pretty dramatic and -- and soon after a rainfall.

So when we've had curtailment in the past,
you know, we may have had an August rain of a day or two
or a Labor Day September rain, and we would always, you
know, be able to pull water and get us by for another
period of time. But this is the longest stretch that we
have -- you know, in our recorded operating history that
we've curtailed purchases. So now 58 days now or so
that we haven't purchased water.

CHAIR DREW: Thank you.

Are there additional questions or comments
by Councilmembers?

So before us, we have the resolution, which
if you'll scroll down there, Ms. Owens, to the
resolution portion, and the resolution I guess the --
including the background and information that's
provided, but the -- the final part says having
considered Centralia general -- sorry, Chehalis
Generating Facility -- the letters are messing me up
here -- proposal, the comments of Ecology, and the
recommendation of EFSEC Staff, the Council hereby
approves pursuant to Article VI.A.7.a PacifiCorp's
purchase of water from the City of Chehalis effective
immediately according to the terms proposed.
PacifiCorp must submit certification that payment has been made to the City of Chehalis and to the Chehalis Basin Partnership on the terms described in this resolution by December 1st, 2021. And PacifiCorp, of course, is the owner of the Chehalis Generating Facility.

Is there a motion to approve this resolution?

MR. DENGEL: Rob Dengel, motion to approve said resolution.

CHAIR DREW: Thank you.

Is there a second?

MS. KELLY: Kate Kelly --

MR. LIVINGSTON: Mike Livingston --

MS. KELLY: -- second.

CHAIR DREW: I'll say Kate Kelly seconded because that's the voice I heard first.

Thank you all.

Are there -- is there any discussion? This is a complex issue with a lot of history, and I want to thank the Staff, Mr. Miller, Mr. Thompson, Mr. Overton, and certainly the Department of Ecology for working to address this issue as we need to make sure that the facility does have access to water within the confines of the site certification agreement.
So I thank you all for your work, and I will ask the Councilmembers how you vote. All in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.
CHAIR DREW: Aye.

All opposed?
The motion is approved unanimously, and I will have signatures, my signature and Ms. Bumpus' on the call, on this resolution and forwarded so that the purchase of the water can happen.

MR. MILLER: Chair Drew, this is Mark Miller of PacifiCorp Chehalis. I just want to thank Mr. Overton and the rest of the Staff and the Council for reviewing this matter as it is important, and thank you very much.

CHAIR DREW: Thank you.

With that, this meeting is adjourned. Thank you all very much.

(Adjourned at 1:51 p.m.)
CERTIFICATE

STATE OF WASHINGTON
COUNTY OF THURSTON

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

Tayler Garlinghouse, CCR 3358

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