

Verbatim Transcript of Monthly Council Meeting

Washington State Energy Facility Site Evaluation Council

March 15, 2022



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WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
TUESDAY, MARCH 15, 2022
1:30 P.M.

VIRTUAL COUNCIL MEETING
Verbatim Transcript of Proceedings

(All participants appearing via videoconference.)

DATE TAKEN: March 15, 2022

REPORTED BY: Sarah K. Webb, RSR, CCR #5567

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

2 Councilmembers:

KATHLEEN DREW, Chair

3 ELI LEVITT, Department of Ecology

KATE KELLY, Department of Commerce

4 STACEY BREWSTER, Utilities and Transportation Commission

MIKE LIVINGSTON, Department of Fish & Wildlife

5 LENNY YOUNG, Department of Natural Resources

6 Local Government and Optional State Agencies:

ED BROST, Benton County

7 Horse Heaven Wind Project, Department of Agriculture:

8 DEREK SANDISON

9 Assistant Attorney General:

JON THOMPSON

10 Administrative Law Judges:

11 ADAM TOREM

LAURA BRADLEY

12 Council Staff:

13 AMI HAFKEMEYER

AMY MOON

14 SEAN CHISHOLM

STEW HENDERSON

15 ANDREA GRANTHAM

JOAN OWENS

16 Also Present:

17 JENNIFER GALBRAITH, Wild Horse Wind Power Project

CHRIS SHERIN, Grays Harbor

18 STEFANO SCHNITGER, Chehalis Generation Facility

MARSHALL SCHMITT, Chehalis Generation Facility

19 OWEN HURD, Tuusso Energy

MEGAN SALLOMI, Counsel for The Environment

20 BILL SHERMAN, Counsel for The Environment

JORDYN GIULIO, Douglas County

21 FELICIA PAXTON, Columbia Generating Station

22

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25

1 LACEY, WASHINGTON

2 1:30 p.m.

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

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6 CHAIR DREW: Good afternoon. This is
7 Kathleen Drew, Chair of the Washington Energy Facility
8 Site Evaluation Council. I'm calling to order our
9 meeting for March.

10 Ms. Grantham, will you please call the roll?

11 MS. GRANTHAM: Yes.

12 Department of Commerce?

13 MS. KELLY: Kate Kelly, present.

14 MS. GRANTHAM: Department of Ecology?

15 Department of Fish & Wildlife?

16 MR. LIVINGSTON: Mike Livingston is present.

17 MS. GRANTHAM: The Department of Natural
18 Resources?

19 MR. YOUNG: Lenny Young, present.

20 MS. GRANTHAM: Utilities and Transportation
21 Commission?

22 MS. BREWSTER: Stacy Brewster, present.

23 MS. GRANTHAM: For local government and
24 optional state agencies for the Horse Heaven Project,
25 Department of Agriculture?

1 MR. SANDISON: Derek Sandison, present.

2 MS. GRANTHAM: Benton County?

3 MR. BROST: Ed Brost is here.

4 MS. GRANTHAM: For the Badger Mountain
5 Project, Douglas County?

6 MS. GIULIO: Jordyn Giulio, present.

7 MS. GRANTHAM: The assistant attorney
8 general?

9 MR. THOMPSON: Jon Thompson, present.

10 MS. GRANTHAM: Administrative Law Judges,
11 Johnette Sullivan?

12 Adam Torem?

13 JUDGE TOREM: This is Judge Torem, I'm here.

14 MS. GRANTHAM: Laura Bradley?

15 JUDGE BRADLEY: This is Judge Bradley, I'm
16 present.

17 MS. GRANTHAM: For absent Council Staff,
18 Sonia Bumpus?

19 Ami Hafkemeyer?

20 MS. HAFKEMEYER: Present.

21 MS. GRANTHAM: Amy Moon?

22 MS. MOON: Amy Moon, present.

23 MS. GRANTHAM: Joe Wood?

24 Sean Chisholm?

25 MR. CHISHOLM: Sean Chisholm, present.

1 MS. GRANTHAM: Patty Betts?

2 Lindsey Rumfree?

3 Stew Henderson?

4 MR. HENDERSON: Stewart Henderson, here.

5 MS. GRANTHAM: Joan Owens?

6 MS. OWENS: Joan Owens, present.

7 MS. GRANTHAM: For the operational updates,
8 Kittitas Valley Wind Project?

9 Wild Horse Wind Power Project?

10 MS. GALBRAITH: Jennifer Galbraith, present.

11 MS. GRANTHAM: Grays Harbor Energy Center?

12 MR. SHERIN: Chris Sherin is present.

13 MS. GRANTHAM: Chehalis Generation Facility?

14 MR. SCHMITT: Marshall Schmitt, here,
15 present.

16 MS. GRANTHAM: Columbia Generating Station?

17 MS. PAXTON: For Columbia Generating
18 Station, Felicia Paxton, present.

19 MS. GRANTHAM: Columbia Solar?

20 MR. HURD: Owen Hurd, present.

21 MS. GRANTHAM: Counsel for The Environment,
22 Bill Sherman?

23 MR. SHERMAN: Present.

24 MS. GRANTHAM: Megan Sallomi?

25 MS. SALLOMI: Present.

1 MS. GRANTHAM: Chair, there is a quorum for
2 the regular Council and for the Horse Heaven and Badger
3 Mountain Council.

4 CHAIR DREW: Thank you, Ms. Grantham.

5 I would want to note for the record that
6 Eli Levitt noted in chat that he's present.

7 MS. GRANTHAM: Thank you.

8 CHAIR DREW: Moving on to the proposed
9 agenda. You see the agenda before us, is there a motion
10 to approve that as the agenda?

11 MR. YOUNG: Lenny Young, so moved.

12 MS. BREWSTER: Stacy Brewster, second.

13 CHAIR DREW: Thank you. All those in favor
14 please say "aye."

15 COUNCILMEMBERS: Aye.

16 CHAIR DREW: Opposed.

17 The agenda is approved.

18 Moving on to the meeting minutes from February
19 15th, 2022, you see a copy of them and have received it
20 in your packets. Is there a motion to approve the
21 meeting minutes from February 15th?

22 MS. KELLY: Kate Kelly, move to approve.

23 CHAIR DREW: Is there a second?

24 MR. LIVINGSTON: Mike Livingston will
25 second.

1 CHAIR DREW: Are there any suggested changes
2 or edits or comments?

3 MS. BREWSTER: Chair Drew, this is
4 Stacy Brewster.

5 On Page 18, Lines 3, 14 and 18 refer to SEA.
6 I'm wondering if that should read SCA regarding the
7 transfer of the site verification.

8 CHAIR DREW: I believe that should be a CA,
9 site certification agreement, thank you.

10 Any other edits? Hearing none.

11 All those in favor of approving the minutes as
12 amended, please say "aye."

13 COUNCILMEMBERS: Aye.

14 CHAIR DREW: All those opposed.

15 The minutes are approved.

16 Moving on to our facility updates.

17 Kittitas Valley Wind Project, so Ms. Hafkemeyer
18 is that -- or who will be providing that?

19 MS. MOON: This is Amy Moon. I can provide
20 it or Ami Hafkemeyer can.

21 CHAIR DREW: Go ahead, Ms. Moon.

22 MS. MOON: It looks as if Eric Melbardis is
23 not present. So in looking at his facility update there
24 were no environmental or safety compliance issues to
25 report. And he doesn't indicate that there's any

1 upcoming projects to report, no sound complaints and no
2 shadow flicker complaints. Any questions?

3 CHAIR DREW: Thank you.

4 Wild Horse Wind Power Project, Ms. Galbraith.

5 MS. GALBRAITH: Yes. Thank you, Chair Drew,
6 Councilmembers and Staff. This is Jennifer Galbraith
7 with Puget Sound Energy for the Wild Horse Wind
8 Facility. I have no nonroutine updates for the month of
9 February.

10 CHAIR DREW: Thank you.

11 Moving on to the Chehalis Generation Facility,
12 Stefano Schnitger.

13 MR. SCHNITGER: Good afternoon, Chair Drew,
14 Councilmembers and EFSEC Staff. This is
15 Stefano Schnitger, operations manager at the Chehalis
16 Generation Facility. I have nothing nonroutine to
17 report for the month of February.

18 CHAIR DREW: Thank you.

19 Moving on to the Grays Harbor Energy Center,
20 Mr. Sherin.

21 MR. SHERIN: Good afternoon, Chair Drew,
22 Councilmembers, Staff. For the month of February I have
23 nothing nonroutine to report.

24 CHAIR DREW: Thank you.

25 Columbia Generating Station, Felicia Paxton.

1 MS. PAXTON: Thank you. Good afternoon,
2 Chair Drew, EFSEC Council and Staff. So my name is
3 Felicia Paxton and I'm the principal environmental
4 scientist for Energy Northwest for -- and reporting for
5 Columbia Generating Station, I have the following
6 update.

7 As regarding environmental compliance, Energy
8 Northwest submitted an amended diesel generator one-time
9 report to update the runtime information for Diesel
10 Generator 3. This report is required under EFSEC Order
11 No. 873.

12 Those are the only updates I have today.

13 CHAIR DREW: Thank you.

14 Columbia Solar, Mr. Hurd.

15 MR. HURD: Good afternoon, Chair Drew,
16 Councilmembers and EFSEC Staff. This is Owen Hurd from
17 Tuusso Energy reporting on the Columbia Solar Projects.

18 Update on construction is that we're working
19 with PSE to resolve some communication issues on the
20 interconnection on Penstemon, but other than that
21 Penstemon is pretty much complete. We've completed all
22 of our testing and just have that one remaining issue.

23 On Camas, we have all the modules now installed
24 and mechanical completion is expected in the next few
25 weeks.

1 Urtica trails behind a bit, we're still waiting
2 for delivery of the remaining modules and we're still
3 dealing with power and mediation. So mechanical
4 completion is currently looking like early May.

5 We held our first TAC meeting on February 18th
6 and nothing to report in terms of environmental or
7 safety compliance.

8 CHAIR DREW: Thank you, thank you very much.
9 Moving on to Desert Claim, Ms. Moon.

10 MS. MOON: Good afternoon --

11 CHAIR DREW: Wait a minute, can we go back a
12 little bit there?

13 Before we move on, I did ask because we did
14 receive some photographs. And, Mr. Hurd, I'll ask you,
15 put you on the spot there, these are some photographs
16 from the Columbia Solar Project from some of the sites.
17 I would assume this is Penstemon.

18 MR. HURD: This is Penstemon. I think this
19 is looking to the northeast, kind of looking east now.
20 So you're seeing kind of half of the plant and then the
21 other half is behind you to the left.

22 CHAIR DREW: So that would be a overview of
23 the entire -- of most of the site?

24 MR. HURD: Yeah, yeah. We were kind of -- I
25 think that picture was taken kind of from the middle

1 there in between those two sections looking to the left
2 in this picture, yeah.

3 CHAIR DREW: Thank you. So if you do have
4 other pictures that you do want to share with us as we
5 move forward to operationalizing the Columbia Solar
6 Project, feel free to add them to your update.

7 MR. HURD: Okay, yeah, will do.

8 CHAIR DREW: Thank you.

9 Now we'll move on to Desert Claim, Ms. Moon.

10 MS. MOON: All right, thank you. Good
11 afternoon, Council, Chair Drew and members of the
12 Council. For the record, this is Amy Moon providing the
13 Desert Claim update. EFSEC Staff continue to coordinate
14 with Desert Claim, however there are currently no
15 project updates.

16 CHAIR DREW: Thank you.

17 Horse Heaven Wind Farm, Ms. Moon.

18 MS. MOON: Thank you, Chair Drew and
19 Councilmembers. Again, this is Amy Moon providing an
20 update on the Horse Heaven Wind Project. In February,
21 EFSEC Staff continued to work on the preparation of the
22 Draft Environmental Impact Statement or DEIS. The work
23 has included the review of our contractor Golder's work
24 on drafting the DEIS as well as coordinating DEIS
25 chapter reviews with Washington State agencies, such as

1 the Department of Transportation, Department of
2 Archaeology & Historic Preservation, Department of
3 Natural Resources, Department of Ecology and the
4 Utilities and Transportation Commission.

5 EFSEC Staff continues to work on wildlife and
6 habitat mitigation in coordination with the Washington
7 Department of Fish & Wildlife and the Horse Heaven
8 applicant. Habitat and wildlife mitigation discussions
9 have included impact analysis as well as opportunities
10 for impact avoidance and minimization of impacts. This
11 work -- excuse me, continues to support the applicant in
12 refining an updated mitigation plan.

13 In addition to working on the DEIS in close
14 cooperation with our contractor Golder, EFSEC is working
15 with the applicant to draft portions of the DEIS Chapter
16 1, Purpose of Action. The applicant input includes the
17 proposed project overview and background.

18 Does the Council have any questions?

19 CHAIR DREW: Are there any questions from
20 Councilmembers?

21 Thank you, Ms. Moon.

22 MS. MOON: You're welcome.

23 CHAIR DREW: And now we will have the
24 adjudicative update from Ms. Hafkemeyer.

25 MS. HAFKEMEYER: Thank you. For the record

1 this is Ami Hafkemeyer. Good afternoon, Chair Drew and
2 Councilmembers. I have a brief update for you on the
3 Horse Heaven adjudication.

4 We are not yet ready to present the schedule
5 for the upcoming Horse Heaven adjudication, but Staff
6 wanted to make the Council aware that we are
7 coordinating with Judge Torem to schedule and begin
8 drafting notices for the prehearing conferences. We
9 anticipate having further detail on the conferences and
10 adjudication schedule at the April council meeting.

11 Are there any initial questions at this time?

12 CHAIR DREW: Are there any questions from
13 Councilmembers?

14 MS. BREWSTER: This is Stacy Brewster. Is
15 there a very rough idea of when that will be happening?
16 Just how many months out are we looking?

17 MS. HAFKEMEYER: Sure. So we have
18 internally talked about noticing the prehearing
19 conference in April to schedule a prehearing -- to have
20 a prehearing conference held in May. We have considered
21 internally holding multiple prehearing conferences and
22 that is part of what we are still scheduling. If we
23 decide to hold multiple, we would anticipate announcing
24 that detail probably in April as we get closer to that
25 decision.

1 CHAIR DREW: Would you anticipate the
2 adjudicative hearing to be late summer or do we not know
3 yet?

4 MS. HAFKEMEYER: I don't think we have a
5 very firm timeline yet, but I would anticipate mid to
6 late summer.

7 CHAIR DREW: And we will be talking about
8 what format and other aspects of the adjudicative
9 hearing as we move forward. I think the Councilmembers
10 would be interested, so we'll try and have a more
11 specific update in April.

12 MS. HAFKEMEYER: Yes. Those are part of the
13 details that we're navigating as meetings continue to
14 change their dynamic with shifts in public facilities.
15 So we are working out those details internally and with
16 Judge Torem to make sure we iron out everything that we
17 need to have ready for these hearings and for the
18 adjudication.

19 CHAIR DREW: And again, remind me what you
20 think the DEIS schedule might be.

21 MS. HAFKEMEYER: We anticipate draft DEIS
22 issuance. I believe we are working to end of May at
23 this moment.

24 CHAIR DREW: Okay, thank you.

25 Ms. Brewster, does that help answer your

1 questions?

2 MS. BREWSTER: It does. Thank you very
3 much.

4 CHAIR DREW: Yeah. As much as we know at
5 this time, so thank you.

6 Are there any other questions? Okay, thank
7 you.

8 Moving on to the Goose Prairie Project update,
9 Ms. Hafkemeyer.

10 MS. HAFKEMEYER: Thank you, Chair Drew.
11 Again for the record, this is Ami Hafkemeyer. The Goose
12 Prairie Solar Project has its special meeting scheduled
13 tonight for their proposed SCA transfer. The meeting
14 will be held virtually by Microsoft Teams or by phone
15 from 5:00 p.m. to 7:00 p.m. or until last speaker,
16 whichever comes first.

17 And we anticipate being able to review those
18 comments and have any associated documentation ready for
19 the Council, hopefully at the April council meeting. In
20 addition to that, Staff are working with the certificate
21 holder to begin coordination of preconstruction plan
22 review.

23 CHAIR DREW: Thank you.

24 And if anyone who is listening or watching this
25 meeting would like to participate at 5:00 today, they

1 can go to EFSEC's website to get the information?

2 MS. HAFKEMEYER: That's correct.

3 CHAIR DREW: Www.efsec --

4 MS. HAFKEMEYER: Correct. And the website
5 that will be open tonight to receive public comment --
6 and I'm sorry, I can never remember if they're forward
7 slashes or backslashes, it's one of the directions.
8 It's https: -- I think forward slash, forward slash,
9 comments.efsec.wa.gov. If that doesn't work, try the
10 opposite direction slash. And I sincerely apologize for
11 my confusion on the matter.

12 CHAIR DREW: And if anyone's interested in
13 going to our website and scrolling down the facilities
14 to Goose Prairie Solar, you will see the information
15 about the meeting in the comment database posted there.
16 Okay, thank you.

17 Moving on to Badger Mountain, Mr. Chisholm.

18 MR. CHISHOLM: Good afternoon Council,
19 Chair Drew and Councilmembers. For the record, this is
20 Sean Chisholm providing my last update on the Badger
21 Mountain Solar Energy Project. Ami Hafkemeyer will be
22 taking over since I have accepted a position with WSDOT.

23 EFSEC Staff continues to coordinate with the
24 applicant as well as with both contractor and state
25 agencies reviewing the ASC for our environmental review.

1 EFSEC Staff has issued a determination of significant
2 intent -- determination is -- significant intent of
3 scoping and initiated the public comment period which
4 begun March 14th. The comment period will last
5 through -- until April 12th. The comments will be
6 accepted during the comment period by either postal mail
7 to Energy Facility Site Evaluation Council, 621 Woodland
8 Square Loop Southeast, Lacey, Washington 98504-3172 or
9 going to our website to submit them at
10 <https://comments.efsec.wa.gov>.

11 Does the Council have any questions so far?

12 CHAIR DREW: Again, Mr. Chisholm, that was
13 if you want to comment on the Badger Mountain SEPA
14 determination of significance; is that correct?

15 MR. CHISHOLM: Yes, it was correct.

16 CHAIR DREW: Okay. So again, going to our
17 website to the facility for Badger Mountain and on that
18 page, you will see additional information.

19 And Ms. Owens just put in the chat "the comment
20 database." So we are mentioning the comment database
21 twice tonight. Once for the Goose Prairie meeting on
22 the amendment for change of ownership and one for Badger
23 Mountain on the SEPA determination of significance.

24 Okay, thank you. Go on.

25 MR. CHISHOLM: I would also like to add for

1 an update on the Badger Mountain land use order. I
2 would like to introduce Ami Hafkemeyer.

3 CHAIR DREW: Okay, thank you. And
4 congratulations and good luck in your position with
5 WSDOT, we'll miss you.

6 Ms. Hafkemeyer.

7 MS. HAFKEMEYER: Thank you, Chair Drew and
8 thank you, Mr. Chisholm. I'd just like to add a little
9 bit of information. The public comment period open for
10 the Badger Mountain proposal right now is for the scope
11 of determination of significance. If the public has any
12 thoughts that they would like to share for consideration
13 of what they would like to be included in EFSEC's
14 environmental review, please send those comments to us
15 through any of the means mentioned.

16 CHAIR DREW: Thank you. And that helps
17 clarify because it's not on the actual determination,
18 but on the scope of the review, so that's critical for
19 people to know. So thank you for expanding on that.

20 Go ahead.

21 MS. HAFKEMEYER: Thank you. I would like to
22 draw the Council's attention to your packets. There is
23 included a draft order for the Badger Mountain land use
24 consistency determination at the January council
25 meeting.

1 Council directed Staff to work with
2 Judge Bradley to draft an order determining land use for
3 the proposal to be inconsistent and to set the matter
4 for an adjudication. Judge Bradley has worked with
5 Staff and our attorney, Jon Thompson, to write this
6 order and we have provided it to Council for your
7 review.

8 And Judge Bradley is on the line if there are
9 any questions that the Council may have for her. Are
10 there any questions?

11 CHAIR DREW: Councilmembers, you have
12 received the draft order. Are there questions for
13 either Ms. Hafkemeyer or for Judge Bradley?

14 And just to summarize -- and I'll read the
15 conclusion. Is that "Aurora Solar LLC's application is
16 not consistent with local land use and zoning
17 regulations. The matter shall be set for an
18 adjudication to consider whether to recommend preemption
19 of Douglas County's land use and zoning regulations.
20 The adjudication may be held concurrent with or separate
21 from the adjudication related to the State Environmental
22 Protection Act."

23 So just to make that statement as to what the
24 order concludes for both those who are watching or
25 listening as well as for the Council.

1 Is there any discussion? Is there a motion to
2 adopt the order in front of us?

3 MS. KELLY: Madam Chair, this is Kate Kelly.
4 And I move to let the Council adopt this order.

5 CHAIR DREW: Thank you.

6 Is there a second?

7 MS. BREWSTER: Stacy Brewster, I second the
8 motion.

9 CHAIR DREW: Thank you. Is there
10 discussion?

11 MR. LEVITT: Chair Drew, this is Eli. I
12 just wonder if the Council will have a chance at some
13 point to talk about this precedent.

14 I don't know if -- I read the memo last week,
15 but I don't know to what degree the attorneys think the
16 best advice on encountering similar situations or cases
17 in the past.

18 CHAIR DREW: Mr. Thompson?

19 MR. THOMPSON: Well, yeah. I'm not sure how
20 to answer the question. I mean, there have been
21 instances in the past where arguments have been
22 presented on both sides as to whether a project is
23 consistent in compliance with local zoning.

24 And this seemed like a pretty clear-cut case
25 where there had been an ordinance adopted prior to the

1 filing of the application for site certification with
2 the Council that -- that precluded the ~~siding~~^{siting} of a solar
3 facility at this location, so as laid out in the order.
4 So I don't know if that answers the question or if
5 there's something more to it.

6 CHAIR DREW: Also, I would add that we did
7 not receive any testimony from the applicant or in fact
8 any other party stating that it was consistent. And
9 it's particularly because of the addition of the interim
10 ordinances that were adopted by Douglas County.

11 Is that -- I guess I'm looking to you,
12 Mr. Thompson, to verify.

13 MR. THOMPSON: You are correct. Yeah,
14 that's exactly right. The applicant, you know, the
15 applicant also is in agreement that the interim
16 ordinances or the -- yeah, the interim ordinances
17 adopted are, you know, because of their setback
18 requirements or setback from various geographic features
19 would not allow for the ~~siding~~^{siting} of the facility, so...

20 But yeah, there was no testimony from the
21 county on that point, but it was, you know, can readily
22 be determined from the text of the local ordinances. So
23 that's how we got to the conclusion that's outlined in
24 the order.

25 CHAIR DREW: Mr. Levitt, does that answer

1 your question?

2 MR. LEVITT: Yeah, I guess to a degree.
3 Maybe it's a topic for another day. I'm just curious to
4 what degree other counties have, you know, similar
5 ordinances than what's used to either promote or
6 discourage the specific type of projects.

7 CHAIR DREW: This is the first we've seen of
8 an interim ordinance of this nature. So I think those
9 will be the questions we'll explore more deeply in an
10 adjudication.

11 MR. LEVITT: Okay, thank you. No more
12 questions.

13 CHAIR DREW: Okay. No, you're fine, it's
14 good to bring them up to ask those questions.

15 Are there any other questions or comments by
16 Councilmembers?

17 MS. KELLY: Madam Chair, this is Kate Kelly.
18 I guess to kind of speak to my support for this order is
19 that it's my understanding that as we -- after we adopt
20 the order and as we move forward with an -- any
21 adjudication further discussion of this matter that
22 we'll have an opportunity to explore what the conflict
23 might be and whether or not we can adopt conditions that
24 might mitigate or at least discuss the implications of
25 it.

1 CHAIR DREW: Yes, thank you. That's very
2 much -- what we are trying to do here is we're trying to
3 take this step in the order so that we can move forward,
4 more deeply discuss the conflicts that exist between the
5 interim ordinances and this project and if they can be
6 mitigated and then further what our recommendations
7 would be going forward. So thank you for that comment.

8 So go ahead, I hear another --

9 MR. LIVINGSTON: Yeah, this is
10 Mike Livingston.

11 CHAIR DREW: Go ahead.

12 MR. LIVINGSTON: So I was just -- I'm going
13 to ask on the final statement of our order here that
14 we're considering. It says, "the adjudication may be
15 held concurrent with or separate from adjudication
16 related to the State of Environmental Protection Act."

17 So I assume at a future council meeting we'll
18 have a discussion around how we're going to approach
19 that, whether we're combining those or doing them
20 separately.

21 CHAIR DREW: Yes. And the reason for that
22 is that in this case, our determination of significance
23 just came and then we're going through the scoping
24 process. So we'll decide whether it makes more sense to
25 do them in two separate adjudications or together as

1 one.

2 MR. LIVINGSTON: Okay, thank you.

3 CHAIR DREW: Are there other questions or
4 comments?

5 MR. THOMPSON: Chair Drew, just a point of
6 clarification. I guess I hadn't -- when you're
7 reading --

8 This is Jon Thompson, assistant attorney
9 general.

10 CHAIR DREW: Oh, go ahead.

11 MR. THOMPSON: When you're reading that
12 concluding paragraph, it occurs to me that there
13 actually -- it sounds like there might be an error in
14 there. I don't have it in front of me, but the
15 adjudication is not about SEPA. So it's not about the
16 SEPA determination or the environmental impact
17 statement.

18 It's an adjudication where parties may be heard
19 in support of or opposition to the project as, you know,
20 required by EFSEC statute. So probably more accurate
21 statement would be that doesn't -- it may be combined
22 with the general adjudication.

23 CHAIR DREW: For the project.

24 MR. THOMPSON: For the project.

25 CHAIR DREW: And, okay, thank you. Yes,

1 you're right. I did make that mistake even though --
2 yes, I think there might be an error in the order. So I
3 would suggest that we review that last sentence.

4 But if we can move forward with a vote from the
5 Council, we can send to you the final language which
6 will -- adjudication may be held concurrent with or
7 separate from the adjudication related to the Badger
8 Mountain Project in whole or something to that effect.

9 MR. THOMPSON: Correct. We could just place
10 a reference to the RCW section that requires that there
11 be an adjudication in cases in which there's not
12 expedited processing. I don't have it at my fingertips
13 right now, but I would just suggest making that
14 substitution instead of the reference to the State
15 Environmental Policy Act.

16 CHAIR DREW: Okay, thank you.

17 So given that, is there agreement from the
18 Council that we adopt this order and with that wording
19 amended? Let's say, all those in favor please say
20 "aye."

21 COUNCILMEMBERS: Aye.

22 CHAIR DREW: Opposed.

23 Okay. The motion is adopted and we will send
24 you the wording of that order before it is signed in
25 case you have any comments on the final wording, so

1 thank you.

2 I think that -- does that conclude our action
3 on Badger Mountain? Looking back at our agenda here.

4 MS. GRANTHAM: Yes, there's nothing further
5 for the Badger Mountain for this council meeting, Chair
6 Drew.

7 CHAIR DREW: Okay, thank you.

8 So I would like to take a few minutes of the
9 Council's time to talk about a piece of legislation that
10 was passed, it's called Engrossed Second Substitute,
11 House Bill 1812, and it passed the legislature. It has
12 not yet been approved or signed by the governor which is
13 the next step. So I will just give a little bit of an
14 overview of the overall legislation and then we'll have
15 more of an update to the Council at the next meeting.

16 This was a governor request bill and a few of
17 the things that it accomplishes is to modernize EFSEC by
18 adding clean energy language and promoting environmental
19 justice to the intent section. Adding authority for
20 clean energy product manufacturing, green electrolytic
21 hydrogen and energy storage facility proposers to opt
22 into the EFSEC siting process. It creates EFSEC as an
23 independent agency and creates an EFSEC account.

24 At this point, we are an agency where the chair
25 is appointed by the governor, but the agency is -- sits

1 with the UTC, the Utilities and Transportation
2 Commission, for purposes of administrative functions
3 that are performed by the UTC.

4 So going forward, EFSEC will -- the UTC will
5 not be required to perform the administrative financial
6 functions and other administrative functions for EFSEC.

7 The Bill also authorizes the EFSEC chair and
8 designated staff to offer to consult with federally
9 recognized tribes who may be affected by proposed
10 projects as well as requiring the Department of
11 Archeology & Historic Preservation to work with tribes
12 and applicants, to assess potential effects to tribal
13 culture, resources, archaeological sites and sacred
14 sites.

15 The Bill makes a number of tweaks to our public
16 hearing processes including allowing the Council to
17 limit an adjudication hearing to land use zoning issues.
18 It also -- if the environmental impact of the proposed
19 facility is not significant or will be mitigated to a
20 nonsignificant level, it also requires participants in
21 adjudicative hearings to raise specific issues in
22 writing prior to the adjudication and then requires a
23 public comment period prior to the adjudication so that
24 people will have an additional opportunity to raise
25 those issues.

1 The Bill adds a pre-application process so that
2 potential applicants can work with EFSEC to consult
3 regarding the completeness of their application. And
4 also to ensure transparency, the Bill requires the
5 Council to hold public meeting to take comments prior to
6 issuing of recommendation when a project is granted
7 expedited processing.

8 So there are a number of specifics, we will be
9 of course both working on our implementation of looking
10 at our administrative processes and how we're going to
11 move forward to provide those to our own agency.

12 We will also be doing some rule writing and
13 hiring staff, specifically within the creation of the
14 program that adds the opportunity for clean energy
15 manufacturing projects to opt into a process. So we
16 will have -- any rules that we put forward will come
17 before the Council. So we will have more information
18 after the governor signs the legislation, but I did want
19 to give you a heads-up.

20 It's a significant Bill. We have put forward a
21 couple of times in the legislature bills that included
22 some of these pieces that are in this Bill and we look
23 forward to having an agency that is responsive to the
24 public and also to achieving clean energy goals.

25 I don't know if Councilmembers have any

1 questions.

2 Okay, hearing none, we will continue to give
3 you updates as we move through this process. And thank
4 you for your time and attention today. We will see most
5 of you tonight at 5:00 for our hearing on the Goose
6 Prairie change of ownership.

7 Thank you, this meeting is adjourned.

8 (Hearing adjourned at 2:10 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF KING

I, Sarah K. Webb, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript on March 15, 2022, is true and accurate to the best of my knowledge, skill, and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this March 25th, 2022.

Sarah K. Webb



Sarah K. Webb, RSR, CCR #5567

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