



# Washington State Energy Facility Site Evaluation Council AGENDA

**MONTHLY MEETING**  
**Tuesday August 16, 2022**  
**1:30 PM**

**CONFERENCE CALL ONLY**  
Conference number: (253) 372-2181 ID: 662593855#

1. Call to Order ..... Kathleen Drew, EFSEC Chair
2. Roll Call ..... Andrea Grantham, EFSEC Staff
3. Proposed Agenda ..... Kathleen Drew, EFSEC Chair
4. Minutes  
    **Meeting Minutes** ..... Kathleen Drew, EFSEC Chair
  - July 19, 2022 Monthly Meeting Minutes
5. Projects
  - a. Kittitas Valley Wind Project
    - Operational Updates ..... Eric Melbardis, EDP Renewables
  - b. Wild Horse Wind Power Project
    - Operational Updates ..... Jennifer Galbraith, Puget Sound Energy
  - c. Chehalis Generation Facility
    - Operational Updates ..... Stefano Schnitger, Chehalis Generation
  - d. Grays Harbor Energy Center
    - Operational Updates ..... Chris Sherin, Grays Harbor Energy
    - Greenhouse Gas (GHG) Mitigation Plan Update ..... Sonia Bumpus, Executive Director  
Jon Thompson, Assistant Attorney General

*The Council may consider and take FINAL ACTION on Grays Harbor's request related to compliance with the facility's GHG Mitigation Plan.*
  - e. Columbia Generating Station
    - Operational Updates ..... Felicia Najera-Paxton, Energy Northwest
  - f. WNP – 1/4
    - Non-Operational Updates ..... Felicia Najera-Paxton, Energy Northwest
  - g. Columbia Solar
    - Project Updates ..... Owen Hurd, Tuusso Energy
  - h. Horse Heaven Wind Farm
    - SEPA Updates ..... Amy Moon, EFSEC Staff
  - i. Goose Prairie Solar
    - Project Updates ..... Joe Wood EFSEC Staff
  - j. Badger Mountain
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - k. Whistling Ridge
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - l. High Top & Ostrea
    - Project Updates ..... Ami Hafkemeyer, EFSEC Staff
  - m. Wautoma Solar
    - Project Update ..... Joe Wood, EFSEC Staff
6. Adjourn ..... Kathleen Drew, 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 42.30.020

**Verbatim Transcript of Monthly Council Meeting**  
**Washington State Energy Facility Site Evaluation Council**  
**July 19, 2022**



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## Verbatim Transcript of Monthly Council Meeting - 7/19/2022

<p style="text-align: right;">Page 1</p> <hr/> <p style="text-align: center;">WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL Lacey, Washington Tuesday, July 19, 2022 1:30 p.m.</p> <hr/> <p style="text-align: center;">VIRTUAL MONTHLY COUNCIL MEETING Verbatim Transcript of Proceedings</p> <p style="text-align: center;">(All participants appeared via videoconference)</p> <p>REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358 Buell Realtime Reporting, LLC 1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101 (206) 287-9066   Seattle (360) 534-9066   Olympia (800) 846-6989   National</p> <p>www.buellrealtime.com</p>	<p style="text-align: right;">Page 3</p> <p>1 LACEY, WASHINGTON; JULY 19, 2022 2 1:30 P.M. 3 --o0o-- 4 P R O C E E D I N G S 5 6 CHAIR DREW: Good afternoon. This is 7 Kathleen Drew, Chair of the Washington State Energy 8 Facility Site Evaluation Council, calling today's 9 meeting to order. 10 Ms. Grantham, will you 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 -- 16 MR. LEVITT: Eli Levitt, present. 17 MS. GRANTHAM: Thank you. 18 Department of Fish and Wildlife? 19 MR. LIVINGSTON: Mike Livingston. I'm 20 present. 21 MS. GRANTHAM: Department of Natural 22 Resources? 23 MR. YOUNG: Lenny Young, present. 24 MS. GRANTHAM: Utilities and Transportation 25 Commission?</p>
<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S 2 KATHLEEN DREW, Chair 3 STACEY BREWSTER, UTC 4 KATE KELLY, Department of Commerce 5 ELI LEVITT, Department of Ecology 6 LENNY YOUNG, Department of Natural Resources 7 MIKE LIVINGSTON, Department of Fish and Wildlife 8 9 Local Government and Optional State Agency for the Horse 10 Heaven Project and Badger Mountain: 11 ED BROST, Benton County 12 JORDYN GIULIO, Douglas County 13 14 Assistant Attorney General: 15 JON THOMPSON 16 17 Administrative Law Judges: 18 19 ADAM TOREM 20 LAURA BRADLEY 21 22 EFSEC Staff: 23 24 SONIA BUMPUS 25 AMY MOON 26 AMI HAFKEMEYER 27 STEW HENDERSON 28 JOAN OWENS 29 ANDREA GRANTHAM 30 JOE WOOD 31 DAVE WALKER 32 CINDY SMITH 33 34 Guests: 35 36 JENNIFER GALBRAITH, Wild Horse 37 CHRIS SHERIN, Grays Harbor Energy 38 STEFANO SCHNITGER, Chehalis Generation 39 FELICIA NAJERA-PAXTON, Columbia Generating Station 40 SARAH REYNEVELD, Counsel for The Environment 41 OWEN HURD, TUUSSO Energy</p>	<p style="text-align: right;">Page 4</p> <p>1 MS. BREWSTER: Stacey Brewster, present. 2 MS. GRANTHAM: Local Government and Optional 3 State Agencies, for the Horse Heaven Project, Department 4 of Agriculture? 5 CHAIR DREW: Excused. 6 MS. GRANTHAM: Benton County? 7 MR. BROST: Ed Brost, present. 8 MS. GRANTHAM: Thank you. 9 For the Badger Mountain Project, Douglas 10 County? 11 MS. GIULIO: Jordyn Giulio, present. 12 MS. GRANTHAM: The assistant attorney 13 general? 14 MR. THOMPSON: Jon Thompson, present. 15 MS. GRANTHAM: Administrative law judges, 16 Adam Torem? 17 JUDGE TOREM: This is Judge Torem. 18 MS. GRANTHAM: Laura Bradley? 19 JUDGE BRADLEY: This is Judge Bradley, 20 present. 21 MS. GRANTHAM: For the EFSEC Staff, Sonia 22 Bumpus? 23 MS. BUMPUS: Sonia Bumpus is present. 24 MS. GRANTHAM: Ami Hafkemeyer? 25 MS. HAFKEMEYER: Ami Hafkemeyer, present.</p>

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<p>1 MS. GRANTHAM: Amy Moon?</p> <p>2 MS. MOON: Amy Moon, I'm here.</p> <p>3 MS. GRANTHAM: Joe Wood?</p> <p>4 MR. WOOD: Joe Wood, present.</p> <p>5 MS. GRANTHAM: Patty Betts?</p> <p>6 Stew Henderson?</p> <p>7 MR. HENDERSON: Stewart Henderson, here.</p> <p>8 MS. GRANTHAM: Joan Owens?</p> <p>9 MS. OWENS: Present.</p> <p>10 MS. GRANTHAM: Dave Walker?</p> <p>11 MR. WALKER: Present.</p> <p>12 MS. GRANTHAM: For the operational updates,</p> <p>13 Kittitas Valley Wind Project?</p> <p>14 CHAIR DREW: Excused.</p> <p>15 MS. GRANTHAM: Wild Horse Wind Power</p> <p>16 Project?</p> <p>17 MS. GALBRAITH: Jennifer Galbraith, present.</p> <p>18 MS. GRANTHAM: Grays Harbor Energy Center?</p> <p>19 MR. SHERIN: This is Chris Sherin, for Grays</p> <p>20 Harbor Energy Center.</p> <p>21 MS. GRANTHAM: Chehalis Generation Facility?</p> <p>22 MR. SCHNITGER: Stefano Schnitger, present.</p> <p>23 MS. GRANTHAM: Columbia Generating Station?</p> <p>24 MS. NAJERA-PAXTON: Felicia Najera-Paxton,</p> <p>25 present.</p>	<p>1 CHAIR DREW: All those opposed?</p> <p>2 The agenda is adopted.</p> <p>3 Moving on to the meeting minutes. We have</p> <p>4 four sets of meeting minutes before us, so we'll take</p> <p>5 them one at a time.</p> <p>6 The first is the May 17th, 2022, monthly</p> <p>7 meeting minutes that are there before you. And is there</p> <p>8 a motion to approve the May meeting minutes?</p> <p>9 MS. KELLY: This is Kate Kelly. I move to</p> <p>10 approve the May 17th meeting minutes.</p> <p>11 CHAIR DREW: Second?</p> <p>12 MS. BREWSTER: Stacey Brewster, second.</p> <p>13 CHAIR DREW: Thank you. I have a few</p> <p>14 changes, minor changes.</p> <p>15 On page 38, line 6, "BTA" should be "BPA."</p> <p>16 On page 38, line 13, the two-word</p> <p>17 combination blackout, space, line should be, quote,</p> <p>18 black, space, outline.</p> <p>19 On page 38, line 17, the word "land" should</p> <p>20 be "line."</p> <p>21 Are there any other changes?</p> <p>22 Hearing none, the vote would be to approve</p> <p>23 the minutes as amended. All those in favor, signify by</p> <p>24 saying "aye."</p> <p>25 COUNCILMEMBERS: Aye.</p>
Page 6	Page 8
<p>1 MS. GRANTHAM: Columbia Solar?</p> <p>2 Counsel for The Environment, Bill Sherman?</p> <p>3 MS. REYNEVELD: Sarah Reyneveld is here for</p> <p>4 counsel for The Environment.</p> <p>5 MS. GRANTHAM: Okay. So Bill Sherman and</p> <p>6 Megan Sallomi are not present?</p> <p>7 MS. REYNEVELD: No. I am here representing</p> <p>8 counsel for The Environment.</p> <p>9 MS. GRANTHAM: Thank you.</p> <p>10 Chair, there is a quorum for the regular</p> <p>11 Council and for the Horse Heaven and Badger Mountain</p> <p>12 Council.</p> <p>13 CHAIR DREW: Thank you.</p> <p>14 Moving on to our proposed agenda. We have</p> <p>15 sent that out, and you have that in your packets and</p> <p>16 it's being displayed. Is there a motion to adopt that</p> <p>17 as our agenda?</p> <p>18 MR. YOUNG: Lenny Young, so moved.</p> <p>19 MR. LIVINGSTON: Mike Livingston will second</p> <p>20 that.</p> <p>21 CHAIR DREW: Is there any discussion?</p> <p>22 All those in favor of approving the</p> <p>23 agenda -- adopting the agenda -- excuse me -- please say</p> <p>24 "aye."</p> <p>25 COUNCILMEMBERS: Aye.</p>	<p>1 CHAIR DREW: Opposed?</p> <p>2 The minutes for the May 17th Council meeting</p> <p>3 are approved.</p> <p>4 Moving on to the -- what is next?</p> <p>5 Informational public meeting, June 1st, for Cyprus Creek</p> <p>6 Renewables. Is there a motion to approve those minutes?</p> <p>7 Let me combine the informational public -- we'll do it</p> <p>8 in one motion -- meeting and the land use consistency</p> <p>9 hearing, both on June 1st, those two sets of minutes.</p> <p>10 Is there a motion to approve those?</p> <p>11 MS. KELLY: This is Kate --</p> <p>12 [Simultaneous speaking.]</p> <p>13 MS. BREWSTER: Go ahead, Kate.</p> <p>14 MS. KELLY: Chair, I move to approve the</p> <p>15 informational and land use -- I don't know if I said</p> <p>16 that right. The two sets of meeting minutes from</p> <p>17 June 1st.</p> <p>18 CHAIR DREW: That's fine.</p> <p>19 Ms. Brewster, second?</p> <p>20 MS. BREWSTER: I'll second.</p> <p>21 CHAIR DREW: Thank you.</p> <p>22 I do have changes for the public information</p> <p>23 meeting on page 10, line 20. "F-site" should be</p> <p>24 "EFSEC."</p> <p>25 On page 12, line 9, "cited" spelled</p>

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<p>1 c-i-t-e-d should be "sited" spelled s-i-t-e-d.  2 Those are my two changes for this set of  3 minutes. Are there any others? Any other amendments?  4 Hearing none --  5 Yes?  6 MR. LIVINGSTON: I have one. So page 25,  7 line 13, I believe that's supposed to be least path cost  8 analysis, as opposed to lease.  9 CHAIR DREW: Oh, thank you.  10 MR. LIVINGSTON: Yep.  11 CHAIR DREW: Any other changes?  12 So we will be voting on the approval of the  13 minutes from June 1st, the informational meeting, and  14 the land use consistency hearing as amended. All those  15 in favor, please say "aye."  16 COUNCILMEMBERS: Aye.  17 CHAIR DREW: All opposed?  18 Thank you. The motion carries.  19 And to our final set, the June 21st Council  20 meeting, motion to approve?  21 MS. BREWSTER: This is Stacey Brewster.  22 I'll move to approve the June 21st monthly meeting  23 minutes.  24 CHAIR DREW: Thank you.  25 Second?</p>	<p>1 milliwatt -- megawatt hours.  2 That was it. Thank you.  3 CHAIR DREW: Okay. Thank you.  4 Moving on to the Wild Horse Wind Power  5 Project, Ms. Galbraith?  6 MS. GALBRAITH: Yes. Thank you, Chair Drew,  7 Councilmembers, and Staff. This is Jennifer Galbraith,  8 representing Puget Sound Energy for the Wild Horse Wind  9 Facility, and I have no nonroutine updates for the month  10 of June.  11 CHAIR DREW: Thank you.  12 Chehalis Generation Facility, Mr. Schnitger?  13 MR. SCHNITGER: Good afternoon.  14 CHAIR DREW: We're having difficulty hearing  15 you. If you could speak up, please.  16 MR. SCHNITGER: I will move closer to the  17 microphone.  18 CHAIR DREW: That's better. Thank you.  19 MR. SCHNITGER: Stefano Schnitger, for the  20 Chehalis Generation Facility. I have nothing nonroutine  21 to report for the month of June.  22 CHAIR DREW: Thank you.  23 Moving on to Grays Harbor Energy Center,  24 Mr. Sherin?  25 MR. SHERIN: Good afternoon, Chair Drew,</p>
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<p>1 MR. YOUNG: Lenny Young, second.  2 CHAIR DREW: Thank you.  3 I have a couple of changes here. First of  4 all, on page 10, line 23, delete the word "appointment"  5 and add the word "planting," p-l-a-n-t-i-n-g.  6 And on page 12, line 2, delete d-e, dash,  7 before the word "minimization."  8 Are there additional corrections to the July  9 monthly meeting -- no, that would be the June 21st  10 Council meeting minutes?  11 Okay. Hearing none, all those in favor of  12 approving the agenda -- or the -- excuse me, the minutes  13 from the June 21st Council meeting, please say "aye."  14 COUNCILMEMBERS: Aye.  15 CHAIR DREW: Opposed?  16 The minutes are approved. Thank you.  17 Back to our agenda. We have now, moving on  18 to the projects, the Kittitas Valley Wind Project  19 operational update. Ms. Moon will be sharing that  20 today.  21 MS. MOON: Thank you, Chair Drew. Eric  22 Melbardis is not with us, so I will give his update.  23 There were no nonroutine items to report for  24 the month of June. And the power generated, as -- as  25 you can read, but the callers cannot see, was 27,975</p>	<p>1 Councilmembers, Staff. This is Chris Sherin, the plant  2 manager from Grays Harbor Energy Center. I have nothing  3 nonroutine to report for the month of June. And I did  4 just send you corrections under "Operations and  5 Maintenance." It says 11.175 megawatt hours. That  6 should be 11,175. So correction has been sent.  7 CHAIR DREW: Okay. Thank you. Appreciate  8 that.  9 Moving on to the Columbia Generating Station  10 and WNP-1/4. Ms. Najera-Paxton.  11 MS. NAJERA-PAXTON: Thank you, Chair Drew  12 and Councilmembers and Staff. This is Felicia  13 Najera-Paxton, and I'm the principal environmental  14 scientist for CGS.  15 CGS had a net electrical generation in June  16 of 650,160 milliwatt hours, and we have no update on  17 environmental compliance.  18 We do have a safety compliance update. The  19 2022 World Association of Nuclear Operators, or WANO,  20 did a peer review of CGS's environmental response  21 organization preparedness drill.  22 They're completing this emergency management  23 performance evaluation, which reviews the ability of  24 station workers to prepare for and respond to emergency  25 conditions at the station.</p>

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<p>1 This team's observations will be used as 2 input into an on-site evaluation that will commence 3 October 31st through November 11th. 4 Also the Washington State Fire Marshal 5 reinspected the IDC and CGS non-power block buildings on 6 June 15th. 7 And that completes my update. 8 CHAIR DREW: Thank you. 9 MS. NAJERA-PAXTON: Thank you. 10 MS. MOON: Can I -- I'm going to interrupt. 11 I think that Felicia meant to say "megawatt" hours. We 12 had the same slip-up when we were reading with "milli." 13 MS. NAJERA-PAXTON: Oh, my goodness. Thank 14 you. 15 CHAIR DREW: I think it's today. There 16 is -- there is something. 17 MS. NAJERA-PAXTON: That's hilarious. It's 18 the scientist in me. I'll go with that. 19 CHAIR DREW: Thank you. 20 MS. NAJERA-PAXTON: Sorry. Thank you. 21 CHAIR DREW: No worries. 22 Okay. Moving on to the Columbia Solar 23 Project, Mr. Hurd? 24 MR. HURD: Good afternoon, Chair Drew, 25 Councilmembers, and EFSEC Staff. This is Owen Hurd,</p>	<p>1 In June, EFSEC Staff continued to work 2 closely with our contractor, Golder, on the preparation 3 of the draft Environmental Impact Statement, otherwise 4 known as a draft EIS. 5 All resource sections of the draft EIS have 6 been through at least a first review, and our focus is 7 on completing second and final draft reviews, refinement 8 of EIS chapters, and further development of proposed 9 minimization and mitigation opportunities. 10 Does the Council have any questions? 11 CHAIR DREW: Are there any questions for 12 Ms. Moon? 13 Thank you. 14 The questions at this point in time are for 15 Councilmembers only. Thank you. If you have a question 16 and a member of the public, feel free to email us at 17 EFSEC.wa.gov. 18 Moving on to our next item on the agenda. 19 Goose Prairie Solar Project, Mr. Wood? 20 MR. WOOD: Good afternoon, Chair Drew, EFSEC 21 Council, and Staff. This is Joe Wood, providing the 22 monthly update for the Goose Prairie Solar Project in 23 Yakima County, Washington. 24 EFSEC Staff continues to work with 25 Brookfield, the new owner of Goose Prairie, LLC, on</p>
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<p>1 from TUUSSO Energy, reporting on Columbia Solar Project. 2 Penstemon is and remains online and 3 operational. 4 Camas, we're in the process of issuing 5 substantial completion. So it should be any day. 6 Mechanical completion is also expected shortly on 7 Urtica, and then substantial completion will be in late 8 August. 9 We've been discussing with EFSEC Staff on 10 our planting plans, and we're expecting to have an 11 undated plan submitted later by the end of this week. 12 We had some delays with initial weed spraying, but 13 that's all been kind of handled now on all three 14 projects. And we'll be scheduling a second pack meeting 15 next month. 16 That's all I've got. 17 MS. GRANTHAM: Chair Drew, you are on mute. 18 CHAIR DREW: Oh, thank you. 19 Our next agenda item is the Horse Heaven 20 Wind Farm SEPA update, Ms. Moon? 21 MS. MOON: Thank you. Good afternoon, 22 Council Chair Drew and Councilmembers. For the record, 23 this is Amy Moon, an EFSEC Staff member. I am providing 24 the State Environmental Policy Act, or SEPA, update on 25 the Horse Heaven Wind Project.</p>	<p>1 preconstruction surveys and plans. Most recently 2 Brookfield has been working on finalizing a habitat 3 conservation mitigation plan along with EFSEC and 4 Department of Fish and Wildlife. 5 EFSEC will continue to work with Brookfield 6 to obtain the required preconstruction and construction 7 plans and will continue to update the Council at future 8 meetings. 9 And that's it. 10 CHAIR DREW: There I go again. 11 Are there any questions for Mr. Wood from 12 the Council? 13 Okay. Moving on, then. Badger Mountain 14 Solar Energy Project, and that's Ms. Hafkemeyer. 15 MS. HAFKEMEYER: Thank you, Chair Drew. 16 Good afternoon, Council and Staff. For the record, this 17 is Ami Hafkemeyer. 18 EFSEC Staff are continuing to coordinate 19 with the applicant and our contracted agencies for 20 review. 21 Staff also attended a site visit with the 22 applicant and Department of Natural Resources on 23 July 12th to review areas of interest as identified 24 throughout our review. This will inform the scope for 25 the draft Environmental Impact Statement.</p>

4 (Pages 13 to 16)

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<p>1 Are there any questions?</p> <p>2 CHAIR DREW: Hearing none, thank you for</p> <p>3 your report.</p> <p>4 Moving on to Whistling Ridge Project update,</p> <p>5 Ms. Hafkemeyer.</p> <p>6 MS. HAFKEMEYER: Thank you. EFSEC Staff are</p> <p>7 waiting for the certificate holder to submit the</p> <p>8 remaining materials for the SCA amendment request.</p> <p>9 There are no further updates at this time. We will keep</p> <p>10 the Council up to date as we receive more information.</p> <p>11 CHAIR DREW: Thank you.</p> <p>12 Moving on to High Top and Ostrea, the</p> <p>13 project update. Ms. Hafkemeyer.</p> <p>14 MS. HAFKEMEYER: Thank you. EFSEC Staff</p> <p>15 continue to work with the applicant and contracted</p> <p>16 agencies for our review as we work towards a SEPA</p> <p>17 determination.</p> <p>18 On July 12th, EFSEC received a letter from</p> <p>19 the applicant, requesting an extension of the expedited</p> <p>20 process determination, which you will see in your</p> <p>21 Council packets.</p> <p>22 Are there any questions before I give a</p> <p>23 little bit of background on this extension request?</p> <p>24 CHAIR DREW: Go ahead.</p> <p>25 MS. HAFKEMEYER: Thank you. Per our rules</p>	<p>1 public comments at any public meeting where the</p> <p>2 governing body is taking final action. In our case, the</p> <p>3 OPMA defines final action broadly to include any vote on</p> <p>4 a motion.</p> <p>5 So we will have a motion -- a motion on this</p> <p>6 extension. The Council will open it up for anyone who</p> <p>7 wishes to comment on the matter coming before the</p> <p>8 Council for final action on the agenda. And I'm going</p> <p>9 to ask all those who comment to limit their comments to</p> <p>10 one minute.</p> <p>11 I do want to read you the specific RCW, or</p> <p>12 parts of it, 42.30.240. It says, Except in an emergency</p> <p>13 situation, the governing body of a public agency shall</p> <p>14 provide an opportunity at or before every regular</p> <p>15 meeting at which final action is taken for public</p> <p>16 comment.</p> <p>17 The public comment required under the</p> <p>18 section may be taken orally at a public meeting or by</p> <p>19 providing an opportunity for written testimony to be</p> <p>20 submitted before or at the meeting.</p> <p>21 If the governing body accepts written</p> <p>22 testimony, this testimony must be distributed to the</p> <p>23 governing body. The governing body may set a reasonable</p> <p>24 deadline for the submission of written testimony before</p> <p>25 the meeting.</p>
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<p>1 in Washington Administrative Code, or WAC, 463-43-050,</p> <p>2 this decision is made within 120 days of receipt of an</p> <p>3 application or such later time as is mutually agreed by</p> <p>4 the applicant and the Council. The application was</p> <p>5 received on April 7th, 2022, and the 120 days would be</p> <p>6 up on August 6th.</p> <p>7 EFSEC Staff have discussed this timeline</p> <p>8 with the applicant in light of the ongoing review with</p> <p>9 our contracted agencies, as well as other</p> <p>10 considerations.</p> <p>11 This letter requests an extension of the</p> <p>12 expedited process decision for ten weeks to be made by</p> <p>13 October 20th.</p> <p>14 Staff recommend that the Council approve</p> <p>15 this request to extend the expedited process decision to</p> <p>16 that time.</p> <p>17 Are there any questions?</p> <p>18 CHAIR DREW: Are there any questions from</p> <p>19 Councilmembers?</p> <p>20 Okay. Hearing none, it's at this point in</p> <p>21 the process -- I was talking with our Staff, before the</p> <p>22 meeting went live, about new procedures that are going</p> <p>23 into place because of amendments to the Open Public</p> <p>24 Meetings Act, which went into effect last month, which</p> <p>25 require governing bodies, like the Council, to take</p>	<p>1 In this case, the Council will be taking</p> <p>2 comment orally. And I'd like to ask if there's -- and</p> <p>3 this is specifically and only on the extension of the</p> <p>4 deadline for the High Top and Ostrea projects. It is</p> <p>5 not on any other subject.</p> <p>6 So if you would like to comment on the topic</p> <p>7 of the extension, I would ask you to raise your hand, if</p> <p>8 you are using the Microsoft Teams application, or to put</p> <p>9 a message in the chat. And after we see if anyone would</p> <p>10 like to comment in that manner, I will then open it up</p> <p>11 for anybody who has called in.</p> <p>12 So at this point in time, is there anyone</p> <p>13 who would like to comment specifically on the vote</p> <p>14 before us today, which is to extend the...</p> <p>15 MS. BUMPUS: Expedited processing decision.</p> <p>16 CHAIR DREW: Thank you.</p> <p>17 The expedited processing decision until our</p> <p>18 October meeting?</p> <p>19 I don't see any hands and don't see any</p> <p>20 messages in the chat. So I will ask those who have</p> <p>21 called in, if you would like to comment on the expedited</p> <p>22 processing decision being extended, you may unmute now</p> <p>23 and introduce yourself. We will give you a minute for</p> <p>24 your comment.</p> <p>25 I do not hear anyone who wishes to comment,</p>

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<p>1 so we will close the comment period now.</p> <p>2 MR. YOUNG: Chair Drew, this is Lenny Young.</p> <p>3 I'm seeing a hand up for an attendee whose number ends</p> <p>4 in 5-2.</p> <p>5 CHAIR DREW: Thank you.</p> <p>6 Would that person like to begin their</p> <p>7 comment now and introduce yourself?</p> <p>8 MS. OWENS: Chair Drew, this is Joan Owens.</p> <p>9 I'm not seeing the same hands up that Councilmember</p> <p>10 Young is seeing.</p> <p>11 What are the last four digits of the number</p> <p>12 that you're seeing, Councilmember Young?</p> <p>13 MR. YOUNG: Most of the digits are blanked</p> <p>14 out with little star symbols. It starts with 1-3 and</p> <p>15 ends in 5-2 and it's under "attendees."</p> <p>16 CHAIR DREW: If the person with the hand</p> <p>17 raised would like to comment, please unmute yourself and</p> <p>18 we will take your comment.</p> <p>19 MR. YOUNG: Another -- another indication</p> <p>20 from that same number just appeared with the full</p> <p>21 number, and it looks like the hand is taken down.</p> <p>22 MS. OWENS: I see them. They might be</p> <p>23 having some connection issues.</p> <p>24 CHAIR DREW: If you are -- yes, thank you,</p> <p>25 Mr. Levitt. If you are on the phone and wish to unmute,</p>	<p>1 CHAIR DREW: Opposed?</p> <p>2 The motion is adopted.</p> <p>3 Thank you. We'll continue to improve on our</p> <p>4 new process. So if Councilmembers or others wish to let</p> <p>5 us know how we can improve, we appreciate it.</p> <p>6 Moving on to the next item on our agenda,</p> <p>7 Wautoma Solar Project. And that is Ms. Hafkemeyer.</p> <p>8 MS. HAFKEMEYER: Thank you. EFSEC Staff are</p> <p>9 currently working on our review of the application with</p> <p>10 our contracted agencies. We have also scheduled the</p> <p>11 public informational meeting and land use consistency</p> <p>12 hearing for Monday evening, August 8th.</p> <p>13 Staff are still finalizing the details for</p> <p>14 the venue, and we will update the Council when this</p> <p>15 information is available. The public may attend either</p> <p>16 virtually or in person.</p> <p>17 Are there any questions?</p> <p>18 CHAIR DREW: Councilmembers, it is also your</p> <p>19 option to attend either in person or virtually. I will</p> <p>20 be there in person, as will some of our Staff. So</p> <p>21 please let Ms. Grantham know if you are able to attend,</p> <p>22 and if so, if that will be virtually or in person.</p> <p>23 Any further -- go ahead, Ms. Kelly.</p> <p>24 MS. KELLY: Thank you, Madam Chair. Under</p> <p>25 the Wautoma, I had thought we got an application back in</p>
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<p>1 it is star 6. So if you would like to unmute to make a</p> <p>2 comment, you need to dial -- no, I'm sorry. I said that</p> <p>3 wrong. It's pound 6. Pound 6.</p> <p>4 MS. RAPAR: Sorry. I don't have a comment.</p> <p>5 This is Mary Rapar. Your numbers are so weird compared</p> <p>6 to Zoom numbers, so I've been pressing star 6 and</p> <p>7 star 5.</p> <p>8 CHAIR DREW: Pound. It's pound 6.</p> <p>9 MS. RAPAR: Okay. I don't have public</p> <p>10 comment. Thank you so much.</p> <p>11 CHAIR DREW: Thank you. Okay.</p> <p>12 At this point, we -- I will close the public</p> <p>13 comment and move on to the motion.</p> <p>14 Is there a motion to accept the</p> <p>15 recommendation to extend the expedited processing</p> <p>16 decision to October 20th, 2022, for the High Top and</p> <p>17 Ostrea projects?</p> <p>18 MS. KELLY: Kate Kelly, so moved.</p> <p>19 CHAIR DREW: Thank you.</p> <p>20 Second?</p> <p>21 MR. YOUNG: Lenny Young, second.</p> <p>22 CHAIR DREW: Is there any discussion?</p> <p>23 Okay. Thank you. All those in favor,</p> <p>24 please say "aye."</p> <p>25 COUNCILMEMBERS: Aye.</p>	<p>1 May, but then we recently got a notice that the</p> <p>2 application was submitted in either June or July. Is --</p> <p>3 am I --</p> <p>4 MS. HAFKEMEYER: So yeah, I can clarify</p> <p>5 that. We received the application materials, like the</p> <p>6 actual information about the project, earlier back in</p> <p>7 May.</p> <p>8 Per our rules, the application isn't</p> <p>9 considered received until we receive the deposit, and</p> <p>10 there was some delay in the mail, I believe it was,</p> <p>11 actually receiving the deposit.</p> <p>12 So we received the deposit in June, and</p> <p>13 that's when our application is considered received.</p> <p>14 Does that answer your question?</p> <p>15 MS. KELLY: Yes, it does. Thank you for</p> <p>16 that clarification. Appreciate it.</p> <p>17 CHAIR DREW: Yes. And -- and all the -- the</p> <p>18 dates moving forward are subject to that June date</p> <p>19 rather than the day when we received some of the -- the</p> <p>20 materials.</p> <p>21 MS. HAFKEMEYER: Correct.</p> <p>22 CHAIR DREW: Yes. Okay. Thank you.</p> <p>23 Okay. Let's move on to the cost allocation,</p> <p>24 Ms. Bumpus.</p> <p>25 MS. BUMPUS: Thank you. Good afternoon,</p>

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<p>1 Chair Drew and Councilmembers. This is a presentation 2 on the nondirect cost allocation for first quarter 3 fiscal year 2023. This covers July 1, 2022, to 4 September 30, 2022. I'm going to read off the 5 percentages for the nondirect cost allocations by 6 project. This also adds the Wautoma Solar Project, you 7 will notice.</p> <p>8 For Kittitas Valley Wind Power Project, 9 4 percent; Wild Horse is 4 percent; Columbia Generating 10 Station, 22 percent; Columbia Solar, 5 percent; WNP 1, 11 3 percent; Whistling Ridge, 3 percent; Grays Harbor 1&amp;2, 12 8 percent; Chehalis Generation Project is 8 percent; 13 Desert Claim, 5 percent -- or sorry, excuse me, 14 3 percent; Goose Prairie Solar, 5 percent; Horse Heaven 15 Wind Power Project is 15 percent; Badger Mountain, 16 7 percent; Cyprus Creek Renewables, the High Top Ostrea 17 Project, 7 percent; Wautoma Solar Project, 6 percent.</p> <p>18 And that concludes my update on the 19 nondirect cost allocations. Are there any questions?</p> <p>20 CHAIR DREW: Questions from Councilmembers? 21 Thank you. 22 MS. BUMPUS: Thank you. 23 CHAIR DREW: Next, we have an update on our 24 transition. As many of you know, as all the 25 Councilmembers know, EFSEC became an independent agency</p>	<p>1 agency, the structure was fairly flat. In other words, 2 there weren't levels of supervision within the agency. 3 As we stand up to become an independent agency, we are 4 going to not only create those levels of supervision 5 within the agency, but we also want to make sure that we 6 are developing career paths for our employees as we're 7 moving forward.</p> <p>8 This is just the very beginning that -- that 9 you are seeing here. I anticipate that we're going to 10 have some additional changes as we move forward, but 11 this is where we're at right now.</p> <p>12 So as you can see, we have taken the agency 13 and essentially split it into two separate functions. 14 One of those functions is what we call front office, 15 which is the operational end of siting and compliance. 16 And all of that falls under Ami Hafkemeyer, the director 17 of siting and compliance.</p> <p>18 On the left side, you'll notice that we have 19 split out our administrative services. I have taken the 20 position of director on an interim basis as we move 21 forward through the transition, and you see below me, 22 there we have Stewart Henderson, senior policy advisor, 23 and you'll notice that we have a couple of new 24 positions, as well as one current position that we are 25 going to be recruiting for or are currently recruiting</p>
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<p>1 rather than being supported through the UTC for 2 administrative services on June 30th.</p> <p>3 So with us is our administrative services 4 director, Dave Walker.</p> <p>5 Mr. Walker?</p> <p>6 MR. WALKER: Chair Drew, thank you. Sorry; 7 I was having problems with my mute button.</p> <p>8 For the record, this is Dave Walker, interim 9 director of administrative services for EFSEC. Thank 10 you for the opportunity today to speak to our progress 11 on the transition and our short- and medium-term goals 12 as we move through the transition process.</p> <p>13 As Chair Drew mentioned, EFSEC became an 14 independent agency on June 30th of this year, and 15 obviously there are a lot of things that come along with 16 that when you are an independent agency, and we're going 17 to talk at a very high level as we go through that.</p> <p>18 Next slide, please.</p> <p>19 So first and foremost, I -- I do want to 20 apologize. Not all of the boxes transferred correctly 21 as we were trying to put this slide together, but I 22 think it gives you the information as to where we are 23 headed as an agency with the new organizational 24 structure.</p> <p>25 Prior to EFSEC becoming an independent</p>	<p>1 for now. And the next slide will give us a better look 2 at what we have done thus far. Thank you.</p> <p>3 So what's changed? Sonia Bumpus is now the 4 director of EFSEC as of June 30th this year. Joan Owens 5 has moved into the executive assistant to the director 6 position, which not only supports the director, but also 7 the chair. Andrea Grantham has stepped into the 8 administrative assistant 3 position.</p> <p>9 As we had talked about just moments ago, Ami 10 Hafkemeyer is now the director of siting and compliance. 11 I've taken the interim director of administration. Amy 12 Moon has stepped into the senior siting and compliance 13 specialist, which is a lead position.</p> <p>14 Amy has tremendous experience with siting 15 and compliance, and we wanted to capitalize on that 16 through her leadership skills and knowledge of the 17 process. And then Cindy Smith is currently our interim 18 contractor for media relations. Next slide, please.</p> <p>19 So we had talked about current positions 20 that we're recruiting for, but also new ones that we had 21 created. So I wanted to put this in a format that was 22 very easy to read.</p> <p>23 As you can see, we're currently recruiting 24 for the environmental planner. Patty Betts wishes to 25 retire very soon and it's going to be very, very</p>

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<p>1 difficult to replace her. We're sorry to see her go, 2 but completely understand.</p> <p>3 We have two siting and compliance 4 specialists positions that we are currently recruiting 5 for now. We have the Commerce specialist position, 6 which falls within my division, and will be helping us 7 with all of the back-end functionality, recordkeeping, 8 and so forth.</p> <p>9 And then we have a forms and records analyst 10 that we want to bring in. This position is going to be 11 specifically for helping us with public records 12 requests, sending records to the archive with Secretary 13 of State, monitoring all of our forms, making sure that 14 we're in compliance.</p> <p>15 But one of the larger pieces that I really 16 want this position to focus on is creating more of an 17 open data concept on our external website so that we can 18 reduce the number of hours that our staff are putting 19 into fulfilling records requests that come from the 20 public.</p> <p>21 So new positions that we're not yet 22 recruiting, the director of administration, and I 23 suspect we'll probably be recruiting that early next 24 year.</p> <p>25 Legislation policy and rules manager. As</p>	<p>1 We need to update external website and we 2 need to develop an intranet for our staff so that they 3 have resources at their fingertips, they're not spending 4 a lot of time searching for things that should be right 5 there in front of them.</p> <p>6 We want to begin to develop a larger 7 presence for the open data, as I had talked about a 8 little bit earlier.</p> <p>9 We need to finish establishing our agency 10 policies, and these are not only administrative 11 policies, but we need to look at operational policies as 12 we're moving forward.</p> <p>13 And then finally, now that we're a new 14 agency, we need to take a step back and just take a look 15 at our cost recovery model and make sure that it really 16 is addressing all of the potentially additional costs, 17 being an independent agency, that we're going to be 18 taking on as we move forward.</p> <p>19 And then finally, we need to develop 20 internal administrative processes for our public records 21 requests, public comment forum, applications for green 22 hydrogen, clean energy manufacturing, and so forth.</p> <p>23 So we've got a lot of work ahead of us. 24 This really is going to be identifying the short-term, 25 which will probably be within the next six to 12 months.</p>
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<p>1 you all know, once you become an agency, you have many 2 things that you have to pay attention to, and 3 legislation is a big one. We need an individual that 4 can be on the hill, advocating for EFSEC and making sure 5 that members understand exactly what EFSEC is about and 6 what we do.</p> <p>7 We're also going to be recruiting for a 8 second administrative assistant position. We right now 9 believe that one AA will be supporting each of the 10 divisions within the agency.</p> <p>11 Andrea Grantham obviously took one of those. 12 We'll be hiring for the other one shortly. And then the 13 siting and compliance specialist position that we had 14 created dependent upon the amount of work that's going 15 to be coming at us over the next, say, one to two years 16 and even beyond. Next slide, please.</p> <p>17 So our short- and medium-term priorities as 18 we continue through standing up EFSEC as an independent 19 agency. Obviously, we want to recruit our new and 20 vacant positions as quickly as possible so that we can 21 continue to provide a level of service, but we also need 22 to establish additional contracts. Media, 23 communications, records management as just an example, 24 and that's the tip of the iceberg as we look for longer 25 term.</p>	<p>1 We'll be working on long-term strategies as a leadership 2 team as we move forward. Next slide.</p> <p>3 And does the Council have any questions at 4 this point?</p> <p>5 CHAIR DREW: Thank you, Mr. Walker. 6 Are there any questions from Councilmembers?</p> <p>7 MS. BREWSTER: This is Stacey Brewster. Not 8 a question, but just a comment. Thanks for all the work 9 you guys have been doing on this transition and 10 congratulations to the Staff who have moved into some 11 promotions.</p> <p>12 CHAIR DREW: Thank you. 13 One other item I would like to mention is in 14 terms of our location. It is -- I guess we haven't made 15 the final decision, but it's likely we will be 16 continuing to lease space from the UTC in our current 17 location, physical location.</p> <p>18 So that means we won't be strangers to you, 19 Ms. Brewster, in your location there so...</p> <p>20 CHAIR DREW: So thank you. 21 Any other questions? 22 Okay. Thank you.</p> <p>23 One more item I would like to bring up for 24 the good of the order is, as Dave mentioned, Cindy Smith 25 has joined us as our interim media and contractor. So</p>

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Cindy Smith has many years of experience working with State agencies and working through the public processes and how we do our work internally, as well as outreach to media and communications.

And so she has joined us for a short period of time to help us establish our own communications program, which will also be taking a look at our website, hoping to improve and to put into place actually some social media presence and some other items that are on our to-do list as we move forward.

So, Ms. Smith, would you say hello to the Councilmembers?

MS. SMITH: Absolutely. Thanks very much, Kathleen, for the introduction, and I'm really happy to have this opportunity to work with EFSEC and Staff and the Council. It's truly an honor, and I thank you.

CHAIR DREW: Thank you.

So if there is no further business, the monthly meeting for EFSEC is adjourned. Thank you all for your participation.

(Adjourned at 2:15 p.m.)

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## C E R T I F I C A T E

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 fidelity.

  
Tayler Garlinghouse, CCR 3358



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## EFSEC Monthly Council Meeting – Facility Update Format

Facility Name: Kittitas Valley Wind Power Project

Operator: EDP Renewables

Report Date: August 3, 2022

Reporting Period: July 2022

Site Contact: Eric Melbardis, Sr Operations Manager

Facility SCA Status: Operational

### Operations & Maintenance (only applicable for operating facilities)

- Power generated: 37763 MWh
  - Wind speed: 8.73 m/s
  - Capacity Factor: 50.35%
- 

### Environmental Compliance

- No incidents

### Safety Compliance

- Nothing to report

### Current or Upcoming Projects

- Nothing to report

### Other

- No sound complaints
- No shadow flicker complaints

## EFSEC Monthly Council Meeting – Facility Update

**Facility Name:** Wild Horse Wind Facility  
**Operator:** Puget Sound Energy  
**Report Date:** August 2, 2022  
**Report Period:** July 2022  
**Site Contact:** Jennifer Galbraith  
**SCA Status:** Operational

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### Operations & Maintenance

July generation totaled 32,754 MWh for an average capacity factor of 16.15%.

### Environmental Compliance

Due to increasing Covid case counts throughout the state, the 2022 annual Technical Advisory Committee (TAC) update was provided to TAC members via email in lieu of an in-person meeting.

### Safety Compliance

Nothing to report.

### Current or Upcoming Projects

Nothing to report.

### Other

Nothing to report.

## **EFSEC Monthly Council Meeting – Facility Update**

Facility Name: Chehalis Generation Facility  
Operator: PacifiCorp  
Report Date: August 04, 2022  
Reporting Period: July 2022  
Site Contact: Stefano Schnitger, Operations Manager  
Facility SCA Status: Operational

### **Operations & Maintenance**

-Relevant energy generation information, such as wind speed, number of windy or sunny days, gas line supply updates, etc.

- 172,439 net MW-hrs generated in May for a capacity factor of 49.4%.

---

**The following information must be reported to the Council if applicable to the facility:**

### **Environmental Compliance**

-Monthly Water Usage: 1,502,732 gallons

-Monthly Wastewater Returned: 142,868 gallons

-Permit status if any changes.

- No changes.

-Update on progress or completion of any mitigation measures identified.

- No issues or updates.

-Any EFSEC-related inspections that occurred.

- Nothing to report

-Any EFSEC-related complaints or violations that occurred.

- No issues or updates.

-Brief list of reports submitted to EFSEC during the monthly reporting period.

- Nothing to report

### **Safety Compliance**

-Safety training or improvements that relate to SCA conditions.

- Zero injuries this reporting period for a total of 2,557 days without a Lost Time Accident.

**Current or Upcoming Projects**

- Planned site improvements.
  - No planned changes.
- Upcoming permit renewals.
  - Nothing to report.
- Additional mitigation improvements or milestones.
  - Nothing to report.

**Other**

- Current events of note (e.g., Covid response updates, seasonal concerns due to inclement weather, etc.).
  - Nothing to report.
- Personnel changes as they may relate to EFSEC facility contacts (e.g., introducing a new staff member who may provide facility updates to the Council).
  - Nothing to report.
- Public outreach of interest (e.g., schools, public, facility outreach).
  - Nothing to report.

Respectfully,

*Stefano Schnitger*

Stefano Schnitger  
Operations Manager  
Chehalis Generation Facility

### EFSEC Monthly Council Meeting – Facility Update

Facility Name: Grays Harbor Energy Center

Operator: Grays Harbor Energy LLC

Report Date: Aug 16, 2022

Reporting Period: July 2022

Site Contact: Chris Sherin

Facility SCA Status: Operational

#### Operations & Maintenance

-GHEC generated 279,926MWh during the month.

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**The following information must be reported to the Council if applicable to the facility:**

#### Environmental Compliance

- There were no emission, outfall, or storm water deviations, during the month.
- Routine monthly, quarterly, and annual reporting to EFSEC
  - o Monthly Outfall Discharge Monitor Report (DMR).
  - o Quarterly Stormwater Discharge Monitor Report (DMR).
  - o Quarterly Emissions Data Reports (EDR) to EFSEC & ORCAA.
- Submitted the annual Relative Accuracy Test Audit (RATA) Test Plan and remedial Stack Test Plan to EFSEC and ORCAA. The RATA is scheduled for the week of August 15<sup>th</sup>-19<sup>th</sup>.
- Finalizing a solution to the CO startup emissions issue that occurred during a series of startups at the end of 2021. A memorandum discussing the solution will be sent to EFSEC at the beginning of August.

#### Safety Compliance

-None.

#### Current or Upcoming Projects

-- Application for a Modification to the Air Operating Permit submitted to EFSEC in April. GHEC is currently authorized to operate under PSD Permit EFSEC/2001-01, Amendment 5 and Federal Operating Permit EFSEC/94-1 AOP Initial.

#### Other

-None.



EFSEC Staff recommends that the Council direct Staff to develop a resolution, to be voted on by the Council at its next public meeting, confirming that GHE's purchase of allowances under the Climate Commitment Act will satisfy the company's obligations under the GHG plan that was approved by EFSEC in 2003.

### **Background**

In order to develop its recommendation, EFSEC's Staff and AAG reviewed several historical documents and records related to EFSEC's development and implementation of the GHE 2003 GHG plan. Based on that review, we reached the following conclusions:

- 1. EFSEC required the 2003 GHG mitigation plan in an attempt keep pace with the most stringent U.S. federal and state carbon offset requirements then in-effect for new fossil fuel generating facilities, but provided that the GHG plan should conclude in the event that comprehensive state or federal greenhouse gas regulations were adopted.**

To understand the purpose of the 2003 GHG plan, it is instructive to recount how the site certification agreement (SCA) for the facility has been amended over time.

In 1996, when EFSEC approved the Washington Public Power Supply System (now Energy Northwest) proposal to construct a natural gas turbine generation facility at what had been the Satsop nuclear plant location, it included language in the site certification agreement directing the holder to develop a GHG mitigation plan before commencing operation:

#### **"E. Greenhouse Gases and Carbon Dioxide Mitigation**

1. The Supply System shall prepare and submit a report to the Council no later than one year prior to each turbine coming online, that presents and evaluates possible greenhouse gases and carbon dioxide mitigation techniques, and concentrates on those techniques that can offer cost-effective mitigation measures.
2. If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program, considering and appropriately crediting any measures that the Supply System has accomplished."

*SCA, Amend. 2, Art. 6.E. (May 21, 1996).*

Before the gas turbine facility was built, the SCA was transferred to Duke Energy. At that time, Duke sought approval for a change in the authorized equipment and design of the planned facility, and an increase to its authorized generating capacity from 490 to 630 megawatts, representing a 10% increase in the potential greenhouse gas emissions. EFSEC approved the increase stating that:

"[A]n increase of 10% in carbon dioxide emissions is not adverse to the environment given the decrease in emission per megawatt, the Council's authority to compel carbon dioxide mitigation consistent with a plan it will approve pursuant to the SCA, and elimination of the use and storage of diesel oil.

...

[T]he adoption of the amendments is made with the express acknowledgement that the Council is authorized under the SCA to compel Duke to prepare, submit and implement a Council-approved greenhouse gas and carbon dioxide mitigation plan. In the event that Duke fails to prepare, submit, and implement the Council-approved mitigation plan, this resolution shall be null and void”

*Resolution No. 298, pp. 2, 4 (April 13, 2001).*

Through a process that involved stakeholder participation, Duke and EFSEC developed a plan under which the certificate holder would be required to make payments to a nonprofit organization for greenhouse gas mitigation projects designed to offset a portion of the facility’s CO<sub>2</sub> emissions over thirty years of operation. The Satsop Combustion Turbine GHG mitigation plan was approved June 9, 2003; Minutes of EFSEC Regular Meeting of June 9, 2003, pp. 9-20. The nonprofit, Climate Trust, used the payments to fund carbon offset projects, such as methane capture or reduction from dairy farms, composting facilities and landfills to reduce other sources of GHG emissions and forest planting or conservation projects for carbon capture.

The minutes of the Council meeting at which the plan was approved shows that the plan was intended to mirror requirements then in place in Oregon for new fossil fuel generating facilities, except that the Oregon regulation required a mitigation payment to be made in a lump sum at the start of operation, rather than annually over thirty years of facility operations.

The record of the Council’s deliberations suggest that the Council was attempting to be close to a leading position among states requiring some degree of offset for new GHG emissions, but that the Council was also tempering its requirements based on concern about the costs to be borne by the facility operator. The Council’s discussion and the terms of the approved plan reflect an expectation that more comprehensive carbon mitigation or regulation by state or federal rule or statute would likely be forthcoming, and that the holder should, if possible, receive some form of credit under the new scheme in that event.

The GHG plan approved by the Council includes the following sunset provision:

#### **PREEMPTION AND SUNSET**

“If a new state or federal law imposes requirements on the Certificate Holders to limit, mitigate or offset greenhouse gas emissions, EFSEC will support the Certificate Holders in obtaining credit under any such new laws, regardless of preemption, for early action for offsets already funded under this Mitigation Plan.

If any new state or federal law pre-empts this Mitigation Plan, to the extent that any carbon offset or funding obligation hereunder has not been met at the time of such change in law, the Certificate Holders may meet any such obligation through compliance with the new program, and further obligations under this Mitigation Plan will terminate.”

*GHG Plan, p. 5.*

Similarly, the GHE’s site certification agreement, in Art. VII.B notes that the Council:

“has approved a mitigation plan for carbon dioxide emissions” and states that “[i]f a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program considering and appropriately crediting any measure that the Certificate Holders have accomplished.”

Some of this language is of no relevance here because GHE has neither requested credit, nor suggested that there would be any way for it to obtain credit, toward its forthcoming CCA obligations based on its past payments under the GHG plan.

For purposes of GHE’s present request and the determination currently before the Council, the important point to take from these provisions is that, if comprehensive greenhouse gas regulations are adopted at the state or federal level and impose carbon offset or funding obligations on the facility, further payment obligations under the plan will terminate.

**2. The amount of carbon emissions required to be offset under the plan is only a portion of the facility’s potential annual CO<sub>2</sub> emissions. The reason it was not greater is apparently because of concerns about the cost of purchasing offsets for the entire carbon output of the facility.**

When EFSEC conducted its review of the then-certificate holder’s initial application to construct a combustion turbine project at the Satsop site in 1996, the Council decided not to impose a greenhouse gas mitigation requirement for the annual 1.778 million tons of greenhouse gases the facility was expected to emit. The Council found that:

"the Satsop CT Project uses the latest reasonable technology and that it will produce lower emissions of greenhouse gases than older natural gas combustion turbine facilities or other fossil fuel facilities."

*Order No. 694 at 13-14.*

Among other things, the Council concluded that:

"[b]urdensome greenhouse gas mitigation . . . could place the Applicant at a competitive disadvantage within the power producing market and deprive the market of a very efficient power producing facility. Balancing the respective interests, and recognizing that emission technology will advance and greenhouse mitigation measures may be enhanced as time passes, the Council will impose no fixed requirement upon the Applicant. . . . If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program . . ."

*Order No. 694 at 25.*

As described above, the occasion for requiring a mitigation plan arose five years later with Duke Energy’s request to amend the SCA that had been signed by the governor in 1996, in order to authorize a greater generating capacity than was originally approved, and to mitigate the resulting 10% increase in greenhouse gas emissions (*Resolution No. 298*).

The GHG mitigation plan that was eventually approved in 2003 states that:

“Duke Energy proposes that the mitigation obligation be based upon the maximum potential CO<sub>2</sub> emissions *that exceed a rate of 0.675 pounds of CO<sub>2</sub> per kilowatt hour (lb/kWh) over 30 years of the facility's operation.*” (Emphasis added.)

Some statements in the Council’s minutes from the meeting at which the GHG Plan was approved characterize its offset requirement as applying to the entire CO<sub>2</sub> output of the plant, not just the increase occasioned by the new equipment changes. However, in effect, it is more accurate to say that the formula resulted in the certificate holder being required to make payments to offset about 21 percent of the facility’s total potential annual CO<sub>2</sub> emissions (see Grays Harbor Energy Center LLC letter to Jim Luce, EFSEC Chair, February 4, 2008 stating that the maximum annual potential emissions for the project is 2,391,408 million tons, but the amount of emissions to be mitigated each year is just 514,103 tons).

According to GHE’s request, GHE made its first mitigation payment to the Climate Trust in April 2008, and over the past 15 years, GHE has provided more than \$5 million in funding to the Climate Trust, with annual payments ranging from approximately \$300,000 to \$450,000. According to a May 2020 report, the Climate Trust has obligated funds from the GHE facility for the following projects:

1. Farm Power Rexville Dairy Digester in Washington;
2. Revolution Energy Solutions (RES) Lochmead Dairy Digester in Oregon;
3. Cedar Grove Composting in Washington;
4. Environmental Credit Corp. Composting Project in Delaware and the purchase of replacement offsets from Cedar Grove composting when the seller did not meet guaranteed volumes from the Delaware project;
5. Camco Afognak Island Forestry in Alaska;
6. ClimeCo composting projects in Washington;
7. ClimeCo Lenz composting project in Washington;
8. Sudbury Road Landfill Gas Project in Walla Walla, Washington; and
9. Port Blakely Winston Creek Improved Forest Management in Washington..]

Legislation was subsequently enacted in 2004, and codified at RCW 80.70, requiring new facilities authorized under the EFSEC process to mitigate a portion of their carbon emissions, but this did not apply the GHE facility, which had already been authorized.

- 3. The Climate Commitment Act is a sweeping law that requires covered entities emitting GHGs above a specified annual threshold, including GHE by its admission, to purchase allowances at auction for their entire GHG output. The revenues thus generated are to be used to reduce other sources of GHG emissions or to mitigate the effects of climate change.**

In 2021, the Washington Legislature passed the Climate Commitment Act, Laws of 2021, ch. 316, a sweeping law that directs the Department of Ecology to develop and implement a statewide cap-and-invest program to cut carbon pollution.

The law sets a limit on overall carbon emissions in the state and requires emitters (covered entities) to obtain “emission allowances” equal to their covered greenhouse gas (GHG) emissions.

The legislation directs the Department of Ecology to establish an emissions baseline based on total GHG emissions from covered entities from 2015-19, with an adjustment by October 1, 2026, to reflect the GHG

emissions of newly covered entities. Each covered entity is then assigned a specific GHG allowance based on its proportionate share of GHG emissions compared to the baseline total. Allowances are then adjusted downward annually to achieve the GHG reduction goals set forth in RCW 70A.45.020. That statute sets progressively more strict state GHG reduction goals between now and 2050, culminating in a statewide limit of only five million metric tons of GHG emissions in 2050, equivalent to a 90% reduction below the state's 1990 GHG emissions.

The program will cover all entities that emit 25,000 metric tons of carbon dioxide equivalents annually, including entities who in the future build or modify facilities that exceed the metric ton threshold.

Grays Harbor Energy's GHG mitigation plan states that the facility's potential annual CO<sub>2</sub> emissions is 2,200,000 tons. GHE's request states that it emitted 980,000 tons CO<sub>2</sub> emissions in 2020. Both numbers are well above the 25,000 metric ton threshold for a covered entity. GHE concedes that it is a covered entity, and is required to purchase emission allowances under the Climate Commitment Act.

Each covered entity must obtain GHG emissions allowances at least equal to its GHG emissions for each four-year compliance period. The first compliance period begins on January 1, 2023. Failure to comply may be punished by fines up to \$10,000 per day.

The CCA also permits carbon offsets to be used for compliance with GHG limits, although a covered entity may use offsets for no more than five percent of its compliance obligation for the first compliance period (2023-27), and four percent in the second compliance period (2028-31), although Ecology may modify these limits.

The CCA directs that funds from the purchase of allowances at auction be deposited into several new accounts that fund measures to reduce GHG reductions. These accounts are:

(1) a "Carbon Emissions Reduction Account," with funds to be spent on measures to reduce transportation-related GHG emissions;

(2) a "Climate Investment Account," where auction revenues are deposited and then distributed, 75% to the Climate Commitment Account and 25% to the Natural Climate Solutions Account:

(a) a "Climate Commitment Account," with funds to be expended on projects or financial support for renewable energy, including biofuels, biomass, and manure digesters for dairy farms, as well as energy storage, energy conservation, measures to reduce emissions in the agriculture sector, electrification and decarbonization of buildings, and support for workers to transition to new jobs in the clean energy and decarbonization sectors;

(b) "Natural Climate Solutions Account," with expenditures aimed at mitigating the impact of climate change on the state's forests, estuaries, oceans, fisheries, and other ecosystems, as well as to harness the ability of these ecosystems to sequester carbon; and,

(3) an "Air Quality and Health Disparities Improvement Account," with expenditures aimed at reducing criteria pollutants and health disparities in disadvantaged communities.

Many, if not most of the authorized uses of the revenues generated by the state from auctioning emissions allowances are of the same general nature as the projects funded through GHE's payments to the Climate Trust.

In its request, GHE suggests that the cost of the allowances it will be required to purchase may be comparable in order of magnitude with what it would be required to pay for allowances under California's cap and trade law--more than \$30 million annually (which is roughly 70 times more than the highest annual payment GHE has made under the current GHG Plan).

If the Council grants GHE's request and confirms that no further payment is required under the GHG Plan—so long as GHE purchases allowances under the CCA—there will be no gap between the conclusion of GHE's obligations under their GHG plan and the initiation of its obligation to purchase GHE allowances under the CCA. That is because GHE made its most recent payment under the GHG plan in March 2022 for the 12 month period ending March 2023. (The GHG plan requires payment "on an annual basis *at the start of* each of the first 30 years in which the facility is operating." GHG Plan, p. 4.) The CCA will require GHE to purchase greenhouse gas allowances for its emissions starting January 1, 2023. Consequently, there will actually be an *overlap* of 2-3 months for which GHE has paid for offsets under the GHG Plan, and will also be purchasing GHG allowances under the CCA.

#### **Conclusion:**

The Climate Commitment Act or CCA, represents a comprehensive approach to GHG pricing and phased reduction and is the type of law that the GHG Plan anticipated in its sunset provision. EFSEC Staff recommends that the Council direct Staff to develop a resolution, to be voted on by the Council at its next meeting, confirming that GHE's purchase of allowances under the Climate Commitment Act will satisfy the company's obligations under the greenhouse gas mitigation plan approved in 2003.

#### **Attachments:**

##### Appendix 1:

Letter from Perkins Coie Re: Grays Harbor Energy - Green House Gas Mitigation

##### Appendix 2:

EFSEC Resolution 298 - Technical Amendments Regarding Facility Design and Backup Fuel Source

##### Appendix 3:

June 9, 2003 EFSEC Council Meeting Minutes approving GHG mitigation

##### Appendix 4:

Satsop Greenhouse Gas Mitigation Plan

##### Appendix 5:

February 4, 2008 Letter from GHEC to Chair Luce Re: Satsop Combustion Turbine Project - CO<sub>2</sub> Mitigation Plan

## **Appendix 1:**

Letter from Karen McGaffey on behalf of GHE, June 6, GHE requests confirmation from EFSEC that its compliance with the Climate Commitment Act will fully satisfy its mitigation obligation under the approved GHG Mitigation Plan.

June 6, 2022

Karen M. McGaffey  
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D. +1.206.359.6368  
F. +1.206.359.7368

Sonia Bumpus  
Manager  
Energy Facility Site Evaluation Council  
621 Woodland Square Loop SE  
Olympia, WA 98504

**Re: Grays Harbor Energy - Greenhouse Gas Mitigation**

Dear Sonia

We are writing on behalf of Grays Harbor Energy LLC (GHE) to request confirmation that GHE's compliance with Washington's Climate Commitment Act, RCW ch. 70A.65, will satisfy its obligations under its Greenhouse Gas Mitigation Plan.

EFSEC was ahead of its time in requiring the Certification Holder to evaluate greenhouse gas mitigation options when it approved the Site Certification Agreement (SCA) amendment in 1996, and when it required the Certificate Holder to prepare a greenhouse gas mitigation plan in 2001. These requirements predated federal or state requirement to address greenhouse gas emissions. When EFSEC imposed these requirements, however, it was aware that more comprehensive federal or state greenhouse gas programs might be adopted later. And, in 2021, the Washington Legislature adopted the Climate Commitment Act, which established a cap-and-invest program.

At this time, GHE requests confirmation from EFSEC that its compliance with the Climate Commitment Act will fully satisfy its mitigation obligation under the approved GHG Mitigation Plan. The Climate Commitment Act goes well beyond the Mitigation Plan to require GHE to purchase allowances or offsets credits for every ton of CO<sub>2</sub>e emitted from the Grays Harbor Energy Center. The expense associated with satisfying this new statutory requirement will far exceed the funding that GHE provides to the Climate Trust under the GHG Mitigation Plan. Indeed, unlike the Mitigation Plan's partial mitigation of greenhouse gas emissions, the Climate Commitment Act will require mitigation or offset of all of the facility's greenhouse gas emissions. GHE should not, therefore, be required to provide additional offset funding for these emissions under the Mitigation Plan.

## **Background**

The SCA for the Grays Harbor Energy Center in Elma, Washington, traces its origins to the proposal to construct a nuclear power facility (WNP-3 and WNP-5) at the Satsop site in the mid-1970s. Washington's governor executed the original SCA on October 27, 1976, and signed Amendment #1 on March 18, 1982. However, construction of the nuclear facility was never completed.

In 1996, EFSEC approved, and Governor Lowry signed Amendment #2, which authorized the construction and operation of a natural gas-fired combined cycle combustion turbine powerplant and associated facilities. At that time, neither Washington nor the federal government had any statute or regulation that required the offset or mitigation of greenhouse gas emissions. Climate change was raised as an issue during the adjudication, however, and the Council included the following provision in the SCA:

### **E. Greenhouse Gases and Carbon Dioxide Mitigation**

1. The Supply System shall prepare and submit a report to the Council no later than one year prior to each turbine coming online, that presents and evaluates possible greenhouse gases and carbon dioxide mitigation techniques, and concentrates on those techniques that can offer cost-effective mitigation measures.

2. If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program, considering and appropriately crediting any measures that the Supply System has accomplished

SCA, Amend. 2, Art. 6.E. (May 21, 1996).

In 1999, EFSEC adopted Amendment #3. This amendment removed the provisions concerning the never-completed nuclear facility, but it did not alter conditions concerning the gas-fired facility.

In 2001, the Certificate Holder (then Duke Energy North America) requested an amendment to the SCA to allow it to use different combustion turbines and increase the potential output of the facility. The new turbines were more efficient than those originally permitted and therefore, would reduce the volume of CO<sub>2</sub> emissions per kilowatt-hour of electricity produced. However, the greater capacity would increase the facility's total potential CO<sub>2</sub> emissions. EFSEC approved the amendment by Resolution No. 298, and in doing so, it required the Certificate Holder to submit a

greenhouse gas mitigation plan prior to operations. See Council Minutes, Special Meeting (Apr. 13, 2001).

In 2003, the Certificate Holder submitted a Greenhouse Gas Mitigation Plan and the Council approved it. The Mitigation Plan was similar to a mitigation approach that EFSEC had approved for another project as well as to mitigation requirements that were in effect in Oregon at that time. In general, the Mitigation Plan required funding to be provided to a qualified organization that would use the funds to implement greenhouse gas offset programs. The Certificate Holder would provide funding each year, for thirty years, in an amount determined based on the maximum potential emissions exceeding the emission rate of 0.675 lbs/kWh and using an offset amount of \$0.57 per ton (with that amount increasing each year commensurate with the Producer Price Index). The Certificate Holder would also add 7.5% to this amount to cover the organization's administrative expenses.

In April 2005, EFSEC approved the transfer of the SCA to GHE, an affiliate of Invenergy. See Order 809. With the transfer of the SCA, GHE accepted the responsibility for implementing the Greenhouse Gas Mitigation Plan.

In 2009, the Council approved minor amendments to the Greenhouse Gas Mitigation Plan. The amendments updated the Plan's language to reflect the change in ownership and the commercial operation date, and they clarified provisions concerning annual inflation-adjustments and the designation of an organization to receive funding under the Plan.

In 2010-11, the Council approved, and the Governor signed SCA Amendment #5, which authorized the construction and operation of Units 3 & 4. See Order 860. This expansion would have doubled the facility's capacity, but it was never constructed. By the time this amendment was approved, the Washington Legislature had enacted greenhouse gas mitigation requirements applicable to new power plants and the expansion of existing facilities. See RCW chapter 80.70. Had Units 3 & 4 been built, mitigation for the greenhouse gas emissions associated with the proposed expansion would have been governed by that statute and the implementing regulations.

SCA Amendment #5, which remains in effect today, contains the following provisions regarding greenhouse gas mitigation:

#### Greenhouse Gases and Carbon Dioxide Mitigation

1. The Council has approved a mitigation plan for carbon dioxide emissions associated with the operation of Units 1 and 2.

2. If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program considering and appropriately crediting any measures that the Certificate Holders have accomplished.

3. The Certificate Holders are required to mitigate carbon dioxide emissions from Units 3 and 4 in accordance with RCW chapter 80.70 and Chapter 463-80 WAC. Within 120 days of commencing commercial operation of Units 3 and 4, the Certificate Holders will make a mitigation payment to an independent qualified organization approved by EFSEC in an amount that satisfies the mitigation obligation. Certificate Holders will require the independent qualified organization to consult with Grays Harbor County and provide preference and priority for mitigation projects located within Grays Harbor County.

4. Attachment VII to this Agreement contains preliminary calculations determining the amount of carbon dioxide mitigation payments to be made by Certificate Holders.

SCA Amendment #5, Art. VII.B (Feb. 15, 2011).

### **Greenhouse Gas Mitigation Plan**

The Greenhouse Gas Mitigation Plan requires GHE to make annual mitigation payments to an approved organization for thirty years. With the Council's approval, GHE has been making those annual payments to the Climate Trust for the past 15 years.

Under the terms of the approved Greenhouse Gas Mitigation Plan, GHE made its first mitigation payment to the Climate Trust in April 2008. Over the past 15 years, GHE has provided more than \$5 million in funding to the Climate Trust, with annual payments ranging from approximately \$300,000 to \$450,000.

### **Washington Climate Commitment Act**

In 2021, the Washington Legislature adopted, and the Governor signed the Climate Commitment Act, which requires the establishment of a cap-and-invest program for greenhouse gas emissions. See RCW ch. 70 A.65. The Department of Ecology is developing regulations to implement the program. See <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Climate-Commitment-Act> The Washington program has been modeled after a similar program that has been in effect in California.

Under the Climate Commitment Act, GHE will be required to obtain a carbon allowances or offset credit for every ton of carbon dioxide equivalent (CO<sub>2</sub>e) emitted from the Grays Harbor facility beginning January 1, 2023. To satisfy this requirement, GHE will need to purchase allowances at auctions. Washington will then use the revenues generated by these auctions to fund projects or programs that further the purposes of the Climate Commitment Act, including GHG emissions reduction and climate change adaptation and mitigation.

The Climate Commitment Act imposes a significant obligation on GHE, which includes but is not limited to the direct cost of compliance. The direct cost of compliance includes the cost of purchasing allowances or offset credits to cover GHE's emissions in any given year and will depend upon the volume of its emissions and the price of allowances. We cannot predict the actual cost in future years, but it is useful to understand the rough order of magnitude. According to the Department of Ecology's emission inventory, GHE's CO<sub>2</sub>e emissions in 2020 were approximately 980,000 tons.<sup>1</sup> The allowance price at the May 2022 California auction was \$30.85 a ton.<sup>2</sup> If GHE emitted 980,000 tons CO<sub>2</sub>e emissions and obtained allowances at that price, its annual cost under the Climate Commitment Act would be more than \$30 million. Of course, in any given year, the facility's emissions might be more or less, and the auction price might be higher or lower. Even so, it is clear that GHE will have a significant obligation to provide funds under this statutory program that will be used for offsets or other climate-related projects.

### **Request for Determination**

In light of the greenhouse gas mitigation obligation that GHE will incur under the Climate Commitment Act, GHE is asking EFSEC to confirm that it will no longer be required to make payments to the Climate Trust under the Mitigation Plan.

We hope the rationale supporting this request is obvious and uncontroversial. The EFSEC-approved GHG Mitigation Plan was intended to require GHE to provide funding to an organization that would use those funds for offset or mitigation projects. The Climate Commitment Act will require GHE to pay a much greater amount to obtain allowances from the state and the state will use those funds to offset or mitigate GHG emissions. We hope you and the Council will agree that GHE should not be required to pay twice for the same emissions, and that its compliance

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<sup>1</sup> <https://ecology.wa.gov/Air-Climate/Climate-change/Tracking-greenhouse-gases/Greenhouse-gas-reporting/Facility-greenhouse-gas-reports>

<sup>2</sup> [https://ww2.arb.ca.gov/sites/default/files/2020-08/results\\_summary.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-08/results_summary.pdf)

with the Climate Commitment Act will fully satisfy its obligation under the Mitigation Plan.

We believe that this would be consistent with both the terms and the intent of the GHG Mitigation Plan that the Council approved in 2009. The GHG Mitigation Plan included the following section:

#### PREEMPTION AND SUNSET

If a new state or federal law imposes requirements on the Certificate Holder to limit, mitigate or offset greenhouse gas emissions, EFSEC will support the Certificate Holder in obtaining credit under any such new laws, regardless of preemption, for early action for offsets already funded under this Mitigation Plan.

If any new state or federal law pre-empts this Mitigation Plan, to the extent that any carbon offset or funding obligation hereunder has not been met at the time of such change in law, the Certificate Holder may meet any such obligation through compliance with the new program, and further obligations under this Mitigation Plan will terminate.

The intent of this provision was to try to protect the Certificate Holder from duplicative offset or mitigation requirements. Although the plan uses the word "preemption," we do not believe this word was intended to invoke a technical analysis of the legal doctrine of preemption. Rather, we think it reflects the commonsense idea that the Certificate Holder should not have to pay twice for the same emissions. Thus, the first paragraph indicates EFSEC would support the Certificate Holder in trying to receive early action credit for funds paid under the Plan in the past, and the second paragraph was intended to terminate the Plan's obligation if the Certificate Holder were required to provide funding under a new state or federal carbon offset obligation going forward.

Accordingly, we ask that EFSEC acknowledge that any funding obligation under the GHG Mitigation Plan will terminate by its own terms on January 1, 2023, when the greenhouse gas emissions from the Grays Harbor Energy Center will become subject to the Climate Commitment Act.

If EFSEC finds the wording of the current GHG Mitigation Plan to be unclear in this regard, GHE requests that the Council approve a revised GHG Mitigation Plan that will expressly provide mitigation through compliance with the Climate Commitment Act.

Sonia Bumpus  
June 6, 2022  
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Please do not hesitate to contact me if you have questions regarding this request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Karen McGaffey". The signature is written in a cursive, flowing style.

Karen McGaffey

cc: Jonathan Thompson

## **Appendix 2:**

Resolution approving increase in capacity of facility (then just units 1 and 2) from 490 to 630 megawatts.

**WASHINGTON STATE  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**RESOLUTION NO. 298**

***TECHNICAL AMENDMENTS REGARDING FACILITY DESIGN AND BACKUP FUEL  
SOURCE***

**Nature of the Action.** By letter dated March 8, 2001, Energy Northwest, through its Manager of Regulatory Affairs, Douglas W. Coleman, and Duke Energy Grays Harbor LLC, through its Director, Kevin R. Johnson, respectively (collectively, “Duke”) requested that the Council approve amendments to the Satsop Combustion Turbine Site Certification Agreement (the “SCA”) to accommodate certain changes in the design of the facility, and to eliminate diesel oil as a backup fuel source. Attached to the March 8 letter was a marked-up copy of the SCA and sections of the Application for Site Certification indicating the specific textual changes that Duke has requested. The above letter and attachments are hereby incorporated by reference.

**Background.** The current SCA was based on turbines manufactured by Westinghouse. According to Duke, current market conditions, including immediate availability of equipment owned by Duke Energy North America, compel Duke to utilize turbines manufactured by General Electric Company.

**Procedural Status.** EFSEC’s amendment procedure is governed by chapter 80.50 RCW and chapter 463-36 WAC. Pursuant to WAC 463-36-030, in considering Duke’s amendment request, on April 3, 2001, the Council held a public meeting in Elma, Washington, to receive comment. Notice was mailed to approximately 230 interested persons, agencies and organizations on March 23, 2001. The Council received five written and seventeen oral comments on the amendment request. The Council has reviewed the requested amendments under the procedures outlined in chapter 463-36 WAC and through this resolution amends the SCA as described herein.

**Discussion:**

The Council’s action here is strictly technical in nature. As explained below, the change from Westinghouse to General Electric turbines, the change in the plant’s configuration from a dual “one-on-one” configuration to a single “two-on-one” configuration, and the elimination of diesel oil as a backup source of fuel does not adversely affect the environment or constitute a substantial alteration of any provisions of the SCA. Accordingly, the Council’s action to amend the SCA to reflect these changes is strictly technical in nature.

Chapter 463-36 WAC governs the Council’s procedure for amending a Site Certification Agreement. WAC 463-36-040 outlines the relevant factors for consideration prior to a decision to amend. Specifically,

...[i]n reviewing any proposed amendment, the council shall consider whether the proposal is consistent with:

1. [t]he intention of the original SCA;
2. [a]pplicable laws and rules; and

3. [t]he public health, safety, and welfare.

WAC 463-36-050 explains that the Council's consideration of public health, safety, and welfare includes environmental concerns, as follows:

In reviewing whether a proposed amendment is consistent with the public health, safety, and welfare, the council shall consider the short-term and long-term environmental impacts of the proposal.

The Council has considered these factors and concluded that the proposed amendments are consistent with each. Each of the Council's conclusions is discussed below.

**A. Consistency with the public health, safety, and welfare.**

Under WAC 463-36-040(3) and -050, the Council must consider whether the proposed amendments are consistent with public health, safety, and welfare, including environmental aspects of the public welfare.

The Council finds that the amendments are consistent with public health, safety and welfare. The plant's permitted output will increase from 490 megawatts to 650 megawatts as a result of the amendments, thereby enhancing the supply of electrical energy in the state and the region. In addition, the elimination of diesel oil as a backup fuel will eliminate potential health and safety issues relating to the transportation, storage and combustion of diesel oil.

The Council further finds that the amendments will not have an adverse affect on the environment. The requested amendments will result in a significant reduction in air emissions of nitrogen oxides (NO<sub>x</sub>), ammonia, sulfur, carbon monoxide, and volatile organic compounds, while particulate emissions will remain approximately the same. The Council finds that carbon dioxide emissions will increase by approximately 10%. However, an increase of 10% in carbon dioxide emissions is not adverse to the environment given the decrease in emission per megawatt, the Council's authority to compel carbon dioxide mitigation consistent with a plan it will approve pursuant to the SCA, and elimination of the use and storage of diesel oil. In addition, the amendments do not alter Duke's existing obligations under the SCA with respect to water quantity and quality, air emissions, vegetation, fish, wildlife, noise, and light/glare mitigation, and other matters affecting public health, safety and welfare or the environment.

The Council also finds that the proposed amendments do not constitute a substantial alteration of any provision of the SCA such that the Governor's approval of the amendments would be required.

**B. Consistency with applicable laws and rules.**

Under WAC 463-36-040(2), the Council must consider applicable laws and rules, including chapter 43.21C RCW and chapter 197-11 WAC (the State Environmental Policy Act and SEPA rules) and WAC 463-36-070 through -080.

1. Consistency with SEPA (chapter 43.21C RCW and chapter 197-11 WAC).

In general, SEPA requires an agency to determine whether a proposed action is exempt or could have a significant adverse effect on the environment. See WAC 197-11-305. Where the environmental effects of a proposed action have already been adequately addressed in a previously issued environmental document, the lead agency may issue an addendum to the adoption notice pertaining to the original document. *See* WAC 197-11-600(4)(c) and -625. In this case the Council's responsible SEPA official, EFSEC Manager Allen J. Fiksdal, has determined that any potential significant adverse environmental impacts from the construction and operation of the Satsop facility as proposed in the SCA amendments have been adequately addressed in the original environmental document adopted in connection with the Satsop Combustion Turbine facility. Consequently, Mr. Fiksdal has issued an Addendum to the Adoption Notice of the Existing NEPA Environmental Document, dated April 6, 2001. The Council finds that it has thus complied with applicable SEPA requirements in connection with the requested amendments.

2. Consistency with WAC 463-36-070 and -080.

WAC 463-63-080 provides that

...[a]n [SCA] amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environment shall be effective upon the signed approval of the governor...

On the other hand, WAC 463-36-070 provides that

...[a]n amendment which changes a technical provision or requirement within the terms of the SCA, and constitutes no substantial alteration of any provisions of the SCA, and is determined to have no detrimental effect upon the environment, shall be effective upon adoption of a council resolution. (emphasis added)

Based on its previous findings that (i) the proposed amendments have no environmental impact and no impact on public health, safety, and welfare; and (ii) do not constitute a substantial alteration to any provisions of the SCA, the Council finds that the amendments are "technical" in nature; they can and will be effective upon adoption of this resolution.

**C. Consistency with intention of the original SCA.**

Under WAC 463-36-040(1), the Council must consider whether the proposed amendments are consistent with the intention of the original SCA.

In general, the intention of every SCA is to grant state authorization to a certificate holder to construct and operate an energy project that has been determined to be in the state's interests.

Through the SCA, the state grants the certificate holder a “license” for the project; in return, the certificate holder commits itself to comply with the terms of the SCA.

The Council finds that permitting the change in turbines and facility configuration and the elimination of diesel oil as a backup fuel source is consistent with this intent. The proposed changes will produce a net environmental benefit while increasing the facility’s electrical output. The amendments thus should assist Duke in ultimately operating a project that is beneficial to the state’s interests.

#### **D. Conclusion.**

The Council concludes that the proposed amendments providing for a change from Westinghouse to General Electric turbines, a change from a dual “one-on-one” configuration to a single “two-on-one” configuration, and the elimination of diesel oil as a backup fuel source, are consistent with public health, safety, and welfare; the applicable law; and the intent of the original SCA.

### **RESOLUTION**

For the foregoing reasons, the Council adopts the amendments to the SCA as indicated in the March 8, 2001 letter and accompanying attachment from Duke to the Council: *Provided*, that the adoption of the amendments is made with the express acknowledgement that the Council is authorized under the SCA to compel Duke to prepare, submit and implement a Council-approved greenhouse gas and carbon dioxide mitigation plan. In the event that Duke fails to prepare, submit, and implement the Council-approved mitigation plan, this resolution shall be null and void: *Provided further* that the Council hereby delegates to the Council Chair the authority to make such modifications to the requested amendments or to other provisions of the SCA and the attachments thereto as are consistent with this resolution and that the Chair deems necessary or appropriate to effect the Council’s intent in this resolution.

DATED and effective at Olympia, Washington, this 13<sup>th</sup> day of April, 2001.

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Deborah Ross, EFSEC Chair

#### **Attachments:**

- 1) Letter to Deborah J. Ross. EFSEC Chair, from Kevin R. Johnson, Director, Duke Energy Grays Harbor, LLC, and Douglas Coleman, Manager, Regulatory Affairs, Energy Northwest, Satsop Power Plant Site - Request for Approval of Revisions to Site Certification Agreement.
- 2) Site Certification Agreement and Sections of Application for Site Certification showing requested revisions.

### **Appendix 3:**

June 9, 2003, EFSEC Council Minutes, approving the GHG mitigation plan that the holder (Duke) developed as directed by Resolution 298.

**STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**June 9, 2003 - Regular Meeting**  
4224 6th Avenue S.E. Building 1  
Lacey, Washington - 1:30 p.m.

**ITEM 1: CALL TO ORDER**

CHAIR LUCE: The regular meeting of the Washington State Energy Facility Site Evaluation Council for Monday, June 9, 2003, will come to order, Councilman Sweeney and Councilman Fryhling. We will begin with the agenda and the call to order with the roll call.

**ITEM 2: ROLL CALL**

**EFSEC Council Members**

**Community, Trade & Economic Development**  
**Department of Ecology**  
**Department of Fish & Wildlife**  
**Department of Natural Resources**  
**Utilities and Transportation Commission**  
**Chair**  
**Kittitas County**

Richard Fryhling  
Charles Carelli  
Sue Patnude  
Tony Ifie  
Tim Sweeney  
Jim Luce  
Patti Johnson (via phone)

MR. MILLS: I note the presence of Chair Jim Luce and there is a quorum.

CHAIR LUCE: I would like to take this opportunity to welcome Sue Patnude from WDFW to our ranks. I believe that we will have a lot of interesting business to conduct here over the next several months and welcome aboard.

MS. PATNUDE: Thank you.

**OTHERS IN ATTENDANCE**

**EFSEC Staff and Counsel**

Allen Fiksdal  
Mike Mills  
Michelle Elling  
Ann Essko – AAG

Irina Makarow  
Mariah Laamb  
Pete Dewell – ALJ (via phone)

**EFSEC Guests**

Karen McGaffey-Perkins Coie  
Kaye Emmons - Tractebel  
Duncan McCaig-Tractebel  
Mike Lufkin-CFE

Curt Leigh-WDFW  
Scott Noll-Competitive Power Ventures  
Darryl Peebles-Kittitas Valley Wind Project  
Tony Usibelli-CTED Energy Policy

K.C. Golden, Climate Solutions  
Bill LaBorde-NW Energy Coalition  
Jim Hurson-Kittitas County (via phone)

Cindy Custer-BPA  
Kirk Deal, Carpenter's Union  
Chris Taylor-Zilkha (via phone)

### **ITEM NO. 3: APPROVAL OF MINUTES**

CHAIR LUCE: The first item on the agenda.

MR. FIKSDAL: Mr. Chair, before we go on there's a couple other people on the line I believe. Pete Dewell, you're on the line?

MR. DEWELL: Yes. When you speak, can you get close to one of those mikes?

MR. FIKSDAL: Yes. When we come to the agenda items, we will. And, Chris Taylor, are you on the line?

MR. TAYLOR: Yes, I am.

MR. FIKSDAL: Is there anybody else on the line?

MR. HURSON: Jim Hurson, Kittitas County.

MR. FIKSDAL: Okay. Hi Jim.

CHAIR LUCE: I will endeavor to speak up in the interim, but the microphone is some feet away.

MR. DEWELL: Okay.

CHAIR LUCE: The first issue is approval of the minutes, the May 12, 2003 regular meeting and the May 27, 2003 special retreat meeting. Let's address first the issue of the May 12, 2003 regular meeting and ask the Council Members whether there are any corrections, additions to the May 12, 2003 regular meeting minutes?

MR. FRYHLING: On Page 6.

CHAIR LUCE: Page 6.

MR. FRYHLING: Down about the third of the way where it says Mr. Peebles, the second line there, and I think it's good for people to took. I think that should probably be look. That's the only thing that I have at this time.

CHAIR LUCE: Correction noted. Changed took to look. Any other corrections or additions? Hearing none, the meeting minutes for May 12 are approved. Next, with respect to the special retreat meeting notes of May 27, 2003, they have been circulated, and I believe there is also a proposed correction from Council Member Ifie.

MR. IFIE: Correct.

CHAIR LUCE: So we'll consider those notes together at this point in time. Council Member Ifie, do you wish to address your change?

MR. IFIE: Yes. In looking at the agenda, I would like to propose that we replace the second, third, and fourth paragraphs of the May 27, 2003, meeting with following: The group discussed EFSEC goals and the roles and responsibilities of the Council and staff as contained in current statute and rules. And then, the participants discussed how the Council and staff could better help each other to be more effective. The next general topic discussed was how to facilitate better communication between staff and Council Members.

CHAIR LUCE: Do you wish to elaborate on that or does it speak for itself?

MR. IFIE: I believe it speaks for itself.

CHAIR LUCE: All right. Council Members, you've heard that. Any comments? Is there approval to change the minutes of May 27, 2003, to incorporate the change recommended by Councilman Ifie? Councilman Sweeney?

MR. SWEENEY: Yes. Councilman Fryhling?

MR. FRYHLING: I move that we go ahead and adopt what Tony has submitted to us.

CHAIR LUCE: Councilman Carelli?

MR. CARELLI: I wasn't at the beginning of the meeting, so I'm going to abstain.

CHAIR LUCE: Well, Councilman Ifie would approve obviously, and I will also approve, so, Sue, I assume you will abstain since you were not at the meeting. With that sense of the Council, we will adopt the modified minutes of May 27, 2003.

I like to take this opportunity to publicly thank Councilman Ifie. He is the one who took the responsibility for organizing this retreat. He pulled together the agenda. He spent a lot of time talking with individual Council Members and staff, and the retreat was in large part a reflection of the amount of effort that Tony put into this, so thank you very much, Councilman Ifie. Your efforts on this behalf and particularly in working with the compliance and monitoring issues are very, very much appreciated, and I think we went out of the retreat a stronger Council because of your efforts.

MR. IFIE: Thank you.

#### **ITEM 4: ADOPTION OF THE PROPOSED AGENDA**

CHAIR LUCE: The next item on the agenda is the adoption of the proposed agenda. Do any Council Members wish to make any changes? Do they have any additions? Are there any deletions to the agenda? Hearing none, the agenda is adopted as suggested.

#### **ITEM NO. 5: KITTITAS VALLEY WIND POWER PROJECT**

<i>Application Waivers</i>	<i>Irina Makarow, EFSEC</i>
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CHAIR LUCE: The first item on the agenda is the Kittitas Valley Wind Power project. Irina, your report, and I believe the Applicant's representative Darrel Peebles is here as well. Now, I'd ask our Administrative Law Judge, Pete, can you hear?

MR. DEWELL: Yes.

CHAIR LUCE: Irina, you might want to test your voice.

MS. MAKAROW: Pete and Patti, can you hear me?

MS. JOHNSON: I can hear you.

MS. MAKAROW: Okay. We're getting better at setting this up.

MR. DEWELL: Okay.

MS. MAKAROW: The first item is an action item, and it is with regards to waivers of submittal of information that the Applicant has requested in their application, and I would direct you to the first item in your packets which is an ivory colored set of sheets of papers, and the first one is a summary of the sections of which a waiver is being requested and with a staff recommendation for each. One of the reasons we did not bring this to the Council last month was that we were still awaiting the recommendation from our contractor, the Department of Ecology, and the letter that we received from the Department of Ecology also is the second document in that set of

sheets of paper. So the Applicant requested a waiver of the information to be submitted with regards to the description of a system of heat dissipation which is clearly a description of a system that is really only applicable to a thermal energy facility. They also requested a waiver of the description of the characteristics of aquatic discharge systems which applies to discharges of waste water to waters of the state, and, again, there will be no such discharges in the case of the Kittitas Valley Wind Power Project. And the same goes to waste water treatment. The Applicant has submitted information with regards to a septic system that would be installed to treat domestic waste water, and the requirements of this WAC are again not pertinent. The same goes for emission control.

Our contractor at Ecology has confirmed that there are no permitting requirements for emissions resulting from the construction and operation of the facility. The emissions are basically construction activity emissions and then emissions from vehicles that would be used in the maintenance of the facility, and those do not require any federal or state permits. With regard to WAC 463-42-352, our WAC requires that the Applicant submit information regarding radiation levels. This is clearly not applicable in this case, and, finally, the key PSD operation application again there is no PSD permit that is required for a wind facility. So staff's recommendation is that the Council grant all of the waivers that have been requested as indicated on the summary that is before you.

CHAIR LUCE: Thank you. Questions from Council Members? Council Member Carelli.

MR. CARELLI: Irina. Staff sent around a similar series of recommendations about a week ago that was marked draft. Is this the same as that draft?

MS. MAKAROW: Yes.

MR. CARELLI: Thank you.

CHAIR LUCE: Other questions from Council Members? Do we have any comments from the public or from the Applicant? Do we have a motion? I believe a motion would be appropriate.

MR. IFIE: So move.

CHAIR LUCE: Do we have a second?

MR. FRYHLING: Second.

CHAIR LUCE: Do we have any discussion on the motion? Hearing no discussion, do we have a call for the question?

MR. CARELLI: Question.

CHAIR LUCE: All in favor of granting the waivers as recommend by staff signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: The waivers are so approved. Thank you, Irina.

MS. MAKAROW: I would just like to reflect for the record that I did hear Patti Johnson say aye.

CHAIR LUCE: Thank you.

<i>Land Use Extension</i>	<i>Irina Makarow, EFSEC</i>
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MS. MAKAROW: The second action item before the Council today is a request from the Applicant to extend the 90-day period for resolution of land use consistency issues for this project, and Mr. Darrel Peeples, attorney for the client, will present that request. The Applicant has also submitted a letter with that request, and it is also included in your ivory package. Darrel.

MR. PEEPLES: Essentially we have started out, attempted to negotiate, and went through some negotiation procedures with the County, and we have filed an administrative draft, got comments back, and we've filed presently an application pursuant to the County's zoning ordinance. And it has not been accepted yet, so we are in the process of waiting for that review and acceptance.

We filed it once, got comments back. Filed it again, got comments back, and then there's another one pending. So at this point we're asking for an extension to September 30.

I believe we will have a better idea to report back to the Council when that application is accepted, and we get some idea of the time line that is going to take and the process. I'm still unclear of the exact process we'll be going through, and I am unclear about the time lines, so we're asking for this extension for right now. But if we come back later don't be surprised and ask for another one. I meant September 1. We would ask for an extension of September 1 and we'll come back. And we are working with the County, and we will come back and report again once we know kind of what the time line is, what the County process is.

CHAIR LUCE: Thank you. Questions from the Council Members? Comments from staff?

MR. FIKSDAL: We might want to summarize a little bit for our new Council Member from the Department of Fish and Wildlife. The Council is obligated to find if a project is consistent with local land use and zoning ordinances, and the Council held a hearing over in Kittitas County and found that the Kittitas Valley Wind Power Project was inconsistent with local land use laws, and Council rules have the provision that the Applicant work with the County to try to change that consistency, and Mr. Peeples and the Applicant have been doing that. There's a condition in those rules for a time limit for that and subsequent Mr. Peeples is requesting an extension.

MS. PATNUDE: Thank you.

CHAIR LUCE: Discussion among the Council Members with respect to granting the land use extension?

MR. HURSON: This is Jim Hurson. Can I make a comment?

CHAIR LUCE: I'm with Council Members. Who's our Council Member Representative?

MR. FIKSDAL: Patti Johnson.

CHAIR LUCE: Jim, I think you can certainly make a comment, but I would like to hear from Council Members first.

MR. HURSON: That's fine. I thought you kind of worked your way through the line, and you were asking for general public comments. I'm having a hard time hearing some of the comments.

CHAIR LUCE: I apologize. I will try to speak up. Are there any comments from the general public?

MR. HURSON: Would that be me?

CHAIR LUCE: That sounds like it's you, Jim.

MR. HURSON: I mean obviously the County doesn't object, but I do believe there's a high likelihood that there will need to be another extension for us to get this process. I know we got an application last week. I don't believe our planners had a chance to review, to see if any information whether we can get our process going. I just wanted the Council to be aware that realistically I don't think the September 1 date is going to get us there, but that's an extra 30 days from the 90. But we will do what we can, and we will probably have to come to the Council at a later date on a time frame.

CHAIR LUCE: We appreciate the hard work that Kittitas County is making and the diligent effort to achieve this by 90 days plus 30, and we'll keep our fingers crossed. And if we have to

come back again, we have to come back again. Any other comments from members of the public? Do we have a motion with respect to approving the land use extension?

MR. FRYHLING: So move.

CHAIR LUCE: Do we have a second?

MR. IFIE: Second.

CHAIR LUCE: Council Member discussion? There is no discussion. Do we have a call for the question?

MR. SWEENEY: Question.

CHAIR LUCE: We have had a call for the question. All in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: I believe I heard an aye from Patti, so it's unanimous. The land use extension is granted until September 1, 2003. Thank you. The next item on the agenda also pertains to the Kittitas Valley Wind Power project. That is a progress report on the power project itself. And Mr. Peeples is here and appears ready to give us a progress report.

MR. PEEPLES: I drafted a -- let me pass it out to the Council Members, staff. Just it's very brief and I'll read it, so that people on the line can hear it.

MS. MAKAROW: While Mr. Peeples is passing this out, this is the progress report that the Applicant has to submit today with regards to the progress on the land use consistency resolution with the County, and after Mr. Peeples gives that progress report, I'll give you a second progress report from staff.

MR. PEEPLES: It's just two paragraphs. Let me read it. This letter is a report on the status of negotiations with Kittitas County on local land use consistency issues pursuant to Council Order 776. The Applicant submitted an administrative draft of its application to Kittitas County for their review on March 27, 2003. The Applicant received comments back from the County on April 15, 2003. The Applicant filed an application together with a check for \$450, the County's application fee on May 20, 2003. The application fee check was deposited by the County on May 23, 2003. The County responded on May 28, 2003 that the application was not yet complete. The revised application was filed again on June 2, 2003.

To this date, the application has not been accepted by Kittitas County. The Applicant has submitted a request for an extension of the 90-day period for a preemption request. The Applicant requests that EFSEC mutually agree to extend the date that the request must be made for preemption pursuant to WAC 463-28-040 to September 1, 2003. And, again, you have already ruled on that request, and I am just going back to what Jim Hurson said over the phone. I would expect that we'll have an active application to the County in the not too distant future. So for the next report back we'll have some details as to time lines and where we're going from there. And, again, don't be surprised if we come back and ask for another extension on this.

CHAIR LUCE: Thank you.

MR. PEEPLES: Those are just the bare facts, and I thought that's all you need at this time. I think there will be more details on the progress report.

CHAIR LUCE: Thank you.Irina.

<i>Progress Report</i>	<i>Irina Makarow, EFSEC</i>
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MS. MAKAROW: The main activities that were pursued within the last month were, of course, the issuance of the notice regarding the adjudicative proceeding and petitions for intervention on May 16, and the petitions will be due to the Council on June 16 with the first prehearing conference scheduled for June 26 in Ellensburg.

The second item that I'm going to report on is with regards to changes in schedule for the preparation of the Environmental Impact Statement. Because our consultant is going to need some additional time to assess the cumulative impacts from the project, they requested that we give them an extension of the deadline for submitting the administrative Draft EIS to the Council for the Council's review. And therefore that means that there would also be a delay in the issuance of the Draft EIS.

We discussed the issues with our consultant, and we agreed, staff agreed with our consultant that the administrative Draft EIS would be submitted to the Council on July 21 rather than this week as has been originally anticipated, and of course, that would mean that as shown on your schedule in your packets that the Draft EIS would be issued at the very beginning of September. What this means for the overall schedule, at this point we don't think that would create a delay in the overall schedule for the Council's decision.

Staff and our independent consultant will work very hard at the tail end of the process to accelerate the production of the final EIS and the Council's order, so that the time lost at this point in time would be caught up at the end. And as you can see we've attempted to retain the anticipated date of the Council's recommendations to the Governor at the beginning of February of next year.

CHAIR LUCE: Thank you. Questions from Council Members? I just have one question. The Draft EIS would be out more or less on or about June 21st?

MS. MAKAROW: No, that would be on July 21st.

CHAIR LUCE: Oh, July. Okay.

MS. MAKAROW: The Council will receive an administrative version of the Draft EIS for their review, and the Draft EIS will actually be issued on September 1.

CHAIR LUCE: It takes that long -- how long do we have for Council to review that?

MS. MAKAROW: Council will actually have only one week to review it. And right now we have one week for the Council to review it and three weeks for Shapiro to incorporate the 0 comments to produce the camera ready to be printed. Our independent consultant will also be receiving comments from our contractors, Ecology and Fish and Wildlife, so there is a little bit of time that we need for those contractors to also be able to get them their comments.

CHAIR LUCE: All right. Thank you very much. Any comments from the public? Hearing none, I appreciate your presentations.

MS. MAKAROW: And for Patti, Julian, Jim, and Chris, that ends the Kittitas Valley Project issues.

MS. JOHNSON: Thank you.

CHAIR LUCE: So if you would like to stick around. And, Pete, you will stick around for the Cherry point discussion we're about to have?

## **ITEM NO. 6: CHERRY POINT PROJECT**

<i>Extension of Review Period</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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CHAIR LUCE: And the next item on the agenda is the Cherry Point project discussion, and the first issue is an action item, extension of review period. Allen, you're making a presentation with respect to this issue.

MR. FIKSDAL: Thank you, Mr. Chairman. In your packet there is a letter that's on a white piece of paper that has Draft Draft Draft Revised 6/4/03 on top. It's to Mark S. Moore, Project

Manager of BP Cherry Point Cogeneration Project. I drafted this letter in response to the Council's request for me to do this. As you remember, there was a revision made to the BP application. In that revision there is a letter to the Council from BP that acknowledged that the time for the Council to process the BP application would need to be extended because of the revisions to the application. In the BP letter of I believe it was April 15, BP suggested that a date of completion for the Council's review would be sometime in mid December. Staff has developed a schedule that appears that the Council could complete their work sometime probably in January of 2004. This letter, draft letter is for your approval and for being issued by the Chair would essentially extend that period of time or recognize or mutually agree that the time should be extended according to the law, RCW 80.50. So it's staff's recommendation that you approve the Chair's issuing this letter.

CHAIR LUCE: Council Member discussion?

MR. IFIE: I have a comment. On the one, two, three, fourth paragraph, the last sentence. I would like to propose that would be modified to BP encourages EFSEC to reach a decision by the middle of December 2003. And then I would also propose a sentence in the middle of the next paragraph after the January 2004 date to say that EFSEC agrees to continue to work to implement any schedule efficiencies that are possible to just reflect the discussions that we had at the executive council meeting.

MR. FIKSDAL: Could you repeat that sentence.

MR. IFIE: EFSEC agrees to continue to work to implement any schedule efficiencies that are possible.

CHAIR LUCE: Any comments from Council Members? With those changes, I would recommend that the Council authorize me to sign this letter in the sense of a motion. A Second?

MR. FRYHLING: Second.

MR. SWEENEY: Second.

CHAIR LUCE: All in favor?

COUNCIL MEMBERS: Aye.

CHAIR LUCE: Approved.

MR. FIKSDAL: Thank you.

CHAIR LUCE: In the event that I'm not readily available, I would request that the Council authorize Mr. Fiksdal to sign that in my absence.

MR. FRYHLING: Okay.

MR. CARELLI: That's acceptable.

CHAIR LUCE: Progress report. Michelle Elling will give us a progress report.

<i>Progress Report</i>	<i>Michelle Elling, EFSEC</i>
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MS. ELLING: Yes, thank you. Our independent consultant, Shapiro, has been working very diligently with BP on the development of the Administrative Draft EIS, and we're still projecting receiving that document for Council review the week of June 23. As with the Kittitas project, you will have one week to review that and get comments back to me, and then we are expecting to issue the Draft EIS for this project approximately the week of August 11th for the adjudicative process. Staff issued a notice today, which is before you, the gray notice, of the second prehearing conference to be held on July 15. It's going to be held here in Olympia at the DNR building at 9:30 in the morning, and we've also issued a notice for the submittal of issues list to be submitted by Counsel for the Environment and Province of British Columbia by July 7.

CHAIR LUCE: Thank you. Any comments?

MR. CARELLI: Michelle, the date that the Council will see the administrative Draft EIS again?

MS. ELLING: It will be sometime the week of June 23rd. I haven't got a specific date yet though, and the agreement is that the one-week review period starts when the Council Members receive their copy.

CHAIR LUCE: Any other questions, comments by staff? Questions or comments from the public? Thank you very much. Got one. Great.

MR. LUFKIN: One comment very briefly.

CHAIR LUCE: Sure. Come forward to be heard.

MR. LUFKIN: Good afternoon, Council Members. My name is Mike Lufkin, the Counsel for the Environment. I just had a quick more of a clarification question on what was just outlined there. As Michelle mentioned a submittal of the issues list will be due July 7, 2003 from Counsel for the Environment and other parties to the adjudication. She also stated that the Draft Environmental Impact Statement will not be issued until approximately August 11 of 2003, and this is more of just a matter of pointing this out for the record, and you probably heard me say this before. But one of the concerns is that document, the DEIS, is I believe what many parties will use, not only in identifying issues but also in helping them limit issues. For myself what that will probably mean is I will BE forced to submit a more expansive issue list than I would probably like to because at that point I will not have had the opportunity to review the DEIS and to see about areas that I'm concerned how they've been covered and what the independent consultant has to say about those issues in that environmental document. So I just wanted to make you aware of that not really a problem -- that's too strong a word I think -- but what affect I think those dates may have. You may see issue lists that are again maybe a little bit more expansive than you like because of the timing of the environmental document and when it's ready so.

CHAIR LUCE: Thank you. Are we completed with the Cherry Point?

## ITEM 7: SATSOP COMBUSTION TURBINE PROJECT

<i>Greenhouse Gas Mitigation Plan</i>	<i>Karen McGaffey, Perkins Coie</i>
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CHAIR LUCE: All right. Satsop Combustion Turbine Project. The Greenhouse Gas Mitigation Proposal.

MR. FIKSDAL: I think Karen McGaffey is here. Pete, are you going to stay on the line? Anybody else on the line?

MR. DEWELL: I guess we're all done?

MR. FIKSDAL: Yes.

MR. DEWELL: Okay. I will sign off.

MR. FIKSDAL: Okay. Bye.

CHAIR LUCE: Ms. McGaffey.

MS. MCGAFFEY: Thank you. I think as everyone knows by Council Resolution the certificate holders for the Satsop project were required to develop a mitigation plan for greenhouse gas emissions associated with an amendment to the site certification agreement that increased the capacity of that facility from 490 megawatts to about 630 megawatts. I think what the Council all has in front of them today is a copy of the Satsop Combustion Turbine Project Greenhouse Gas Mitigation Plan that's dated June 2, 2003. That's a mitigation plan that as many of you know has been developed over many months.

A series of discussions at executive committee meetings resulted in several revisions to that plan based on comments received from Council Members, as well as from members of the public and various stakeholder groups that participated in that series of meetings. The mitigation plan is generally based on the greenhouse gas mitigation scheme established by statute in Oregon and by the plan that the Council approved for the Sumas generating facility a year or so ago. Since we have discussed this plan at length in a series of executive committee meetings, I guess that's all I was going to have to say, but I'm happy to answer questions about the plan. The Satsop certificate holders would certainly like the Council to approve the plan at today's meeting. If you have questions, I'm happy to answer them.

MR. FIKSDAL: I might note that on your pink sheet the June 2 is scratched out with June 4. It's the same plan that you saw earlier except Karen sent this to me without the highlights that you saw at your executive committee, and since it came to us on June 4, we scratched off June 2. It's really the same plan that you saw last week.

CHAIR LUCE: Council Member comments, questions? Yes, Mr. Ifie.

MR. IFIE: I would like to thank Duke for the effort it has taken so far in submitting an approvable proposal. They have taken the time to work with Council Members attending the executive council meeting to try to work out the kinks in the proposal. I believe that this proposal is approvable. So that's all my comments.

CHAIR LUCE: I would likewise like to take the opportunity I think Duke has listened very carefully to what this Council had to say. They began with two proposals, if you recall, a Chehalis proposal which they believed listening to the Council originally was what the Council wanted, and the Council over a series of meetings determined that that was not what the Council wanted, and Duke went back and reevaluated. I guess a couple of things.

The proposal before us is not based on the delta, the difference between the 490 and the 630. They're going to mitigate for the entire 630, and I think that the case could be made that that's not necessary or was not necessary. I'm not saying that that's a case that would persuade the Council, but it's a case that could be made.

With respect to Oregon, I think one thing that I like is that there's a producer price index escalator over time, so while we're starting at .675, I think they'd recognize that it's going up from there. And they've agreed as opposed to Sumas to put five percent into the administrative costs. That may not be exactly what the Council ends up on assuming we go forward in rule making, but this is not the rule making exercise. That comes later. So overall I could find some criticisms of this proposal if you ask me, but I think overall it's a fair and balanced approach. So I don't have any questions of the Applicant. I think that considering everything it's a fair proposal.

MR. CARELLI: I would second much of what has been said by Mr. Ifie and Mr. Luce. I think that this is a good balancing. It does go beyond what could have been expected looking at just the difference between the earlier proposal and what is now proposed. It offers the payment on an annual basis over a 30-year period, and to me this is where we begin to lose a little bit of balancing from the standpoint that the 30-year life of the project may well go beyond 30 years, and the Applicant has I'll put it leisure of being able to pay on an annual basis as opposed to making one up-front payment. So normally those two could be viewed as a tradeoff going with an annual payment over the life of the project as opposed to a single up-front payment for 30 years. And I do like the idea of having the administrative expenses included, but I would like the Council to consider increasing that administrative expense to actual administrative costs not to exceed ten percent. I think that is very fair. We have had some suggestions that the number is

more than five. We have had others that it's less than ten. It's somewhere in that range and I would like to limit it not to exceed ten but to go with actual expenses not to exceed ten percent if there was any support for that.

CHAIR LUCE: Any other comments from Council Members?

MR. SWEENEY: This whole issue predates my time here, so I feel awkward commenting on how this all works, but I am very bothered by how the payments come out on an annual basis. I don't see how the amount that comes out on an annual basis will really help purchase offsets at the amount they come out at. It seems like a pretty small amount on an annual basis. It's a lot of effort for the amount of dollars that it's driving. I would rather see it on a lump sum basis, and this argument about 30 years really that doesn't fly with me. It could be 30 or 20.

The important thing is that we're requiring a certain amount of mitigation and then having to pay an amount. And whether it's two million dollars or five million dollars or a hundred thousand dollars it has more value if the money comes in lump sum or at least close together and stretching it out for 30 years really weakens what otherwise looks like a really good plan. And so given that, it does seem reasonable since we're stretching this out over 30 years to try to provide some more accommodation for administrative costs. It would be potentially more expensive to have to do this on an annual basis as opposed to doing it in a lump sum.

So to me it seems like Chuck makes sense that maybe we should require a little more padding for the administration costs because it does seem light, and it's not like we're requiring ten percent. We're just saying if those costs are higher than five percent up to a maximum of ten then the Applicant would cover those costs. That would make me a little more better about this. I still have a problem with paying on an annual basis, and that's going to be an issue when we get into rule making. And it's not going to keep me from supporting it, and I should have prefaced that. I will support this because I feel like, you know, any level of mitigation is fine. And it's just that had I designed this even if the dollar amount were the same, it would be more closer to a lump sum payment.

CHAIR LUCE: Okay.

MR. FRYHLING: I would go along with the proposal. I would like to have Chuck's suggestion incorporated.

CHAIR LUCE: I've got a couple of comments about it. First of all, I'm going to stick with the five percent for a couple of reasons. This Council has been all over the map with respect to CO2. I mean this is not rule making, and we have varied from no administrative costs to five percent to somewhere between five and ten percent, and we're going to deal with that issue in rule making.

Second of all, anytime you say up to ten percent in administrative costs, my experience with dealing with administrative agencies is it's guaranteed it's going to be ten percent. That's the way it works whatever the number is. You set up for 20 percent; it would be 20 percent. I'm not trying to be critical, but quite frankly it will come in at the high end, and I'm not to disparage agencies and GO's from doing the right thing. But, you know, if they see ten percent, they will find a way to get to ten percent.

As far as 30 years is concerned, I mean that troubles me too. Okay? I will buy that. The way I'm looking at the 30 years is that's a tradeoff for what I think was a legitimate argument that the Applicant could have made that their real obligation was for 140. Where we started to get really serious about CO2, again, this has all been incremental over time. We've kind of made up CO2 as we went along.

First, we didn't have it on our radar screen, and then it was a blip, then it was a bigger blip, and now we're in the middle of rule making. And this doesn't have anything to do with rule making. But 490 didn't have anything there. Then we came in with 140, and at that point in time we decided this was a pretty good idea. The Applicant's come back and said we are going to do mitigation for the full 630. To me that's worth quite a bit, and irrespective of what we do here the bottom line is today this is the second best -- I don't ever like to be second best on anything -- but this is the second best CO2 mitigation plan for power plants in the United States of America. Now it's never going to be enough. In a perfect world, it would be a hundred percent of full mitigation at market costs. We wouldn't be building any power plants from my perspective at least from what I can see in terms of what the projected costs are. But it's the second best in the United States. It's more than almost anybody else does.

So I guess I'm with Tony on this one. I think you take the five percent which is five percent more than we got at Sumas. And we're not getting all the money up front. That's true. We have talked to Climate Trust. They can handle this on a yearly basis. They may not be able to buy as much at once. That's true. But we'll deal with those issues in a different forum which is rapidly approaching, so I guess that's all I have to say.

MR. IFIE: I have a comment about the administrative costs.

CHAIR LUCE: Yes.

MR. IFIE: I think at the last executive council meeting there was some information that came out about the practice in Oregon at that time. This plan is based in part on Oregon rules and their plan uses five percent for that administrative cost. I hear what Tim is saying about this is more expensive. It's really wise. But like Jim Luce said there's a tradeoff here. The company didn't have to go with trying to mitigate for the entire emissions. They were only required to mitigate for the difference between the 490 and 630 megawatts for emissions for those two megawatts. So the fact that they're going with offsetting or trying to mitigate for as much of or for the entire.

MR. SWEENEY: I'm sorry, Tony. Go ahead.

MR. IFIE: The fact that they're mitigating not for the entire thing but at least applying the rule for the entire emission to me offsets the fact that we are asking for that administrative cost will be higher.

CHAIR LUCE: Thank you. You are right. The Oregon costs are five percent. Any other comments from Council Members? Any comments from members of the public? Well, all sorts of hands are up. Let's start with the first hand that went up which was Mike Lufkin's.

MR. SWEENEY: You will have to excuse me. It was just getting interesting too.

MR. LUFKIN: We can wait. Thank you, Council Members. I just wanted to make a couple comments on the proposal, and at risk of sounding like a broken record, I'm sure you're probably pretty well aware of what I'm probably going to say because it's nothing that I haven't said in some of the previous executive meetings about this. But I think I would be remiss if I didn't just address at least one -- well, I will address both of the issues, but the primary emphasis is on the 30-year issue.

There was some discussion a few moments ago about that you essentially made up CO2 mitigation obligations as you've gone along. I guess I would fundamentally disagree with that. I think essentially what this Council has done in most instances is either accepted or utilized Oregon as a model. Yes, you've varied from that. You've accepted variations of that in Sumas. In Wallula there was a settlement, but essentially how they reached the dollar figure was through an Oregon type analysis. But essentially you have used an Oregon type model. What's being proposed today differs significantly from Oregon, and that significance is that in Oregon it's a

quid pro quo. It's you pay up front at a set dollar or a set rate and in exchange we limit the mitigation obligation to 30 years. Here you are not getting that up-front payment.

The Applicant, Duke, has proposed making payments on an annual basis, so essentially it takes the most beneficial aspects of the Oregon approach but doesn't give back in terms of real mitigation kind of the advantages that are built in the Oregon process. So I would say it isn't just a slight modification from Oregon or from Sumas. Yes, in Sumas there was no administrative costs included, but that five-year obligation in which the payment would be made is significant. And I just ask the Council to reconsider that in extending the obligation to the life of the project rather than limiting it to 30 years.

And I guess, you know, another point on that issue is that if the life of these projects is truly estimated at 30 years, then extending the mitigation obligation beyond that should not be any real additional obligation to the Applicant. You know, it comes out to \$191,000 a year in real today dollars. I'm not saying that that's an insignificant number, but in the grand scheme of a 400-million dollar project it is hardly going to make or break the project. Those impacts of CO2 emissions will continue beyond 30 years. They will be there as long as the plant continues to emit CO2. It is only proper that the mitigation obligation extend that long as well.

Secondly, on the issue of the administrative costs, I agree with Council Member Carelli and Sweeney that it is appropriate to put a clause in there that says the administrative costs should be essentially what it costs. That would make it no different from other types of mitigation. For example, in wetland mitigation, the mitigation obligation goes to actually what it -- the requirement goes to offsetting the environmental impact. What it costs to administer whether if you're required to, for example, mitigate a three-to-one ratio you don't lessen that based upon what it would actually cost to implement that three-to-one mitigation obligation. It's no different here.

Essentially all you're saying is we're going to require X amount of CO2 mitigation, and, you know, whatever it costs you to administer that if you can do it for two percent, that's wonderful. If it costs you eight, that's the cost of doing business and buying that mitigation offset that you are in fact required to offset, so I would ask you to take another look at that and in adopting this consider accepting Council Members Sweeney's and Carelli's approach of requiring the actual costs, the administrative costs as they are found to be. Thank you. If you have any questions, I would be happy to answer.

CHAIR LUCE: No questions. At least I don't. Any other Council Members have questions? Thank you. Next Mr. Usibelli from Office of Energy Policy.

MR. USIBELLI: Good afternoon, Members of the Council. My name is Tony Usibelli. I'm with the Energy Policy Division for the Office of Community, Trade, and Economic Development. I just wanted to comment on one issue before the Council, and that is with respect to the up-front payments. And I do apologize that I did not get this done earlier to pass around to the members of the Council.

We conducted a brief analysis using some examples of an up-front payment. What we are recognizing is that this does represent a real and a significant reduction in CO2. However, we believe much as Councilman Carelli and Councilman Sweeney have mentioned earlier that the 30-year payment represents a significant discount in the actual amount of savings that you would get, the actual amount of CO2 that would be reduced. We've had discussions with the Climate Trust, and they have enumerated some of their concerns about these type of stream of payments and some of the limitations associated with that. We think an up-front payment would allow for some larger economies of scale. A larger amount of money in one or in simply a few payments

gives you the ability to get potentially larger projects, likely a bigger range of projects. It could also help to reduce the administrative costs on not having to deal with payments on an annual basis, and we also believe getting the mitigation up front rather than waiting for it to come in over 30 years have real benefits. We are also cognizant of the fact that there are issues around the economic viability of these types of plants, and although a single up-front payment similar to Oregon I think could work, I think the Council could provide some flexibility that could allow a five-year payment stream for the mitigation options, and we've have laid out some information and some illustrative examples of the amount of mitigation and the costs associated with that. So with that, I will close and if you have any questions?

CHAIR LUCE: Thank you. I don't have any questions.

MR. IFIE: Quick question for you. In your comparison of the up-front payment, the up-front payment compared to the 30-year payment plan, I didn't get a chance to read the entire document, so I just need some clarification. Did you consider the fact the amount of the yearly payment will account for or will have incorporated into it an increase, an annual increase?

MR. USIBELLI: It does, and in the assumption we used a couple of examples here is that there would be say roughly a 2-1/2 percent annual increase in the payment's adjustment for inflation, but we also believe that right now because the carbon market is pretty immature, we're likely to see prices for carbon mitigation increase in the future because of that, and also because of the fact that some of the early least expensive projects would be captured over the years we're assuming that either a five- or ten-percent likely escalation rate for the cost of mitigation into the future. So that tends to make it -- you tend to achieve less savings, and those two are just by ways of some illustration. But we also use two dollars a ton as our base which we think is probably a pretty conservative base to start with as well, so I hope that answers your question. So we did adjust for inflation, but we also assumed an escalator for the costs of the mitigation as well.

CHAIR LUCE: You would agree, wouldn't you, that irrespective of which way the Council goes this is still the second best state in terms of providing mitigation for carbon sequestration in the United States?

MR. USIBELLI: You're saying Washington is the second best state?

CHAIR LUCE: Yes.

MR. USIBELLI: I would say so. I think the only provision that I would probably change on that is that some states do have some albeit much lower carbon mitigation for some existing facilities, so that would be the only distinction. Thank you.

CHAIR LUCE: Thank you. Other comments from members of the public? Yes, sir.

MR. LaBORDE: Bill LaBorde from Northwest Energy Coalition. I just want to say we have comments in on June 4 from Trina Blake for the Energy Coalition which I think the Council Members have copies of, and so I won't go into a lot of detail other than to say we agree with what Mr. Lufkin and Mr. Usibelli have said about the up-front payment -- or the 30-year payment versus up front. From everything we've seen with Oregon Climate Trust we think that a lot more can be done to reduce carbon output with an up-front payment. And we are also concerned about the five percent administrative cost allowance; although, we do certainly appreciate that at least there is an allowance for administrative costs in this plan. I think just overall our biggest concern is that it really is at best a second best effort compared to Oregon, and we think that on this we should at least be matching Oregon, and that would hopefully be a stepping stone for the rule making process for doing something better than Oregon to truly to do something about Washington's contribution to the problem of global warming.

CHAIR LUCE: Thank you. Any questions from Council Members? Mr. Golden, do you have some comments for the Council?

MR. GOLDEN: Brief ones and one piece of paper. If you would start on the side that says Proposed Satsop Mitigation in Perspective. Thank you, Mr. Chairman and Council Members. I will not speak to the details of the proposal before you. They have been spoken to well, and we support the comments of the Energy Coalition and the comments that Mr. Usibelli just made. I want to speak just briefly with the handout that I've just given you to the basic issue of scale and how much of this risk are we really recognizing and allocating and reducing in this one-time very long-lived state policy decision to site a power plant. And my simple plea to you is that this scale of this mitigation is simply not in keeping with the scale of the response that we need to mount on this problem. The scale problem is in part a function of the up-front payment or the lack of an up-front payment which does reduce the environmental effect that's achieved. It's in large part a function of the price per ton which, of course, delivers significantly less than the Oregon standard advertises it would deliver. But fundamentally it's just a product of shooting too low in the face of the problem right now.

The chart you have before you, the one that says In Perspective shows that siting this plant even with this very modest mitigation allows for a very significant increase in Washington CO<sub>2</sub> emissions. On the flip side, Proposed Mitigation in Larger Perspective, it shows that increase in the next to the last bar, the net increase in emissions. The mitigation is barely visible on this chart, and then it shows just for perspective the reduction in state-wide CO<sub>2</sub> emissions that would be necessary to meet Kyoto. I would frame this in that context because, Mr. Chairman, you asked if this is still the second best action by a state, and the answer is siting this power plant is all on the upside of zero. This is a net increase to the state's greenhouse gas emissions at a time when many states are undertaking policies to deliver net decreases. And, of course, meeting Kyoto or McCain-Leiberman or any of the policy objectives to reduce greenhouse gas and actually address the problem involve reductions below zero, below today's baseline, below 1990 baseline.

This mitigation package is just about how much of this increase will we lob off the top. It's still a very substantial net increase at a time when other states and the rest of the advanced economies of the world are mobilizing for significant reductions. So I just think it's important to keep it in that context. That's obviously a somewhat bigger context than the siting of this plant. But to me it suggests that when we're going to make a very long-lived decision about a major increase in the State's emissions, we need to begin now to allocate and reduce a significant portion of that risk, and this mitigation package doesn't get to that standard.

And, finally, just to say that in the context regarding of what you think about the environmental merits of the mitigation package or the plan in general, I think it's now very difficult to argue that we will not see binding constraints on carbon emissions in the economy in the very foreseeable future. We now have all the rest of the world's advanced economies having committed to that. The McCain-Leiberman bill, which I'm not sure if you all are familiar with, but it's the first piece of national legislation that would have a binding reduction on the U.S. economy. It may be voted on in the Senate as early as this week, perhaps next week in the context of an energy bill. Probably won't pass this year but will probably get a very substantial amount of the votes, and assuming that you believe the science, there's sort of an exorable process of starting to reap the effects that is going to lead -- there is a scientific limit on how much carbon we can safely put in the environment, and that will be reflected in policy action certainly within the life of this very long-lived investment.

And so, again, my plea to you on this is that you're at the front end. You're making the beginning decision on a fossil fuel burning facility that will last for a very, very long time, and this risk and this cost will be part of the backdrop of any fossil fuel facility for the foreseeable future, and I hope you can be more to address and allocate and reduce this risk.

CHAIR LUCE: Thank you.

MR. GOLDEN: Thank you.

CHAIR LUCE: Questions from the Council? Ms. McGaffey, do you have any further comments?

MS. MCGAFFEY: Yes, I guess I would like to make a few additional comments in light of the comments you've heard. Unfortunately I haven't been provided with any of the written materials that have apparently been submitted either at this meeting or prior to it, so I can't really respond to those. But I do want to respond to some of the general themes that have been discussed. And, quite frankly, many of the points that you've heard today I think are somewhat valid in the context of the rule making policy discussion that the Council has also been or has been taking place with respect to EFSEC standards and will continue when the Council begins to address a greenhouse gas rule.

But I think for the Satsop mitigation plan the history of the Satsop permitting is extremely important, and that's what makes it different from general policy discussions about greenhouse gas mitigation. The Satsop project was permitted back in 1996 for 490 megawatts of capacity were permitted with no greenhouse gas requirement at all. That's what distinguishes it from other projects. Here we're only talking about an additional 140 megawatts to which the Council suggested that mitigation would be appropriate. Now the only project that the Council has addressed that is similar to that is the Chehalis project, and through the course of several months of discussing mitigation programs the Council in executive committee sessions made very clear to Duke that they wanted to see the Satsop project propose more than the Chehalis proposal because they were dissatisfied with what the Chehalis proposal turned out to be. And I think there's no question that Duke has done that. So you already have a situation in which Duke is volunteering to do much more than the only other similar project that the Council has considered and approved mitigation for. What Duke is proposing to do is something close, very much akin to what the Council approved in the Sumas case. And remember at Sumas you were permitting 660 megawatts capacity, much more than the capacity that is at issue here.

Now, two issues have been discussed today, the 30-year issue and the administrative costs issue. Let me just touch on those briefly. Comments have been made that it's inappropriate to stretch the pay out over 30 years, and that that somehow makes the proposal significantly less than the Sumas proposal. Two things I want to point out to you.

First of all, unlike the Sumas proposal this proposal includes an escalator clause that increases the price per ton that's paid each year to take into account for the fact that it's being paid out over 30 years.

Secondly, remember Sumas was trying to mitigate a whole 660 megawatts. Here Satsop is only required to mitigate 140 but yet they've adopted essentially the same formula that the Sumas proposal has used. In my mind that doesn't make this proposal second best to Oregon. The Sumas proposal might be second best to Oregon. I think for Satsop we are now better than Oregon. This is now the best mitigation in the country because you have the amendment allowed only 140 megawatts of increased capacity; yet, the mitigation is being calculated based on the 630. It seems to me all of those tradeoffs are important to consider when you consider

approving the project. It's not simply a matter of the 30-year assumption being traded off for a lump sum payment.

There is also the reason that 30-year assumption is appropriate is because you're assuming maximum potential emissions even though we know it won't be operating at a hundred percent capacity all the time. You're taking into account that there's an escalator clause, and the formula is being driven by the full capacity of a facility even though the vast majority of it was permitted without a mitigation requirement.

Let me comment briefly on administrative costs. The plan proposes five percent. That's what's proposed in Oregon. That's five percent more than the Council approved in the Sumas project. When you go into your rule making, you may decide that more or less than that is appropriate, but we believe that setting the five percent limit creates an incentive for the program to be administered efficiently, while I think there's some truth to Tim's comment about administrative costs being higher when you're dealing with small amounts of money. That's why Duke proposed the plan be administered through the Climate Trust, so they can combine this money with other money that they're getting from other projects, and they're administering a much bigger program than just the amount of money that's coming from Duke. That's precisely why companies like Duke prefer to fund a program administered by an expert third party rather than to set up these kind of mitigation programs on their own. By pooling that money and taking advantage of the expertise that the Climate Trust has they can implement these programs efficiently at low administrative costs.

Finally, I just want to remind the Council that this is a project that is currently not under construction. Because of conditions in the wholesale power market it is not currently economically viable. I think that casts considerable doubt in comments you've heard earlier from the Counsel for the Environment who dismisses these kind of mitigation costs as, you know, they're not going to make or break the project. Every dollar that gets added onto this project is going to make it harder to start up again. It's a project that I think from the standpoint of anyone who's concerned about greenhouse gas levels this is the kind of project you want built and providing electricity. This is a highly efficient combined cycle project. It's much better for these projects to get built than for the state to continue to rely on coal projects or peaking plants fueled by natural gas oil. This is the kind of project that is good for the state. It's good environmentally. It's good for greenhouse gas emissions, and for every dollar you add onto that, you make it harder to build. For that reason I ask you to accept the plan as it is proposed. Thank you.

CHAIR LUCE: Thank you. Any other comments from members of the public? Well, Council Members, here we are.

MR. CARELLI: Didn't you have a doctor's appointment?

CHAIR LUCE: No.

MR. CARELLI: That's you, Mr. Carelli.

CHAIR LUCE: Any discussion? The issues are pretty clear here. I'm not going to repeat the arguments that I've made. Do you want to do that?

MR. CARELLI: No, I think I'm going to make a motion that we accept the greenhouse gas as submitted with the revision that I suggested; that is, that the administrative costs be increased not to exceed ten percent.

CHAIR LUCE: Okay. Do we have a second to that motion?

MR. FRYHLING: I'll second that.

CHAIR LUCE: All right. Discussion among the Council Members.

MR. IFIE: I think the discussion that we had before was that we should -- I mean the direction I thought we were going was accept the plan or to consider accepting the plan as submitted as opposed to make any modification.

CHAIR LUCE: Right.

MR. IFIE: The reason I'm thinking about that is that because the legislature has not passed any greenhouse gas mitigation or requirements. The federal government has not passed any requirements. We're depending on the Applicants to volunteer, to make a voluntary proposal, and this Applicant has submitted a proposal to us. It seems to me that we shouldn't make it tough for an Applicant that volunteered to make this kind of proposal. I believe that this proposal is a stronger proposal than the Sumas proposal if we accept it. I am leaning towards saying let's consider the proposal as submitted.

CHAIR LUCE: We have a motion on the floor with a second, so I think the first thing -- and I've consulted with legal counsel and discussed with Sue whether she should participate in this, and having not read or heard the different testimonies we had before she's decided not to vote on this issue. Is there a call for the question with respect to Mr. Carelli's amendment?

MR. CARELLI: I'll call for the question.

CHAIR LUCE: Clerk, please read the roll. This is on the motion to accept with Mr. Carelli's amendment.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling, aye.

MR. MILLS: Department of Ecology.

MR. CARELLI: Charles Carelli, aye.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie is nay.

MR. MILLS: Chair.

CHAI LUCE: Nay.

MR. MILLS: The vote is two to two.

CHAIR LUCE: Motion fails. Does anyone else care to make a motion?

MR. IFIE: I would like to make a motion to accept the proposal submitted by Duke.

CHAIR LUCE: I will second that motion.

MR. CARELLI: Discussion?

CHAIR LUCE: Discussion.

MR. CARELLI: I know Mr. Sweeney had some fairly strong feelings. I wonder if it wouldn't be appropriate to consider this at a time when he is present and is able to vote on the matter.

CHAIR LUCE: We had a vote, and I would like to continue to have the vote today. And if we can't resolve it today, then we certainly will have it when Mr. Sweeney is present. So we have a motion and a second. Call for the question.

MR. CARELLI: Question.

CHAIR LUCE: All in favor.

MR. IFIE: Aye.

CHAIR LUCE: I think it's going to fail two to two.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling, nay.

MR. MILLS: Department of Ecology.

MR. CARELLI: Mr. Carelli, nay.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie, aye.

MR. MILLS: Chair.

CHAIR LUCE: Aye.

MR. MILLS: The vote is two to two.

CHAIR LUCE: All right. Motion fails. Up to 7-1/2?

MR. CARELLI: The Chair offers kind of a middle of the road solution, and that is a 7-1/2 percent administrative fee as opposed to five and/or ten percent.

CHAIR LUCE: Which the Chair will not offer again.

MR. CARELLI: And I'm just wondering if there's any discussion on the appropriateness of making that kind of a decision at the spur of the moment? If that is offered in the form of a motion, I guess I would support that.

CHAIR LUCE: I would offer that in the form of a motion.

MR. CARELLI: Having said I would support it, I would second that.

CHAIR LUCE: All right. The motion on the table is to adopt the proposal of the Duke Power Company for the greenhouse mitigation with one variation which would be administrative costs at up to but not to exceed 7-1/2 percent. Call for the question.

MR. CARELLI: Question.

CHAIR LUCE: All in favor say aye.

MR. FRYHLING: Aye.

MR. CARELLI: Aye.

MR. IFIE: Is there going to be any discussion?

CHAIR LUCE: Discussion.

MR. IFIE: I still feel very strongly on principle that we should leave the proposal as submitted. It's not an issue of the 2-1/2 percent up or down increase, but I believe that the proposal we've given a lot of input, worked with the Applicant in developing this proposal, and I believe that it will not be a good fit for us at this last moment to come up with modifications. So that would be my comments on the motion before the Council.

CHAIR LUCE: I believe in the same thing, Tony, but I think Arthur Conan Doyle has a story involving Sherlock Holmes called the 7 1/2 percent solution, and it seems to me that compromise is important. Mr. Sweeney who is not able to be with us right now also has strong feelings, and I think that there's also value in certainty. And the company is trying to finish this project as soon as possible, and there's value in the company having certainty with respect to what is going to be required. I think up to 7-1/2 percent, an additional 2-1/2 percent in administrative costs is reasonable. It's not what I would prefer. Sometimes compromise is the art of getting not what you prefer but what is possible, and I think meeting the Council on this issue that is a reasonable middle ground. It's not one that the Chair prefers but one that will put this issue behind us and let the company get forward with hopefully completing this project. So that's the basis for my suggested compromise.

MR. IFIE: May I have another comment?

CHAIR LUCE: Yes.

MR. IFIE: I think the last thing is as discussed earlier this is not rule making. This is discussing the issue with respect to this project, so I hope we don't use this for the business for the rule making discussion. This is one situation. You know, the circumstances are unique, and I hope this doesn't become something that we use.

CHAIR LUCE: I hope not too. I mean the value in rule making is consistency across the board and not on a case -- well, I guess you could make rules on a case-by-case basis, but it's not the

best way to establish a rule. So I agree with you, and hopefully we will bring this rule making process to some furtherance with respect to CO2 in the very near future, and then we can have that discussion which I agree will also be a very principled discussion. And I am sure we'll have lots of comments from the public at that point in time.

MR. FRYHLING: I would like to call for the question with a roll call vote.

CHAIR LUCE: Call for the question has been made.

MR. MILLS: Community Trade and Economic Development.

MR. FRYHLING: Dick Fryhling votes aye.

MR. MILLS: Department of Ecology.

MR. CARELLI: Charles Carelli, aye.

MR. MILLS: Department of Natural Resources.

MR. IFIE: Tony Ifie, aye.

MR. MILLS: Chair.

CHAIR LUCE: Aye.

MR. MILLS: The vote is four to zero.

CHAIR LUCE: Thank you. The matter is resolved, and the next item on the agenda is the Chehalis Generation Facility. Tom Schneider is not here, but I note the presence of the two representatives from this project. Gentleman and Lady, please stay seated, but I overread the agenda, and we do have a report from staff on the status of this Satsop project.

<i>Status Report</i>	<i>Mike Mills, EFSEC</i>
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MR. MILLS: I would just note that Andy McNeil called me this morning and was having back problems and was not able to attend the meeting. He did want to remind the Council that the project is in a deferral mode. They presently have eight people on staff that are doing inventory and maintaining equipment type activities. Staff also had an opportunity to visit the site last week to look at the storm water pond, and I've asked Michelle just to brief the Council on that site visit and how we're planning on proceeding.

MS. ELLING: Yes. At the executive committee as you recall the Council gave direction to staff and also to Duke to look at repairing the C-1 as opposed to building a new storm water pond, and so Mike Mills, myself, Lauri Vigue from Fish and Wildlife, and also Bob Kingsman of the Department of Ecology went out to look at the site and to see what would need to occur to actually repair the pond. They're looking at actually building a new controlled outfall. Right now the pond is not meant to discharge past the face of the dam, and so they're going to actually be coming back to the Council with designed drawings on how to build a controlled outfall and do repairs to the dam. And at that point then Fish and Wildlife and staff will go back out and Ecology will go back out to the site and take one more look.

CHAIR LUCE: Thank you. Questions from the Council? Will we be able to accomplish this within the construction season?

MS. ELLING: That is our intent.

CHAIR LUCE: All right.

MR. MILLS: I would like to thank Chuck Carelli for making available Ecology staff for that site visit. Thank you.

MR. CARELLI: Sure.

## **ITEM 8: CHEHALIS GENERATION FACILITY**

CHAIR LUCE: And now we will move ahead to the Chehalis Generation Facility.

MR. McCAIG: Thank you. Good afternoon. Thank you for the opportunity to provide an update on the construction progress of the Chehalis Power Project. My name is Duncan McCaig. I'm the plant manager. With me today is Kaye Emmons, one of our plant engineers. We have a handout of the construction progress. While Kaye is providing the handout, I will just summarize the start-up and testing activities because that's primarily where we are today. To date we have actually conducted three and we're conducting a fourth test of the facility. Unit No. 1 first fired or first ignition was conducted on May 20. Unit 2 first fired with minor steam blows, meaning steam cleanings were conducted May 31 through June 1, and then last week Thursday and Friday, June 5 and 6, we concluded our first synchronization of Unit 2 along with the complete steam blows; that is, cleaning of the piping associated with the No. 2 Unit. We are providing the Council a summary of the pending testing activities as we see them with approximate dates.

Today we are conducting a green rotor run, basically testing of the Gas Turbine No. 1, and later in the week we will be synchronizing Unit 1 conducting full steam blows or steam cleaning for that unit. Then this weekend or early next week we plan to conduct combined steam blows, that is operating both gas turbines under sufficient load to produce enough steam to clean the piping. Then moving further, we will be restoring the piping back to normal and then in early to mid July we plan on tuning or adjusting the dry low NOx combustors for the gas turbines, and then followed by testing on fuel oil. Then we will begin rolling the steam turbine in late July to early August. That will be followed in mid to late August by plant performance testing and emission testing. We plan to obtain certificates of the continuous emissions monitoring system in mid to late August and conclude our testing in early September with a 7-day reliability test on the unit. Are there any questions regarding the testing? With that, Kaye will give a summary of the present status of construction testing.

MS. EMMONS: Thanks, Duncan. Everyone knows how the weather has been extremely nice. The site is in good shape. We have no storm water problems. Obviously we haven't had the rain, and construction work is ramping down. There were no recordable safety incidents during the month of May, no environmental incidents. Personnel as you can see, is down considerably. I remember a couple months ago it was up to almost 600. We have a total of 256 on site including the permanent staff, the construction contractor, and subcontractors. Engineering procurement is essentially complete as is our operator training, although we do have continuing training that's ongoing. But the major training has been completed along with the structural and concrete work. The major equipment, our combustion turbines obviously are complete. They're just going through their testing phases now. The heat recovery generators have been in service into a company. The combustion turbines they're continuing finishing up insulation and painting those units. We have completed commissioning the fans on the air-cooled condenser, and the steam turbine has been successfully placed on turning gear, and they're continuing to check out their controls and everything in preparation for the run in 1 July. Piping is complete except for when they need to reconfigure the piping after the steam blows. There's some minor work remaining on instrument tubing and electrical terminations for the heat tracing, etc., that is going on as we do our testing. A lot of the painting has been done on the site. The major painting activities are just the HRSG's at this moment.

And as Duncan said we're continuing to work on control lube checks. We are using a control room. You can see in the pictures the control room is functional and they are controlling our equipment in large part from there through the testing period, and we're continuing to finalize and check out the remaining lubes that have not been put in service. And when we ran the Combustion Turbine 2 and synchronized to the grid, we ran at about 25 megawatts on average for 24 hours and that did quite well. And the closed cooling water system has been commissioned and placed in service to support these activities. Our water treatment system is continuously in service supporting the steam blows as well, and as we mentioned earlier the steam turbine has been on turning gear as required and all steam controls check out continue. That's all I have. If there's any other questions.

CHAIR LUCE: Question of Council Members?

MR. CARELLI: Commercial operation starts?

MS. EMMONS: Is that provisional acceptance?

MR. McCAIG: Provisional acceptance, schedule for provisional acceptance.

MS. EMMONS: Is mid to late August following the performance test.

MR. CARELLI: My question was when does commercial operation start or is that.

MS. EMMONS: Well, depends on whose definition.

MR. McCAIG: Typically commercial operation would start shortly after provisional acceptance. That's a corporate decision from Houston.

CHAIR LUCE: Just in time for those big power sales contracts to California. Actually, no, the wrong season, but, you know, maybe it will remain hot during the balance of the late summer, early fall.

MR. McCAIG: That would be nice. Unfortunately we don't have transmission rights to California.

CHAIR LUCE: You can talk to PGE or Bonneville.

MR. MILLS: Jim, I would like Duncan to address one issue.

CHAIR LUCE: Yes.

MR. MILLS: Staff did receive a phone call from a local citizen regarding a noise associated with some of the start-up activities. I had a chance to meet with Duncan and Kaye and Tom Schneider last Friday. I would like them to go over some of the efforts that they're making in responding to that and reducing the noise associated with the testing.

MR. McCAIG: Okay. Thanks Mike. During the testing activities since May 25, we have been contacted by a number of neighbors in the area, and as you can imagine it's because of the noise during testing. This area has been a rural area, although it's zoned commercial/industrial, and the noise levels during construction have been relatively light. We are experiencing start-up testing noises that are higher than they will be during operation, and so this sudden ramp up of noise has resulted in some calls from about six to eight neighbors all together. So Tom and I have made some considerable effort to address this issue with the neighbors. We have either phoned or met with each of the individuals who has contacted us, and we have also attempted, have made contact with five to six other neighbors around the plant. We have also contacted the city manager, city mayor, county commissioners, KELA radio station, and John Mudge of the CIC, and in each of the cases we've explained to the individual that the noise is temporary, the construction noise, the start-up noise, and we are taking measures to further reduce it, and moreover that the noise level is higher than we will have during operation.

The noise comes from a number of areas, vacuum trucks which are needed for the testing to pull a vacuum in the air-cooled condenser, start-up vents which will certainly be used in operation

but will be open for a much shorter period of time, noise from the scouring of the piping by the steam -- that's the steam blows -- also water feed water pumps and various construction vehicles and equipment that are on the site operating while we're doing the testing. We have taken a number of steps to reduce the noise.

First and foremost the contractor is using a method that we feel is excellent in minimizing the noise, and that is instead of the traditional steam blow to the atmosphere which can be very loud, the steam is going into the large air-cooled condenser, and so much of the noise is captured in the air-cooled condenser. But beyond that we've also relocated the vacuum trucks indoors, and that's resulted in a considerable reduction in noise. We worked with the contractors to close the steam vents as soon as possible. We've identified noisy valves, and we have wrapped those and barricaded those. We've also worked with a contractor to minimize the testing during the weekend when people tend to be at home and want to relax, and we have also barricaded some of the noisy construction or noisier construction equipment. So we are continuing to take efforts to reduce the noise, and we also are indicating to the neighbors that this period of steam blow testing is coming to an end. We estimate we have about one more week or a little over a week of that kind of testing, and then we will be off into a set of tests that are more like normal operation.

CHAIR LUCE: Thank you.

MR. McCAIG: Thank you.

#### **ITEM NO. 9: WALLULA POWER PROJECT**

<i>Status Report</i>	<i>Scott Noll, Competitive Power Ventures</i>
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CHAIR LUCE: The next item on the agenda is the Wallula Power Project status report.

MR. NOLL: Hello, Mr. Chairman. How are you today?

CHAIR LUCE: I'm fine. Thank you.

MR. NOLL: Council Members, how are you? Staff, it's good to see you again. It's been a while. My name is Scott Noll, and I work with Competitive Power Ventures, the owner of the Wallula Power Project. I'm here to give you just a brief update and answer any questions that you have. There are three things that I want to talk about. One is kind of our brief viewpoint of the status of the power market which is holding up a lot of the projects; Second, a transmission dialogue that we are having with BPA; and Thirdly; specific actions pertaining to our site options and extending those.

With respect to the market, you know, it's not news to you that in general market prices are lower and have been a bit depressed, and given all the problems that came out of California the aggregate demand for electricity has dropped considerably from where it was even two and a half years ago. And in the face of that we have had to change our marketing approach from what it was originally conceived to be, and currently like many others we're talking to the public utilities, as well as the investor-owned utilities.

With respect to the publics, a lot of them right now are not in a commitment or decision making mode. They're currently caught up with this SNCRAC or safety nut cost recovery adjustment cause process where BPA has come back for another percentage increase to rates. And then in addition they're going through this customer choice program or customer choice dialogue which is really a discussion between the publics and BPA about kind of what the future of BPA will be beyond the 2006 contract period. The primary question there is whether or not BPA will have any responsibility long term for providing power longer term to the publics beyond what their

current hydro resources are. In talking to BPA and some of the publics, it's not anticipated that that process will get resolved probably until early fall, and that may be optimistic. I don't know. But until that's determined, the publics really don't know where they stand with respect to how much power they can count on long term from BPA, so they're really waiting until that's ironed out to make resource commitments. So we're really kind of in a waiting game with the publics right now.

With respect to the IOUs, you've probably been reading a lot in the press about the different IOUs, Puget Sound, Portland General, and PacifiCorp looking at issuing requests for proposals. We're right on top of that and along with others in the industry we'll be actively participating both in how those are formulated and hopefully in responding, so we're working on the markets. I don't have anything to report to you, but it's safe to say that in the current environment until we are able to secure contracts we probably will not proceed with the financing of the project and construction.

In terms of the issue of transmission, we're on the east side as you know and related to our project was all of the work done with respect to the identified McNary-John Day transmission line; that that line would be required in order for Wallula to get firm transmission service from the receipt point which is basically our power plant over to where our delivery points were. The Northwest Independent Power Producer Coalition has initiated a discussion with BPA about trying to see whether or not the seasonal product might be available whereby you could forego firm transmission right during the hydro flood conditions. And without building a new line, there might be some capacity for nine months out of the year, and so that might be good news for those people that are in a position to sign up for that product if indeed in the end BPA offers that product. So that's a discussion. It's kind of in the very early stages right now with BPA but will continue on.

And then finally we are just taking care of business with respect to our underlying site options. We have verbal agreement with the Wake property which is the property remember when Benton County they were proposing for the provision the offsets by converting that from this current fellow crop dry land rotation to a full time dry land grass environment. We've also had verbal discussions with the winds with respect to the Jayso property which is the 90 acres right south of our project, and they're also willing to work with us on an extension there. And then finally we're in discussions with the Port of Walla Walla about reconfiguring that agreement and extending it also. So those are all active, and all of them should be completed within the next thirty to sixty days.

CHAIR LUCE: Thank you, Scott.

MR. NOLL: You're welcome. Any other questions?

CHAIR LUCE: Questions from Council Members? Hearing no questions, questions from the public? Hearing no questions, Thanks, Scott.

MR. NOLL: You're welcome.

## **ITEM NO. 10: ENERGY NORTHWEST PROJECTS**

### **Columbia Generating Station**

<i>Operations</i>	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: John's not here.

MR. MILLS: Staff will make a brief report on the plant status for the Columbia Generating Station. I believe there's a handout. John notes that today is the 32nd day of the planned 34-day maintenance and refueling outage. To our knowledge the outage has gone well for the plant, and they will be restarting at the end of this week. I believe usually there's a three- to four-day period that it takes to do the start-up, and so I would expect by next week that they would be back at full power.

John also provided information on the condenser scale removal project, and I've asked Michelle to just review the status of that project, and then she has some additional information based upon how we are going to proceed with that project. So, Michelle, could you go ahead.

MS. ELLING: Just to bring the Council back up to speed here, the Council issued Resolution 306 authorizing the use at their request for condenser scale removal at the Columbia Generating Station, and that was approved subject to some conditions. The company did that cleaning in late April, early May and did set up the piping that went over to WNP-1 and 4. They ended up with approximately 13 million gallons in the WNP-4 pond and 6.2 million gallons in the WNP-1 pond.

Once they got done with that condenser scale cleaning and they felt it was successful, they removed the piping to those ponds, and they tested the water and discovered that in WNP-4 the copper level was 0.31 milligrams per liter which is in excess of their NPDES permit for discharge into surface water, and in WNP-1, it was 0.4 milligrams per liter. So according to the resolution at this point, they were to develop a plan for ultimately discharging that water that's temporarily being stored in these ponds. We expect that plan to be submitted this week to both the EFSEC staff, to Fish and Wildlife, and also to our Ecology contractor, Jeff Farris, out at the Kennewick office. We are going to review that plan and go out on site on June 24 when they're going to propose how they're going to ultimately discharge that water. Staff expects, if necessary, if we need to amend this resolution that will come before the Council at the next regular Council meeting on July 14.

CHAIR LUCE: Great. Thank you very much. Anything else?

MS. ELLING: No.

<i>Site Restoration</i>	<i>Mike Mills, EFSEC</i>
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CHAIR LUCE: Mike, do you have something on WNP-1 and 4? The saga continues.

MR. MILLS: I'm always optimistic that we'll have something new to say, but unfortunately we don't.

CHAIR LUCE: The saga continues.

MR. MILLS: So we're still waiting for discussions between the Governor's office and the U.S. Department of Energy regarding possible meeting and signing what's referred to as the four-party agreement.

CHAIR LUCE: All right. Well, thank you very much.

## **ITEM 11: EFSEC RULES**

<i>Topic Discussions</i>	<i>Tony Ifie, Natural Resources</i>
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CHAIR LUCE: EFSEC rules topic discussion. Tony.

MR. IFIE: Yes. From executive council meeting we approved three, four rules to be put on the web site, and those rules that have been approved and put on the web site are Foundation Rule,

Water Quality Rule, Air Quality Rule, and Council Member Salaries Rule. So I'm assuming those will be put on the web site effective tomorrow. Any discussion? Any questions?

CHAIR LUCE: Do I hear a motion in favor of putting those on the Council web site?

MR. CARELLI: So moved.

MR. FRYHLING: Second.

CHAIR LUCE: All in favor say aye.

COUNCIL MEMBERS: Aye.

CHAIR LUCE: So, Irina, are you the keeper of the web site? Michelle is keeper of the web site. That would be appropriate. Which other rules do we have yet to take action on? We have a number of them, but we have need for power. We have CO2.

MR. IFIE: NPDES. We are getting to where we need to do a comprehensive review of the entire WAC revision.

CHAIR LUCE: I think we are looking at something with respect to SEPA and how we structure the application that is brought before the Council.

MR. IFIE: Correct.

CHAIR LUCE: So I guess I just give everybody here a heads up with respect to CO2 and need for power. My best guess is, and it's only a guess, is that we will be bringing that forward to the Council for its discussion sometime in the middle of July. And if the legislature would leave town earlier, that might be possible to bring it earlier. But quite frankly we are having discussions as you might guess within the administration on these issues. Just to give them a heads up on what we are thinking about, they're very preoccupied right now with a number of legislature issues that are carryovers from special session. So that would be my expectation. So heads up. Anything else for the good of the order?

## **ITEM 12: OTHER**

MR. MILLS: I have one item.

MS. MAKAROW: And I have two items.

CHAIR LUCE: Let's start with the right.

MS. MAKAROW: In your packets I included a copy of the most recent Compliance Assurance Agreement for air programs and for the benefit of the new members who have not seen this document before, this is an agreement that EFSEC has entered into along with EPA Region 10, Ecology, the local air pollution control agencies, and the Department of Health, although they are not listed on the front cover. And the purpose of this agreement is to lay out rules and responsibilities of the various agencies in administering the Clean Air Act in Washington State and especially as it applies to violations and how violations are found through inspection, the inspection processes and how they are dealt with. EFSEC staff has been participating in the revision of this Compliance Assurance Agreement to make it clearer to all the parties as to who does what, and the document you have before you is the final version that's being agreed upon, and it has already been signed by the EPA, Ecology, possibly by the Pollution Control Agency, and it will be coming to our Chair, Jim Luce, for signature shortly. So I just wanted to let you know we have been working on this.

The second item is with regards to the Sumas Energy 2 request for proposals. There is a monthly update that was included in your packets; however, late last week the certificate holder did contact staff and requested if they could extend the period for receipt of proposals for an

additional two weeks. That period was to end last Friday. They knew that there were a number of projects out there that were actually quite interested in submitting proposals, and EFSEC staff communicated with Chair Luce, and we granted their extension. So they will be receiving proposals for the next two weeks, and then later in August they will be submitting a plan to EFSEC with regards to how they propose to mitigate NOx and PM10 emissions in the Fraser Valley air shed.

CHAIR LUCE: Mike.

MR. MILLS: Finally, we were contacted by an attorney for Weyerhaeuser indicating that they're going to request that the Cowlitz Cogeneration Site Certification be terminated. A lot of people in this room probably don't remember that project, but that's a certified project. It had a ten-year certification period, and that period would end in 2004, and the project has not been pursued in any way. And they contacted Allen this morning and indicated they would work with staff to review the termination procedures, and we expect that they will submit a formal request.

### **ITEM 13: ADJOURN**

CHAIR LUCE: Thank you. Anything else from Council Members? Anything else from staff? Anything else from the public? The meeting stands adjourned.

(Whereupon, the Council Meeting was adjourned at 3:24 p.m.)

#### **Appendix 4:**

Satsop Combustion Turbine Greenhouse Gas mitigation plan approved June 9, 2003.

**SATSOP COMBUSTION TURBINE PROJECT  
GREENHOUSE GAS MITIGATION PLAN**

**APPROVED June 9, 2003**

**By**

**STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**SUBMITTED BY  
DUKE ENERGY GRAYS HARBOR, LLC**

## INTRODUCTION

In 1994, the Washington Public Power Supply System (now "Energy Northwest") filed an application with the Energy Facility Site Evaluation Council (EFSEC or "the Council") to construct a 490 MW combined-cycle combustion turbine project at the Satsop site. After holding an adjudicatory hearing, EFSEC recommended a Site Certification Agreement (SCA) for the Satsop Combustion Turbine Project, and the Governor executed that SCA on May 21, 1996.

The topic of greenhouse gas mitigation was addressed during the adjudicatory hearings in 1996. Evidence indicated that the facility would emit up to 1.778 million tons of greenhouse gases a year. During the hearings, the applicant and the Counsel for the Environment disagreed about whether the Council should require mitigation for those greenhouse gas emissions. Ultimately, the Council decided not to impose a mitigation requirement. The Council found that "the Satsop CT Project uses the latest reasonable technology and that it will produce lower emissions of greenhouse gases than older natural gas combustion turbine facilities or other fossil fuel facilities." Order No. 694 at 13-14.

Among other things, the Council concluded that "[b]urdensome greenhouse gas mitigation . . . could place the Applicant at a competitive disadvantage within the power producing market and deprive the market of a very efficient power producing facility. Balancing the respective interests, and recognizing that emission technology will advance and greenhouse mitigation measures may be enhanced as time passes, the Council will impose no fixed requirement upon the Applicant. . . . If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program . . ." Order No. 694 at 25. Accordingly, the original SCA provided that:

If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program, considering and appropriately crediting any measures that the Certificate Holder has accomplished. SCA Article VI.B.2.

In 2001, the Council added Duke Energy Grays Harbor, LLC ("Duke Energy"), to the SCA as a Certificate Holder, and together Duke Energy and Energy Northwest requested a technical amendment to the SCA to allow the use of currently available equipment in the CT facility. The equipment change resulted in an increase in the facility capacity from 490 MW to approximately 630 MW.

The Council granted the technical amendment on April 13, 2001, by Resolution No. 298. In Resolution No. 298, the Council acknowledged that the increase in the facility's capacity could result in an increase in the facility's carbon dioxide (CO<sub>2</sub>) emissions, and stated that the Council had authority to compel the Certificate Holders to prepare and implement a carbon dioxide mitigation plan. Although the Satsop CT facility now has the potential to emit more than 1.778 million tons of CO<sub>2</sub> per year, under many likely operating scenarios, the actual annual emissions would not exceed the total volume of emissions that the Council and the Governor permitted in 1996 without any mitigation requirement. Both Resolution No. 298 and subsequent discussions with the Council

reflect the Council's intention to require the Certificate Holders to mitigate only those CO<sub>2</sub> emissions that exceed the previously-permitted amount.

Duke Energy has developed this Greenhouse Gas Mitigation Plan over the course of several months, in consultation with Council members and with careful consideration of comments provided by other interested parties. The mitigation plan set forth below is based upon the mitigation plan that the Council approved for the Sumas 2 Generating Facility, which in turn was based upon the mitigation requirements established by Oregon statute and regulations.

In evaluating the mitigation plan, however, it is important to keep in mind that the Satsop CT Project differs from the Sumas 2 project in one very important respect. EFSEC approved the vast majority of the CO<sub>2</sub> emissions from the Satsop CT Project in 1996 (those attributable to 490 MW of the now 630 MW facility), without imposing any mitigation requirement. In contrast, none of the Sumas 2 facility's emissions had been previously approved without mitigation. Nonetheless, to address EFSEC's concerns, Duke Energy proposes a mitigation plan that is relatively comparable to the plan approved for the Sumas 2 Project.

## **MITIGATION PLAN**

Duke Energy proposes that the mitigation obligation be based upon the maximum potential CO<sub>2</sub> emissions that exceed a rate of 0.675 pounds of CO<sub>2</sub> per kilowatt hour (lb/kWh) over 30 years of the facility's operation. The mitigation requirement would be satisfied on an annual basis by providing a fixed amount of funding per ton of CO<sub>2</sub> emissions to be mitigated to an approved organization for use in implementing CO<sub>2</sub> mitigation projects. In addition, the Certificate Holders will provide a fixed amount of funding to cover the organization's expenses in administering the mitigation funding.

This Mitigation Plan is generally based upon the mitigation plan approved by the Council for the Sumas 2 Generation Facility, which in turn was based on the requirement in effect in Oregon on June 29, 2001, the date on which the application for the Sumas 2 project was submitted to EFSEC. However, this Plan differs from the Sumas 2 mitigation plan in three important respects: (1) funding will be provided on an annual basis, unlike the Sumas plan which funded the entire obligation over the first five years of operation; (2) the price per ton will increase over time according to the Producer Price Index, and (3) funding for administrative expenses will be provided.

### **A. Calculation of Emissions Subject to Mitigation Requirement**

The Certificate Holders will mitigate potential CO<sub>2</sub> emissions from the facility that exceed the rate of 0.675 lb/kWh. The mitigation requirement will be based upon the facility's maximum potential emissions, rather than the actual emissions in any given year.

In order to determine the volume of emissions requiring mitigation, the Certificate Holders shall determine the facility's maximum potential annual CO<sub>2</sub> emissions and the corresponding maximum potential kilowatt-hours of electricity generated. The Certificate Holders shall then subtract from the maximum potential annual emissions the volume of emissions that would be associated with generating the same amount of electricity if the electricity were generated at a rate of 0.675 lb/kWh CO<sub>2</sub>.

For example, if the facility's maximum capacity were 630 MW and its maximum potential annual CO<sub>2</sub> emissions were 2.2 million tons, the calculation would be made as follows:

Facility's Potential Annual CO <sub>2</sub> Emissions 2,200,000 tons	-	Annual Emissions if 630 MW Generated at Rate of 0.675 lbs CO <sub>2</sub> per kilowatt hour 630,000 kw x 8760 hrs x 0.675 lb/kwhr	=	Emissions to Mitigate
		-----		
		2000 lbs/ton		
2,200,000 tons	-	1,862,595 tons	=	337,405 tons

Thirty days prior to the commencement of facility operations, the Certificate Holders will submit to EFSEC the calculation of the emissions subject to mitigation on an annual basis.

## B. Funding for Mitigation

The Certificate Holders will satisfy the mitigation requirement by providing a fixed amount of funding for each ton of emissions to be mitigated to an organization approved by EFSEC, as well as funding for administrative expenses as described below.

The amount of mitigation funding will be initially be fixed at \$0.57 per ton of CO<sub>2</sub> emissions to be mitigated. On the first anniversary of the commencement of commercial operation of the facility, and on the anniversary of that date of each year thereafter, the amount of funding per ton will increase from \$0.57 in the same percentage as the Producer Price Index has increased during the same period. For example, if the facility began commercial operation on January 1, 2004, and if the Producer Price Index rose by 3% from January 1, 2004 to January 1, 2005, the amount of any funding due for 2005 would be based on a price of \$0.587 per ton, which is 103% of \$0.57.

## C. Funding for Administrative Expenses

In addition to the mitigation funding described above, the Certificate Holders will provide the organization selected to administer the greenhouse gas mitigation funding with funding equal to seven and one-half percent (7.5%) of each annual payment of mitigation funding for use toward the payment of the organization's administrative expenses.

## D. Timing and Duration of Funding Requirement

The mitigation requirement will be payable by the Certificate Holders on an annual basis at the start of each of the first 30 years in which the facility is operating. Thirty days after the facility begins commercial operation, and on the anniversary of that date in each of the following 29 years, the Certificate Holders shall submit documentation to EFSEC demonstrating that the mitigation and administrative funding required under this mitigation plan has been provided to the organization approved to administer the funds.

#### **E. Approval of Organization to Administer Funds**

A qualified organization, such as the Climate Trust, shall be selected by the Certificate Holders to administer the funds provided for greenhouse gas mitigation. At least thirty days prior to the commencement of commercial operations, the Certificate Holders shall propose, for EFSEC's approval, an organization to administer the mitigation funding. The Certificate Holders shall provide detailed information regarding the proposed organization, including documentation indicating the organization's willingness to administer the funds and a description of how the organization intends to administer the funds. If EFSEC does not approve the organization proposed by the Certificate Holders, EFSEC shall specify an alternative organization to receive funding required under this mitigation plan.

At any time while the mitigation requirement is in effect, the Certificate Holders may propose to designate a new organization to administer mitigation funds in future years. EFSEC must approve any change in the administering organization.

#### **PREEMPTION AND SUNSET**

If a new state or federal law imposes requirements on the Certificate Holders to limit, mitigate or offset greenhouse gas emissions, EFSEC will support the Certificate Holders in obtaining credit under any such new laws, regardless of preemption, for early action for offsets already funded under this Mitigation Plan.

If any new state or federal law pre-empts this Mitigation Plan, to the extent that any carbon offset or funding obligation hereunder has not been met at the time of such change in law, the Certificate Holders may meet any such obligation through compliance with the new program, and further obligations under this Mitigation Plan will terminate.

## **Appendix 5:**

Feb. 2008 letter from GHE to Chair Luce about GHG mitigation plan compliance.

# Grays Harbor Energy LLC

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## Grays Harbor Energy Center

Jim Luce, Chair  
Energy Facility Site Evaluation Council  
P.O. Box 43172  
Olympia, Washington 98504

**Re:   Satsop Combustion Turbine Project – CO2 Mitigation Plan**

Dear Chairman Luce:

Grays Harbor Energy LLC owns and will soon begin operating the Satsop Combustion Turbine Project ("the Project"). The Site Certification Agreement for the Satsop site actually dates back to 1976, when a nuclear facility was proposed for the site. An SCA amendment in 1996 authorized construction of a gas-fired combustion turbine facility at the site, and several amendments since that time reflect subsequent changes in the Project design and ownership.

As you know, the Project was permitted before the Legislature adopted the CO2 mitigation requirements that are now found in RCW chapter 80.70. However, as part of one of the SCA Amendments, the Council required the Certificate Holder to develop a CO2 mitigation plan. Duke developed the "Satsop Combustion Turbine Project Greenhouse Gas Mitigation Plan," and the Council approved that Plan on June 9, 2003. A copy of the approved plan is enclosed.

This letter provides a summary of the approved Mitigation Plan, and then explains two proposals that Grays Harbor Energy will present for the Council's consideration at the Council's February 2008 meeting.

### **The Approved Mitigation Plan**

The approved Mitigation Plan contemplates that the Certificate Holder will make annual payments to a qualifying organization to be used to implement CO2 mitigation projects. The first payment is due within 30 days after the Project begins commercial operation, and annual payments are to be made on the anniversary of that date in each of the following 29 years.

Calculating the annual payment due under the Plan requires several steps.

Step One: Calculate the Maximum Annual Potential Emissions from the Project.  
This calculation is based upon the assumption that the Project operates at 100% capacity for 8,760 hours per year.

# Grays Harbor Energy LLC

## Grays Harbor Energy Center

We have calculated the Maximum Annual Potential Emissions for the Project to be 2,391,480 tons.

$$\frac{635,000 \text{ kW} \times 8,760 \text{ hours} \times 0.859843 \text{ lb/kWh}}{2000 \text{ lbs/ton}} = 2,391,480 \text{ million tons}$$

Step Two: Calculate the Amount of Emissions to be Mitigated.

The Plan requires the Project to mitigate only a portion of its CO2 emissions. To determine the Amount to be Mitigated, the amount of emissions that would be generated if CO2 were emitted at a rate of 0.675 lbs/kWh is subtracted from the Maximum Annual Potential Emissions calculated in Step One.

We have calculated the Amount of Emissions to be Mitigated each year to be 514,103 tons.

$$2,391,480 \text{ tons} - \frac{635,000 \text{ kW} \times 8,760 \text{ hours} \times 0.675 \text{ lb/kWh}}{2000 \text{ lbs/ton}} = 514,103 \text{ tons}$$

Step Three: Calculate the Mitigation Funding Due.

In Year One, the Project is required to provide funding at a rate of \$0.57 per ton of CO2 Emissions to be Mitigated. In future years, the \$0.57 mitigation rate increases according to the increase in the Producer Price Index.

For Year One, the Project is required to provide \$293,038.43 in Mitigation Funding.

$$514,103 \text{ tons} \times \$0.57 = \$293,038.43$$

Step Four: Calculate the Total Payment including Administrative Fee

Each year, in addition to the Mitigation Funding calculated in Step Three, the Project must pay an additional 7.5% to be used toward administrative costs.

For Year One, the Total Payment due would be \$315,016.31.

$$\$293,038.43 \times 1.075 = \$315,016.31$$

Council members will recognize that the approved Mitigation Plan is somewhat similar to the Oregon requirement that was in effect several years ago and it is also somewhat similar to the mitigation requirement that the Council included in the Sumas 2 SCA. However, the approved Mitigation Plan also included some important differences. Most notably, it allows the Project to make annual mitigation payments over 30 years, rather than requiring a single lump sum payment at the start of operation.

# Grays Harbor Energy LLC

## Grays Harbor Energy Center

### Requested Approvals

With that background about the Project's CO2 mitigation obligation, Grays Harbor Energy LLC requests the Council to approve two matters concerning the implementation of and compliance with the Mitigation Plan.

#### **(1) Administering Organization**

At least 30 days prior to the commencement of Commercial Operations, the Mitigation Plan requires Grays Harbor Energy LLC to propose for EFSEC's approval an organization that will manage and administer the Mitigation Funds. We request that the Council approve The Climate Trust as that organization.

We know the Council is familiar with The Climate Trust and as you know, The Climate Trust has extensive experience in administering CO2 mitigation funds. We are enclosing some additional information about The Climate Trust.

We are prepared to start making payments to The Climate Trust in April, if the Council approves it as the administering organization. The Climate Trust has expressed an interest in administering these Mitigation Funds, as indicated by the enclosed letter. We are in the process of finalizing a Memorandum of Understanding that we expect to be able to execute soon after EFSEC approves the Climate Trust as the administering organization under the Mitigation Plan.

#### **(2) Modify Funding Schedule**

As explained above, the approved Mitigation Plan requires the Certificate Holder to make mitigation payments each year for 30 years. Grays Harbor Energy LLC is prepared to comply with this payment schedule. However, when we approached The Climate Trust, The Climate Trust asked us to consider pulling forward some of the payments on a discounted net present value basis. The Climate Trust explained that it is easier for it to place larger amounts of money, and those larger projects mitigate more CO2 per dollar spent than smaller projects.

The Climate Trust has proposed that Grays Harbor Energy LLC make a lump sum payment in Year 1 to cover the first 7 years of operation, and then make annual payments for the remaining 23 years thereafter. The initial lump sum would be calculated based on the assumption that the \$0.57 per ton rate mitigation funding would increase by 2.5% per year (our estimate of the average expected annual increase in the Producer Price Increase), and a net present value determination using a 10% discount rate.

Based on The Climate Trust's assumptions about mitigation costs over time, we have compared the CO2 mitigation expected to be achieved with this proposal to the CO2 mitigation expected to be achieved through the original payment schedule. During the first 7 years, the comparison is as follows:

FIRST 7 YEARS	CO2 Climate Change Expects to Offset	Mitigation Funds Paid (including admin. fee)
Approved Plan	130,343 tons	\$2,384,763
Modified Payment Plan	174,618 tons	\$1,642,505

Attached is a spread sheet that provides further details on these calculations.

After the first seven years, the Mitigation Payments would be made annually, so there would be no difference between the two approaches.

We want to emphasize that Grays Harbor Energy LLC is willing to comply with the funding schedule as set forth in the Mitigation Plan, making payments each year. However, Grays Harbor Energy LLC is also willing to make a lump sum payment of \$1,642,505 to cover its obligation for the first seven years, and asks the Council to approve that alternative approach. A representative from the Climate Trust will join us at the Council's February meeting to further explain the advantages of the lump sum approach from their perspective.

We look forward to discussing these matters with you and other Council members at your February meeting.

Sincerely,



Invenergy Services LLC  
Authorized Representative For  
Grays Harbor Energy LLC

**SATSOP COMBUSTION TURBINE PROJECT  
GREENHOUSE GAS MITIGATION PLAN**

**APPROVED June 9, 2003**

**By**

**STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**SUBMITTED BY  
DUKE ENERGY GRAYS HARBOR, LLC**

## INTRODUCTION

In 1994, the Washington Public Power Supply System (now "Energy Northwest") filed an application with the Energy Facility Site Evaluation Council (EFSEC or "the Council") to construct a 490 MW combined-cycle combustion turbine project at the Satsop site. After holding an adjudicatory hearing, EFSEC recommended a Site Certification Agreement (SCA) for the Satsop Combustion Turbine Project, and the Governor executed that SCA on May 21, 1996.

The topic of greenhouse gas mitigation was addressed during the adjudicatory hearings in 1996. Evidence indicated that the facility would emit up to 1.778 million tons of greenhouse gases a year. During the hearings, the applicant and the Council for the Environment disagreed about whether the Council should require mitigation for those greenhouse gas emissions. Ultimately, the Council decided not to impose a mitigation requirement. The Council found that "the Satsop CT Project uses the latest reasonable technology and that it will produce lower emissions of greenhouse gases than older natural gas combustion turbine facilities or other fossil fuel facilities." Order No. 694 at 13-14.

Among other things, the Council concluded that "[b]urdensome greenhouse gas mitigation . . . could place the Applicant at a competitive disadvantage within the power producing market and deprive the market of a very efficient power producing facility. Balancing the respective interests, and recognizing that emission technology will advance and greenhouse mitigation measures may be enhanced as time passes, the Council will impose no fixed requirement upon the Applicant. . . . If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program . . ." Order No. 694 at 25. Accordingly, the original SCA provided that:

If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program, considering and appropriately crediting any measures that the Certificate Holder has accomplished. SCA Article VI.B.2.

In 2001, the Council added Duke Energy Grays Harbor, LLC ("Duke Energy"), to the SCA as a Certificate Holder, and together Duke Energy and Energy Northwest requested a technical amendment to the SCA to allow the use of currently available equipment in the CT facility. The equipment change resulted in an increase in the facility capacity from 490 MW to approximately 630 MW.

The Council granted the technical amendment on April 13, 2001, by Resolution No. 298. In Resolution No. 298, the Council acknowledged that the increase in the facility's capacity could result in an increase in the facility's carbon dioxide (CO<sub>2</sub>) emissions, and stated that the Council had authority to compel the Certificate Holders to prepare and implement a carbon dioxide mitigation plan. Although the Satsop CT facility now has the potential to emit more than 1.778 million tons of CO<sub>2</sub> per year, under many likely operating scenarios, the actual annual emissions would not exceed the total volume of emissions that the Council and the Governor permitted in 1996 without any mitigation requirement. Both Resolution No. 298 and subsequent discussions with the Council

reflect the Council's intention to require the Certificate Holders to mitigate only those CO<sub>2</sub> emissions that exceed the previously-permitted amount.

Duke Energy has developed this Greenhouse Gas Mitigation Plan over the course of several months, in consultation with Council members and with careful consideration of comments provided by other interested parties. The mitigation plan set forth below is based upon the mitigation plan that the Council approved for the Sumas 2 Generating Facility, which in turn was based upon the mitigation requirements established by Oregon statute and regulations.

In evaluating the mitigation plan, however, it is important to keep in mind that the Satsop CT Project differs from the Sumas 2 project in one very important respect. EFSEC approved the vast majority of the CO<sub>2</sub> emissions from the Satsop CT Project in 1996 (those attributable to 490 MW of the now 630 MW facility), without imposing any mitigation requirement. In contrast, none of the Sumas 2 facility's emissions had been previously approved without mitigation. Nonetheless, to address EFSEC's concerns, Duke Energy proposes a mitigation plan that is relatively comparable to the plan approved for the Sumas 2 Project.

#### MITIGATION PLAN

Duke Energy proposes that the mitigation obligation be based upon the maximum potential CO<sub>2</sub> emissions that exceed a rate of 0.675 pounds of CO<sub>2</sub> per kilowatt hour (lb/kWh) over 30 years of the facility's operation. The mitigation requirement would be satisfied on an annual basis by providing a fixed amount of funding per ton of CO<sub>2</sub> emissions to be mitigated to an approved organization for use in implementing CO<sub>2</sub> mitigation projects. In addition, the Certificate Holders will provide a fixed amount of funding to cover the organization's expenses in administering the mitigation funding.

This Mitigation Plan is generally based upon the mitigation plan approved by the Council for the Sumas 2 Generation Facility, which in turn was based on the requirement in effect in Oregon on June 29, 2001, the date on which the application for the Sumas 2 project was submitted to EFSEC. However, this Plan differs from the Sumas 2 mitigation plan in three important respects: (1) funding will be provided on an annual basis, unlike the Sumas plan which funded the entire obligation over the first five years of operation; (2) the price per ton will increase over time according to the Producer Price Index, and (3) funding for administrative expenses will be provided.

##### A. Calculation of Emissions Subject to Mitigation Requirement

The Certificate Holders will mitigate potential CO<sub>2</sub> emissions from the facility that exceed the rate of 0.675 lb/kWh. The mitigation requirement will be based upon the facility's maximum potential emissions, rather than the actual emissions in any given year.

In order to determine the volume of emissions requiring mitigation, the Certificate Holders shall determine the facility's maximum potential annual CO<sub>2</sub> emissions and the corresponding maximum potential kilowatt-hours of electricity generated. The Certificate Holders shall then subtract from the maximum potential annual emissions the volume of emissions that would be associated with generating the same amount of electricity if the electricity were generated at a rate of 0.675 lb/kWh CO<sub>2</sub>.

For example, if the facility's maximum capacity were 630 MW and its maximum potential annual CO<sub>2</sub> emissions were 2.2 million tons, the calculation would be made as follows:

Facility's Potential Annual CO <sub>2</sub> Emissions 2,200,000 tons	Annual Emissions if 630 MW Generated at Rate of 0.675 lbs CO <sub>2</sub> per kilowatt hour 630,000 kw x 8760 hrs x 0.675 lb/kwh	= Emissions to Mitigate
		×
	2000 lbs/ton	
2,200,000 tons	1,862,595 tons	= 337,405 tons

Thirty days prior to the commencement of facility operations, the Certificate Holders will submit to EFSEC the calculation of the emissions subject to mitigation on an annual basis.

#### B. Funding for Mitigation

The Certificate Holders will satisfy the mitigation requirement by providing a fixed amount of funding for each ton of emissions to be mitigated to an organization approved by EFSEC, as well as funding for administrative expenses as described below.

The amount of mitigation funding will be initially be fixed at \$0.57 per ton of CO<sub>2</sub> emissions to be mitigated. On the first anniversary of the commencement of commercial operation of the facility, and on the anniversary of that date of each year thereafter, the amount of funding per ton will increase from \$0.57 in the same percentage as the Producer Price Index has increased during the same period. For example, if the facility began commercial operation on January 1, 2004, and if the Producer Price Index rose by 3% from January 1, 2004 to January 1, 2005, the amount of any funding due for 2005 would be based on a price of \$0.587 per ton, which is 103% of \$0.57.

#### C. Funding for Administrative Expenses

In addition to the mitigation funding described above, the Certificate Holders will provide the organization selected to administer the greenhouse gas mitigation funding with funding equal to seven and one-half percent (7.5%) of each annual payment of mitigation funding for use toward the payment of the organization's administrative expenses.

#### D. Timing and Duration of Funding Requirement

The mitigation requirement will be payable by the Certificate Holders on an annual basis at the start of each of the first 30 years in which the facility is operating. Thirty days after the facility begins commercial operation, and on the anniversary of that date in each of the following 29 years, the Certificate Holders shall submit documentation to EFSEC demonstrating that the mitigation and administrative funding required under this mitigation plan has been provided to the organization approved to administer the funds.

#### **E. Approval of Organization to Administer Funds**

A qualified organization, such as the Climate Trust, shall be selected by the Certificate Holders to administer the funds provided for greenhouse gas mitigation. At least thirty days prior to the commencement of commercial operations, the Certificate Holders shall propose, for EFSEC's approval, an organization to administer the mitigation funding. The Certificate Holders shall provide detailed information regarding the proposed organization, including documentation indicating the organization's willingness to administer the funds and a description of how the organization intends to administer the funds. If EFSEC does not approve the organization proposed by the Certificate Holders, EFSEC shall specify an alternative organization to receive funding required under this mitigation plan.

At any time while the mitigation requirement is in effect, the Certificate Holders may propose to designate a new organization to administer mitigation funds in future years. EFSEC must approve any change in the administering organization.

#### **PREEMPTION AND SUNSET**

If a new state or federal law imposes requirements on the Certificate Holders to limit, mitigate or offset greenhouse gas emissions, EFSEC will support the Certificate Holders in obtaining credit under any such new laws, regardless of preemption, for early action for offsets already funded under this Mitigation Plan.

If any new state or federal law pre-empts this Mitigation Plan, to the extent that any carbon offset or funding obligation hereunder has not been met at the time of such change in law, the Certificate Holders may meet any such obligation through compliance with the new program, and further obligations under this Mitigation Plan will terminate.

## The Climate Trust: Organizational Overview and Qualifications

February 4, 2008

The following provides an organizational overview of The Climate Trust as well as its qualifications to serve as the implementation organization for the *Satsop Greenhouse Gas Mitigation Plan*.

### Organizational Overview

Unique non-profit with a focus on high-quality greenhouse gas offsets. The Climate Trust is a 501(c)(3) non-profit organization whose mission is to provide high-quality carbon offset projects and advance sound offset policy. Since its establishment in 1997 as an Independent Qualified Organization (IQO) under the Oregon Carbon Dioxide Standard, The Climate Trust has successfully placed nearly \$9 in carbon mitigation funding into a portfolio of 16 offset projects.

Ten years experience as the sole Independent Qualified Organization under the Oregon GHG Standard. The Climate Trust has provided cost-effective offsets, received flawless financial audits, managed funds transparently, and preserved the capital invested in offsets. As a result, The Climate Trust has maintained its qualified status under the Oregon law since the organization's inception. All offset projects funded to date have met the rigorous compliance criteria set forth by the Oregon Carbon Dioxide Standard.

Served as offset acquisition organization for other states. The Climate Trust has functioned as the provider of offsets under regulatory procedures in both Massachusetts and Montana. In Massachusetts, we successfully worked with the Massachusetts Energy Facility Siting Council as the offset acquisition organizations for a newly sited power facility. For our work in Montana, The Climate Trust was selected to acquire the offsets under a settlement agreement between a power developer and the Montana Department of Environmental Quality. For both of these, The Climate Trust was successful in identifying and implementing local projects.

Diverse portfolio of offset projects. The Climate Trust's current portfolio consists of 16 projects totaling \$8.8 million that will offset nearly 2.6 million tons of CO<sub>2</sub>, making it one of the largest institutional buyers of offsets in the US. A sampling of project sectors this diverse portfolio includes:

- Transportation;
- Diesel reductions;
- Industrial material substitution;
- Fuel switching;

- Renewable energy;
- Energy efficiency; and
- Forest restoration and preservation

Capacity to deliver at all stages of the offset project cycle. The Climate Trust has extensive experience with all the elements of identifying and implementing offset projects. This includes specifying preferred offset types, developing and issuing RFPs, evaluating and recommending projects, assembling diverse portfolios, negotiating offset contracts, designing monitoring and verification protocols, managing the implementation of offset contracts, and maintaining an offset registry and retiring tons.

#### Qualifications to Serve as an IQO for Washington

Although the *Satsop Greenhouse Gas Mitigation Plan* was developed prior to the passage of Washington's Greenhouse Gas Standard (WA RCW 80.70), The Climate Trust is able to meet the IQO requirements set forth in 80.70:

Requirement of 80.70: "An independent qualified organization shall not use more than twenty percent of the total funds for selection, monitoring and evaluation of mitigation projects and that management and enforcement of contract" Section 80.70.050(2).

Qualification: This is identical to Oregon GHG Standard requirement. To date, The Climate Trust has been in compliance with this obligation and we maintain a third-party annual audit to ensure ongoing compliance.

Requirement of 80.70: "Before signing contracts to purchase offsets with funds from certificate holders or order of approval holders, an independent qualified organization must demonstrate to the council that the mitigation projects it proposes to use provides a reasonable certainty that the performance requirements of the carbon dioxide mitigation projects will be achieved" Section 80.70.050(3).

Qualification: The Climate Trust continues to utilize the highest offset project assessment standards in the US offset market.

Requirement of 80.70: "The Independent Qualified Organization shall permit the council to appoint up to three persons to inspect plans, operation, and compliance activities of the organization and to audit financial records and performance measures for carbon dioxide mitigation projects using carbon dioxide mitigation money paid by certificate holders or order of approval holders under this chapter." Section 80.70.050(4),

Qualification: The Climate Trust has an offset review committee, comprised of members of the Climate Trust's Board of Directors that is responsible for the review of carbon dioxide mitigation projects used to meet compliance obligations under the Oregon Carbon Dioxide Standard. It is anticipated that EFSEC appointed members would sit on that committee.

Requirement of 80.70: "Independent qualified organizations must file biennial reports with the council, the department, or authority on the performance of carbon dioxide mitigation projects, including the amount of carbon dioxide reductions achieved and a statement of cost for the mitigation period." Section 80.70.050(5).

Qualification: The Climate Trust undergoes an annual financial audit conducted by an independent auditing agency.

Supplemental information regarding The Climate Trust's programs, projects, and activities – including copies of our annual financial audits – can be made available upon request.

## Calculations of Tons of CO2 Mitigated Under Both Options

### Yearly Payments for first 7 years

2.6% Estimated Growth Rate in PPI

	Year	Total Mitigation Payment	Admin Payments (7.5% of mitigation payment)	CO2 Price (\$/ton)	CO2 Offset Volume (tons)
1	2008	\$ 293,038	\$ 21,978	\$12	19,536
2	2009	\$ 300,657	\$ 22,549	\$12	20,044
3	2010	\$ 308,475	\$ 23,136	\$12	20,565
4	2011	\$ 316,495	\$ 23,737	\$15	16,880
5	2012	\$ 324,724	\$ 24,354	\$15	17,319
6	2013	\$ 333,167	\$ 24,987	\$15	17,769
7	2014	\$ 341,829	\$ 25,637	\$15	18,231
<b>Total</b>		<b>\$ 2,218,384</b>	<b>\$ 166,379</b>		<b>130,343</b>

**Total Payment** \$ 2,384,763

### Lump Sum Payment

Discount Rate 10%

	Total Mitigation Payment	Admin Payments (7.5% of mitigation payment)	CO2 Price (\$/ton)	CO2 Offset Volume (tons)
<b>Total</b>	<b>\$1,527,911.46</b>	<b>\$114,593.36</b>	<b>\$7</b>	<b>174,618</b>

**Total Payment** \$ 1,642,505

### Differences

	Total Cost	CO2 Mitigated (tons)
Satsop Plan	\$ 2,384,763	130,343
Lump Sum Payment	\$ 1,642,505	174,618

### Notes about these calculations:

PPI Growth Rate - From 1997 through 2006, PPI on all products has changed from -2.5% to +7% per year, with an average change of 2.6%.

CO2 Price per ton - These rates come from the forward price curves for CO2 used by The Climate Trust. The curves they use are fairly conservative and show little price growth over the next few years. The price difference between the Lump Sum Payment rate of \$7 and the year 1 rate of \$12 is because larger projects are easier to place and are more efficient.

Discount Rate - We use a 10% rate when making investment decisions for the plant. Because of the financing structure of Grays Harbor Energy LLC, we must go to our lenders and take out new loans to make this lump sum payment.

## EFSEC Monthly Council Meeting – July 2022

Facility Name: **Columbia Generating Station and Washington Nuclear Project 1 and 4 (WNP-1/4)**

Operator: **Energy Northwest**

Report Date: **August 5th, 2022**

Reporting Period: **July 2022**

Site Contact: **Marshall Schmitt**

Facility SCA Status: (Pre-construction/Construction/Operational/Decommission): **Operational**

CGS Net Electrical Generation July 2022: **840,895 MWh**

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### Environmental Compliance

On July 11<sup>th</sup>, 2022, Energy Northwest (EN) received approval from the Energy Facility Site Evaluation Council (EFSEC) to investigate the tritium source that was identified during the commissioning of the new Surface Water Drinking Facility. The investigation is set to begin in mid-August and a report will be furnished to EFSEC which identifies the levels of tritium detected, a confirmation of the tritium source, the potential to move the intake structures downstream, and information of the coordination between the United States Department of Energy (USDOE) upon completion.

On July 18<sup>th</sup>, 2022, EN received a letter from EFSEC which directs EN to repair or replace the runtime meters for the Emergency Diesel Generators 1 and 2, which were identified by EN to have runtime recording discrepancies in April 2022. EN is conducting an engineering evaluation to determine the feasibility of this work.

On July 21<sup>st</sup>, EN received a response to the Columbia Generating Station (CGS) Air Source Registration draft for the 2020 and 2021 calendar years. The response was accompanied by a Review Comment Record (RCR), which EN is utilizing to respond to comments.

### Current or Upcoming Projects

N/A

### Other

N/A

## EFSEC Monthly Council Meeting Facility Update

Facility Name: Columbia Solar Projects (Penstemon, Camas and Urtica)

Operator: Tuusso Energy, LLC

Report Date: Aug 5, 2022

Reporting Period: 30-days ending Aug 5, 2022

Site Contact: Owen Hurd

Facility SCA Status: Construction

### Construction Status

- Penstemon
    - Plant is currently operational
  - Camas
    - Achieved Mechanical Completion on March 23<sup>rd</sup>
    - Substantial Completion expected mid-August
  - Urtica
    - Working through transformer issues to energization
    - Mechanical Completion expected late-August, with Substantial Completion to follow in September
- 

### Other

- Revised planting plans have been submitted to EFSEC staff, Dept of Ecology and WDFW.

# Horse Heaven Wind Project

August 2022 project update

[Place holder]

# Goose Prairie Solar Project

August 2022 project update

[Place holder]

# Badger Mountain Solar Energy Project

August 2022 project update

[Place holder]

# Whistling Ridge Energy Project

August 2022 project update

[Place holder]

# High Top and Ostrea Solar Project

August 2022 project update

[Place holder]

# Wautoma Solar

## August 2022 project update

[Place holder]