

**Approved Minutes
Energy Facility Siting Council Meeting
Holiday Inn Ballroom
Wilsonville, OR
January 5, 2007**

Energy Facility Siting Council

David Ripma, Chair
Martha Dibblee, Vice Chair
Jake Polvi
Robert Shiprack
David Tegart
Bryan Wolfe

Oregon Department of Energy:

Michael Grainey, Director
Tom Stoops, Council Secretary
Adam Bless, Project Officer
John White, Project Officer
Shelley Carlson, Administrative Assistant

Oregon Department of Justice:

Jan Prewitt, Assistant Attorney General
Richard Whitman

Others:

Eric Redman, Heller Ehrman LLP
David Filippi, Stoel Rives
George David, DEQ
Stafford Hazzlet, OR/CA Trails Association
Glen Harrison, OR/CA Trails Association
Arya Behbehani-Divers, Portland General Electric
Mike Burnett, Climate Trust
Dan Sears

Chair David Ripma called the meeting to order at 9:30 a.m.

I. Consent Calendar:

A. Announcements and Introductions.

B. Approval of the November 3, 2006 Energy Facility Siting Council meeting minutes.

Martha Dibblee had corrections to be reviewed and edited. It was decided to have Staff review the corrections and the minutes be considered at the next meeting.

II. Information Items:

A. Update on Governor's Energy Agenda

Mike Grainey, Director of the Oregon Department of Energy, reviewed a summary of the Department of Energy budget. He also reviewed fees that are charged and provisions to provide funding for projects. Mr. Grainey stated that in the past the Department has not received any General Funds. For the upcoming year the Governor has proposed nearly \$9 million in General Funds for the Department for three items:

- 1) A program to audit 1,000 state buildings over the next four years and follow up with energy savings measures. There are a total of approximately 5,000 state buildings. Another aspect of the program would be to have state agencies use 100 percent renewable energy by the year 2010.
- 2) \$2 million is also proposed for schools for energy efficiency and solar energy projects that do not receive any public purpose charge. Schools that are served by consumer owned facilities, cooperatives and municipals would be targeted for this funding.
- 3) Payment for OMSI in recognition of their statewide benefits and work. Mr. Grainey discussed this further.

Mr. Grainey said for the federal funds ODOE is anticipating the same level along with a supplemental addition of \$2 million based on indications. In addition, ODOE would like to see funding from the U.S. Department of Agriculture for rural energy programs, targeting renewable energy.

Mr. Grainey reviewed other aspects of the budget. Other funds considered in the budget are anticipated from the level of business, which is not expected to decrease. The staff increase to handle the work load requires an additional fifteen percent.

Jacob Polvi asked about the effective dates of the budget. Mr. Grainey said there are different effective dates, depending on emergency funding or some could be retroactive.

Martha Dibblee asked about Item 7 on House Bill 2209 regarding rates and questioned if green energy is used would this mean that rates would be leveled. Mr. Grainey talked about rate increases which are expected, and that one reason for the increase would be because of more environmental standards to be considered.

Bob Shiprack asked about the energy audits of state facilities and the money available to make the repairs. Mr. Grainey said with the investments now that should produce savings that could be reinvested. Mr. Shiprack asked when this would be done, which Mr. Grainey stated certainly within a year.

Chair Ripma asked if more staff would be hired for these audits of state buildings. Mr. Grainey said that is where the staff increase would be, which could be six to eight people. They would be overseeing private sector auditors.

Bryan Wolfe discussed Item 7 on HB 2209 and stated that with negotiations ongoing he could see a slight increase would be acceptable. A five percent rate increase would have to be done every year until the year 2025 to comply with what it is going on at this time. Mr. Wolfe expressed his gratitude for having everybody involved in the program. Mr. Grainey said that working with legislation rather than a ballot measure is a better way to deal with it because it is complicated.

David Tegart asked about the audit on the school districts and what is in place to make it happen. Mr. Grainey discussed where the funds come from for rural schools and what has happened in the past.

Jan Prewitt, Oregon Department of Justice, asked if the program for the state buildings includes only state owned properties or would it include leased properties. Mr. Grainey said the landlords of the lease properties have been very cooperative when the agency wants to do something because of the long term lease.

Chair Ripma asked Mr. Grainey to give an overview of the Department of Energy. Mr. Grainey said there are four operating divisions, which involve the Facility Siting and Nuclear Safety Program, the Energy Loan Program, the Conservation Division and Renewable Energy Division. The Conservation Division is the largest division.

B. Scrap Value Overview

John White, Oregon Department of Energy, referred to the Memo dated December 8th, 2006, sent to site certificate holders and applicants regarding the Retirement and Financial Assurance Standard. Mr. White stated that the last amendment on Klondike III brought up comments regarding scrap value from facilities. At the present time there are fifteen to twenty site certificates currently active, most of them having a retirement amount; of the ones that do, many do not allow for any offset of funds for scrap or salvage value of equipment.

Mr. White discussed the value of the scrap metal and the availability of this to the state. After consideration within the ODOE it has been decided to recommend that the Council adopt a policy excluding the consideration of any value for salvage or scrap sale of dismantled facility components in the calculation of the amount of financial assurance to be provided by site certificate holders.

There was discussion from Chair Ripma and Mr. White as to procedures for adopting the policy. Adam Bless, Oregon Department of Energy, talked about the evolution of this process. He stated this allowance was started around 2002, some being traditional gas fired power plants which reduced the retirement bond by 10-20% but did not eliminate the bond altogether. Recent applications for facilities have stated that the scrap value was greater than the retirement value so no retirement bond is necessary.

Martha Dibblee recalled a significant reduction in the restoration funds on a facility in Hermiston. Mr. Bless stated that in the 1990's ODOE licensed plants with lower retirement amounts. Around 2001-2002 site certificate holders made amendment requests to reduce the size of their retirement bonds because of a different method to arrive at the retirement amount, with only part of the method involving the scrap value.

David Tegart asked about the anticipated response from site certificate holders and applicants. Mr. Stoops stated some of the developers wanted to come today but it was decided to have the Council review this first and become informed then meet in February for more discussion with developers. The site certificate holders typically pay an annual premium for a letter of credit amounting to one percent of the face amount.

Mr. Tegart also asked about the retirement bond when there is bankruptcy and he felt this would burden the ODOE. Mr. White stated that Dave Stevens of the Energy Loan Department gave input on the risk of bankruptcy.

C. Land Use Overview

Richard Whitman, Oregon Department of Justice, presented Staff and Council members with printed information on land use. Mr. Whitman stated that the Siting Council is a series of siting standards for siting new energy facilities. By statute one of those standards is that the proposed energy facility be in compliance with the statewide planning goals.

Mr. Whitman began discussion referring to the map showing the forest use land and farm zoned land. Ninety five percent of the land use issues the Council will be facing are issues involving forest or farm use land. Other issues that will come up are Goal 5 issues, which involve significant natural, historical or cultural resources.

Mr. Whitman stated there are two basic ways an applicant can show they can follow the statewide planning goals. Path A doesn't involve the siting council. The applicant can elect to go to a county or city to get their land use approvals. The local government

would determine the decisions. Path B would be for the Siting Council to make the determination.

There are nineteen statewide land use planning goals. Those goals were adopted by the Oregon Land Conservation and Development Commission (LCDC) back in the 1970's. As part of the original land use statewide planning program, cities and counties were directed to adopt their own local comprehensive plans and land use regulations that implement those statewide planning goals. Those local regulations were reviewed back in the 1970 – 1980's by the Department of Land Conservation and Development (DLCD). In most cases when someone comes in for land use approval the local comprehensive plans determine what is allowed.

The other aspect of Path A and Path B is the Special Advisory Group under Path B. If an applicant elects the Energy Facility Siting Council to make the land use determination, there is a special advisory group, in most cases comprised of the county board of commissioners if it will be located in the county. The special advisory group has a certain time period where they decide what the standards should be. If they don't respond they are not allowed to make the decisions.

Jacob Polvi asked if an applicant goes through Path A and is denied, can they then turn around and use Path B. Mr. Whitman said they would have to start all over with the application.

Mr. Bless stated that the time when the special advisory group is involved is during the Notice of Intent (NOI) phase. There are some expedited reviews where there isn't an NOI phase. Mr. White said they do hear from the planning director of the city or county who recommends what the applicable local criteria are.

Supporting facilities of the energy facility also have to meet separate standards that are applicable to the supporting facility.

Mr. Whitman referred to the Land Use regulations handed out involving forest zones and farm use lands. Utility facilities on forest zones cannot preclude more than ten acres from use as a commercial forest operation unless an exception is taken; on farm land the limit is 20 acres from use as a commercial agricultural enterprise. These limits do come up as issues. This means that the Council has to consider an exception to the statewide planning goal.

To discuss the topic of exceptions, Mr. Whitman reviewed the history of what has been required in the past for exceptions. An alternative analysis was required by the applicant, which had been difficult to obtain. At the present time an analysis has to be done to show why they are not able to meet the planning goals.

Mr. Whitman referred to the ten page handout, EFSC Land Use Overview. He reviewed the information on page 7 regarding goal exceptions and why they should be applied.

Chair Ripma asked for an example of how mitigation is applied. Mr. Whitman gave an example of salt deposition and the Department of Agriculture's recommendation.

Chair Ripma also stated that it seems like all energy facilities are larger than 20 acres. Mr. Whitman said the 20 acre limit was proposed back in the 1990's. The thinking at that time was to keep the acreage to a minimum. There has been discussion whether that standard should be changed since all facilities are larger now.

Mr. Whitman also discussed how the facility and supporting structures are categorized. Depending on the category, different goals would apply to the different structures related to the energy generation, which might not be counted in the acreage of the energy facility footprint.

Next, Mr. Whitman reviewed ORS 215.283(1) "Permitted Uses", ORS 215.283(2) "Conditional Uses" and also ORS 215.283(3) which involves roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section [access roads with independent utility].

Another chart Mr. Whitman referred to was regarding ORS 215.283(1) (d) and 215.275 involving exclusive farm use zones. The items highlighted in applying factors in 215.275 are:

- Technical/engineering feasibility
- Locational dependence
- Lack of available urban and non resource land
- Availability of existing right of way
- Public health and safety
- Other federal or state requirements

Chair Ripma announced there would be a break for a working lunch, and asked for any public comments first.

Stafford Hazzlet, Oregon/California Trails Association, stated they are pleased to be on the mailing list. He stated they were not notified of the Klondike project, and the international association he is involved with wants to be involved in land use decisions.

III. Working Lunch

Mr. Whitman continued his discussion about basic Council Land Use Approvals. He referred to 469.504(1) which states that a proposed facility shall be found in compliance with statewide planning goals under ORS 469.503(4) if the goal is justified under subsection (2) of the same section. He further reviewed the information under that section.

Mr. Whitman noted that under Measure 37 property owners may make a written demand to the government for compensation for the reduction in value of their property resulting

from land use regulations. An emerging possible issue may present itself next to a power plant. For example, someone may want to build a subdivision right next to an energy facility if their land qualifies under Measure 37.

Mr. Whitman asked if there were any questions; there were none.

IV. Information Items Continued:

D. Integrated Gasification Combined Cycle Overview – Carbon Sequestration Issues

Adam Bless, Oregon Department of Energy, stated a Notice of Intent (NOI) has been received for an Integrated Gasification Combined Cycle (IGCC). It is a type of plant, not new technology, but has not been considered in the past.

Mr. Bless explained to Council members a project order and the process to develop this for the applicant before they submit their application for a site certificate. An information meeting was recently held for the Summit IGCC proposal. There were more issues raised than what is normally seen at traditional natural gas-fired power plants seen over the last ten years. The project order will deal with those issues.

To explain further the issues involved, Mr. Bless said some of the toughest are air quality and carbon dioxide. Air quality is a federal program that has been delegated to the Department of Environmental Quality (DEQ). The DEQ air permit is outside of the EFSC process. There are other statutes that require ODOE to coordinate with agencies like DEQ to the extent possible. Mr. Bless introduced George Davis, NW Region Air Quality Permit writer for DEQ.

Mr. Davis stated that once an application is received a completeness review is done. Once the application has been determined complete, an information meeting is scheduled within 14 days of the determination. This meeting is an opportunity for the public to state what their concerns are and what they want drafted into the permit. The drafting could take from several weeks to several months. At that time public notice goes out for at least 35 days at which time a public hearing will be held. If the revisions are significant enough it would go back on public notice.

David Ripma asked what comes first in the process. Mr. Davis said the Air Quality Permit is contingent on land use approval. Jan Prewitt, Oregon Department of Justice, said DEQ has to have the Land Use Compatibility Statement (LUCS), which is deferred to the Council for decision on compliance with land use.

Martha Dibblee asked about LUCS. Ms. Prewitt explained the requirement to obtain the LUCS.

Next, Mr. Bless introduced Eric Redman, Summit Power. Mr. Redman, Heller Ehrman LLP gave a presentation on gasified coal. His firm also represents several advanced coal

gasification technology companies. One author of the presentation material, Armond Cohen, is a long-time Executive Director of the Boston based Clean Air Task Force, which is a national advocacy group devoted to reducing emissions of pollutants and greenhouse gases in order to protect human health and the global environment.

Mr. Redman stated that deep saline aquifers and Columbia River Basalts are being investigated for geologic storage of Co₂ by injection. David Tegart asked about the injections of Co₂ in the basalt and what capacity is involved. Mr. Redman discussed some statistics that have had potential studies accomplished. He also stated that all carbon atoms that end up in Co₂ started out from underground, so there is enough space underground to store them. The question is how to do it safe and economical.

Chair Ripma asked about capturing the Co₂ from the Boardman Plant. Mr. Redman explained the process and equipment need for post combustion capture, which would take enormous capital.

Ms. Dibblee asked about the chemistry involved in the carbon sequestering. Mike Burnett from Climate Trust said the Co₂ levels would be going up from 300 to 500 levels, a few hundred parts per million, in comparison to about 200,000 parts per million.

Chair Ripma asked about other processes in the earth that regulate Co₂. Mr. Burnett said if photosynthesis by the plankton in the ocean didn't exist the temperature would be very high. Also, trees take Co₂ out of the atmosphere.

There was more discussion about coal gasification and sequestration and what is happening in Texas. Chair Ripma asked about the gas being produced as well as the power. Mr. Redman said with a 600 megawatt gasification plant you get all of the efficiency with this size of plant, unlike a 600 megawatt power plant. At Port Westward it would be hard to put a 600 megawatt power plant at the site being looked at. A 360 megawatt power plant is what the proposed plant will be.

Mr. Bless stated there are public members at the meeting interested in this project that have questions, along with his own question about why has Oregon been chosen to build this project rather one of the coal-producing states? Mr. Redman said being able to build two plants at the same time there is enormous savings; secondly the problem is a global one. Having flexibility to transport by rail or water is a benefit versus building by the coal. The northwest has a large geological potential for carbon capture and also a commitment from the vendor for the equipment.

Chair Ripma asked for public comments.

Mike Burnett, The Climate Trust, said that Oregon has been a global leader in energy efficiency, sustainability and renewables. In 1997 Oregon legislature passed the law that led to the formation of The Climate Trust, which requires that new power plants built in the state mitigate part of their Co₂. That was the first legislative action in the world requiring mitigation of greenhouse gases. Ten years later Oregon is still the only state,

while other states are still in the process to require this. Mr. Burnett also gave comparison calculations regarding mitigation costs for better technology.

Dan Sears introduced himself. He asked where the coal would come from. Mr. Redman said they don't have a contract yet but sources available would be the Powder River Basin and also British Columbia.

Mr. Sears said many people are concerned with the proliferation of projects on the Lower Columbia River and are worried about the cumulative effects. He also stated that locally the impacts by all of the facilities proposed are overwhelming and with all these proposals there would be more power than could be used in the northwest.

Mr. Redman said that the state chose this site for these types of technology exploration. Mr. Sears encouraged the Council and Staff to look at other neighborhoods.

Mr. Bless commented that the conversation about chemical equations are typically handled at the Staff level and not at Council meetings, but asked if the Council would like to have this technical information at the meetings. There was discussion about how to present the information to the Council.

Ms Dibblee asked about the 3.4 million tons of Co₂ per year, and what portion is atmospheric. Mr. Redman said all of it is atmospheric. Ms. Dibblee asked if the Co₂ would travel by pipeline. Mr. Redman said it depends on where it is will be coming from. Carbon sequestration has four stages: 1) capture, 2) compression, 3) transport and 4) injection. Ms. Dibblee asked about the offset and how this would coincide. Mr. Redman noted that there are many factors that need to coincide that will be decided as the time comes, including funding.

Chair Ripma asked about carbon trading and sequestration and the value to the builder or developer. Mr. Redman said absolutely. If a plain IGCC plant without methanation were to be built it would still be constructed to be able to add the necessary equipment to pull out the pure Co₂ and as soon as the carbon price would be appropriate it would be sold or receive credit for sequestration.

Chair Ripma asked if this plant would be economical if sequestration doesn't come in or work. Mr. Redman said the plant would still operate.

Chair Ripma asked how the Co₂ would be kept in the ground, and not spreading to other people's ground; also the regulation by governments could cause alarm among people. Mr. Redman said the Big Sky Carbon Sequestration Partnership would be glad to come to the Council meetings and discuss this technology. The absence of Oregon in this technology is troubling.

Mr. Redman stated that the injection of Co₂ is thousands of feet deep. Part of what the regional partnerships are working on is analyzing the legal and regulatory issues. Chair Ripma asked about the Big Sky Partnership and what is happening with the development

of this technology. Mr. Redman said that in Texas 80% of the Co2 they are using is coming from Utah, Colorado and other states.

Mr. Redman stated that the U. S. Department of Energy has seven regions and invited them to form their own sequestration partnerships, being funded by the Department of Energy, and Big Sky is the northwest region partnership.

Mr. Bless stated that he has a project order to write that tells the applicant how to apply the carbon standard. The first draft does not have to be the final one; they can be amended at any time. Mr. Bless said the applicant has to meet the numerical standard that exists in the law right now and must provide offsets. The traditional offset is by making a payment to the Climate Trust, and those payments have typically come to about \$10 million for a typical 500 megawatt natural gas-fired plant. For this plant the Co2 payment could be approximately \$70 million.

David Tegart stated he felt it should be up to the applicant to show which way it should go. Ms. Dibblee and Chair Ripma also agreed. Ms. Prewitt, Department of Justice, reminded everyone that the Co2 standard involves not only the payment path but also project paths, which enables a proposer to propose projects. There is some flexibility in the law.

Chair Ripma asked about the DEQ hearings that would be coming up and whether Council members would be presented with issues. Ms. Prewitt said the ex parte curtain has not come down yet so if Council members are interested in the DEQ meetings it would be okay. Tom Stoops mentioned the dates for the DEQ meetings.

There was discussion about the next meeting date and items for the agenda.

Chair Ripma adjourned the meeting at 3:45 p.m.