

**Minutes  
Energy Facility Siting Council Meeting  
Oxford Suites Hotel, Jantzen Beach  
12226 N. Jantzen Drive  
Portland, Oregon  
June 6, 2006**

*Approved by Energy Facility Siting Council with revision.  
November 3, 2006*

**Energy Facility Siting Council**

Hans Neukomm, Chair  
Lori Brogoitti  
Martha Dibblee  
Karen Green  
Robert Shiprack  
David Tegart

**Oregon Department of Energy:**

Tom Stoops, Council Secretary  
Catherine Van Horn, Project Officer  
John White, Project Officer  
Sisily Fleming, Administrative Assistant

**Oregon Department of Justice:**

Jesse Ratcliff

**Stateline Wind Project:**

Wally Erickson, Environmental Consultant, WEST Inc  
Tom Meehan, Pacific Habitat Services

**Others:**

Carlos Pineda  
Peter Mostow

\*The first side of this tape was inadvertently deleted. The Project Officer for Biglow Canyon Wind Farm has since passed away. The content on the first side of the tape is no longer available.

Chair Hans Neukomm called the meeting to order.

**I. Consent Calendar:**

**A. Announcements and Introductions**

Chair Neukomm opened the meeting taking the roll.

**II. Actions Items:**

**A. None Scheduled**

**III. Information Items:**

**A. Council review of the Draft Proposed Order for the Biglow Canyon Wind Farm**

Cathy Van Horn, Project Officer for the Biglow Canyon Wind Farm, began discussion of items that differ from what the Council has seen before. She explained the area in which the project is proposed, highlighting a map which details where both the Biglow Canyon Wind Farm and the Klondike Wind Project are located.

Orion Energy, the applicant for the Biglow Canyon Wind Farm, has asked for flexibility in its site certificate to a degree that the Council has not previously seen. Where flexibility produces options that would variously affect the calculation of habitat, noise and other impacts, Orion has calculated the “worst case” calculation of habitat, noise and other impacts.

Ms. Van Horn highlighted areas as listed:

1) Corridor Concept. Orion has asked for the ability to site its turbines anywhere within 500-foot corridors. During the reading of the Klondike III Draft Proposed Order, the Council did not appear to have concerns over the application of corridor micro-siting for wind projects.

2) Turbine Selection. Orion has asked for the ability to use either of two possible wind turbine configurations, and also is requesting a site certificate that would enable it to make use of other turbine types in the event the GE turbines are unavailable at the time of construction. Ms. Van Horn stated that should other turbines be used, the site certificate holder would need to supply turbine specifications and the Department may need to recalculate some impacts. David Tegart asked if they could upgrade later

on. Ms. Van Horn said the language would need to be re-evaluated to require amendments for upgrades. Chair Neukomm asked whether a larger turbine will result in a larger MW production. Ms. Van Horn explains the project tops out at about 450 MW.

3) Related and Supporting Facilities. Orion has asked for the ability to site two transmission alternatives, each with two routing options, two substation alternatives and three operation/maintenance building alternatives. These alternatives make calculating impacts interesting.

4) Phasing. Orion has asked for the ability to build the project in phases, with a three-year begin construction date and a seven-year completion date. Normal completion is five years.

Ms. Van Horn asked for comments from the Council on this. Karen Green asked if a seven-year completion date is agreed to – as phases are constructed does this allow the Council to evaluate the ongoing or is it set. Ms. Van Horn said conditions could be imposed to allow the Council to reopen the site certificate to impose conditions, with concern to impact on monitoring and mitigation. Ms. Green said she would like to be able to use information obtained over the next seven years and impose it on the site certificate. Chair Neukomm questioned the legality. Martha Dibblee suggested a condition that evaluations are conducted every two years. Ms. Green questioned the timing of the phases, so Ms. Van Horn explained more on the phasing proposal.

5) Noise. Orion's noise data shows that it will not meet noise requirements at two noise sensitive properties, and that it must obtain noise waivers on other properties. Ms. Van Horn stated that the applicant needs to prove that they have land control for the entire site prior to granting the site certificate. Jesse Ratcliff, Oregon Department of Justice introduced himself. Mr. Ratcliff stated that the Department of Environmental Quality (DEQ) regulates state structures that are normally used as a residence. Characteristics are not defined as to what mandates a residence. Mr. Ratcliff also said there could be a recorded agreement with the county to require non-occupancy, which is intended to protect people. Ms. Green asked if the DEQ rule applies to the dwelling itself. Mr. Ratcliff said it is the property along with the residence.

Lori Brogoitti asked whether the property owners (agricultural producers) are being compensated for their properties since they are non-usable. Ms. Van Horn said her understanding is that they have no issue with moving out and are being compensated by a contractual amount, but they would stay there if they were allowed to. The noise restriction is forcing people to move; Orion could not place the turbines there but the property owners want the turbines there. David Tegart asked if there is another use for these houses. Ms. Van Horn said they have talked about the potential converting to an O & M Facility, business use, or donate the residences for some other use.

Carlos Pineda, Orion Energy, said it is entirely a landowner decision. If the landowner does not want the turbine there other arrangements will be made. The residence would not be able to be used as a residence, but would be converted to other uses. Lori

Brogioitti asked how this would be controlled if the landowner moves out but continues to use the residence for farmhands.

Mr. Ratcliff said some legal instrument would have to be in place to assure the non-occupancy.

Ms. Green stated that the Council doesn't know that Sherman County wouldn't authorize a new dwelling be proposed within noise sensitive areas. Ms. Van Horn said if the county approved a dwelling, the Site Certificate holder would then be non-compliant, but the Council can craft a condition that says no non-occupancy agreements.

Chair Neukomm asked if a non-occupant condition is being implemented and results in degradation in the value of the property, in what way is there protection from the tax impact. Ms. Van Horn said that would be between Orion and the landowner, which would be a legal question involving the agreement between them. Ms. Green mentioned the possibility of a Measure 37 claim. Mr. Ratcliff said this issue would need further consideration.

Chair Neukomm asked if Orion has considered buying the properties from the landowners. Carlos Pineda said it has been considered, but it is most definitely not the preference of the landowners.

6) Mitigation. Ms. Van Horn explains the mitigation proposal, and asked for comments from the Council. Ms. Green said it makes sense for the applicant to do everything up front; also, current and more future data is needed to be sure mitigation is appropriate.

7) Construction Start/Complete Dates. As discussed earlier Orion has asked for the ability to build the project in phases, with a three-year begin construction date and a seven-year completion date. Normal completion is five years.

8) Retirement. Orion has asked that its letter of credit be phased in parallel with any phased development. Ms. Van Horn explained how this was developed, through John Larsen, and stated that she is confident the outcome will be acceptable to the Council. The maximum amount, accounting for the scrap value, at maximum would be about \$6.2 million. The Department agrees that the applicant can phase the letter of credit. Ms. Van Horn reviewed how this would work. David Tegart questioned the 4-year scrap value; it was determined that the Department did not accept the applicant's proposal.

Ms. Van Horn asked the Council if there were other questions; there were none. She stated the public hearing was held the week before and only one person spoke on the record. They are working out there issues with Orion, but they are concerned about the Wake effects. Ms. Van Horn explained that private wind projects on properties are increasingly being surrounded by the bigger wind projects and they are worried about the

setbacks. This could affect the ability to develop turbines on the outer margins of their property.

Chair Neukomm asked if there were any objections at the public hearing. Ms. Van Horn said there were none, except the request “can you move more quickly?”

Ms. Van Horn said Tom Meehan, Pacific Habitat Services, has worked closely with the Oregon Department of Fish and Wildlife (ODFW). ODFW’s letter dated June 2, 2006 was discussed. ODFW’s original recommendation for a bat fatality threshold of 2.5 per MW per year is what the Department will recommend.

Ms. Van Horn stated that ODFW has agreed to allow language in the Draft Proposed Order allowing an in-house biologist to do the monitoring for the Biglow Wind Project; Klondike III does not allow for that – it requires a third party. She asked for the Council’s comments. Ms. Green brought up the Northwest Natural Gas pipeline wanting on-site monitoring. At that time the Council wanted to have an independent third party do the monitoring. Ms. Green said she felt an employee of the company could do the monitoring as long as the Council has the authority to look at the data so the Council could be confident in the data.

Ms. Brogoitti said she felt an independent contract should do the monitoring. She felt the public should see that the Council is doing everything possible to maintain an unbiased view.

David Tegart agreed that an independent should do the monitoring. If the applicant changes, at this point it is hard to agree with in house monitoring.

Martha Dibblee said the Council needs to make sure that whoever does the monitoring is qualified.

Ms. Van Horn asked for Council comments on long-term monitoring. Ms. Green stated that monitoring should provide information that is usable in a meaningful way. There should also be the option of taking a second look at the project’s path and potential mitigation in the future based on that information. Council needs to have enough information so that the Council can competently say there is a baseline of information to base mitigation.

Ms. Van Horn discussed the mitigation plan. ODFW liked the plan, which is approximately a 117-acre site. The mitigation is for 11.24 acres of Category 3 & 4 and 97 acres of displacement of grassland species. Orion has requested a formula similar to Klondike. Ms. Van Horn recommends Orion stay with the original proposal.

Tom Meehan explained the change in proposal which causes concern for the future.

Ms. Van Horn asked for more comments from the Council. Ms. Green said she felt the Council should stay with what Biglow originally proposed. Mr. Tegart said he agrees with the original proposal, along with Lori Brogoitti, Martha Dibblee and Bob Shiprack.

John White stated that he had not heard of Klondike III's proposal as a "C minus," or lower. He stated that he does not agree with that characterization.

Chair Neukomm asked what the differences are between "A" and "C minus" proposals. Ms. Van Horn said the formula estimates how far out the effects will account for. She felt that ODFW had reservations about the mitigation site that was picked for the Klondike site. Mr. White said the area picked had to do with the characteristics of the site, not the acreage size.

Ms. Van Horn stated that the formulas used are different for each project.

Mr. Meehan discussed the mitigation calculations and how they are figured.

Wally Erickson, Environmental Specialist at West Incorporated, Cheyenne, Wyoming, spoke representing Orion Energy. Mr. Erickson stated he has been involved with the Stateline Project and some involvement with the Klondike Project. He also stated he is using information from the model focused primarily on a site monitored at Buffalo Ridge, Minnesota and at the Stateline Project. He continued discussion about the wildlife, and how the studies have been done.

Ms. Van Horn asked Mr. Erickson to explain the changes in the success criteria. Mr. Erickson said they are fencing off the entire site but the calculation uses the 33-acre size. Livestock will be removed from the entire 117-acre site which will help the habitat. An 80-meter buffer around the project facility most is in CRP land. The actual mitigation site is native habitat along the upper rim of the John Day River and includes a spring, a small riparian area and deeper soil areas. A guzzler will be put in also in the mitigation area and the spring area will be enhanced.

Representing Orion Energy, Peter Mostow, Stoel Rives, stated that as the developer this is a biological issue where Orion is trying to find what the appropriate mitigation is. There is science but there is some uncertainty. The original plan recognized that and was above and beyond what was required. Throughout all the discussions it looked like ODFW and the Department of Energy were open to accepting some other data and that is how the present request. All conditions have been based upon consultations with people like Wally Erickson that analyze and understand what there is to know.

Mr. Mostow also proposed for Orion to do the restoration on the whole 117 acres and have success criteria to that whole site. Orion would like to be guarded by some contingency in the future that they are doing restoration on the whole 117 acre site instead of just the calculated amount of 33 acres.

Chair Neukomm said he hasn't heard from Orion that they want to back off from that original proposal. He questioned where the pressure is coming from and how does the Klondike III situation relate to Orion now. Ms. Van Horn said that Orion's proposal came in after Klondike III. She discussed more about the amount of acres required for mitigation. Mr. Meehan said he felt this was a lot of information for the Council to understand in a short time.

Ms. Van Horn said she felt more comfortable with the new success criteria. Chair Neukomm asked if there was some way to condition those "hanging items" that are undecided. Ms. Van Horn said probably not, because anything left open that could cost more in the future is a liability to the project so they prefer to have everything completed.

Chair Neukomm asked for comments from the Council. Lori Brogoitti stated she felt that what Orion Energy is proposing is acceptable. Bob Shiprack said he felt the Council should go with the original proposal of Orion and felt that due to the timeline he is disturbed with the last minute change. David Tegart agreed with Mr. Shiprack. Ms. Van Horn stated a resolution does not have to be made today.

Ms. Van Horn said another issue to be discussed is how can monitoring be done beyond the two years if new knowledge comes up. She felt the Council would like to have the ability to come back in the site certificate, but that scares applicants because it is open ended.

Chair Neukomm agreed that more data is needed to do meaningful monitoring. Ms. Van Horn said this is precedent setting for other wind projects. Mr. White stated that hearing the Council wanting to re-open the Klondike III site certificate is a legal issue, which would require an amendment. He continued to discuss the monitoring plan. Ms. Brogoitti said she'd like to see a minimum of five years for monitoring. Ms. Van Horn said she is trying to work on a condition that allows for the results of a future study to be used in projects before the results have been obtained.

Mr. Meehan said he is concerned that some of the discussion misses the point. He stated that the proposed facilities and more in the future will be on the landscape for decades. The proposals before the Council give no ability to come back 10, 20 or 30 years out to do monitoring. He continued that there may not be any impact for 15 years and there would be no ability to do any monitoring at that time with these proposals.

Mr. Erickson discussed more about the monitoring. Ms. Van Horn said the issue is to be able to take advantage of the monitoring. Chair Neukomm asked Ms. Van Horn if she has the information she needs, which she agreed.

Mr. Mostow said that in terms of direction on this particular direction, he is requesting that this be evaluated under a different forum without the time constraints, and also to be consistent with expectations of the site certificate holder. The developers would be

concerned regarding reopening of the site certificate. Orion has spent much time, effort and money to present the Council with information justifying their proposal.

Chair Neukomm explained his understanding of Mr. Mostow's comments. Ms. Van Horn said the discussion has centered on approximately 20 pages of the Draft Proposed Order which the Department is recommending be accepted. She continued reviewing the upcoming timelines.

Chair Neukomm asked if there were any public comments. There were none.

Chair Neukomm adjourned the meeting at 1:07 p.m.