

Minutes
Energy Facility Siting Council Meeting
Oregon Department of Energy
Columbia Gorge Discovery Center
The Dalles, Oregon
August 17, 2007

Energy Facility Siting Council

David Ripma, Chair
Martha Dibblee, Vice Chair
Lori Brogoitti
Bob Shiprack
Bryan Wolfe

Oregon Department of Energy:

Tom Stoops, Council Secretary
Adam Bless, Project Officer
John White, Project Officer

Oregon Department of Justice:

Jan Prewitt, Assistant Attorney General

Others:

Jeff King, Presenter

Public:

Marilyn Clark
Judy Probstfield
Miko Ruhler
John DeMoss
Gary Thompson
Pak Swarm
Chuck Barker
Troy Gagliano
David Neikirk

Chair David Ripma called the meeting to order.

I. Consent Calendar:

A. Announcements.

Tom Stoops, Council Secretary, made the announcement that Tom Meehan, a retired employee of the Oregon Department of Energy, passed away, with a celebration of life service to be held on Saturday, September 1. Mr. Stoops gave Council members and staff time to address comments regarding Tom, a greatly appreciated staff member. Adam Bless, John White, Martha Dibblee, Lori Brogoitti and David Ripma all recalled memories about Tom, his knowledge, his ability to communicate in a positive way with all people, and his continued support after his retirement.

II. Action Items:

A. Appoint Sherman County Court Special Advisory Group for Golden Hills Wind Facility

Adam Bless stated that an application for a site certificate was recently received from Golden Hills Wind Farm, LLC, a subsidiary of BP Alternative Energy North America Inc. The project is called the Golden Hills Wind Project. The site is on both sides of Hwy 97 between Wasco and Moro, just south of the Klondike facility. A BP Alternative Energy submitted a Notice of Intent (NOI) in April 2007, for a 300 megawatt wind project. The application is for a 400 megawatt project, which is allowed. A new procedure will be done with this application, which consists of Council members receiving computer disks and a package of maps, rather than the large binder of papers submitted in the past. The binder is available if Council members would prefer.

Mr. Bless stated that for the application, one action required by statute is to appoint the local land use agency as a Special Advisory Group. Golden Hills has decided to use path B, which is to do land use through the Council rather than Sherman County; therefore the Sherman County Court is being recommended as the Special Advisory Group.

Chair Ripma asked if there were questions; there were none.

Martha Dibblee moved to approve the appointment of Sherman County Court as the Special Advisory Group for the Golden Hills Wind Facility. Lori Brogoitti seconded the motion and Council was polled:

Lori Brogoitti	Yes	Bob Shiprack	Yes
Martha Dibblee	Yes	Bryan Wolfe	Yes
David Ripma	Yes		

III. Information Items:

A. Leaning Juniper II Draft Proposed Order (first reading)

John White referred to the Draft Proposed Order which was distributed at the last meeting. The step today follows OAR 345-015-0230, which states:

“(1) Following the final public hearing on the draft proposed order conducted under OAR 345-015-0220, the Council shall review the draft proposed order. In accordance with ORS 469.370(3), when the Council meets to review a draft proposed order, the Council does not permit the applicant, reviewing agencies or the public to comment on any issue that may be the basis for a contested case.”

Mr. White said the Department issued the Draft Proposed Order on July 18th and a public hearing was held on August 9th in Arlington. No further public hearings have been scheduled. He stated today is the day for Council members to ask questions.

Mr. White began discussion by reviewing the history:

November 30, 2005: The applicant submitted an initial request for expedited review. A revised request was submitted December 6th, 2005.

December 15, 2005: Department of Energy approved expedited review under the rules. Expedited review is available if the proposed facility has no more than 300 megawatts of peak generating capacity. The facility was described at that time as a 200 megawatt facility consisting of two phases. Leaning Juniper I, a 100 megawatt facility, had already received a conditional use permit from Gilliam County. The second phase, Leaning Juniper II, would add another 100 megawatts approximately, bringing the facility within the jurisdiction of the Council.

February 1, 2006: The initial site certificate application was received. Appropriate notices were put out and Staff began to review for completeness. On May 22nd, PPM Energy notified the Department of a possible sale of Leaning Juniper I. If the sale were completed the applicant would submit a revised application for Leaning Juniper II, which could be a different configuration than what was originally presented. The department suspended review of the application. In July of 2006, PPM Energy announced the sale of Leaning Juniper I to PacifiCorp.

October 4, 2006: A revised application was submitted for Leaning Juniper II, a 279 megawatt facility consisting of two sections, south and north. The applicant requested the option to later remove the north section from their site certificate and built it as part of the Pebble Springs Wind Project, which is a sub-jurisdictional facility also in Gilliam County. Staff began reviewing the application for completeness, and found the application to be complete on May 1, 2007.

May 15, 2007: The application supplement was submitted. Public Notice and filing was given on May 21st and invited public comment. There were no public comments; comments were received from six reviewing agencies, which are summarized in the Draft Proposed Order on Page 4.

July 18, 2007: The Department of Energy issued the Draft Proposed Order.

August 9, 2007: Public hearing was held in Arlington on the Draft Proposed Order. There were no public comments at the hearing. One written comment was received within the deadline from the U.S. Fish & Wildlife Service, copies which have been distributed to all Council members.

Mr. White summarized the proposed facility by discussing the turbines, the maximum number of turbines being 133, and reviewing a map of the location. Mr. White proceeded to review the Proposed Draft Order.

Retirement and Financial Assurance

The estimate for the site restoration is \$8.8474 million and under proposed condition 30 the Department of Energy (DOE) would allow an adjustment of the Financial Assurance amount to reflect the actual design configuration.

Land Use

The applicant elected to have the Council make the land use determination. The discussion of land use is in the Proposed Order on pages 20 to 46.

Mr. White stated there is a need for a Goal 3 exception. When there is an applicable county ordinance that the facility cannot comply with, the Council apply the Statewide Planning Goals directly. In this case, the Gilliam County Zoning Ordinance 4.020 (b) (14) provides a 20-acre limitation for a power generation facility upon EFU land. The facility is approximately 64 acres. The Statewide Planning Goals cannot be met either, because the 20-acre limitation is part of the State regulations implementing Goal 3. The next step is for the Council would be to determine if an exception can be granted. Based on criteria in the Council statutes this can be granted through a reasons exception, which Staff is recommending to approve in the Draft Proposed Order because of the compatibility with farm land.

Chair Ripma asked about the significant tax revenue for Gilliam County which is a reason laid out for approving the exception, as noted on page 45, line 28. Mr. White stated he could not answer the question but would follow up on it and provide the information to the Council at the next meeting.

Another question Chair Ripma asked was whether all of the nearby landowners are under lease with the applicants, or are there other landowners not accepting the lease. Mr. White talked about the landowners. The south area which is owned by Waste Management and the north area is owned by a single landowner. Most of the north area is not currently in agriculture cultivation. Lori Brogoitti asked if it is CRP land; Mr. White did not know, but promised to follow up.

Mr. White also noted another land use issue is that the local jurisdiction, Gilliam County, has specifically adopted ordinances for wind power development. Gilliam County Zoning Ordinance 7.020 (t) (4) (d) (1) says “no portion of the facility shall be within 3,520 feet of property zoned residential use.” Mr. White stated Staff interpreted “portion of the facility” to mean part of the footprint of the facility. Although the land is EFU, the northern boundary is the city limits of Arlington, and there are quite a few residences within 3,520 feet. Condition 39 incorporates that county ordinance, which will preclude construction of some of the turbines in the northern most area. There are provisions for variance in the county ordinance, but the applicant has not requested a variance.

Public Health and Safety Standards

Mr. White referred to pages 61 and 62 and noted Staff is recommending a setback from residences and public roads a setback of the maximum blade tip height plus fifty feet. This is also in Condition 39, and is similar to Biglow Canyon and Klondike III standards.

Cumulative Impacts

Mr. White addressed the siting standards on pages 62-67 concerning cumulative impacts. Table 8 shows all wind facilities that have been approved, are operating or are under review in a three-county area. As of July 2007, there were potentially over 3,000 megawatts of wind powered facilities in the three counties. He noted these were just on the Oregon side. He further discussed options and design features to minimize cumulative impacts in compliance with Council standard.

Mr. White referred to the letter received from the U.S. Fish and Wildlife Service (USFWS) and the handout to Council members entitled “Draft Discussion to be Included in the Proposed Order.” Mr. White stated that within the Columbia Plateau Region in Oregon and Washington there are approximately 5,400 megawatts of wind power projects currently operating, under review, or that have been approved but not yet built. Lori Brogoitti asked how many turbines that involves. Mr. White stated approximately 3,471 turbines.

There was further discussion about the letter from USFWS and the Bonneville Power Administration’s (BPA) Final Environmental Impact Statement (FEIS) for the Klondike III/Biglow Canyon Wind Integration Project. Also discussed was the more recent study conducted by Western EcoSystems Technology, Inc. (WEST) submitted to the Council in the application for the Shepherds Flat Wind Farm. Mr. White referred to the comparison of the estimated breeding season fatalities with estimates of avian breeding populations in the region.

Martha Dibblee asked about the turbine speeds in comparison to when the breeding season occurs. Mr. White discussed this. Ms. Brogoitti asked if the WEST study was paid by BPA. Mr. White stated the first study referred to was part of the environmental impact statement that had to be done for the interconnection. He stated the second study was paid by the applicant for Sheperds Flat.

Staff has initiated a dialog to have discussions about cumulative impact mitigation and monitoring. Mr. White discussed seven specific recommendations for mitigation and monitoring. One option recommended by USFWS is to establish a wind energy mitigation fee system to develop a mitigation bank. Mr. White said since it is not in place at this time, it could not be in the Proposed Order, and also more issues need to be resolved to make this option work.

Bob Shiprack questioned who has the jurisdiction that the Council needs to answer to on the avian matters. Mr. White encouraged the Council to keep in mind what the Council's function is, which is only for facilities in Oregon and by each individual site certificate. There was further discussion about comments from the letter from USFWS.

Jan Prewitt, Oregon Department of Justice, discussed potential liabilities involved with the federal statutes that come from the USFWS. Bob Shiprack asked if other applicants will be asked to do cumulative impact studies, or will there just be one. Mr. White stated there is a standard that addresses cumulative impacts. The applicant has responded and given their analysis.

Ms. Brogoitti stated she didn't feel each applicant should have the burden to be required to do a cumulative impact study. Tom Stoops said this is a topic item that does need to be determined. He stated September 12th there will be a meeting to discuss this item.

(There was a short break.)

Threatened and Endangered Species Standard

Mr. White referred to pages 69 through 75 of the Draft Proposed Order and the discussion about species in the area. It is not likely there will be a significant impact on the American peregrine falcon or bald eagles.

There was also discussion about Washington ground squirrels, and studies that have been done in the past in connection with the Stateline Project. PPM did a survey on the area of Leaning Juniper II and found that ground squirrels are present. PPM designed the facility to avoid the colonies of ground squirrels.

Mr. White referred to Oregon Fish and Wildlife's review and recommendation for approval of the Incidental Take Permit (ITP), which is Attachment E to the Draft Proposed Order. The Department of Energy recommends the Council approve the terms and conditions listed in the ITP. Chair Ripma asked if this procedure is always done.

Mr. White said he is highlighting this because protected species could be affected with this facility.

Chair Ripma asked for public comments before the break for lunch.

Chuck Barker, a resident of Wasco County, introduced himself. He commented about studies that could be done with chickens.

Chair Ripma declared a break for lunch.

Wildlife Habitat Discussion

Mr. White referred to pages 75 through 98 of the Draft Proposed Order for the Wildlife Habitat Discussion. He referred to Table 11, which is based on worst case analysis. Table 12 is similar, but for Leaning Juniper South only.

In regards to construction impact (temporary impact) a revegetation plan is covered in Attachment B, which includes success criteria, along with five-year monitoring.

Mr. White reviewed the Grassland Bird Study included in Attachment A, the Wildlife Monitor and Mitigation Plan.

Historical, Cultural and Archaeological

Mr. White referred to the cultural resources discussion on pages 100 through 101. The Department recommends that the Council adopt Condition 47 to require that earth-disturbing activities be halted if archeological objects are discovered in the course of construction of the facility. The condition further requires notification of the State Historic Preservation Office and the Department and evaluation of the discovery by a qualified archaeologist.

Other Applicable Regulations

Mr. White discussed the noise regulations, going over a handout showing the default layouts and the predicted noise levels at certain locations. He also talked about the two stages of compliance; the first is that the proposed layout be in compliance with standards. The second stage is a complaint response system, with notification to the Department if there are complaints about noise with an explanation of how the certificate holder responded to those complaints (Condition 95). There is also provision within the Department of Environmental Quality (DEQ) regulation for remedial action which may require noise measurement and ultimately noise mitigation.

Removal-Fill Law

Mr. White discussed the Oregon Removal-Fill Law (ORS 196.800 through 990) and also regulations (OAR141-085-0005 through 141-085-0090) adopted by the Department of State Lands (DSL) that would require a Removal/Fill Permit if 50 cubic yards or more of material is removed, filled or altered within any "waters of the state" at the proposed site. The Council must determine whether a permit is needed. In addition, the U.S. Army Corps of Engineers administers Section 404 of the Clean Water Act, which regulates the discharge of fill into waters of the United States (including wetlands). Under Section 404, a federal Nationwide or Individual fill permit may be required.

The Proposed Draft Order has a lot of discussion about this because there will be more than 50 yards of fill or removal, since there is an intermittent stream where a new culvert would be put in. The Department of State Lands (DSL) rules require a lot of findings in issuing a removal-fill permit. The decision issue of the permit is up to the Council and the Department of Energy Staff recommends the Council approve the permit.

Attachment F is the draft permit, which has been reviewed and recommended by the DSL.

Mr. White reviewed the next steps to take place following the Draft Proposed Order. He reviewed steps if there would be a contested case.

Mr. White introduced Andrew O'Connell and Sara Parsons, representing PPM Energy, Inc. Chair Ripma asked Council members for questions that may need clarification from PPM Energy; there were no questions.

B. Wind Integration Presentation

Tom Stoops introduced Jeff King, Northwest Power and Conservation Council.

Mr. King, explained the background of the Council, which is a four-state agency comprised of Oregon, Washington, Montana and Idaho, chartered by Congress in approximately 1980. The Council itself is comprised of two members from each state appointed by the governor of each state. Oregon members are Melinda Eden from Milton-Freewater and Joan Dukes of Astoria. He also said there are approximately forty people on staff. The Council is an advisory group, a collective spokesman group for the governors of each state and at five-year intervals gives recommendations for a power plan. Another area of operation for the Council is fish and wildlife. The Council approves expenditures funded by the Bonneville Power Administration (BPA). The third role of the Council is for public affairs.

Mr. King presented a handout "Wind Development & Integration in the Northwest. He reviewed the information in the handout. He pointed out that wind energy is ranked fourth in the existing production of energy. In discussing the first three, hydro, natural gas and coal, Mr. King talked about where the resources are for these three resources of energy, and the comparison of wind energy availability.

Lori Brogoitti asked about biomass. Mr. King stated that the biomass opportunities tend to be fairly small.

Mr. King said that in looking at terms of resource additions from 1999 through 2008, resources are dominated by gas and wind. He also noted that the conservation acquisition activities for energy in the northwest have become very aggressive and slightly ahead of the plan recommendations. There was discussion about how conservation is measured. When the Northwest Power Act was passed, conservation is treated as a resource that is acquired.

Martha Dibblee asked about error bars in determining these figures. Mr. King estimated roughly about fifteen percent at the most. There was also discussion about where the conservation is coming from, whether residential, commercial or industrial.

Mr. King referred to the graph showing Northwest resource additions and pointed out that in 2004 there weren't any megawatts of wind energy, attributed to the tax credit expiring. Increasing carbon dioxide levels are increasing the need for wind energy now, and wind energy is the least cost renewable. Bryan Wolfe asked if this takes into consideration the transmission issues as opposed to base load generation. Mr. King stated he would show a chart to explain this further, but he did note that the wind energy integration costs have been factored in, but does not include large scale transmission. He did state that costs have increased in construction recently 60 percent.

Mr. King discussed wind data and forecasting, which consists of two actions. One is to develop a high wind database, showing various wind bases for three years. This will also help to plan the future integration of wind resources.

Mr. King stated that wind energy is not very effective in meeting peak loads, when there are extreme heating events. When there is a uniform high pressure area the wind doesn't blow, and the same thing on cold days. The reliability percent is approximately fifteen percent, which is being reassessed.

There was discussion comparing the simple cycle turbines and combined cycle turbines. Bob Shiprack asked about the majority of wind energy going to private utilities and where BPA stands on this issue. He asked about the large private utilities and the impact of renewable portfolio standards on ratepayers.

Mr. King reviewed the wind integration process and compared how the utility company could use either the wind or the hydro power, depending on the output regulation. Chair Ripma asked if the utility companies are paying more for the wind regulation. Jan Prewitt, Oregon Department of Justice, spoke about BPA and the tariffs they charge, depending on what the utility companies need.

The map of transmission path constraints was discussed and the issues involved in integration. Two actions that could be taken are to develop "less than firm" transmission products and other means to improve efficiency of transmission use and develop plans of service for reinforcing constrained paths (west of McNary, I-5, N&S cross-Cascades).

C. Project Updates

Chair Ripma asked for any other comments.

Troy Gagliano, Renewable Northwest Project, introduced himself. Mr. Gagliano said there is no question that wind resources should play a large role. He also noted that even though transmission prices may be bumped up for integration, there are no fuel costs or carbon dioxide produced.

Mr. Gagliano also talked about the types of turbines in the northwest market. Within the last two years there have been new turbine manufacturers located in the United States which should help stabilize the price and quality of turbines.

Mr. Gagliano said that the Production Tax Credit (PTC) is valuable, but there are other subsidies also for power generation sources that have been used for years.

David Neikirk, a resident of Mosier, talked about siting new facilities and the need to solve some of these problems first before siting new ones.

Tom Stoops discussed the date for the upcoming meeting, September 21, 2007.

Chair Ripma adjourned the meeting.