

**Minutes**  
**Energy Facility Siting Council Meeting**  
**Turner Fire Department**  
**7605 3<sup>rd</sup> Street**  
**Turner, OR**

**April 8, 2005**

*Approved with minor revision by the Energy Facility Siting Council June 20, 2005*

**Oregon Energy Facility Siting Council**

Karen Green, Chair  
Hans Neukomm, Vice Chair  
Martha Dibblee  
David Ripma  
Robert Shiprack

**Department of Energy:**

Michael Grainey, Director  
David Stewart-Smith, Assistant Director  
Adam Bless, Project Officer  
Sam Sadler, Project Officer  
Catherine Van Horn, Project Officer  
John White, Project Officer  
Sisily Fleming, Administrative Assistant

**Oregon Department of Justice:**

Janet Prewitt, Assistant Attorney General

**Calpine Corporation:**

Peter Hansen  
Rick Tetzloff

**Concerned Citizens:**

Jean L. Walker, Turner  
James Thompson, Mayor  
Ron Johnson, Turner  
Roger Kaye, Turner  
John Brandt, Stayton  
Jerry Mumper, Turner  
Richard Van Pelt  
Carlie Spainhower, Turner  
Richard Bates, Turner  
Aileen Kaye, Turner  
Rita Thomas, Turner  
Ed Glad, Yamhill

John Williams, Turner

**Concerned Citizens (continued):**

Kirk Deal  
Dawn Hall  
Lisa Arkin  
Ron Bell

**PGE:**

Matt Featherston  
Jerry Reid  
Larry Rocha  
Jay Fischer  
Steve Quennoz  
Tom Meek

Chair Karen Green called the meeting to order at 9:10 a.m.

**I. Consent Calendar:**

**A. Reconsideration of July 23, 2004 EFSC meeting minutes.**

There was discussion of the need for reconsideration of the minutes. Martha Dibblee moved to approve the revised July 23, 2004 minutes without further revision, Hans Neukomm seconded the motion and Council approved unanimously.

**B. Approval of January 28, 2005 EFSC meeting minutes.**

There was discussion of the minutes; Martha Dibblee made a motion to approve the minutes, and Hans Neukomm seconded the motion. Council was polled and agreed unanimously to approve the minutes.

**II. Action Items:**

**A. Council consideration of Calpine's Request for Suspension of all permitting activities related to the Turner Energy Center**

Michael Grainey discussed reasons for Calpine's request for a one-year extension of the Turner Energy Center, one being uncertainty of sales on the open market. Mr. Grainey noted that, if the Council does not agree to an extension, Calpine had requested that the Council's review of the site certificate stop. Mr. Grainey said the Department of Energy

recommends that the Council not grant an extension and terminate the Turner Energy Center application.

Mr. Grainey further explained that DOE concluded that it is unlikely that market conditions will be any more certain one year from now. He discussed the legal differences between terminating the proceeding or suspending the process.

Chair Green asked Council members for questions; there were none.

Chair Green asked Jan Prewitt for her input about how to proceed legally. David Stewart-Smith further explained DOE's position.

Peter Hansen, Vice-President of Business Development for Calpine Corporations West Coast Region, introduced himself. Mr. Hansen reviewed the project's history, the evolution of Calpine's current request, and the constraints that the EFSC process can place on power plant development.

Mr. Neukomm asked for clarification on the suspension; Mr. Hansen further discussed Calpine's request.

Chair Green asked for comments from the public regarding the request for suspension.

Jean L. Walker, Turner resident, discussed reasons why the suspension should not be granted.

James A. Thompson, Mayor of Turner spoke to the Council, referring to an e-mail that he had sent. He discussed the progression of the Turner project and expressed his belief that the project and its review were unacceptable to Turner citizens.

Ron Johnson, Turner resident, referred to his written testimony. He summarized by asking the Council to support the ODOE recommendation. He referred, among other things, to EFSC's legal authority and its statutory timelines.

Roger Kaye presented a petition statement signed by some Turner residents. He stated he has been involved in the Turner project for four years, and has not found substantial support in the community.

John Brandt, resident of Stayton, said he also circulated the petition to which Roger Kaye referred, and he presented signatures to the Council.

Jerry Mumper, resident of Turner, commended the Staff and Council for the information provided. He referred to having had to put on hold for years development plans for his own property because of the Turner project. He also discussed activity in the area by bald eagles.

Richard Van Pelt, resident of Salem, expressed his support for the ODOE recommendation to terminate the project.

Carlie Spainhower, a Turner City Council member, requested the Council grant the suspension. She stated a lot of work and time has been involved in the project. Also, the project would be an economic advantage to the community.

Richard Bates, Turner resident since 1957, stated his support for Calpine's request, referring to how long it takes any large project to be decided.

Aileen Kaye, a resident in the area, referred to a letter she submitted on March 25<sup>th</sup>. She further stated that there would be an appeal to the Supreme Court if this were to continue, which would involve more time.

Rita Thomas, Turner resident, said there has been a lot of misinformation given by Calpine, which has created problems with the entire community. She is in full support of denying the suspension.

Ed Glad, a Yamhill resident representing the Pacific Northwest Regional Council of Carpenters, said he felt denying the request for suspension would discourage other investors in Oregon.

John Paul Williams, Portland resident representing Electrical Workers Local #280, introduced himself. He stated it is poor public policy to consume the time and resources of public agencies and all residents involved and that he feels it is time for the project to end.

Kirk Deal, Portland resident of Portland, said he supports the suspension of the permitting process for the Turner project. He stated that extensions have been allowed for other projects, and the investments involved by the City of Turner and Calpine should not just be thrown away. Mr. Deal also referred to the Umatilla Generating Project, which recently was terminated; he said it was given ten years before the decision was made to terminate. The Coburg project was started one week prior to the Turner Project and is still going through the permitting process.

Mr. Deal also said Steve Carlson, Business Representative for a carpenters union, asked him to speak in his absence. Mr. Carlson was very adamant about supporting the project.

David Ripma asked staff if the Coburg extension had similar conditions and timelines as being requested. Staff responded. Mr. Deal continued his public testimony.

Dawn Hall said she supports ODOE's recommendation and states it has cost her family quite a lot of money to put their projects on hold because of the proposed project.

Lisa Arkin, Oregon Toxics Alliance, said she supported the ODOE recommendation. She discussed how citizens in other counties are watching EFSC's process in Turner.

Ron Bell, Turner resident, stated his support for termination and reasons for looking to solar energy.

Mr. Stewart-Smith referred to particulars in the termination of the Umatilla Generation Site Certificate compared to the Turner project. He explained that, once the Draft Proposed Order is issued, decision-making control over Calpine requests rests with the Council, not the ODOE.

Chair Green asked about the termination history of the previous Cogentrix project. Mr. Stewart-Smith explained that, in the Cogentrix case, there was a request for extension of the Notice of Intent (NOI). He further explained the request.

Mr. Graine, ODOE, noted that the Coburg project timeline had been extended in part because the county had requested more time to submit comments. He explained that the City of Turner also had a similar opportunity to take more time to submit requests on the Turner project.

Mr. Neukomm asked about the time limit once the project is in the jurisdiction of the Council.

Jan Prewitt, Oregon Department of Justice, gave more insight into the process and noted that once the Draft Proposed Order is issued, a decision is to be determined quickly.

Chair Green asked about the change in standards from the needs standard to the CO<sub>2</sub> standard, and the shifting of risk to the applicant. Mr. Stewart-Smith explained the background of demonstrating need.

Cathy Van Horn, ODOE, pointed out that Calpine still had the option to move forward with the site certificate process, (possibly with a contested case delaying the site certificate) and have a two-year time period before it had to begin construction – should the company receive a site certificate. Calpine did not want to take this option.

Mr. Neukomm asked about the future for more power. Mr. Stewart-Smith reviewed several projects in process that will be ready for the marketplace.

John White, ODOE Project Officer for the Coburg facility, made a correction regarding the applicant on that project.

Ms. Dibblee questioned the definition of extension. Ms. Prewitt stated there is nothing in the rules that addresses the suspension or extension of time once the Draft Proposed Order has been issued. There was discussion among Council members. Bob Shiprack recused himself because of a conflict of interest.

David Ripma moved to deny Calpine's Request for Suspension and to terminate the Turner Energy Facility application for site certificate and adopt the Draft Final Order that staff provided. Martha Dibblee seconded the motion and Council approved unanimously:

<b>Martha Dibblee</b>	<b>Yes</b>	<b>Karen Green</b>	<b>Yes</b>
<b>Hans Neukomm</b>	<b>Yes</b>	<b>David Ripma</b>	<b>Yes</b>

Chair Green asked Michael Grainey, Director for Oregon Department of Energy, for an update on pending legislation. Mr. Grainey explained there are two bills, Senate Bill 527 and House Bill 3135, co-sponsored by members from Lane County and Klamath County. The bills would - 1) Cover an extensive environmental review similar to the NEPA process and an alternatives comparison; 2) It would install a needs standards differently than what has been done in the past; 3) Give the appropriate local government the exclusive review of land use requirements. Mr. Grainey stated that hearing testimony has been mixed and the Department of Energy has drafted amendments to the bills.

Chair Green asked what role Council members have in the process. She is concerned about the characterizations that have been made about Council decisions. Mr. Stewart-Smith said the Council is welcome to participate. Jan Prewitt, Department of Justice, said the DOJ has given specific advice as to individual members expressing comments and opinions about the legislation. Mr. Stewart-Smith stated he was offended by the accusations made by others of EFSC members, who all are volunteers; the ODOE Staff is drafting a response to the accusations.

**B. Klondike III Wind Power Project: Appointment of Sherman County Board of Commissioners as the Special Advisory Group**

John White, Project Officer for the Klondike Project said a request for an expedited review was received. Mr. White reviewed the Energy Facility Siting Council rules in granting an expedited review. There will be no notice of intent. There was discussion among Council members about the appointment of the Special Advisory Group.

Bob Shiprack moved to appoint the Sherman County Board of Commissioners as the Special Advisory Group for the proposed Klondike III Wind Power Project. Martha Dibblee seconded the motion and Council approved unanimously:

<b>Martha Dibblee</b>	<b>Yes</b>	<b>Karen Green</b>	<b>Yes</b>
<b>Hans Neukomm</b>	<b>Yes</b>	<b>David Ripma</b>	<b>Yes</b>
<b>Bob Shiprack</b>	<b>Yes</b>		

**III. Information Items:**

**A. Discussion of technical issues associated in conducting Trojan Final Review Surveys and Oregon Department of Energy's Review Surveys**

Adam Bless reviewed the handouts and briefing given to Council members regarding the Trojan Decommissioning.

David Ripma asked how a rulemaking constitutes an irrevocable decision that settles an issue. Mr. Bless said the reason is because this rulemaking removes restrictions on what PGE can do at the site. The current rules restrict what PGE can do on the site. Once the restrictions are removed, PGE can make changes at the site that cannot be undone.

Mr. Stewart-Smith said the Trojan Site Certificate predates EFSC and EFSC has proposed changes that required rulemaking. He explained that the site certificate includes a requirement for PGE to comply with all rules adopted by the Council. For this reason, the Council has traditionally used rulemaking as a way to adopt or modify the requirements at the Trojan site.

Mr. Bless referred to a question Hans Neukomm asked at a previous meeting. The United States Nuclear Regulatory Commission (NRC) had said that once the Trojan Site receives unrestricted release, there are no restrictions. He further explained how the radiation measurement readings were done in the past.

Mr. Bless said that in this case the review is different from an application for a site certificate. ODOE reviewed the final survey by becoming knowledgeable about the federal guidelines and watching as PGE turned the guidelines into their own custom plan, which they called the Trojan License Termination Plan (LTP). The review actually began in 2000. He further explained the survey process.

Chair Green asked about the LTP and whether there was employee fatigue in doing the testing. Mr. Bless explained the testing process and how human mistakes were prevented in collecting the data. Trojan was the first big commercial plant to go through this process, so there were a lot of confirmatory services done by the NRC, knowing this would set a precedent for other nuclear plants around the country. Mr. Bless explained that since the Trojan plant is very large, the PGE survey designers divided it into small survey units and prepared individual survey documentation packages for each one. Since the survey method is based on statistics, it is impossible to achieve zero margin of error. The NRC commits to a very small margin of error (5%) and PGE followed this.

Mr. Neukomm questioned what the selection of survey units was based on. Mr. Bless explained that before performing the final survey, PGE did characterization surveys to see what contamination was present. The characterization survey is a fundamental step that PGE used to determine the different areas and contamination levels. The selection of survey units was based on the results of the characterization surveys.

Chair Green asked about the tritium on the Groundwater report and where it came from. Mr. Bless said there were 17 monitoring wells drilled to test, and the tritium came when it rained. He explained that the Nuclear Safety Division (another division in the Oregon Department of Energy) has a certified hydrogeologist on its staff, Tom Stoops. He explained that since groundwater issues require knowledge of hydrogeology, he relied on Tom Stoops' analysis of groundwater issues. The tritium described in the groundwater monitoring report was a small fraction (less than 10%) of the U.S. Environmental Protection Agency's drinking water standard.

Mr. Bless introduced Tom Meek, Radiation Protection Manager at Trojan, who also was the person in charge of groundwater monitoring. Mr. Meek explained the origin of the tritium. The shallow well near the surface was the only one where tritium was found, which fluctuated when it rained heavily. Chair Green asked if there is any way that could leach to the deep well and go to the Columbia River. Mr. Meek said it is only in the surface water.

Mr. Bless said a finding needs to be made not only on the site being safe, but whatever is done in knocking down the building is safe, including the structures and pipes.

David Ripma questioned the stance of testing and whether the NRC has cleared the site for unrestricted release. Mr. Bless explained that the NRC has made the technical finding, but the legal finding has not been made. Mr. Ripma questioned why the Council is being asked to make this decision when the NRC is not done. Mr. Bless said that PGE and ODOE expected the NRC to be done with its review before ODOE requested a Council decision. Mr. Ripma questioned the urgency of the completion and what would happen if the rules were adopted. Mr. Bless said in the motion to adopt the proposed rules, a contingency should be added. The Council, in its motion, could find that the Trojan site meets the criteria for unrestricted release, and could adopt the new rules but direct staff not to file the new rules with the Secretary of State until the NRC has issued its final letter of approval. The rules would not become effective until filed with the Secretary of State. Ms. Prewitt, DOJ, suggested researching the issue to be sure. The reasons for delay do not relate to the condition of the site; it is only a financial/insurance issue. Jerry Reid, Trojan licensing manager, explained that the final NRC approval was delayed because the NRC had not reached a final conclusion on what liability insurance was needed for the Spent Fuel Storage Facility.

Mr. Ripma questioned the insurance for nuclear plants, the Price Anderson Act. Mr. Stewart-Smith clarified that is discussing an operating nuclear plant. Mr. Ripma asked if this could delay the process. Mr. Bless asked Jan Prewitt, Department of Justice, what the status of the rules would be if they haven't been filed. There was discussion about this and whether there is a timeline for it to be filed.

Jerry Reid, PGE, said there were early discussions with NRC regarding insurance. PGE is maintaining a \$100 million insurance policy for the ISFSI. Ms. Dibblee asked if another rulemaking would be initiated to prevent these questions in the future. Mr. Reid

explained the federal rulemaking process. Council and Staff also discussed the rules that would continue to apply to the Independent Spent Fuel Storage Installation (ISFSI).

Martha Dibblee mentioned the point in the Hearing Officer's Report on Page 5, that Eugene Water & Electric (EWEB) had asked Trojan to provide additional financial information in the bi-annual report. Mr. Stewart-Smith said it would provide additional reporting requirements, not security or insurance. Chair Green asked about EFSC authority in making additional requirements. Jan Prewitt, DOJ, said that issue was related to site restoration issues, not insurance.

Jan Prewitt referred back to the question about filing the motion to adopt the rules suggested and noted that the effective date of the rules could be later than the filing date. She also looked at the judicial review provisions, and summarized that a court cannot find a rule invalid for failure to follow proper proceedings two years after it is filed. She further mentioned the filing date is a trigger point for a rule.

Ms. Prewitt also said the Council might feel more comfortable after NRC's action. Mr. Ripma asked if the Council would be outside their rights if they waited for the NRC to act. There was discussion between Staff and Council. Mr. Ripma asked if NRC rules changed could there be more requirements by the NRC regarding cleanliness of site. Chair Green said NRC would not release it if there were problems.

Ms. Prewitt said the Council rules set the standard for decommissioning. Mr. Ripma expressed his concern about the decision to be made before the final release since Trojan is the only nuclear plant in Oregon and has been a controversial plant since the beginning. Chair Green also said this is the most important decision to be made, and no members of the public or media are in attendance.

Mr. Reid, PGE, said they have received formal correspondence from the NRC that certifies they have reviewed all the Final Survey Reports and have reached concurrence with PGE's reports that the site meets the criteria for unrestricted release.

**V. Actions Items:**

Chair Green reviewed the Action Items before the Council.

**A. Council Finding on Unrestricted Release of the Trojan Site**

Adam Bless, DOE, reviewed his recommendation, which is on the last page of the Technical Briefing Document.

Chair Green asked for public comments; there were none.

Bob Shiprack made a motion that: 1) The Trojan Final Survey was performed in accordance with PGE's approved License Termination Plan; 2) It is consistent with Federal Guidance (MARSSIM); and 3) Demonstrates that the site meets the criteria of

OAR 345-026-0370 for unrestricted release. Martha Dibblee seconded the motion and the Council unanimously approved:

<b>Martha Dibblee</b>	<b>Yes</b>	<b>Karen Green</b>	<b>Yes</b>
<b>Hans Neukomm</b>	<b>Yes</b>	<b>David Ripma</b>	<b>Yes</b>
<b>Bob Shiprack</b>	<b>Yes</b>		

**B. Council Decision on Proposed Amendments to OAR 345 Division 26 to reflect completion of Trojan Decommissioning**

Mr. Bless expressed appreciation for the Council's concern about the NRC. He further explained the Proposed Amendments. Chair Green asked for questions from Council members.

Jan Prewitt, Department of Justice, discussed the process and the motion. She referred to the handout "Proposed Amendments to Oregon Administrative Rule (OAR) Chapter 345, Division 2." This document is the original proposal with amendments proposed by PGE, but does not include the proposal by EWEB. Ms. Prewitt referred to Page 15 (of 16), Section ([f] d). She also crafted the motion to adopt the amendments.

Martha Dibblee made the motion: To adopt amendments to OAR 345, Division 26 contained in the draft staff handout of April 8, 2005 entitled Proposed Amendments to OAR 345, Division 26 as further amended by the recommendation in the Hearing Officers report of February 4, 2005 to adopt changes to OAR 345.026.0390 (6)(d) as follows: To substitute for the two phrases in the middle – the phrases beginning after "storage operations" beginning with the language of "statement of expenses" and continuing there through the second "storage operations" two phrases – substitute the following language "a statement of the estimated cost of continuing ISFSI storage operations through decommissioning, and the estimated cost of decommissioning, including a discussion of the methods and assumptions used to estimate operations and decommissioning costs, an estimate of funds available for continuing ISFSI storage operations through decommissioning, and funds available for ISFSI decommissioning," and then the final clause in the staff draft remains as it is. The second half of the motion reads "the Council also finds that the additional recommendation of the hearing officer is mute because it has been withdrawn and the Council does not adopt that recommendation or the hearing officers report on this issue." Hans Neukomm seconded the motion.

There was discussion among Department of Energy Staff, Department of Justice, and Council regarding a further motion regarding the filing of the motion.

Council was polled and approved unanimously:

<b>Martha Dibblee</b>	<b>Yes</b>	<b>Karen Green</b>	<b>Yes</b>
<b>Hans Neukomm</b>	<b>Yes</b>	<b>David Ripma</b>	<b>Yes</b>
<b>Bob Shiprack</b>	<b>Yes</b>		

Another motion was made by David Ripma to instruct Staff to file the rule adopted on April 8, 2005 upon receipt from PGE that NRC has issued their letter terminating the Part 50 license. Martha Dibblee seconded the motion; Council was polled and unanimously approved:

<b>Martha Dibblee</b>	<b>Yes</b>	<b>Karen Green</b>	<b>Yes</b>
<b>Hans Neukomm</b>	<b>Yes</b>	<b>David Ripma</b>	<b>Yes</b>
<b>Bob Shiprack</b>	<b>Yes</b>		

Tom Meek, PGE, expressed gratitude from PGE for all the efforts and work by the Council and Staff.

There was discussion among all present about the history of Trojan and the ISFSI.

Ms. Prewitt did talk with Richard Whitman, DOJ, in regards to Council members making individual comments about legislative policies being adopted. There was discussion about procedures on comments by Council members.

Mr. Stewart-Smith discussed proposed LNG facilities.

Chair Green adjourned the meeting at 3:54 p.m.

.