



**Department of Land
Conservation and Development
Wind Energy Advisory Committee**

MINUTES

Meeting 3

November 3, 2008

10:00 AM – 2:00 PM

Columbia Gorge Discovery Center
5000 Discovery Drive, The Dalles
Board Room

Advisory Committee Members Present

Hanley Jenkins, LCDC (Chair)
Susie Anderson, Gilliam County
Karen Chase, Oregon Department of Energy
Todd Cornett, Wasco County
Jim Johnson, Oregon Department of Agriculture
Brendan McCarthy, Portland General Electric
Gregory McClarren, Citizen Involvement Advisory Committee
Timothy McMahan, Stoel Rives LLP
Chris Moore, Sherman County farmer
Patty Snow, Oregon Department of Fish and Wildlife
Bruce Zimmerman, Confederated Tribes of Umatilla

DLCD Staff Present

Katherine Daniels, Farm/Forest Specialist
Jon Jinings, Central and Southeastern Regional Representative

Interested Persons Present

Suzanne Asmus, Horizon Wind
Michael Benedict, Hood River County
Scott Hartell, Union County
Doug Kusyk, PacifiCorp
Georgia Macnab, Sherman County
B. J. Moghadam, PacifiCorp
Sara Parsons, Iberdrola
Nancy Pustis, Oregon Department of State Lands
Mark Tallman, PacifiCorp
Alan Vandehey, Iberdrola

Meeting Materials

[Agenda](#)

[Draft Rule Language](#)

[Statement of Need and Fiscal Impact](#)

[Housing Cost Impact Statement](#)

Agenda Item 1 – Opening Remarks from the Chair

Chair Jenkins convened the meeting at 10:20 a.m. and welcomed the committee. The committee and interested parties introduced themselves.

Agenda Item 2 – Committee Business

Katherine Daniels handed out meeting materials. Jim Johnson proposed one change to the minutes of October 20, 2008 and the committee approved the revised minutes. The committee discussed potential impacts of wind rulemaking on the cost of housing and concluded that there would be no anticipated impact; the discussion on other potential impacts of rulemaking was deferred to the end of today's meeting.

Agenda Item 3 – Results of Research

Greg McClarren described his research on soil compaction on forest lands and distributed two handouts. His research focused on the National Forest Service's system of soil management. Chair Jenkins noted that the committee could recommend that LCDC address wind projects on forest land at some point.

Agenda Item 4 – Discussion of Proposed Rule Amendments

Jon Jinings and Katherine Daniels described the proposed rule language and intent, beginning with subsection (37) that defines facility components. The issue was raised how to describe the last point of the generating facility before it connects to the transmission system. Bruce Zimmerman thought that the proposed reference to the substation being the start of the transmission system might not necessarily be accurate because the power step-up point could be the meter or bus bar. The committee agreed that Katherine Daniels would consult with the Oregon Department of Justice for an opinion. Brendan McCarthy asked why the collection system and easement are identified as system components, as one can farm over buried lines. Jim Johnson explained the concern with orphaned lands and indirect impacts on arable lands, each case being unique and needing to be mitigated differently. He said that easement conditions can limit agricultural practices. Sara Parsons stated that 70% of collector lines are underground, usually three feet, and that the easements for them usually run along roads, not between turbines. Jim Johnson stated that crop roots can be deeper than three feet.

Greg McClarren asked what size facilities would be subject to the proposed rules. Various members of the committee stated that counties define this threshold differently, with sizes varying from one to three to 10 megawatts. Katherine Daniels stated that it is up to counties to define what commercial is, but that DLCD does not consider net metering to be commercial. The question was raised whether underground and above-ground lines should be distinguished; Jim Johnson said there is no need to distinguish them. Suzanne Asmus raised a concern that defining easements as a system component could easily kick in the exceptions process. Mark Tallman suggested identifying encumbrances instead of easements, as it is more specific. Other interested parties representing wind industries objected to the easement language. Most of the county planning directors present voiced their preference to deal only with physical facility components and not easements. Suzanne Asmus said that corridors can be identified along the collection system. Chair Jenkins stated that we will remove the language on easements.

Chair Jenkins then asked the committee for its input on the language on roads. Sara Parsons raised the issue of the difficulty in avoiding high-value soils if a county road with an existing right-of-way is involved that already includes such soils. The committee then agreed to limit the language to refer to private roads only. Carla McLane suggested and committee members agreed to add the words “operations and” to maintenance buildings as allowable components.

Jon Jinings stated that Section (37) (a) means that the standards that follow would and could not apply to land taken as part of an exception unless the rules for exceptions were amended. Katherine Daniels voiced concern with the requirement that an exception be taken for an entire project, as wind projects can involve thousands of acres; she stated that an exception for just high-value soils would be preferable, as the reasons test would still involve an examination of alternatives on the rest of the project site. Jon Jinings stated that the exception would be use-specific and not a blanket exception to Goal 3. Tim McMahan stated that he thinks including the entire project in an exception is unnecessary and would be overregulating. Chair Jenkins stated that he believes an exception is appropriate, but that he wants to keep high-value soils subject to Goal 3. Jon Jinings suggested that instead of an exception, tougher conditional use standards can be used that embody exception-like criteria. Jim Johnson said we can look at and consider ORS 215.275 standards for the review of utility facilities necessary for public use and decide if they’re applicable; he then read the standards to the committee. Tim McMahan suggested that just high-value soils be subject to these standards. Chair Jenkins thought that both high-value and other arable soils should be subject to these standards. Tim McMahan thought standards used should be objective. The committee was in general concurrence that language similar to the standards of ORS 215.275 should be used. The language should say that the governing body or its designate must find that the various elements of the facility meet these standards.

The committee discussed and agreed that the standards of subsection (b) should apply to high-value as well as other arable soils. Other minor changes were made to the draft rule language, including references to an “adequately qualified individual” in two places, rather than a certified soil scientist. The committee discussed combining subsections (b) and (c) and whether arable and grazing lands should be subject to the same rather than different criteria, but eventually decided no and to use the proposed language as is. The committee also discussed whether subsection (d) should continue to require that facilities on a mix of arable and nonarable land be subject to all the applicable criteria of subsection (b) for both types of land. Jim Johnson explained the not-so-clean line between grazing and arable lands and the need for counties to have flexibility in the application of standards, which the existing language would do. The committee decided to leave the language as is.

Agenda Item 5 – Vote on Recommendation to the Commission

After a brief discussion, the committee voted unanimously to adopt the proposed rule language with revisions as agreed to today and with minor changes to reflect input from the DOJ and the incorporation of language similar to that of ORS 215.275.

The committee returned to the issue of potential fiscal impacts of wind rulemaking and Katherine Daniels read proposed language. Patty Snow noted that fiscal impacts could be increased if wind projects are directed to nonarable lands because of mitigation requirements for native habitat; Sara Parsons concurred. After a brief discussion, the committee agreed that the proposed language with the existing discussion of pros and cons was acceptable.

Agenda Item 6 – Next Steps

Chair Jenkins asked Katherine Daniels and Jon Jinings to make final revisions to the rule language and circulate to the committee along with a request for the identification of any other issues that members feel should be raised with LCDC. Katherine Daniels told committee members and interested parties that DLCD will accept any comments on the proposed rule amendments up to and including the day of the LCDC meeting on December 4 and that oral comments may be made on that day as well. Chair Jenkins adjourned the meeting at 2:45 p.m.

Public Comment

Interested parties were active participants in the committee’s discussion throughout the meeting.