



# ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Katie Imes ■ Perry Chocktoot ■ Ann Beier ■ Richard Devlin

## Energy Facility Siting Council Meeting Minutes

Thursday March 21, 2024, 5:00 PM

- A. Leaning Juniper IIA Request for Amendment 3 Draft Proposed Order (Public Hearing)<sup>1</sup>
- B. Wheatridge Renewable Energy Facility East Request for Amendment 1 Draft Proposed Order (Public Hearing)<sup>2</sup>

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

Thursday March 21, 2024, 5:00 PM

**Call to Order:** Vice-Chair Condon called the meeting to order on March 21, 2024, at 5:30 p.m.

**Roll Call:** Vice-Chair Cynthia Condon and Council Members Marcy Grail, Ann Beier, Katie Imes were present in person. Council Member Richard Devlin was present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett; Senior Siting Analyst Chase McVeigh- Walker; Senior Siting Analyst Christopher Clark and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

**Agenda Modification:** There were no agenda modifications.

### A. **Leaning Juniper IIA Request for Amendment 3 Draft Proposed Order (Public Hearing)<sup>3</sup>**

<sup>1</sup> Audio/Video for Agenda Item A =00:03:53 – 2024-03-21-EFSC-Meeting-Audio/Video

<sup>2</sup> Audio/Video for Agenda Item B = 01:03:32 – 2024-03-21-EFSC-Meeting-Audio/Video

<sup>3</sup> Audio/Video for Agenda Item A = 00:03:53 – 2024-03-21-EFSC-Meeting-Audio/Video

The project is an operational 90.3 megawatt (MW) wind energy generation facility, located within a site boundary of 6,404 acres. The facility consists of 43 wind turbines, with a maximum blade tip height of 492 feet.

The minutes for this agenda item were largely taken from the verbatim transcript that was generated by the WEBEX meeting software.

Chase McVeigh-Walker, Senior Siting Analyst, provided an overview of the siting process, and of the amendment request.

Cynthia Condon, Vice-Chair, acting as the Presiding Officer explained the legal requirements for providing comments on the record and facilitated the hearing. Vice-Chair Condon explained the 29-day public comment period concludes on Friday, March 29, 2024 at 5:00 P.M. and the Certificate Holder has until Monday, April 1, 2024 at 5:00 P.M. to respond to public comments, unless additional time is request and provided by the Department.

**Vice-Chair Condon opened the Public Hearing at 6:14 p.m.**

Vice-Chair Condon asked if the certificate holder would like to provide comments.

Olivier Jamin (Davis Wright Tremaine Attorney), Marcy Patrick (Avangrid Renewables) and Tyler Hoffbuhr (Avangrid Renewables) appeared on behalf of the certificate holder.

Mr. Jamin thanked Staff for their work on the Draft Proposed Order and their comprehensive summary. The applicant is in support of the findings and the proposed conditions in the Draft Proposed Order subject to comments that were submitted in a letter dated March, 15 2024. The comments include:

1. Referring to Table 2 in the Draft Proposed Order, the proposed language refers to a maximum, temporary disturbance. The certificate order would like the language to reflect a change that would make it an approximate temporary disturbance subject to a limit with some of the discretion that might be allow for the certificate holder, not to exceed 10% of the approximate disturbance. The reason for this request is that this proximate language with a 10% restriction will allow some flexibility as design is further developed and as construction is undertaken.
2. Related to new Condition 122 as well as the recommended amended Condition 30 that provides ODOE with the right to adjust contingencies “as appropriate and necessary to ensure that cost to restore the site are adequate”, the applicant would like to get some additional guidance from ODOE as to the words “appropriate and necessary”, to better understand what may trigger the Departments discretion and require adjusting the contingency.
3. The current recommended amended language in Condition 27 in the DPO does not reflect the language that was updated in the site certificate and the amended site certificate. The applicant would like to request that language from the site certificate replace the current language in the DPO.

4. In Table 3 in the DPO, the impact ratio should be changed from 1:1 to 2:1.

*Council Member Grail requested Staff pay attention to the comment received regarding the request for additional guidance in Condition 22 for decommissioning a site. Discussion with the applicant can help provide some direction and guidance to Council in terms of making any changes necessary to clarify language in the proposed order.*

*Council Member Beier asked if the developer is comfortable with the language regarding waste minimization and if there are any current plans for recycling of components.*

*Ms. Patrick stated the developer is comfortable with the language as written, with the optionality. They are exploring recycling methods and are currently working with a contractor to identify recycling facilities and methods on site to break down the blades.*

**Vice Chair Condon opened the hearing for public testimony.**

**No public comments were submitted.**

**Vice Chair Condon opened the hearing for Council Comments.**

*Council Member Beier commented that while this is a minor amendment for repowering, Council does have new standards, in particular within the wildfire standard, decommissioning and organizational expertise standard. She requested Staff review some of the Council's recent decisions to ensure that there is clarity and consistency in the DPO with the new standards.*

*Council Member Imes commented on the waste minimization plan, noting that there was a plan in place with the original site certificate. She expressed her desire to see more detailed information provided in the DPO as there was in the original site certificate.*

**Vice Chair Condon closed the public hearing at 6:34 p.m.**

**B. Wheatridge Renewable Energy Facility East Request for Amendment 1 Draft Proposed Order (Public Hearing)<sup>4</sup>**

The project is an approved, but not yet-constructed, 200-megawatt (MW) wind energy generation facility. It is approved to include up to 66 wind turbines, up to 32 miles of two overhead, parallel 230 kV transmission lines, and other related and supporting facilities to be located within an approximately 4,582-acre site boundary in Umatilla and Morrow Counties.

The minutes for this agenda item were prepared from the verbatim transcript that was generated by the WEBEX meeting software. Some edits for clarity and concision have been made.

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<sup>4</sup> Audio/Video for Agenda Item B = 01:03:32 – 2024-03-21-EFSC-Meeting-Audio/Video

Christopher Clark, Senior Siting Analyst, provided an overview of the siting process and the amendment request.

*Council Member Devlin commented that what really struck him was the expansion of the site boundary. He commented that from the topographical maps he'd seen of the area appears to be largely rolling hills and that there's only going to be certain areas where you'll be able to put wind turbines, but the expansion is from an area that was about 7 square miles for the footprint of the project to about 116 square miles, so about a 17 fold expansion with a relatively modest expansion in the number of turbines and about a 1/3 increase in the theoretical amount of power produced.*

*Council Member Devlin asked Mr. Clark if, with that level of expansion, he foresaw that this site is going to require significantly more monitoring by the Council than the previous proposal.*

*Mr. Clark responded that he believed that, with the larger site boundary and the expanded energy facility, there would be more monitoring needed during construction, particularly for erosion control, noxious weed control and things like that. He also commented that obligations for inspections during operations would be more relative to the increase in operating infrastructure.*

*Council Member Devlin asked Mr. Clark if there was anything in the proposal that would give him the impression that there may be a future expansion within the 116 square mile area, while acknowledging that sites for turbines would be limited and that the certificate holder had obviously selected the best sites that meet their requirements and meet other regulatory requirements.*

*Mr. Clark responded that he was probably not the best person to respond and suggested that the certificate holder could respond.*

*Council Member Grail asked if she had correctly heard that the certificate holder seeks expedited review.*

*Mr. Clark confirmed that he did say expedited review, but that it wasn't intended to be a formal term like an expedited review for a special criteria facility, just that the certificate holder had indicated that they would like the Council's decision to be as soon as possible so they can begin construction as soon as possible. Mr. Clark explained that the Department had not altered the public comment period length or duration, and that the Department had tried to give the Council as much time as it needs to review the facility.*

*Secretary Cornett added that the Department had been in communication recently with Council Members about changing the date of the May meeting and that, as Mr. Clark referenced, was in part to try to get this project through the review process faster. He*

*explained that assuming no significant issues raised in public comments or contested case requests, delaying the May meeting by two weeks would also allow for Council's final review at the May meeting rather than in June.*

*Council Member Grail asked if the certificate holder was prepared to go to work immediately?*

*Mr. Clark responded that is what the certificate holder had indicated to the Department but that there was still pre-construction compliance that will be ongoing after the Council's decision, but that the certificate holder had already started to prepare that information.*

*Council Member Beier commented that the changes to the schedule were not to do away with any public comment opportunities, but just proposed a different calendar for the Council itself. She explained that the Council has tried to build in extra time for the public to comment on all our proposals, because it gives the Council better information to make our decisions. She explained that the word expedite is probably the wrong word because we aren't short-changing the public input period, which is very important to the Council and that the Council values the comments that we get.*

Cynthia Condon, Vice-Chair, acting as the Presiding Officer explained the legal requirements for providing comments on the record and facilitated the hearing. Vice-Chair Condon explained the 35-day public comment period concludes on Thursday, April 4, 2024, at 5:00 P.M. and the Certificate Holder has until Monday, April 8, 2024 at 5:00 P.M. to respond to public comments, unless additional time is request and provided by the Department.

#### **Vice-Chair Condon opened the Public Hearing at 7:14 p.m.**

Vice-Chair Condon asked if the certificate holder would like to provide comments.

David Lawlor (NextEra Energy Resources, LLC), Sarah Twitchell (NextEra Energy Resources, LLC), and David Filippi (Stoel Rives) appeared on behalf of the certificate holder.

Mr. Lawlor thanked the Council for reviewing the application and thanked the staff for the work that they put in. He explained that the certificate holder was mainly in attendance to listen to and receive the public comments provided at the hearing but wanted to address issues raised by the Council and during the staff overview.

Mr. Lawlor explained that the site boundary was previously just the micrositing corridors, which is why it was only 4,000 acres. He explained that the actual lease parcels were almost 42,000 acres originally. He explained that the requested amendment would increase the site boundary to the lease boundary, and then within that, would increase the micrositing corridors by 10,000 acres. He explained that as an "apples to apples" comparison it's an increase from 4,600 acres to 14,600 acres or so. Mr. Lawlor explained that the site includes basaltic ridges, and the wind resource is only available in certain places.

Mr. Lawlor explained that the certificate holder would provide written comments on the DPO but had no other specific comments for the hearing.

*Council Member Devlin stated that the certificate holder had addressed his earlier comment regarding the size of the expansion area but that he was interested to know if the certificate holder anticipated any future expansion within the proposed footprint.*

*Mr. Lawlor responded that the certificate holder did not anticipate future expansion within the proposed footprint at this time.*

*Council Member Beier asked staff to clarify the micrositing areas and actual impact areas in the DPO. She explained that the table summaries that showed disturbed areas were very helpful, but wanted to make it clear that micrositing and impact areas were different issues.*

*Secretary Cornett confirmed that the Department would include better clarification in the Proposed Order.*

**Vice Chair Condon opened the hearing for public testimony.**

**Wendy King**

“My name is Wendy King. My family's century farm is located on Little Butter Creek in Morrow County, just north of Gleason Butte. Gleason Butte is the site to multiple wind towers proposed through Wheatridge East [RFA1].

The peak of Gleason Butte is approximately 3,189 feet above sea level. It is the highest peak in the northern half of Morrow County. Gleason Butte can be seen many miles away, and from many viewpoints along Interstate 84, just east of Boardman through the Echo exit. The Butte is visible for the majority of Highway 207 as it parallels Big Butter Creek. It is approximately five and a half miles south of Meyers’ farm.

The presence of wind turbines on our viewshed wrecks our enjoyment of our property with countywide vistas that are pleasing to our working family. Here's where I have issue, even though the Morrow County Planning Commission has not protected this landmark, many of our community consider it an aesthetic scenic value. I doubt Morrow County saw the need to protect many of its natural scenic resources because they just didn't anticipate there would be an issue, or they never thought to ask the community, because this impact may be felt more by viewers from Umatilla County perhaps, it was never considered important to Morrow County.

To allow wind turbines to out reach the peak of Gleason Butte will destroy its natural beauty. The blinking red beacons, visible even at night, will remind us of its presence.

Building these turbines on top of and to the north of this beautiful landmark can be remedied by excluding any turbine whose blade reaches above the peak of 3,189 feet above sea level.

My opposition comes in part from the impacts to our family century farm from the [siting] of the 500 kV transmission line, B2H, that is slated to cross through our dryland wheat operation passing just over one-half mile from our homestead, causing a substantial increase in aerial chemical application costs and impacts to croplands adjacent to the line, loss of our ability to use our airstrip and hanger our father built, and the tremendous emotional distress from the EFSC and PUC processes that we participated in and received little consideration.

At this point, I would like to say I think that siting was extremely important for energy transmission vs. energy production, and that may be characterized here. My point here is that the Energy Facility Siting Council so far has [taken] no notice of the cumulative impacts of siting facilities in our community.

Solar, wind, and transmission construction and laborers could collide in a short time frame, and how is our rural community going to be impacted? Not to mention the lack of consultation with Morrow County Road Department to adequately plan for multiple projects sharing roads at the same time. Many of these roads are characterized as open range, giving livestock and farm equipment right of way.

In closing, I ask that you consider the impacts to our working farm, and the many working families of our community that will look at these towers each day. We ask Wheatridge a small concession of excluding towers from our viewshed of Gleason Butte that will provide some relief while we cope with the presence of a 500-kV transmission line to our North.

Our century farm is an agriculture operation surrounded by eight energy projects on all sides. We've been approached by solar developers to use our land, and we simply desire to continue farming and ask for consideration to limit negative impacts to our enjoyment of our property and livelihood.

Thank you."

Secretary Cornett commented that the Department would appreciate the written comments as well as the Oral comments provided by Ms. King.

### **Sam Myers**

"My name is Sam Myers. I'm a local resident there on Little Butter Creek. I do have some concerns with this amendment. The expansion is sort of an issue to me.

And I'll explain more later, but Gleason Butte is also a viewshed that my sister referenced, I've taken probably hundreds of pictures of that as an amazing backdrop to our farm and I'm asking the Council to, again, at least move the towers that were positioned on the peak, to maintain the peak's landmark status. It's disappointing that this particular butte was never listed as any kind of important landmark. It should have been. I'd be happy to do that or request the commissioners and Morrow County to do that if that would help. I couldn't help

notice the scenic standard, so apparently not having any registration, it passes. Again, I ask, can the council make some recommendation that even though it's not formally listed as a landmark or a viewshed that it'd be treated as such.

I'm also very concerned in the expansion of this project that the expanse of some additional 50 miles of access roads present a weed problem and a fire hazard at the same time. The roads are so rural in this area it's going to take time and effort to get to these places. I can only imagine requiring a staff of 3 to 4, maybe more, people. That's what it would take to actually address the weeds that occur, not necessarily during construction, but soon after. And if construction takes years, then it's then too, but it's an ongoing effort. I know the effort personally...you saw a brief picture of Little Butter Creek, I end up managing almost a mile of that paved road because the county only comes out once a year, maybe.

So, in June – July, Kochia will take off because any rain we did get the, the principle that happens is that water sloughs off the road onto the shoulder, so instead of being in a 10-to-12-inch rainfall area, that produces an area that's more the equivalent of a 15-or-18-inch [area]. So, these weeds capture that moisture that's drifted off the side of the road and they take off. And what I've experienced, I have to almost rename the road the 'Kochia Corridor' because it is lined with Kochia weeds that are 4 to 6 feet tall and spaced a foot apart. So, it's a challenge at best, it's a nightmare normally, to deal with this because the plant itself can produce upwards of a million seeds. So, it's going to proliferate. It's going to drift into the neighboring crop land. It's going to destroy the fences because the stalks are so big. They don't go away for years. They produce a fire hazard because the skeleton is so big if a fire does go through there, it'll exacerbate the length of the fire flame because there's so much material to burn.

If Kochia get started on some of these access roads, it's going to make everything much harder and it's going to elevate the fire risk. My experience with B2H and Idaho Power is that somehow the Council passed on a weed control portion of that proposed order. When that got in front of Morrow County's weed specialist it was a mess. Because I dealt with him personally, like, 'What is the deal with this? They're pressuring me to sign off on a weeds package that's not even close to what we need here' and put extreme amount of pressure on the Weeds Supervisor for Morrow County, and it took time to develop something working with Idaho Power. Now, I'm not saying the two developers that we're dealing with are the same. All I'm saying is if a weed management program survived the Council, but by the time it got to the county level was not effective or acceptable at all. Because the local people know what happens. Now I'm questioning, is that going to happen here? Is a weed management tool from the project leaders...going to maintain control of the weeds or are we facing another battle as they want, I'm assuming, the county level to sign off on that particular strategy...whatever is in the proposed order?

So that is a huge concern of mine, and I've faced the disappointment of trying to bring relevant fire information to this council and it wasn't accepted. I'm hoping that somehow

the data that was rejected has been reanalyzed. It was good to hear the ODOE personnel just ahead of us talk about the speed and the likelihood that the flammability of this area.

Just for your knowledge in that aspect, Morrow County produced an online document where they summarized the fires that have occurred in Morrow County for the six years between 2013 and 2018. So, I did the math on average each of those years in the middle part of the County, which is where this Siting Council is at, 4.2 square miles of acres burned per year, to the tune of 167,000 acres over the course of 6 years.

So, we've already fought fire near this thing last fall, from a distribution line a bird got tangled up in, and there was over 6 vehicles fighting that fire and it took 6 hours. And that was on a relatively calm evening. Fire can get out of control in this area. It's mountainous rolling hills. It's difficult to fight. That is a big deal, and this environment needs special consideration when it comes to fire control, fire suppression. So much of this area has no infrastructure currently, none whatsoever. So, all we have to look forward to honestly is more fires because this is going to have more infrastructure, more susceptibility to human cause and or lightning cause. At current, I think the fire program that they put out said in this mid part of the county, 70% of the fires are from lightning. So, if we have more things sticking up in the sky, I'm kind of under the assumption that we're going to have more lightning strikes and those can start fires.

Those are my big concerns that whatever is in the draft proposed order having to do with weed control and/or fire suppression or all of that combined is given a really deep review and if you need to coordinate with Morrow County, or frankly, some of the other counties, what they're doing in addition to maybe what you're recommending that those be brought into this particular review.

This is a very difficult area to fight fires in and it's so remote, it's hard to get to some of these areas, and then with the various components that are going to make it...probably people are going to be less able to fight fire because they're not sure how close they should be to certain structures or whatever.

My father was hopeful to have wind towers on the farm. I understand that all the farmers in this area are hoping that wind will be a financial stability for them, and we have wondered about that too, but it's never worked for us. I'm not opposed to the project in general, I'm just saying it has to be done correctly, it has to be done with respect, and I would really appreciate if Gleason Butte area would survive if we can tuck the wind towers [or] bundle them differently I would really appreciate that, but I do hope that the council is hearing my tone is that there's some real specific considerations that need to be managed properly moving forward and I appreciate you hearing my story tonight."

*Vice-Chair Condon asked if the fire information submitted was submitted as part of this process.*

*Mr. Myers replied that it was submitted as part of proceedings on B2H.*

*Vice-Chair Condon explained that the wildfire standard is relatively new and encouraged Mr. Myer to submit the information.*

*Mr. Myer explained that he had provided testimony in Lexington and that Vice-Chair Condon had supported the testimony by asking for additional information in the record.*

*Vice-Chair Condon explained that facts do matter in these hearings and so absolutely.*

### **James Cutsforth**

James Cutsforth provided the following testimony:

"I have a farm in Wheatridge II with towers on it, so I can address some of the concerns that you've heard previously.

Number 1, fire protection. I mean, you're going to build 56 miles of all-purpose, all-weather roads into an area that has no access. So, you're going to really help firefighting because you're going to provide the access to the area. The service roads will be access roads where there are none, and that country is long ways between draws and a lot of country. So, it'll make a big difference with fighting fire.

As far as weed control, we've been working with NextEra hand in hand, and Tetra Tech, their consultants, rewriting and addressing and building better weed control plans to move forward. They've been very supportive, and Tetra Tech has been very supportive, and we've got a lot of input from local people. We've had the county weed master involved. We've had the NRCS [Natural Resource Conservation Service] involved, everybody in the local [inaudible] has had input, and their applicator...and it's a learning curve because it's not something that they really addressed before, doesn't appear, I mean, they have, but at a 30,000-foot level, not on the ground. And so, they're getting good experience. I'm not worried about them moving forward for weed control, I think they've got a handle on it and they're good in the community. They're good.

So that's basically it, thank you, Council Members.

Another recommendation, I would recommend NextEra take an opportunity to meet with the local fire districts, and I think it's Heppner [RFPD] that has most that area, to learn where they can protect once the project gets completed. It would probably be good use of time to plan that out."

### **Fuji Kreider**

Fuji Kreider provided the following testimony:

"Good evening. My name is Fuji Kreider, 60366 Marvin Road, La Grande Oregon.

I'd like to speak tonight as a community minded and engaged Oregonian. Most of you know me as a member of the Stop B2H Coalition, but I'm not speaking on behalf of the Coalition

tonight. We just didn't have the time or the bandwidth for this, but I want to speak to some things just as a citizen.

We have a huge collective problem. It's called climate change. We also have long standing traditions in laws in our state for planning and protection of our natural and cultural resources. Can these be addressed with the same solutions or is one ordained to overshadow the others?

My comment tonight is not exclusively of this RFA1, but I will get there.

First, I want to address the council with the plea that I am sure the staff will say is out of your jurisdiction. Have you driven around Umatilla and Morrow counties in a while? I urge you to do so. You will see the willy nilly stringing of transmission lines and access roads, obviously a product of piecemeal facility siting, then trying to stitch it all together with transmission lines and substations.

Once the developer gets a site certificate, the amendments just keep coming. There's a lack of certainty that the county planners can get from EFSC, and the agencies keep approving projects and allowing amendments to expand facilities so that multiple ones overlap. Essentially, poor energy siting.

What can you as the Energy Facility Siting Council do to help Oregon reach its decarbonization goals and ensure an adequate energy supply while safeguarding Oregon's environment, public health, and safety, the latter is, as your mission states?

Unfortunately, you're limited in your ability to accomplish this mission. I have come to the conclusion, having engaged with EFSC for years, that you are too limited in your standards-based decision making to make the best decisions for the people, wildlife, and even the developers.

The decision-making approach is top siloed within the standards. You cannot talk about cumulative impacts because you don't have a standard for that. You cannot discuss climate change or climate related impacts to soils or other resources because you don't have a standard for that.

The solutions we need to assure our energy supplies are complex. Too complex for decision making to operate in a silo of rules and standards. We need at least one additional standard as soon as possible, and that is cumulative impact. The feds have it in their NEPA processes and many other state agencies consider it as well, but EFSC does not. Without it, you can see the results, fragmentation. Just drive around like I said.

To be fair, some of this has also been the results of the counties' and individuals' quest for revenue from siting energy facilities and data centers. Umatilla Electric Coop has become the largest carbon-based electrical supplier per customer in the state. Almost all for the data

centers, with their green environmental standards. Ironically, renewable energy facilities are next to data centers, and we need to import carbon-based energy. Now, that's planning!

It's not all your siting decisions that got us to this place. However now, with this RFA1, I urge you to reconsider the siloed thinking and analysis for the good of the people and our resources.

The Wheatridge East facility has not been built. The Boardman to Hemingway transmission line has not been built. B2H has amendments pending, and there will likely be more for both of these projects before they break ground. They are both working in the same area.

What would be in the best interest of possibly all developers in the area, but certainly in the public's interest, would be to direct the developers to communicate, at minimum, share information as much as possible, and/or at best, actually try to work out a win-win-win-win situation with the developers, the landowners, interest groups, and the state. For example, possibly co-locating transmission corridors, or other ways they could reduce the cumulative impact to both the fragmentation of farms and natural resources.

Thank you for listening.

Thank you.”

### **Council Member Imes**

Council Member Imes provided the following comments:

“I do have a comment regarding wildfire mitigation. In the DPO under OAR 345-022-0105, you'll see the staffs' recommendations for wildfire mitigation. Specifically, my comments are about procedures, standards, and timeframes that the applicant will use to inspect the facility components and manage vegetation in the areas identified under Subsection (a).

I found when we were reviewing that section, there was a lack of detail. Specifically on page 5 of the Wildfire Mitigation Plan, I think it's Attachment H in the DPO. Section 3.2.2 provides the applicant must provide operational procedures and inspections. When we get to that point in there it doesn't have very much information, or quite a bit of a lack of evidence of what the plan is.

Also in Section 3.25, on page 8, there is some information provided on training, but the training refers to a program known as R.A.C.E. and in that program there is no evidence that local responders will be included in the training or in the site inspection, or how often the trainings will occur, or who will be responsible for the R.A.C.E. program.

I'm also wondering about the local capacity, the local fire responders, and what their capacity is to be able to respond to fires and how they've been engaged in the process.

Also in your Wildfire Mitigation Plan, there was no mention of routine anchor bolt-inspection. I also want to point out that it's interesting...I'm new here by the way and so this is my first time looking at two amendments side by side...and I noticed with the prior amendment with Leaning Juniper, that their wildfire mitigation plan was much more comprehensive than the one that we're reviewing on the Wheatridge East amendment.

So, I see some inconsistencies there across the board and that does concern me. Wildfire is a new standard so I can understand that it's probably challenging for consultants to navigate that new standard but at the same time, I think it's very important that we have a consistent baseline approach to these fire mitigation plans when they're presented to the council and the staff for review as well and I know that takes a team effort with staff and the consultant. So those are my comments for today. Thank you."

Vice-chair Condon asked the certificate holder if they wanted to respond to any comments.

The Certificate Holder thanked participants for their comments and indicated that they would review and provide written responses.

**Vice-Chair Condon closed the public hearing at 7:59 p.m.**

**The meeting was recessed at 7:59 pm**

**Energy Facility Siting Council  
Meeting Minutes  
Friday, March 22, 2024, 8:30 AM**

- C. Consent Calendar (Action & Information Item)<sup>5</sup>
- D. Contested Case Rulemaking (Public Hearing) <sup>6</sup>
- E. Trojan Independent Spent Fuel Storage Installation Security Plan Decision (Action Item) <sup>7</sup>
- F. Public Comment Period (Information Item)<sup>8</sup>
- G. Boardman Solar Energy Project, Termination of Site Certificate (Action Item)<sup>9</sup>

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

**Roll Call, Opening Remarks, and Agenda Modifications**

**Call to Order:** Vice Chair Condon called the meeting to order on March 22, 2024, at 8:30 a.m.

**Roll Call:** Vice-Chair Cynthia Condon and Council Members Marcy Grail, Ann Beier, Katie Imes were present in person. Council Member Richard Devlin was present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett; Senior Siting Analyst Chase McVeigh- Walker; Senior Siting Analyst Christopher Clark and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

**Agenda Modification:** There were no agenda modifications.

- C. **Consent Calendar (Action Item & Information Item)<sup>10</sup>** – Approval of February 2024 meeting minutes; Council Secretary Report; and other routine Council business.

Council Member Grail motioned the Council approve the February 2024 meeting minutes as presented.

Council Member Devlin seconded the motion.

Council approved the motion unanimously.

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<sup>5</sup> Audio/Video for Agenda Item C = 00:02:56 – 2024-03-22-EFSC-Meeting-Audio/Video

<sup>6</sup> Audio/Video for Agenda Item D = 00:35:21 – 2024-03-22-EFSC-Meeting-Audio/Video

<sup>7</sup> Audio/Video for Agenda Item E = 01:54:48 – 2024-03-22-EFSC-Meeting-Audio/Video

<sup>8</sup> Audio/Video for Agenda Item F = 02:01:20 – 2024-03-22-EFSC-Meeting-Audio/Video

<sup>9</sup> Audio/Video for Agenda Item G = 02:09:23 – 2024-03-22-EFSC-Meeting-Audio/Video

<sup>10</sup> Audio/Video for Agenda Item C = 01:40:29 – 2024-01-26-EFSC-Meeting-Audio/Video

## **Council Secretary Report**

Secretary Cornett offered the following comments during his report to the Council:

### Staff Updates

- Council Member Chocktoot's term on the Council ends March 15, 2025, not in 2024 as stated in the February Staff Report. As a result of that mistake, Council member Chocktoot has already submitted his information for reappointment for next year.

### Project Updates

- **Summit Ridge Renewable Energy Facility**  
The Department received the Notice of Intent for the Summit Ridge Renewable Energy Facility in northeastern Wasco County. This would be a 201 MW wind, solar and battery storage facility. Public notice was issued on March 14th and a public comment period is open until May 3rd. A Public Informational meeting on the project is scheduled for April 3rd at the Dufur K-12 School. Council members are invited to attend in person or virtually.
- **Summit Ridge Wind Farm**  
An application to terminate the Summit Ridge Wind Farm Site Certificate was received in February. However, that request was missing required information. Staff has now received all of the required information and on March 13th, the Department issued a Public Notice of a Public Comment period on the Application to Terminate the Site Certificate. The public comment period concludes on April 1st. The termination request is planned for the April Council meeting.
- **Mist Amendment #13**  
Late last week the Department received Amendment #13 for the Mist Underground Natural Gas Storage Facility. The project is an operational natural gas storage facility located on approximately 5,472 acres and has a permitted daily natural gas throughput of 635 million standard cubic feet. The project was approved by EFSC in 1981 and has been amended twelve times. The certificate holder is Northwest Natural. Amendment #13 will be included on the project page and a public notice will be issued soon.
- **Klamath Falls Energy Center**  
Earlier this week a Notice of Intent for the Klamath Falls Energy Center was received. This would be a 400 MW solar PV and battery storage project located approximately 9 miles west of Klamath Falls on private land that is zoned forest. The project would be located on 7,350 acres although the solar footprint would be 4,300 acres or 6.3 miles. The developer is Savion, a division of Royal Dutch Shell company. A webpage for this project is being created and the Notice of Intent will be issued soon. Staff will also send a public notice in the coming weeks with details of an in-person public informational meeting.

## Compliance and Inspections Updates

Council was briefed on incidents and inspections reported at the following facilities:

- Reed College Nuclear Research Reactor

*Vice Chair Condon asked if the National Regulatory Commission was notified of the incident in lieu of EFSC, or was EFSC forgotten?*

*Secretary Cornett offered though it is not known why EFSC was not notified, it is a requirement of the site certificate. A meeting will be scheduled with the certificate holder to review the requirements in the administrative rules.*

## Legislative Updates

- House bill 4015  
HB 4015 was approved. The bill defines Battery Energy Storage Systems in EFSC definitional statutes and allow for developers to opt in to EFSC jurisdiction and counties to defer jurisdiction to EFSC, after consulting with the developer.

*Council Member Beier asked if Council will apply the same siting standards if a developer opts into a stand alone battery storage system with EFSC.*

*Secretary Cornett confirmed that was correct.*

*Council Member Devlin questioned who would review a stand alone battery storage system if EFSC jurisdiction is not the opt in option.*

*Secretary Cornett stated that would be the local city or county government jurisdiction.*

*Vice Chair Condon inquired if there was discussion regarding EFSC jurisdiction specifically for large stand alone battery storage system projects as Council has some experience with the assessment of this type of project.*

*Secretary Cornett noted while there was no one advocating for EFSC jurisdiction, Council does have experience with facilities that require a large physical footprint on the land. The developers wanted the opt in option while some of the counties were not in favor as they want to maintain jurisdiction.*

*Council Member Devlin questioned if there has been the instance of somebody siting battery storage in an area with low power rates, like a co-op, storing the power and then reselling it when the market is at the highest prices.*

*Secretary Cornett stated not to his knowledge. The basic idea is to have battery storage that can take the excess power produced, hold it for some time, and then release it onto the grid when the solar panels or the wind turbines aren't producing power.*

*Council Member Devlin expressed his belief that Council should encourage the development and use of battery storage in projects for storage of excess power produced. He further stated he would hate to see storage being used as he earlier articulated. Regarding the extra power produced with the stand alone battery storage facilities in local jurisdictions, he noted that local jurisdictions should check with the energy providers as unanticipated extra loads can cause difficulties for some of those providers.*

- House bill 4090  
HB 4090, which would eliminate EFSC jurisdiction on projects that are entirely proposed on Federal Lands, did not move forward.
- House bill 1525  
HB 1525 was approved. The bill does several things related to the Oregon Department of Energy. Portland General Electric added a component that would allow for standby generators to be connected to the electrical grid and be dispatched to the grid in certain circumstances, much like a cumulative peaker plant.

*Council Member Beier asked if EFSC would need to update its rules to reflect the changes in the federal rules.*

*Secretary Cornett confirmed that would be necessary to clean up the rules for consistency in the future.*

#### Upcoming Meeting Dates

- April 19, 2024 meeting will be held in Salem.
- May 30-31, 2024 meeting is scheduled to be held in Boardman with a public hearing on Thursday evening and the regular agenda on Friday.

#### Additional Information

Vice-Chair Condon suggested adding links to the documents provided to Council to add ease in navigation between documents. Council Member Imes agreed with the suggestion. Secretary Cornett stated that Staff would explore the suggestions and see what options could be utilized.

Mr. Rowe provided Council with an update on the Boardman to Hemingway Request for Amendment 1 litigation. Idaho Power petitioned for writ to the Supreme Court asking the

Supreme Court to hear the case. The Supreme Court has ruled that they are not going to review the challenge to the denial of a contested case, but the council's decision on request for Amendment 1 is final. Amendment 1 stands as is because no one has challenged the decision to issue and approve the amendment. Remaining before the circuit court is the petition regarding whether Council should have granted a contested case.

*Vice Chair Condon asked if there was a timeline for the process going forward.*

*Mr. Rowe replied, while there is no set schedule, in light of the Supreme Court's decision, motions will be filed quickly. He will provide additional updates as the case progresses.*

*Council Member Beier questioned the impact of having a contested case given that the Supreme Court has ruled Amendment 1 stands as is.*

*Mr. Rowe stated that issue will be addressed in the briefs that will be filed soon. He will review the information with Council after the briefs have been filed.*

- D. Contested Case Rulemaking (Public Hearing)<sup>11</sup>** – Christopher Clark, Senior Siting Analyst and Alternate Rules Coordinator presided over a rulemaking hearing to solicit public comments on the Council's proposed new Contested Case Rulemaking. Written comments must be received by 5:00 pm on April 19, 2024 to be considered.

**Mr. Clark, acting as the Presiding Officer, called the hearing to order and open for comments at 9:13 am.**

Ms. Irene Gilbert

Ms. Gilbert began by suggesting that if EFSC meetings are going to be 4-5 hours, they should be held in 1 day, rather than Thursday evening and Friday (2-day meeting), in an effort to reduce pollution from traveling.

Ms. Gilbert stated one of her concerns in the administration rules is the set of rules that goes from 0001 through 0090 was noted for cases where there was not a hearings officer from the administrative hearing's decision. She stated that is incorrect. The first section of rules in the Model rules talks about the rights of parties to contest the cases. It is focused on specific information about the people who are applying for a contested case. The second set of rules relates to the role of the hearings officer in handling contested cases. If the second set of rules removes all the information regarding the details about the rights of the parties, she believes that would be a problem.

Ms. Gilbert also stated: There was a court decision from the Boardman to Hemingway case on the original application that the interpretation by EFSC is incorrect. The interpretation that's being presented is the council has a right to limit everybody, making them simply limited

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<sup>11</sup> Audio/Video for Agenda Item C = 01:40:29 – 2024-01-26-EFSC-Meeting-Audio/Video

parties. That is not correct. The order says that the hearings officer had looked at all of the issues that are required to limit someone and they had determined that it was legitimate in this instance to limit parties to limited party status. They did not say that the council had the authority to just make a blanket statement and say everybody is going to be a limited party. The ALJ specifically went through all of the information in 137-003 and 137-005, which gives that criteria that must be considered. There must be some criteria that is met to make someone a limited party.

Ms. Gilbert further states: that the new rules make it appear that there are some groups that are not going to be allowed to have lay representation. ORS 183.457 states no rule adopted by a state agency shall have the effect of precluding lay representation. It also states agencies before which an authorized representative may appear, and it lists the State Department of Energy.

Another issue Ms. Gilbert is concerned about the discovery rules. In the ORS for civil actions, it states parties may inquire regarding any matters not privileged that is relevant to a claim or reference of any party. The EFSC rules state the hearing officer can limit discovery. If the Administrative Judge is limiting or changing anything with discovery, they're required to issue an order. Once they issue an order currently, people can appeal to the county courts based on previous decisions of the courts. There must be an explanation of how the discovery is likely to produce information that is generally relevant and necessary to the case.

Another issues Ms. Gilbert is concerned about is that the burden of proof is more on the administrative law judge to say why is that person justified in limiting discovery and why is it not going to perhaps provide information that's relevant to the issue that's being argued. If someone is not satisfied with the decision on discovery, they must ask the chief administrative law judge for a review of the decision. She suggested Council may want to consider this.

Ms. Gilbert further explained her concerns with the Contested Case Rulemaking. She felt the notice did not accurately reflect the impact of the changes proposed. She feels there are substantial changes being made which should be provided in the notice. It is a rule that the public gets a copy of the red line version which was not provided.

Ms. Gilbert stated that when EFSC refuses the public an opportunity to have a contested case, there is no opportunity for the petitioner to develop a full file of their arguments to submit to the Oregon Supreme Court. The Oregon Supreme Court rules say that they review the contested case file when they're deciding on contested cases, which results in cases being contested in the county courts. The county then is the vehicle whereby the public can develop a file that can be appealed to the Oregon Supreme Court. Department of Energy's recommendations to EFSC on these rules, she believes is discretionary to a point that it exceeds the authority in the statutes. The Oregon statute 409.501 states EFSC has the right to develop rules. It states specifically what kind of rules you're allowed to establish and EFSC establishes the rules for the application. The authority EFSC has is for developing building rules, it does not

include changing the contested case process. There is nothing in there about denying people's rights that are in statutes.

Ms. Gilbert further states that: in OAR 345-015-405(4)(G) it states that the hearing officer can limit the issues, which are raised with sufficient specificity in the public hearing for any purpose the hearing officer finds. She stated that statement clearly exceeds the power of the agency. There's a requirement that the administrative law judge issue an order on these decisions. The order would mean that there's an opportunity for people to appeal their decision on how they're limiting a party status and how they're limiting issues. It is Ms. Gilbert's understanding that this would go to the Circuit Court.

Referring to the requirements of raising issues with sufficient specificity, Ms. Gilbert suggested a numbering system would make it clearer for the public to understand and navigate the requirements. She also suggested the rules should state that people can frame their issue however they want. This should just be a one liner.

Ms. Gilbert feels the criteria being placed on people who are identified as limited parties is incredibly structured and it denies the limited party's access to a lot of different things that they ought to be able to respond to. She suggested removing the statement in 345-15-415(7) which states that you are now allowed to respond to proposed site certificate conditions. She expressed her gratitude that some of her suggestions during the RAC have been included in the rulemaking.

She also stated the use of the word "indigent" has several different definitions between different agencies. She suggested that it would be wise to be more flexible about who is indigent under the rules.

*Council Member Beier reminded members of the public that the department does work with a rules advisory committee that includes people from the energy industry and representatives from the public. The department does rely heavily on input from outside with every rulemaking. She thanked Ms. Gilbert for serving on multiple RAC committees.*

*Council Member Grail stated Council has talked about the specific specificity in comments. She expressed her appreciation for Ms. Gilberts suggestion about a numbering system as it may be a helpful tool in making things more orderly.*

*Vice Chair Condon asked if Ms. Gilbert provided the references to rules she referred to in her public comments in the written comments she provided.*

*Ms. Gilbert responded she had to the best of her ability.*

#### Mr. John Luciani

Mr. Luciani stated he has provided Council with public comments at previous meetings but is frustrated that there is not an opportunity to ask Council questions and get responses.

He noted he was involved with the Boardman to Hemingway Contested Case but was one of the first people to be “kicked out” of the proceedings. He expressed his view that, under the current rules, a normal person can’t participate in contested case proceedings. He would like to see the rules changed and everyone who was not allowed to participate in the contested case proceedings on the Boardman to Hemingway Transmission Line be allowed to participate and to start the process over. He urged the Council to consider giving “normal people a chance to state what we want to state and to be heard.”

#### Ms. Anne March

Ms. March noted her participation as a limited party in the Boardman to Hemingway Contested Case. She stated that it was a very frustrating process as she is not a lawyer. She stated that the contested case process was intimidating and anything the Council can do to make the process smoother, clearer, and more equitable for people is a good thing.

Ms. March referred to the filing and service section in the rules. She stated emailing documents is a problem due to technical issues. She recommended the Council establish some kind of docket system that the public can file and easily access in an organized way. She also noted finding information within documents on the website was a nightmare due to the volume of information. She expressed her frustration that an ALJ denied her request to change the deadline for filing documents from Fridays at 5:00 pm to Sundays at 5:00 pm because it made it difficult for working people to participate.

Regarding the request for party status in the rules, Ms. March stated that the department and the ALJ should not be writing the issue statement, unless the party wants that to happen. She commented that the issue statements included in the Boardman to Hemingway contested case proceeding were narrower than those intended by petitioners. She commented that there are members of the public who have no idea how important the issue statement is in a contested case. The section needs clearer language about notifying parties regarding their ability to object to an issue statement.

In the section referring to Prehearing Conference and Prehearing Order, Ms. March commented that it is her understanding that the ALJ may hold a pre-hearing conference, but parties do not necessarily have the right to clarify their issues during the conference. There is therefore a huge problem if decisions are final and parties didn't know that as a limited party, they could object to the language that the department and the ALJ chose for the issue statement. She feels there must be a way for the public to know they can appeal the issue statement before the prehearing order is issued.

Referring to the Hearing Officer’s Proposed Contested Case Order and the language “the final order may adopt modify or reject the hearing officers proposed order and also the Department's proposed order” which means it is an EFSC decision. Ms. March commented that in the contested case proceeding on Boardman to Hemingway, the public did not perceive that the Council had fully considered the issues in the Proposed Contested Case Order, and

suggested as the information provided to Council is large and difficult to understand, and Council receives the information from ODOE staff and legal counsel, that is not going to happen with the current system of the department being paid by and working for the applicant. She noted that in the hearing process, the public should have additional rebuttal time after the attorney's rebuttal statements to clarify their statements.

Ms. March commended the video by Ms. Tardaewhether Senior Siting Analyst, regarding the Amendment process as being extremely helpful. She would like to see additional videos as they can provide the public with information and education about the EFSC process.

*Vice Chair Condon asked if the issue statement that was narrowed down she referred to in the Boardman to Hemingway Contested Case had originally mentioned mitigation and fish passage.*

*Ms. March stated it had. She was unaware that fish passage was defined by structures being built in the streams or not being built in the streams and thought it was a broader term.*

*Council Member Beier thanked Ms. March for the feedback on the Amendment video as it helps to inform the Council and the Department of useful ways to provide information to the public.*

#### Mr. Jim Kreider

Mr. Kreider, stated in his opinion as a member of the Rulemaking Advisory Committee, that the RAC's positions are not properly reflected in the red line. He stated his belief that the proposed rules include carefully crafted guardrails with the purpose of speeding up the process for developers. He stated that the process has not been about striking a balance, but about changing the balance in support of the developers and not the people of the state. Mr. Kreider expressed frustration that his edits to the organization of the rules were not adequately considered by staff or discussed by the RAC. He believes staff did what they were told to do by attorneys, to limit, also known as streamline, the process for developers.

Referencing the second goal of the RAC committee, to update the rules to reflect a proposed adoption of the office of administrator hearings model rules, Mr. Kreider questioned why EFSC needs to keep their own set of rules in addition to the office of administrative hearings model. The Staff memo to the RAC states "The council is not bound by OAH rules through this adoption". Language in OAR 345-015-041 states "In any conflict between the office of administrative hearing rules and council rules, the council shall apply its own rules." He questioned what, when, how and who will make the decision to change from the office of administrative hearings model rules for contested cases to ODOE rules. He noted his opinion that several sections of the rules and meetings used in the red line were incorrect and he had submitted detailed clarifications that he believes were not utilized.

Referencing the fourth directive of the RAC, to improve the clarity of the rules by providing or enhancing definitions where appropriate, Mr. Kreider stated he had provided examples of his suggestions for improving clarity from a pro se participant's point of view that were not incorporated into the rules. He stated the discretion given to ODOE and DOJ staff working

together come down on the side of the developer and speed. He feels justice and fairness do not seem to factor into the decision making.

Referencing the fifth goal of the RAC, to improve the efficiency of the contested case process by providing additional guidance to all parties and perspective parties who are affected by the rules. Mr. Kreider suggested that cannot be done if a review of several contested cases isn't done to determine what was done incorrectly and what can be improved. He believes this RAC is about helping develop site facilities more rapidly. It is not about learning and listening to the public about better right-siting. He questions how the Council is going to integrate the right-sighting work of the Department of Land Conservation and Development in their current RAC on finding opportunities for reducing conflict, in siting agrivoltaic solar power generating facilities? He also commented that he believes the public needs intervenor funding for proper public representation to make the process more effective and efficient.

#### Mrs. Fuji Kreider

Ms. Kreider noted that all the comments received during the hearing have been from members of the public who were involved in the Boardman to Hemingway Project Contested Case. She noted that was a big case and was difficult. They have learned a lot and have a lot to share with Council. She is hoping that the Council, with the interest of protecting the public interest in addition to securing energy supplies, will read, listen, and consider all of the information provided to them by those members of the public. She agreed with Ms. March's comment regarding a new docket system which would greatly help members of the public. In reference to Ms. March's comments on limited status, she stated because the issue statement was brought down to fish passage, it limited the ability to argue the issue of habitat mitigation in the contested case. She stated that she would be providing written comments, and as an example of what would be included commented on the model rules and referenced the subsections that relates to ex parte communication. She explained that there are three rules within the model rules that address ex parte communication. One applies during the pendency of the proceeding, another addresses when there's ex parte communications with the ALJ, and another addresses ex parte communications to the agency during the contested case review. She stated her recommendation is to leave all three of those in the contested case rule and not just pick one because ex parte communication can happen any place during the proceeding of the case.

#### **Mr. Clark concluded the hearing at 10:24 am.**

- E. Trojan Independent Spent Fuel Storage Installation Security Plan Decision (Action Item)<sup>12</sup> –** Christopher Clark, Senior Siting Analyst. Council considered information presented on Revision 9 to the Security Plan for the Trojan Independent Spent Fuel Storage Installation (ISFSI) presented at the February 23, 2024, Council meeting, and considered whether the revised plan contains adequate provisions to ensure the protection and public health and safety pursuant to ORS 469.430 and OAR chapter 345, division 070.

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<sup>12</sup> Audio/Video for Agenda Item C = 01:40:29 – 2024-01-26-EFSC-Meeting-Audio/Video

*Council Member Grail thanked Staff for providing the letter from the NRC with the modifications to the security plan.*

Council Member Grail motioned the Council that the Council approve the modifications to the Security Plan for the Trojan Independent Spent Fuel Storage Installation (ISFSI) and authorize staff to issue the joint statement with the Director in accordance with OAR 345-070-0030(1), as presented by staff.

Council Member Beier seconded the motion.

The motion was carried unanimously.

**F. Public Comment Period (Information Item)<sup>13</sup>** – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

Ms. Irene Gilbert

Ms. Gilbert explained her position regarding the Boardman to Hemingway jurisdiction case. She had requested a reconsideration of decision of the Council. It is not about challenging the issues of the site certificate. There are 2 valid site certificates. She is challenging a decision related to what conditions are included in the site certificates.

Mr. Troy Jones

Mr. Jones stated in a time when equality is so important to all of us and all types of different aspects, he still finds it difficult to understand how, or why the EFSC has been provided the ability to site industrial, solar facilities on zone areas not suitable for the proposed project without being required to determine if there are other areas, perhaps more suitable that would not require a land use exception and can accommodate the proposed land use. The inequality is the fact that the Land Conservation Development Commission (LCDC) does have such a requirement. ORS 469.504 (2) does not require the EFSC to determine if alternative siding locations exist which would not require a land use exception. The rule supersedes ORS 197.732 which does require this consideration. He believes that ORS 469.504(2) does need to be changed to contain the same considerations as the LCDC must follow. He questioned if this is something that the Council can consider having a rules advisory committee review or, should it be pursued from a legislative perspective.

*Secretary Cornett advised whether a rule could be added in the EFSC rules would have to be evaluated. The clearer path would be a statutory change going through the legislature.*

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<sup>13</sup> Audio/Video for Agenda Item C = 01:40:29 – 2024-01-26-EFSC-Meeting-Audio/Video

**G. Boardman Solar Energy Project, Termination of Site Certificate (Action Item)<sup>14</sup>** – Todd Cornett, Assistant Director for Siting and Council Secretary. The project is an approved but not yet constructed 75 megawatt (MW) solar PV facility located within a site boundary of 798 acres. Construction was not started as of February 23, 2024, as required by condition GEN-GS-01, therefore the site certificate has expired. Council evaluated the Department’s request to terminate the site certificate.

*Vice Chair Condon questioned if the review of the land determines that the land is high value farmland, would that affect the timing with termination.*

*Secretary Cornett stated it would not. The information was provided to Council as a reason for changing the jurisdiction of the project to the County though the Department has not conducted an evaluation.*

Council Member Grail motioned the Council to terminate the Boardman Solar Energy Project Site Certificate as presented and recommended by staff.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

**Vice Chair Condon adjourned the meeting at 11:04 AM.**

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<sup>14</sup> Audio/Video for Agenda Item C = 01:40:29 – 2024-01-26-EFSC-Meeting-Audio/Video