



**Energy Facility Siting Council  
Minutes  
May 10-11, 2012**

Oxford Suites  
Hermiston, OR 97838

The meeting was called to order at 10:07 am on May 10, 2012 by Chair Wolfe.

Roll Call: Vice Chair Lori Brogoitti, Chair Bryan Wolfe, Bob Shiprack, Trey Senn, and John Mohlis were present. Barry Beyeler was present by phone and Paul Sumner was absent.

Oregon Department of Energy (ODOE) representatives present were Todd Cornett, Sue Oliver, Duane Kilsdonk, Mo Walker, John White, Chris Green, Cliff Voliva and Rebecca O'Neil.

Department of Justice (DOJ) Assistant Attorney General Janet Prewitt (EFSC Counsel) was also present.

**Announcements:** Chair Wolfe announced that the audience would be able to provide comments to Council during the public comment portion of the meeting before lunch. He also announced that the comment period on the Carty Generating Station Draft Proposed Order is closed and Council may not hear comment on this project today.

**A. Presentation on Draft Proposed Order (DPO) for Carty Generating Station:** Chair Wolfe introduced Sue Oliver, Energy Facility Siting Analyst with ODOE to present the Draft Proposed Order for the Carty Generating Station, proposed by Portland General Electric Company (PGE). ODOE is recommending that the Council issue a site certificate subject to the conditions in the DPO. Ms. Oliver provided the Council a description of the proposed facility (a 900 MW gas-fired energy facility) and its location in Morrow County southwest of Boardman. Ms. Oliver noted that PGE plans to build the facility in two phases. The natural gas pipeline that will bring fuel to the facility is under the jurisdiction of the Federal Energy Regulatory Commission (FERC) and is currently undergoing the permitting process.

The public hearing on the DPO was held on April 5, 2012 in Boardman. The record of the public hearing closed on April 13, 2012. Ms. Oliver discussed the comments that ODOE received on the DPO, including comments from PGE and Morrow County regarding proposed changes to some of the conditions. Ms. Prewitt discussed the proposed site certificate conditions related to meeting the Council's carbon dioxide standard, and also discussed the draft Memorandum of Agreement between PGE and The Climate trust included as Exhibit 3 to the DPO. If there is disagreement between the two parties when finalizing the Agreement then the Council becomes the mediator between the two parties.

Ms. Oliver also reviewed the issues with the use of Carty Reservoir by both the Boardman Coal Plant (a certificated facility also operated by PGE), and the need for the DPO and draft Water Pollution Control Facility Permit to address the unusual circumstances of two facilities sharing the same waste water treatment pond—a wastewater treatment pond that is also used for irrigation water. PGE and DEQ have developed a joint permit that will cover both the coal plant and the Carty Generating Station, with water quality limitations designed to ensure protection of soil from the land application of the water. The Draft Water Pollution Control Facilities Permit is included as Exhibit 4 of the DPO. Ms. Oliver stated that ODOE is working closely with DOJ in reviewing the comments that were received on the DPO and will revise the proposed order to correct inconsistencies, incorporate Council comments, and add discussion and findings as necessary for clarification.

**B. Boardman to Hemingway Transmission Line Request for Extension of Notice of Intent:** Ms. Oliver was again at the table to present a Petition from Idaho Power Company requesting that EFSC grant a one-year extension of the Notice of Intent (NOI) for the Boardman to Hemingway (B2H) Transmission Line project. The B2H NOI is set to expire in July, but a preliminary application for a site certificate is not expected until late 2012. Idaho Power is conducting extensive field survey work and planning with federal and state agencies, which have delayed completion of the application. ODOE is recommending that the Council grant the one year extension on the Notice of Intent.

**Action:** The motion was made by Councilor Shiprack, seconded by Councilor Senn, for the Council to approve the petition from Idaho Power Company to grant a one-year extension of the Notice of Intent for the Boardman to Hemingway Transmission Line. The motion passed.

**Vote:** Brogoitti, yes; Shiprack, yes; Senn, yes; Wolfe, yes; Beyeler, yes; Mohlis, yes.

**Public Comment:** Irene Gilbert of LaGrande, Oregon gave a comment on the Helix Wind Power Facility's Request for Amendment #2 to extend the deadline for beginning and ending construction. Stephen Donnell, LaGrande, Oregon gave comment on the Boardman to Hemingway Transmission Line project.

Chair Wolfe closed the public comment portion of the meeting and announced a recess for lunch. No business was conducted during the lunch break.

**B. Christmas Valley Solar Project:** Rebecca O'Neil of ODOE introduced Brigadier General (BG) Mike Coldwell and Lieutenant Colonel Ken Safe of the Oregon Air National Guard (ORANG) to give a presentation and answer Council questions on a potential solar energy project in Christmas Valley. ORARNG has been selected to pilot a Net Zero Energy Initiative, which includes all of their installations across the state. In the Net Zero Energy Program they are required to use 25% renewable energy and a 3% reduction in energy usage each year. With the facilities across the state, including green solar, a ground source heat pump and wind, they are currently at 10% of their 25% goal. The facility in Christmas Valley has a 150 kW rooftop solar system that just came on line in January. At this time they are working with GSA to acquire another 2,100 acres of land on which they would like to develop a 100 acre Solar Generating Facility. They have completed a feasibility study that was just released to the public, which indicated a capacity of 12MW per 100 acres.

The ORANG is seeking clarity on the two definitions that potentially apply to siting solar facilities under Council Rules. Ms. Prewitt stated that under ORS 469.300(11) a solar collecting facility using more than one hundred acres of land is jurisdictional to EFSC and needs a site certificate.

She went on to say that there is another definition for an electric generating plant with an average electric generating capacity of 35 MW or more if the power is produced by geothermal, solar or wind energy in a single energy facility or within a single energy generation area. There is a disconnect between these two areas of the statute and the Council could adopt definitions in the rules that clarify how the Council will apply the definition to solar facilities.

ODOE staff was instructed to work with other state agencies to resolve the statutory conflict and return to Council with a presentation of their recommendations.

- D. Antelope Ridge Wind Farm:** Ms. Irene Gilbert, a Union County resident, discussed her March 20, 2012 letter and gave a presentation to Council regarding EDP Renewables' waiver of statutory review timelines for the completion of big game studies for the Antelope Ridge Wind Farm Application for Site Certificate. Stephen Donnell, also a resident of Union County discussed his March 24, 2012 letter regarding the Antelope Ridge Wind Farm Application and EDP's waiver of statutory time limits to Council and requested that the Council deny the application.
- E. Council Elections:** Chair Wolfe announced that he and Vice-Chair Brogoitti's terms as Chair and Vice-Chair are up. Vice-Chair Brogoitti's term on the Council will expire the end of June. The Council briefly discussed holding Chair and Vice-Chair elections.
- Action:** The motion was made by Councilor Shiprack to abstain from holding elections until such time as the Governor has appointed a replacement for the two Councilors whose terms have expired or are about to expire. The motion was seconded by Councilor Mohlis. The motion passed.
- Vote:** Senn, yes; Wolfe, yes; Beyeler, yes; Brogoitti, yes; Mohlis, yes; Shiprack, yes.
- F. Project Updates:** Ms. Walker gave updates and answered Council questions on the **Heppner Wind Energy Project** (Invenergy Wind North America LLC) and **Perennial Wind Chaser Station** (Perennial Power Holdings, Inc.). While discussing Heppner Wind Energy she stated that the turbines are expected to be 533 feet tall to the top of the blade, with 3 MW per turbine and an expected total 500 MW for the project. Ms. Walker also gave a project update for Aurora Uranium Mine where jurisdictional authority is undetermined at this time. Ms. Oliver gave a project update for the **Boardman to Hemingway Transmission Line, Carty Generating Station and Klamath Falls Bioenergy Facility** projects. Mr. White gave project updates on the **Helix Wind Farm Amendment, Klamath Generating Facility Amendment and Baseline Wind**. Mr. Green gave a project update and answered Council questions on the **South Dunes Power Project** (Jordan Cove Energy). Mr. Cornett gave updates on the **Cascade Crossing Transmission Line and Troutdale Energy Center**. Following a brief discussion about staffing levels to cover the workload, Mr. Cornett stated that this issue is being evaluated by the Director of ODOE and fiscal staff.
- G. Helix Wind Farm Amendment #2 Listening Session:** Mr. White stated that ODOE received an amendment request in February that would amend the site certificate conditions 24 and 25 to extend the deadlines for beginning construction and completing construction by two years. In April ODOE issued a Proposed Order recommending that Council approve the Amendment request. The deadline for public comment on the Proposed Order is June 15 and this listening session is an opportunity for citizens to give comments to the Council on Helix Wind Farm Amendment #2. The listening session was facilitated by Mr. White and eleven people provided comment. A transcriber was present to make a record of the listening session .

The meeting was recessed at 5:00 p.m. to be reconvened at 9:00 a.m. May 11, 2012.

## **Energy Facility Siting Council May 11, 2012 (Day 2 of 2)**

The meeting was called to order at 9:04 am by Chair Wolfe.

Roll Call: Paul Sumner, Bob Shiprack, Chair Wolfe, Vice Chair Lori Brogoitti, John Mohlis and Trey Senn were present. Barry Beyeler was present by phone.

Oregon Department of Energy (ODOE) representatives present were Todd Cornett, Sue Oliver, Duane Kilsdonk, Mo Walker, John White, Chris Green and Cliff Voliva.

Department of Justice (DOJ) Assistant Attorney General Janet Prewitt (EFSC Counsel) was also present.

**Announcements:** Chair Wolfe that the audience would be able to provide comments to Council during the public comment portion of the meeting before lunch. He also announced that the comment period on the Golden Hills Wind Farm Amendment is closed and Council may not hear comment on this project today.

**H. Golden Hills Wind Project Amendment #1:** Mr. Green, ODOE Applications Analyst, stated that Matt Duffy from Golden Hills was not able to make it, but Elaine Albrich is here on behalf of the Certificate Holder. Mr. Green stated that Golden Hills has requested an extension to the dates to begin and end construction of the Golden Hills Wind Project. He gave an overview of the key dates for the project including issuance of the site certificate and summarized the revisions made to the Final Order and Site Certificate. He also stated that Sherman County has adopted a setback ordinance pertaining to wind development that involves setbacks from city limits for wind developments. The certificate holder had inquired about whether the ordinance would pertain to this Amendment request since it was adopted after the amendment request was made. Mr. Green stated that in the end, the certificate holder was able to demonstrate that they would be able to comply with the ordinance anyway. He then read the proposed conditions included in the Proposed Final Order. He stated that one request for contested case was received, but was withdrawn after the certificate holder resolved the issue (related to securing construction rights). Councilor Shiprack asked why the developer requested the two year extension and Ms. Albrich answered that it is because of current market conditions.

**Action:** The motion by Councilor Sumner to approve the Proposed Order for the Golden Hills Wind Amendment #1, to extend the begin construction date to June 18, 2014 and the end construction date to June 18, 2017 was seconded by Councilor Mohlis. Following a brief discussion about market forces, land priorities and future extensions, Chair Wolfe called for a vote on the motion. The motion passed.

**Vote:** Senn, yes; Sumner, yes; Wolfe, yes; Mohlis, yes; Brogoitti, yes; Shiprack, yes; Beyeler, yes.

**I. Rule Adoption:** Mr. White introduced Jo Morgan, the Hearing Officer for the rulemaking hearing that was held on April 25. Ms. Morgan stated that she had prepared the Hearing Officer's report based on the comments received, and that her report included her recommendations to Council. Chair Wolfe opened the floor for public comment on the proposed rulemaking. **Alia Miles** of McDowell, Rackner & Gibson, PC, stated that she was present on behalf of Idaho Power and currently working on the Boardman to Hemingway transmission line application. She stated that the

proposed changes to OAR 345-027-0028 (mitigation language) would help avoid redundancy but also could have unintended consequences because mitigation plans are usually only in draft form at the time the site certificate is approved. She suggested that the Council give authority to ODOE to approve the mitigation plans so that the applicant could submit a final mitigation plan after the site certificate is granted. **Irene Gilbert** commented on the proposed changes to OAR 345-015-0220 and OAR 345-021-0010(1)(c)(B). **Cliff Voliva** (ODOE communications and Outreach Division) stated that the Department's and Council's rules regarding the process for responding to public records requests are currently different and that it is important for transparency that there not be two different processes. Chair Wolfe asked how privileged information would be handled and that someone should have to review material for sensitive information. Ms. Prewitt responded that essentially the Public Records Act makes information accessible to the public but that there are a number of exceptions. Mr. Voliva explained ODOE's process for handling public records requests and the extent of review that sometimes goes into each one.

Ms. Morgan then discussed other comments received and the staff recommendation that the Council adopt the changes to the rules as proposed, with the additional changes discussed today. Ms. Prewitt advised the Council to go through each proposed change so that the record is clear. In response to the concern raised by Alia Miles, Mr. White explained that the language is already in the rules and that the Council already has a process for adopting "final" mitigation plans. There is language in the rules that provides for an adjustment when the final design is known and allows a mitigation plan to be amended without a site certificate amendment. Mr. White and Ms. Morgan discussed with the Council the rule amendments for linear facilities, scenic resources, and noise. It was the consensus of the Council that they were familiar with the recommended changes and did not feel that each change needed to be called out.

**Action:** The motion was made by Councilor Sumner that the Council adopt the January 30, 2012 Redlined Draft subject to the recommended revisions described in the report of May 8, 2012 from the Hearing Officer, and subsequent recommendations made today. The motion was seconded by Councilor Shiprack. Following a brief discussion, Chair Wolfe called for a vote. The motion passed.

**Vote:** Brogoitti, yes; Wolfe, yes; Mohlis, yes; Senn, yes; Shiprack, yes; Beyeler, yes; Sumner, yes.

- J. Council Rulemaking Priorities:** Mr. White reviewed the rulemaking matrix provided at an earlier meeting and discussed the Council's priorities for the next round of rulemaking. Past discussions have indicated the Council's future rulemaking could include clarifying or modifying the rules regarding "related or supporting facilities," energy generation areas, and extensions for Notices of Intent. The Council has also discussed revising the rules for comments at Council meetings to provide a forum for the public to give comments directly to the Council on pending site certificates or amendments, and clarifying the statutory definitions [ORS 469.300 (11)] of solar facilities under Council jurisdiction.

Mr. White also discussed possible rulemaking to clarify Council standards, included updating the protected areas standard by researching all cross-referenced laws so that newly categorized areas and lists would be appropriately addressed; revising the retirement and financial assurance standard to allow offset for scrap or salvage value, considering a graduated increase in the amount of financial assurance required, and considering other forms of financial assurance; updating the carbon dioxide standard to make use of current technology and updating the monetary offset rate; and clarifying the scenic resources standard. He also discussed possible changes to the site

certificate amendment process including changes to the amendment process to incorporate a public hearing and contested case process, and the rule related to the applicability of rules adopted after an amendment proceeding has been initiated. Following a discussion by the Council members about their individual priorities for rulemaking, the Council directed staff to consult with DOJ about survey opportunities so that staff could get Council input between meetings on how to proceed with the rulemaking without violating public meeting laws and determine which issues have the highest priority.

Chair Wolfe called for public comment and no one indicated that they wanted to participate so he recessed the meeting for lunch.

**K. Update on Integrated Resource Plans (IRPs) and Western Electricity Coordinating Council (WECC)**

**Initiatives:** Vijay Satyal of ODOE (Energy Technology and Policy Section) gave a presentation and answered Council questions on Oregon's investor-owned utility's Integrated Resource Plans and WECC's planning initiatives for transmission lines.

**L. Consent Calendar:**

**1. Heppner Wind Energy Facility:**

**Action:** The motion was made by Councilor Beyeler, seconded by Vice Chair Brogoitti, that the Council appoint the Umatilla County Board of Commissioners and the Morrow County Court as Special Advisory Groups to advise the Council in any site certificate or site certificate amendment proceedings for the Heppner Wind Energy Facility. The motion passed.

**Vote:** Sumner, yes; Shiprack, yes; Wolfe, yes; Mohlis, yes; Senn, yes; Beyeler, yes; Brogoitti, yes.

**Action:** The motion was made by Councilor Mohlis, seconded by Councilor Sumner, that the Council approve the use of Cardno Entrix as its independent contractor for such purposes as necessary for the review of the notice of intent, the application for a site certificate and any subsequent amendments, if a site certificate is awarded, for the Heppner Wind Energy Facility Project. The motion passed.

**Vote:** Mohlis, yes; Sumner, yes; Senn, yes; Brogoitti, yes; Beyeler, yes; Shiprack, yes; Wolfe, yes.

**2. Perennial Wind Chaser Station:**

**Action:** The motion by Councilor Beyeler, seconded by Councilor Mohlis, that the Council appoint the Umatilla County Board of Commissioners and the Morrow County Court as Special Advisory Groups to advise the Council in any site certificate or site certificate amendment proceedings for the Perennial Wind Chaser Station. The motion passed.

**Vote:** Beyeler, yes; Mohlis, yes; Brogoitti, yes; Senn, yes; Wolfe, yes; Shiprack, yes; Sumner, yes.

**Action:** The motion was made by Vice Chair Brogoitti, seconded by Councilor Senn, that the Council approve the use of Golder Associates as its independent contractor for such purposes as necessary for the review of the notice of intent, the application for site certificate and any subsequent amendments, if a site certificate is awarded, for the Perennial Wind Chaser Station. The motion passed.

**Vote:** Mohlis, yes; Senn, yes; Shiprack, yes; Brogoitti, yes; Sumner, yes; Beyeler, yes; Wolfe, yes.

3. **Approval of Meeting Minutes:** Mr. Cornett explained that due to staff resource issues, minutes of the Council's previous 2012 meetings were not yet available for review and approval.
4. **Council Member Reports:** There were no Council Member Reports.
5. **Report of the Council Secretary:**
  - a. **Project Status Updates:** Project updates were provided on Thursday (May 10, 2012).
  - b. **Compliance Update:** Mr. Kilsdonk reviewed his compliance spreadsheet and updated the Council on PGE's Coyote Springs cooling tower issues that were reported at the April 6, 2012 meeting. He also updated the Council on Columbia/Pacific Ethanol's upcoming Letter of Credit renewal. Mr. Kilsdonk also updated Council on annual reports from the facilities that he monitors.
6. **Meeting Schedule for Remainder of 2012:** The next two meetings are scheduled for June 29<sup>th</sup> and August 24<sup>th</sup>. There were a number of schedule conflicts for the October meeting, so it was decided that alternative dates would be discussed at the June 29<sup>th</sup> meeting.

The Governor's 10 Year Energy Plan projected release date of June 1st was discussed. Mr. Cornett would attempt to make the arrangements for Margi Hoffman to attend the June Council meeting to discuss the Plan.

The meeting was adjourned at 2:05 p.m.