



Minutes Approved December 7, 2012

**Energy Facility Siting Council
Minutes
November 2, 2012**

Oxford Suites
12226 N. Jantzen Drive
Portland, OR 97217

Call to Order: The meeting was called to order at 8:30 a.m. by Chair Wolfe.

Roll Call: Chair Wolfe, Councilor Shiprack, Councilor Senn, Councilor Beyeler and Councilor Mohlis were present. Vice Chair Brogoitti and Councilor Sumner were absent.

Oregon Department of Energy (ODOE) representatives present were Bob Repine (Acting Director), Todd Cornett, John White, Sue Oliver, Ken Niles, Hillary Dobson, Jo Morgan, Andrea Goodwin, Cliff Voliva and Tamara Reid. Duane Kilsdonk participated by telephone.

EFSC Counsel, Renee France, Department of Justice (DOJ), was also present.

Agenda Modifications and Announcements: Chair Wolfe announced a public comment before lunch and before adjournment. Mr. Cornett elaborated on the benefits of the Department's GovDelivery service to sign up for project notices. Chair Wolfe announced that the public comment periods for the Klamath Falls Bioenergy and Helix Wind Facility Amendment 2 projects are closed and Council will not be accepting comments on those two projects. He also announced that there will be a working lunch presentation from Idaho Power Company on Transmission.

Staff introductions: Mr. Cornett introduced Andrea Goodwin, the new Siting Officer in the Hermiston office. He also announced that Ginny Gustafson, formerly with DOJ, is the Department's new Senior Policy Advisor. She will likely be at the meeting in December. Mr. Cornett also stated that the Department is in discussions with one of the finalists for the Utility and Energy Analyst III position in Salem and anticipates that person should be at next meeting as well.

A. Consent Calendar:

Minutes:

Action: The motion was made by Councilor Senn, and seconded by Councilor Shiprack, to approve the minutes of the August 24, 2012 meeting as presented by staff. The motion carried.

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

Action: The motion was made by Councilor Mohlis, and seconded by Councilor Shiprack, to approve the minutes of the September 27, 2012 Teleconference Meeting as presented by staff. The motion carried.

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

Council Orders:

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Senn, to appoint the Morrow County Court and the Umatilla County Board of Commissioners as separate Special Advisory Groups to advise the Council in proceedings related to the Wheatridge Wind Project. The motion carried.

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

Action: The motion by Councilor Beyeler seconded by Councilor Senn to approve Golder Associates as Council's independent contractor for such purposes as necessary for the review of the Wheatridge Wind Project Notice of Intent and Application for Site Certificate. The motion carried.

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

Project Updates: Mr. Cornett asked the Council if the 90 day "look ahead" document provides the Council with sufficient detail on project updates. Councilor Shiprack stated that he found the document helpful and believes it would be valuable for the public as well. He added that PGE is evaluating a number of proposed projects for future electrical growth needs and he would like a brief explanation when that evaluation is finalized. Councilor Senn stated that he had seen either a request for information or a proposal concerning a potential California-based project, and would like more information on that when available. He added that a question and answer period from PGE representatives would be helpful, as would presentation on all transmission lines overall and their statewide implications.

Mr. Cornett stated that the major change to the 90 Day look ahead is PGE's Boardman Coal Plant Amendment #9, which was just received from PGE, for a 24 hour test burn on biofuels within the facility. Chair Wolfe suggested that Council Members call Mr. Cornett with thoughts and ideas for future Council discussion and presentations.

Council Secretary Report: No Council Secretary report was made at this meeting.

Compliance Update: Mr. Kilsdonk stated that he has completed four compliance field inspections: Columbia Ethanol Project, Hermiston Generating Project, Hermiston Power Project (HPP), and Boardman Coal Plant. Financial assurance Letters of Credit (LOCs) and Bonds are all up to date but the new cycle is starting for the next year. HPP requested a new calculation to update its LOC for the next year, which has been completed; the Department is now waiting for the updated LOC. Klondike Wind Farm III has requested to change the form, amount and issuer of their financial assurance. He also reported that when he contacted the Pacific Ethanol regarding their annual report and other regulatory requirements, the representative informed him that as a result of staff turnovers, current Pacific Ethanol staff is not familiar with the Site Certificate requirements. Mr. Kilsdonk has since met with them and they are now on track with the annual requirements. He also stated he is working diligently to keep the compliance board updated and will make sure that the Council has an update at the next meeting.

Future Meeting Dates: The next Council meeting will be on December 7th in Portland. Council will review their schedules and further discuss the tentative future dates at the December meeting.

Climate Trust Update: Councilor Senn introduced Ben Vitale, President and Director of Climate Trust. Mr. Vitale updated the Council on recent legislative changes related to adding methane and N₂O as greenhouse gases eligible for offset. He also updated the Council on current projects the Climate Trust has helped to fund under that new flexibility. Chair Wolfe requested that the Council be put on the list to receive the Trust's newsletter.

- B. Request for Contested Case related to Antelope Ridge Wind Farm:** Ms. Oliver gave a brief historical review of the project and reminded the Council that in February, 2012, the applicant, EDP Renewables, requested a Council waiver of the statutory one year timeline for a decision on a site certificate in order for the applicant to complete a wildlife telemetry study, which resulted from a mediation agreement with Oregon Department of Fish and Wildlife (ODFW). On August 28, 2012, Ms. Irene Gilbert submitted a letter requesting that the Council arrange for a Contested Case hearing, based on her contention that the Department has failed to comply with ORS 469.370(9). Ms. Oliver stated that the Department recommends that Council ask the Director to respond to Ms. Gilbert with the same information that was sent previously because nothing has changed at this point. Ms. France noted that Tim McMahan of Stoel Reeves also submitted a letter on behalf of EDP Renewables. She noted that there is no legal basis or mechanism for a contested case at this point in the process because a contested case is an automatic hearing that comes after the Proposed Order is issued.

Mr. Cornett provided the Council with a memo laying out the available options. First, under the Administrative Procedures Act, the Department is not required to respond. The second option is to not take any formal action, but to direct either the Chair, the Director or legal counsel to respond to Ms. Gilbert, with a response that could either be consistent with the response that Director Repine has previously provided or could include some other findings of the Council. Lastly, the Council can direct staff to resume work on the project based either on a policy, reasoning, or the Council's interpretation that the Applicant lacks the authority to waive the timeline. Councilor Mohlis asked if a motion would be needed to take no action. Ms. France responded that no motion is necessary to take no action and that if Council decided to take no action there would simply be an absence of any motion. It was the consensus of Council to take no action.

- D. Rulemaking Update:** Ms. Morgan, ODOE Policy Analyst, gave a presentation and answered Council questions on the amendment rulemaking that is underway. Ms. Morgan described the methodology staff is using, based on historical research, to determine the issues the Council may want to consider in this rulemaking effort. She reported that staff is in the early stages of gathering data, and may decide to organize it differently. She provided preliminary results of staff findings in the Council packet handouts and the presentation. Ms. Morgan stated that she anticipates holding workshops in late November or early December to come up with a range of solutions from the stakeholders and to return to Council with staff findings and recommendations in early 2013. Mr. Cornett added that none of the action items in the 10-Year Energy Plan are related to amendments, it is mostly for streamlining at this point. It was the consensus of Council that after the rulemaking they hope to have clear direction on how to decide some of these issues. Council asked to be notified about the dates, times and locations of the workshops so that they might attend.

H. Klondike III Wind Project: Mr. White stated that this is an issue regarding the financial assurance for Klondike III Wind Project and gave a brief overview of the history of the project. The certificate holder is Klondike Wind Power III, LLC a subsidiary of Iberdrola Renewables. In September the certificate holder asked for a change in financial assurance instrument to replace a LOC from the Bank of America with a bond to be issued by Westchester Fire Insurance Company. The Department has confirmed the financial strength for the proposed issuer. The Council has previously approved a bond from this issuer which is currently in place for the Leaning Juniper II facility. A draft of the bond language was provided to Council and has been reviewed and approved by the Department of Justice. The face amount of \$10.3 million is not changing at this time. There is a calculation that will allow for an adjustment of that amount on an annual basis, which is due January 2, 2013 but for now all the Certificate Holder is requesting is to change the issuer and change from an LOC to a bond. The Department has reviewed the form, issuer and the amount and recommends that Council approve this change.

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Mohlis, to approve the form, amount and issuer of the financial assurance bond for the Klondike III Wind Project. The motion carried.

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

C. Rulemaking Update: Mr. Niles, ODOE Division Administrator for Nuclear Safety, gave a presentation and answered Council questions about potential rule changes for the transport of radioactive materials and requested authorization to initiate rulemaking proceedings. He stated that his focus has been mainly on the Hanford Site Cleanup and Emergency Preparedness responsibilities. He gave a brief history of the transportation of radioactive materials and stated that the rules for transportation of these materials fall under the Council's authority, and in most cases the state relies on the federal regulations regarding packaging, placard and other requirements. Mr. Niles reviewed the changes the Department is requesting through the rulemaking.

Action: The motion by Councilor Mohlis that the Council authorizes staff to initiate formal rulemaking proceedings related to the transport of radioactive materials was seconded by Councilor Shiprack. The motion carried.

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

G. Update on ODOE's Strategic Planning Process and the Governor's 10-Year Energy Plan: Mr. Repine, ODOE Acting Director, updated the Council on other projects within the Agency. He explained that the Department is working on the next budget, and described the Governor's Prioritization Budgeting process and ODOE's normal budget process. Mr. Repine also informed the Council that the Department's lease is up in the main building in Salem and described the process of searching for a new location for the Agency. He also stated that the Department has two programs that are coming to a close: the American Recovery and Reinvestment Act of 2009 (ARRA) and the Business Energy Tax Credit (BETC) program. Mr. Repine then described the Department's Strategic Planning process and the development of "The Wall" (Handout #1), which is a plan designed to assist the Agency in making strategic decisions to effectively move forward internally and throughout the State in energy development and to meet the goals on the Governor's 10-Year Energy Plan.

E. Public Comment: Jed Farmer, of Union, Oregon provided public comment on Antelope Ridge Wind project. **Wendie Kellington**, of Lake Oswego, legal counsel for Windy River Farms, provided

comment on Heppner Wind and Perennial Wind Chaser projects as well as the cumulative impacts of wind energy on quality farm land. **Irene Gilbert** of LaGrande, Oregon, **Susie Asmus** of EDP Renewables and **Tim McMahon** of Stoel Rives LLP, legal counsel for EDP Renewables, all provided comment on the Antelope Ridge Wind project

- F. **“Transmission 101”**: Dave Angell, Manager of Delivery Planning for Idaho Power Company (IPC), gave a presentation and answered Council questions about planning the development of local and regional transmission networks. He described how IPC determines the current needs for energy use, how they have developed a forecast for future needs, and how they anticipate where and how those needs will be met through future development of energy projects while connecting it all into their transmission infrastructure to meet the federal, state(s), and local requirements. Mr. Angell stated that he will be back in December with part two of his presentation and if Council has any questions they can either relay them through Mr. Cornett or send them to him directly.
- I. **Federal Projects Update**: Ms. Dobson, ODOE Federal Projects Coordinator gave a presentation and answered Council questions on the federal projects in the State of Oregon. Ms. Dobson introduced Crystal Ball, the Oregon State liaison for Bonneville Power Administration (BPA) and stated that she has been a great resource and opened the line of communication between the BPA and the State. Mr. Dobson also updated the Council on each of the Federal Energy Regulatory Commission projects including the natural gas pipelines (Carty Lateral, Pacific Connector, and Ruby); and two liquefied natural gas (LNG) terminals (Oregon LNG and Jordan Cove LNG) and their associated pipelines. Both LNG terminals were first introduced as import facilities and have since changed to export, based on changing market conditions. Ms. Dobson also reviewed ODOE’s participation in the BPA transmission projects, including Big Eddy-Knight, the I-5 Corridor Reinforcement Project, and the Pacific Direct Intertie Upgrade.
- J. **Public Comment**: No public comment was given in this session.

The meeting was adjourned at 2:45 p.m.