



**Energy Facility Siting Council
Minutes
January 25, 2013**

Minutes approved at 3/15/2013 EFSC Meeting.

Red Lion Hotel
3301 Market Street NE
Salem, OR 97301

Call to Order: The meeting was called to order at 8:37 a.m. by Chair Wolfe.

Roll Call: Chair Bryan Wolfe, Barry Beyeler, John Mohlis, Paul Sumner, Hanley Jenkins II, and Renee Dowlin were present. Trey Senn was absent.

Oregon Department of Energy (ODOE) representatives present were Siting Division Administrator Todd Cornett, Director Lisa Schwartz, Deputy Director Kyleen Stone, Ginny Gustafson, Chris Green, Jo Morgan, Lee Willeman, Shanda Shribbs, Nuclear Safety Director Ken Niles, Duane Kilsdonk, Andrea Goodwin, Cliff Voliva, Shilo Ray, Meiko Kristiansen, and Vijay Satyal. EFSC Counsel Renee France, Department of Justice (DOJ), was also present.

Council Introductions: Chair Wolfe introduced Hanley Jenkins, II and Renee Dowlin, newly appointed EFSC members.

Chair Wolfe announced that the public comment periods for the Klamath Falls Bioenergy and Helix Wind Facility Amendment #2 projects were closed and that Council would not be accepting comments on those two projects.

A. Consent Calendar (Action Item):

Minutes for 12/07/12:

Action: The motion was made by Councilor Mohlis, and seconded by Councilor Beyeler, to approve the minutes of the December 7, 2012 meeting as presented.

Vote: Sumner, yes; Beyeler, yes; Wolfe, yes; Mohlis, yes. Jenkins and Dowlin abstained, as they had not been at the last meeting. Motion carried.

Mr. Cornett announced that Chris Green and Jo Morgan are now Siting Officers, that Lee Willeman has been appointed as the siting rulemaking Policy Analyst and that Shanda Shribbs has been appointed as division's Applications Analyst. He also stated that the division still has one Siting Officer position to be filled.

Mr. Cornett announced that the Helix Wind Amendment #2 is in the Oregon Supreme Court. Oral arguments were held January 7, 2013 and final decision will be issued by April 22, 2013. Klamath

Falls Bioenergy is in the contested case phase, and has been stayed pending further evaluation by the applicant.

- B. **Compliance Update (Information Item):** Duane Kilsdonk, ODOE Siting/Compliance Officer, presented a compliance update. He is planning compliance field inspections for Shepherds Flat North, Central, and South, and Stateline Wind, and has completed calculations for Port Westward Generating and Klondike III. Mr. Kilsdonk expects to receive 21 facility reports between January and April. He is developing a compliance calendar, which will incorporate bonds and LOCs, and is working on protocols to transition projects from Siting to Compliance Officer. He will be generating protocols for incident responses.

Councilor Mohlis complimented Mr. Kilsdonk on his work. Chair Wolfe added that staff has good follow through on updates and keeping the Council informed.

- C. **EFSC Officer Election (Action Item):**

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Sumner, to approve Bryan Wolfe as Chair.

Vote: Sumner, yes; Beyeler, yes; Mohlis, yes; Jenkins, yes; Dowlin, yes; Wolfe, abstained. Motion carried.

Action: The motion was made by Councilor Sumner, and seconded by Councilor Wolfe, to approve Barry Beyeler as Vice Chair.

Vote: Sumner, yes; Mohlis, yes; Jenkins, yes; Dowlin, yes; Wolfe, yes; Beyeler, abstained. Motion carried.

- D. **Klamath Cogeneration Project, Amendment #5 (Action Item):** Chris Green, ODOE Energy Facility Analyst, provided a PowerPoint presentation to explain Amendment #5. When originally built, no CO₂ standards were in place, as there are today. This amendment updates the site certificate language to reflect KCP's compliance with CO₂ offset programs adopted as part of the 500-Megawatt Exemption process. The original site certificate holder was the City of Klamath Falls, and Iberdrola eventually became the certificate holder. ODOE issued the proposed order approving the amendment for comment on December 14, 2012.

Councilor Beyeler asked if this will be the document that the compliance officer uses for compliance inspections. Mr. Green agreed that it will, and that all site certificates will remain on record, documenting previous compliance.

Councilor Dowlin asked for confirmation regarding her eligibility to vote on the amendment, since she had not been involved in previous action on this facility. Ms. France acknowledged that she is eligible to vote.

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Sumner, to adopt the Final Order approving Amendment #5 to the Site Certificate for Klamath Cogeneration Project.

Vote: Sumner, yes; Beyeler, yes; Wolfe, yes; Mohlis, yes; Jenkins, yes; Dowlin, yes. Motion passed.

Councilor Jenkins asked about a draft of the Proposed Order that was not in the Council Packet. Mr. Green stated the document was completed late and did not get into the packet. Chair Wolfe added that all siting officers should make sure that materials and information is sent to Council timely. Mr. Cornett acknowledged that staff will be preparing Council materials earlier and the goal is to send information to Council at least a week to two weeks ahead of any meetings.

Chair Wolfe called a 15-minute break.

- E. ZeaChem Cellulosic Production Plant Exemption (Action Item):** Chris Green, ODOE Energy Facility Analyst, gave a PowerPoint presentation the Request for Exemption from Site Certificate. The facility is located at the Port of Morrow in Boardman. Pacific Ethanol Facility, which is adjacent to the facility, had a similar exemption and received a Site Certificate under the EFSC application process at a later date.

Councilor Mohlis asked when the rule was passed authorizing the Exemption process for bioethanol refineries. Mr. Green responded that based on the records he has reviewed, the department has been processing this type of exemption at least as far back as 2005. Ms. France added that the process is statutory, and that she will get an exact date for him. Councilor Jenkins also requested the ORS citation.

Councilor Beyeler asked about CO₂ amounts by using fossil fuels, and questioned whether there will be monitoring of this use. Mr. Green verified that the applicant has represented that it would not exceed the amounts stated. David Vanthoff, ZeaChem representative, stepped up to answer Mr. Beyeler's question. He cited OAR 345-024-0620.

Councilor Dowlin asked about the required process if an applicant no longer meets the Exemption criteria. Ms. France explained that if there was a loss of exemption, the applicant would need to apply for a site certificate.

Councilor Jenkins asked if Pacific Ethanol was subject to the same Exemption criteria. Mr. Green said that Pacific Ethanol was subject to the exemption criteria, but subsequently modified the facility and obtained a site certificate.

Councilor Mohlis asked whether, if this is approved, there is a timeline for construction, and Mr. Green said that the applicant had stated that construction is expected to run from the first quarter of 2014 to the third quarter of 2015.

Councilor Beyeler moved to grant the exemption, subject to a specific revision to address OAR 345-0024-0620 and to address the conditions in ORS 469.320(f)(E). Councilor Mohlis seconded the motion.

Councilor Sumner requested clarification as to whether continued compliance with the exemption criteria should be expressly stated in the exemption order. Ms. France said it has not been written into previous exemption orders, but that the Council may include language to ensure the facility's continued compliance with the exemption criteria.

Mr. Cornett will provide the exact language to the Chair for signing.

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Mohlis, to adopt the ZeaChem Exemption Request, as amended.

Vote: Dowlin, yes; Wolfe, yes; Mohlis, yes; Jenkins, yes; Beyeler, yes; Sumner, yes. Motion passed.

- F. South Dunes Power (Information Item):** Chris Green, ODOE Energy Facility Siting Analyst, presented a PowerPoint on the South Dunes Power Plant Notice of Intent. The applicant is Jordan Cove Energy. The Application for Site Certificate is anticipated in Spring 2013. The adjacent Liquefied Natural Gas terminal is under FERC jurisdiction, while the proposed South Dunes Power Plant is under EFSC jurisdiction. The Notice of Intent was submitted in August 2012, and the Amended NOI was submitted in November 2012. There has been concern from the public regarding aviation, seismic, and tsunami issues.

Mr. Cornett made note that Renee France is not ODOE's legal counsel for the South Dunes Power Plant application; Jesse Ratcliffe will be serving as counsel for that project.

Councilor Jenkins expressed interest regarding the size of the project and asked whether some of the power generated would be redirected elsewhere. If the power is to be sold, he would like that information included in the application.

Councilor Wolfe expects that the applicant will include this information. He would like an LNG information item at a future meeting, if it is proper. Mr. Cornett offered that Hillary Dobson, ODOE Federal Projects Coordinator, would be available to provide an LNG update at a future meeting.

Councilor Sumner stated that he would like more information from FERC on LNG projects. Mr. Cornett will collect this information and provide it to EFSC.

Roy Hemingway, South Dunes Power representative, approached the Council to explain the permitting process. FERC approved SDP initially as an import facility and must now revise it as an export facility.

- G. Geothermal Updates (Information Item):** Vijay Satyal, ODOE Senior Policy Analyst, gave a PowerPoint presentation on geothermal resources. He explained the Western Interconnection and described geothermal resources and reserves and described both private and public uses, strengths and weaknesses. He also explained electric and natural gas balancing, as well as interchangeable use.

Chair Wolfe would like periodic updates from Mr. Satyal.

Councilor Jenkins asked Mr. Satyal whether there are attempts being made to hybridize the geothermal resources discussed in his presentation; Mr. Satyal responded that there are geothermal and solar hybridizing efforts in the works, but not yet in Oregon.

Bryan Wolfe announced the public comment period. There were no requests for public comments.

A 25 minute break was called at 11:35; meeting reconvened at 12:07.

- H. Update on ODOE's Senior Policy Advisor Projects (Information Item):** Virginia Gustafson, ODOE Senior Policy Advisor, introduced herself, and offered some background information. She updated the Council on her work on consistency and accuracy of all documents, coordinating with Department of Justice, establishing administrative records, policy review, rulemaking, legislation, and process improvement.

Councilor Jenkins asked if this work will make the Siting process easier, and Ms. Gustafson agreed that it should.

- I. Rulemaking Update (Information Item):** Lee Willeman, ODOE Policy Analyst, presented a rulemaking update. He notified Council of a workshop being held at the Port of Morrow in Boardman, and one in Salem at the State Library. He invited Council to attend.

Chair Wolfe and Councilor Beyeler plan to attend the Boardman workshop. Councilor Mohlis will be attending the Salem workshop.

Counsel France stated that there should not be an EFSC quorum at either workshop, to avoid public meeting requirements. Council will coordinate through Todd Cornett on attendance.

- J. Transportation of Radioactive Materials Rulemaking (Action Item):**

Ken Niles, ODOE Nuclear Safety and Emergency Preparedness Division Administrator, requested Council adopt the January 17, 2013 redline draft rules for the transportation of radioactive materials. Council had granted approval to conduct formal rulemaking at the December EFSC meeting. Based on the rulemaking hearing, the proposed rules include revisions to provide an option for carriers to report their shipping activity online. Martha Dibblee, former EFSC member, had submitted a comment requesting to broaden the definition of hazardous materials to include pharmaceuticals. Expanding the definition would not have an impact on these on-going shipments and the proposed amendments do not incorporate that request.

Councilor Beyeler asked how many shipments per year this involves and whether the 48-hour report would include time tracking. Mr. Niles explained that this will involve somewhere between 400-600 shipments and that these reports offer more control over shipments and more current information.

Councilor Sumner questioned whether there would be conflicts between Federal and State with interstate shipments. Mr. Niles explained that ODOE is being pre-notified regarding shipments from Hanford already and feels that Oregon gets better information than most other states. Councilor Jenkins asked Mr. Niles to address Ms. Dibblee's concerns regarding radio-pharmaceuticals not used for prescriptive medicines. Mr. Niles stated that he had had a discussion with Ms. Dibblee. He indicated ODOE has not had any of these shipments in any quantity for many years and that the expanded definition was not needed.

Public comments on this action item were invited. There were none. Comment period was closed.

Action: The motion was made by Councilor Mohlis, and seconded by Councilor Beyeler, to approve the amendments for Transportation of Radioactive Materials rulemaking.

Vote: Mohlis, yes; Sumner, yes; Jenkins, yes; Beyeler, yes; Dowlin, yes; Wolfe, yes. Motion passed.

Mr. Niles added that in November EFSC had expressed interest in touring Hanford. He would like to arrange that tour for July. EFSC will coordinate with Mr. Cornett and Ms. Schwartz, ODOE Director, who stated that she would like to attend.

- L. Site Certificate Process Improvement Plan (Information Item):** Todd Cornett, ODOE Energy Siting Division Administrator, provided an overview of ODOE's process improvement which will streamline and create efficiencies in the Siting process.

Councilor Jenkins asked if new rulemaking is involved. Mr. Cornett explained that none of the proposed improvements require any rulemaking or statutory changes. Councilor Jenkins also commented that Mr. Cornett's description of the process improvements is similar to land-use application processes. He liked that the burden of providing information and data is put upon the applicant.

Mr. Cornett explained that one proposed change that would directly involve the Council involves having the Council participate in the Draft Proposed Order Hearing, in conjunction with a hearings officer. Mr. Cornett explained this would likely require two-day meetings to allow for conducting EFSC meetings along with the Draft Proposed Order hearings.

Councilor Jenkins asked Mr. Cornett to explain why we would need a hearings officer as well as EFSC and Counsel Renee France.

Mr. Cornett explained that the hearings officer will need to understand the entire process so they are prepared with all the information before a contested case hearing. Chair Wolfe felt that if he was running the meeting he may not be able to concentrate as much on public testimony as he could if a hearings officer ran it.

Councilor Jenkins added that he thought the hearings officer would be more of a facilitator, agreeing that it is more of a challenge to try to run a meeting and focus on the public as well.

Mr. Cornett stated that this was a work in progress, and he will provide updates at each meeting.

- M. New Council Member Guide (Information Item):** Todd Cornett, ODOE Energy Siting Division Administrator, offered information on a New Council Member Guide, which he is currently preparing. He described the outline and wants EFSC feedback on wording and content. Councilor Beyeler requested that the guide include a "cheat sheet" on acronym descriptions.

Future EFSC meetings were discussed:

March 15 – The Dalles or Portland

May 3 -- Location TBA

June or July – Location TBA; Possibly will include a tour of the Hanford Site
August 2 – Location TBA

Other tours discussed were of the Northwest Natural Mist Underground Gas Storage Facility and Bonneville Power Administration's Dittmer Facility. Chris Green commented that he anticipated the Port Westward Amendment #9 to be on the agenda for March 15. That facility is in close proximity for a tour of Mist Underground Gas Storage in conjunction with that meeting, but that it would likely be too cold to tour that area in March.

N. Public Comment: Irene Gilbert provided public comment, stating she would like the public to be more informed about what is involved at each step of the application process. Ms. Gilbert believes this will help the public feel less confused by the process. She will continue to educate herself about all aspects of the Siting and contested case process, to make sure she is heard. She also asked whether any of the current proposed legislation would affect EFSC and Siting.

Ms. Schwartz, ODOE Director, responded to Ms. Gilbert's comment by stating that Mr. Cornett will put together a list of legislative topics. Robin Freeman is ODOE's Government Relations Coordinator, and will provide updated information as it is available.

There were no other comments. Chair Wolfe closed the comment period.

The meeting was adjourned at 2:03 p.m.