



**Energy Facility Siting Council
Draft Minutes
June 21, 2013**

Minutes Approved at
08/02/13 EFSC Meeting

Oxford Suites - Portland
12226 N. Jantzen Dr.
Portland, OR

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

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

Oregon Department of Energy (ODOE) representatives present were Siting Division Administrator Todd Cornett, Ginny Gustafson, Matt Lawyer, Duane Kilsdonk, Andrea Goodwin, Cliff Voliva, Shilo Ray, Shanda Shribbs and Lee Willeman.

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

Agenda Modifications and Announcements: Mr. Cornett noted one modification to the agenda; Agenda Item H will now be an update from Margi Hoffman the Governor's Energy Policy Advisor instead of Hillary Dobson giving an update on LNG projects.

Chair Wolfe announced that the Leaning Juniper II Amendment #2 and Transfer, and Montague Amendment #1 and Transfer are closed to public comment and Council will not be accepting comments on those two projects.

Chair Wolfe elaborated on the benefits of the Department's GovDelivery service and noted the availability of sign-up sheets for that service.

A. Consent Calendar (Action Item):

Minutes for 05/03/13:

Action: A motion was made by Councilor Beyeler, and seconded by Councilor Mohlis, to approve the minutes of the May 15, 2013 meeting as drafted.

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

Project Updates: Mr. Cornett stated there were two updates since the 90-day look ahead report went out. He reported that the Department has received application withdrawals from the Klamath Falls Bioenergy Project and from PGE Cascade Crossing Transmission Line.

2012-13 Meeting Dates: The future meeting dates were discussed; clarification was made that the future 2013 meeting dates are August 2, September 27 and November 15, 2013.

Order Authorizing Intergovernmental Agreements: Todd Cornett, Energy Siting Division Administrator, explained that this is a biennial process in which the Department enters into intergovernmental agreements with reviewing agencies and that broad authorization is required for those agreements. Council asked clarifying questions.

Action: A motion was made by Councilor Sumner, and seconded by Councilor Mohlis, that the Order Authorizing Oregon Department of Energy to enter into Intergovernmental Agreements be approved as presented.

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

Hanford Site Visit: The July 18 Hanford site visit was discussed amongst the Council.

Council Secretary Report:

The council was asked to bring their calendars to the next meeting to discuss 2014 meetings.

Matt Lawyer, Administrative Assistant, gave an update to the Council regarding the new audio equipment and reported that we will be using a webcam so that those participating via Webinar will also be able to view the meeting live.

Mr. Cornett stated that there have been no staffing changes.

B. Mist Underground Gas Storage Facility (Declaratory Ruling Hearing): Todd Cornett, Energy Siting Division Administrator/Presiding Officer, at 9:00 am opened the Declaratory Ruling Hearing related to the petition from NW Natural Gas concerning the appropriate process for consideration of the Mist site expansion to be proposed in the future. No requests to intervene were submitted. Mr. Cornett stated that because no petitions to intervene were submitted, the only parties with a right to participate in the hearing and declaratory ruling proceeding are the Petitioner, NW Natural, and ODOE. ODOE staff provided the Council a written brief prior to the hearing. Both NW Natural and agency staff waived their right to present oral argument to the presiding officer during this hearing. He further explained, while NW Natural had waived the right to present oral argument to the Presiding Officer under OAR 137-002-0040, they had preserved their right to present oral argument under OAR 137-002-0050 to the Council, which serves as the decision maker, during the Council's consideration of the Proposed Declaratory Ruling. The Hearing was closed by Todd Cornett at 9:03 am. Mist Representatives, Tim McMahan, Legal Counsel, David Weber, Chief Information Officer and Todd Thomas, Project Manager, gave a presentation regarding the potential changes and an overview of the Mist Underground Gas Storage Facility. They further explained the reason for the possible future amendment request. Council asked informational and clarifying questions. More history was given from Mist Representatives regarding the history of the current site certificate.

Action: The motion was made by Councilor Dowlin, and seconded by Trey Senn, that the Council adopt the Proposed Declaratory Ruling as the Council's Final Declaratory Ruling in response to NW Natural's Petition for a declaratory ruling related to the MIST Underground Natural Gas Storage Facility.

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

C. Health Impact Assessment (Information Item): Jae P. Douglas, Director, Center for Prevention and Health Promotion, Public Division/Oregon Health Authority, provided a presentation to the Council regarding the Oregon Health Authority's Health Impact Assessment on Wind Energy in Oregon.

D. Columbia Ethanol Project (Information/Action Item): Duane Kilsdonk, Energy Siting Compliance Officer, explained that the Department is seeking Council authorization to issue a notice of violation to Columbia Ethanol. Mr. Kilsdonk provided an overview of the facility and gave information regarding the facility's compliance with the conditions of the site certificate. Mr. Kilsdonk stated that the certificate holder has yet to submit an annual report. He gave an overview of the facility's compliance history. He stated that a Corrective Action Plan Notice was sent on June 3, 2013, to formally inform the certificate holder that they are out of compliance for failure to file the compliance plan and the annual report. He stated that he has also tried contacting them via phone and email.

Renee France, DOJ Senior Assistant Attorney General, explained the factors in OAR 345-029-0000 that should be considered in deciding whether conditions or circumstances warrant issuing a notice of violation.

Todd Cornett, Energy Siting Division Administrator, explained the reason for bringing this request to the Council at this time. Mr. Cornett stated that, as written, the rule allows violations to either be issued directly by the Council Secretary or to be brought to the Council. Because this is the first violation ODOE has considered, Department staff is bringing it to the Council this time. In the future, unless otherwise requested, the Council Secretary will issue further Notices of Violation and then report them to the Council at the next regularly scheduled meeting. Council asked informational and clarifying questions. Discussion was had amongst the Council to determine if the factors that are addressed in OAR-345-029-0000 need to be added individually to the motion; it was decided that they did not.

Action: The motion was made by Councilor Sumner, and seconded by Councilor Mohlis, that based on staff report and factors in OAR-345-029-0000 to instruct the Council Secretary to issue Notice of Violation to Pacific Ethanol Columbia LLC for failure to comply with conditions VI.B.4 and VI.B.6 of the Site Certificate for the Columbia Ethanol Production Facility.

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

E. Montague Wind Power Facility, Amendment #1 and Transfer (Action Item): Andrea Goodwin, ODOE Energy Facility Siting Analyst, provided a PowerPoint presentation and brief overview of the amendment and transfer request. Ms. Goodwin explained that the amendment would extend the construction deadline by two years and reduce the minimum blade tip clearance from 41 meters to 20 meters above the ground, and that transfer would transfer the site certificate for Montague from Montague Wind Power Facility, LLC to Portland General Electric. She explained the review process for the amendment and transfer. She also discussed the comments received and stated that there was a request for a contested case, but that the department had not yet issued the Proposed Order, so it was not timely.

Action: The motion was made by Councilor Mohlis, and seconded by Councilor Beyeler, to adopt the Final Order approving Amendment #1 and Transfer of the Site Certificate for Montague Wind Power Facility to Portland General Electric.

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

Todd Cornett, Energy Siting Division Administrator, interjected to announce that Margi Hoffman the Governor's Energy Policy Advisor, will not be able to make it the meeting to provide her update; and there will be nothing added to replace Agenda Item H.

F. Leaning Juniper II, Amendment #2 and Transfer (Action Item): Andrea Goodwin, ODOE Energy Facility Siting Analyst, provided a PowerPoint presentation and brief overview of the amendment and transfer request. Ms. Goodwin explained that the amendment would divide the facility into two separate facilities, Leaning Juniper IIA and Leaning Juniper IIB, and the transfer request would transfer Leaning Juniper IIB from Leaning Juniper Wind Power II, LLC to Portland General Electric. She explained the review process for the amendment and transfer. She also discussed the comments received and stated that there was no request received for a contested case.

Action: The motion was made by Councilor Beyeler, and seconded by Councilor Jenkins, to adopt the final order approving amendment #2 and Transfer of Site Certificate for Leaning Juniper IIB to Portland General Electric.

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

G. Public Comment (Action Item): Todd Cornett, Energy Siting Division Administrator, read a comment for the record that was submitted by **James Hoffman** of Bend, Oregon on MIST Storage Facility. **Patricia Pilz** of Sacramento, California, representing Saddle Butte Wind Park, provided public comment on Saddle Butte Wind Park. **Irene Gilbert** of LaGrande, Oregon provided public comment on the Antelope Ridge Wind Project. **Varnier Seaman** of Portland, Oregon provided public comment on the Strategic Health Impact Assessment on Wind Energy Development prepared by Public Health Division, Oregon Health Authority. **Tim McMahan** of Portland, Oregon, legal counsel for Antelope Ridge Wind Project, provided public comment on the Antelope Ridge Wind project.

Chair Wolfe announced a break to get working lunches, with the meeting to reconvene at 12:10 p.m.

H. No Item Presented.

I. Troutdale Energy Center (Action Item): Ginny Gustafson, Policy Advisor, on behalf of Chris Green, the Energy Facility Siting Analyst for this project, explained the necessity of appointing a new hearing officer for the Troutdale Energy Center.

Action: The motion was made by Councilor Mohlis, and seconded by Councilor Senn, that the Council appoint J. Kevin Shuba as the Hearings Officer for the proposed Troutdale Energy Center.

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

J. Port Westward Generating Project (Information Item): Ginny Gustafson, Policy Advisor, on behalf of Chris Green, the Energy Facility Siting Analyst for this project, provided a briefing for Port Westward Generating Project and gave an overview of the Request for Amendment #10. She explained that the Amendment will be processed as an Expedited Amendment as the Council Chair had approved processing this as such.

K. Rulemaking (Action Item): Todd Cornett, Energy Siting Division Administrator, explained the reasoning behind rescinding the delegation of rulemaking authority and for re-establishing rulemaking authority, and then appointing a rules coordinator. Mr. Cornett stated that at the May 3, 2013 EFSC meeting, the approved motion that supported the appointment of rules coordinator was in error, and instead incorrectly and mistakenly delegated rulemaking authority to Lee Willeman. He explained that the requested action is to correct that error and confirm that rulemaking authority remains exclusively with EFSC; and that the action will then appoint Lee Willeman as the rules coordinator as originally intended.

Action: The motion was made by Councilor Beyeler and seconded by Councilor Mohlis, that the Council rescind the delegation of rulemaking authority made to Lee Willeman and to re-establish rulemaking authority with the Energy Facility Siting Council.

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

Action: The motion was made by Councilor Beyeler and seconded by Councilor Mohlis, that the Council appoint Lee Willeman as rules coordinator for the Energy Facility Siting Council as provided under ORS 183.330(2).

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

L. & N. Rulemaking (Action Items): Lee Willeman, Policy Analyst, explained the reasons for requesting that the Council cancel prior authorization for rulemaking related to carbon emissions that just applied to two administrative rules and reauthorize that rulemaking to include a third provision.

Action: The motion was made by Councilor Beyeler and seconded by Councilor Jenkins, that the Council cancel the permanent rulemaking related to modifications to the rules related to non-base load power plants under OAR 345-024-0590(5) and to carbon dioxide emissions standards for base load gas plants under OAR 345-024-0550(2).

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

Action: The motion was made by Councilor Mohlis and seconded by Councilor Jenkins, that the Council authorize staff to initiate permanent rulemaking for modifications to the rules related to non-base load power plants under OAR 345-024-0590(5) and to carbon dioxide emissions standards for base load gas plants under OAR 345-024-0550(2) and non-base load power plants under OAR 345-024-0590(2).

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

M. Rulemaking (Action Items): Lee Willeman, Policy Analyst, stated for procedural reasons it is necessary to re-authorize permanent rulemaking for modification to the rules related to EFSC site certificate amendments. Mr. Willeman also gave information regarding the Advisory Committee for the rulemaking on modifications to the Council's amendment rules. He stated that the individuals on the Committee are intended to be a balanced cross-section of interested groups. Council asked informational and clarifying questions.

Action: The motion was made by Councilor Beyeler and seconded by Councilor Dowlin that the Council re-authorize staff to initiate permanent rulemaking proceedings for modifications to the rules related to EFSC site certificate amendments.

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

Action: The motion was made by Councilor Sumner and seconded by Councilor Mohlis, that the Council appoint the individuals identified in the June 21, 2013 Advisory Committee Staff Report to and Advisory Committee for the rulemaking on modifications to the Council's amendment rules.

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

O. Climate Trust (Information and Action Item): Todd Cornett, Energy Siting Division Administrator, gave an overview of the Council's relationship with the Climate Trust and stated that Council is required to appoint three members to the Climate Trust Oregon Board of Directors. Mr. Cornett stated that Councilor Senn was currently on the Climate Trust Board of Directors and wished to step down; thus another member must be appointed. Councilor Senn discussed his time with the Climate Trust board and stated that it was very interesting and a great group to work with.

Action: The motion was made by Councilor Mohlis and seconded by Councilor Senn, to appoint Renee Dowlin to represent the Energy Facility Siting Council on the board of the Climate Trust.

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

P. Public Comment (Information Item): Chair Wolfe opened the floor for public comments; there were none. Chair Wolfe closed the comment period.

The meeting was adjourned at 12:53 p.m.