



**Rulemaking Advisory Committee
Minutes
October 16, 2014**

Columbia Gorge Discovery Center
5000 Discovery Drive
The Dalles, OR 97058

Call to Order: The meeting was called to order at 10 a.m. by Jason Sierman

Welcome and Introduction: Todd Cornett, Oregon Department of Energy gave a brief introduction and welcomed the advisory committee members. Matt Lawyer, Oregon Department of Energy, gave additional housekeeping items. The floor was turned over to Jason Sierman, Oregon Department of Energy, for closing introduction comments.

EFSC and Staff Attendance:

Barry Beyeler, Vice Chairman, Energy Facility Siting Council, Hanley Jenkins, Energy Facility Siting Council; Todd Cornett, Jason Sierman, Shanda Shribbs, Ginny Gustafson, and Matt Lawyer, Oregon Department of Energy.

Advisory Committee Attendance:

Irene Gilbert, Friends of the Grande Ronde Valley;
Brendan McCarthy on behalf of Loretta Mabinton, Portland General Electric;
Jim Johnson, Oregon Department of Agriculture
Shanna Brownstein, Northwest Natural Gas
Courtney Johnson, Crag Law Center;
Sarah McMahan Parsons, Iberdrola Renewables, LLC;
Megan Decker, Renewable Northwest Project;
Doris Penwell, Community Renewable Energy Association and Association of Oregon Counties;
Larry Givens, Umatilla County Commissioner;
Georgia Macnab, Sherman County Planning Director;
Art Martin, Oregon Department of Fish and Wildlife;
Kelly Potter, Department of Environmental Quality;
Dave Price, Blue Ridge Mountain Alliance;
Rick McArdle, Navy Northwest Training Range Complex.

Elaine Albrich, Stoel Rives, LLP

Timeline of Where we are: Mr. Sierman gave a brief update on what the timeline looks like for the Rulemaking Advisory Committee, including an estimation of January 2015 for the completion of final proposed rule language. Proposed rule language will then be filed with the Secretary of State and public notice will be given through publication in the Secretary of State's



Bulletin, letters (emails) to the agency mailing list, letters (emails) to state legislators, and publication on the Department's website. Public notice will include the dates and times for a public comment period and the date, time, and location of a public hearing. After the public hearing, the rule will be adopted, amended, or repealed after considering fully all written and oral comment submissions.

Presentation of Category 2 and Discussion: Mr. Sierman presented staff's recommendation of a proposed rule concept known informally as "Category 2." The category 2 concept is part of a broader rule change concept that could create two different processes for future amendment requests. Incoming amendment requests would be classified into one of two categories based on various criteria and then processed accordingly. The Committee's discussion centered on how category 2 may function and how the issues identified by the Committee may effect that functionality. Among the many ideas discussed, the Committee focused on how to improve public involvement without causing undue delays in the process. The addition of a public hearing upon request received substantial support.

Discussion on Pre-Amendment Conferences: Mr. Sierman discussed how a pre-amendment conference could establish whether or not an amendment request would be required, and if so, whether it would be a category 1 or category 2. A pre-amendment conference also affords the Department the opportunity to give the certificate holder clear direction on the requirements and expectations of a satisfactory amendment request. Among many other ideas, the Committee discussed whether this conference should be optional or mandatory, and how compliance enforcement could offer an incentive to certificate holders to partake in pre-amendment conferences (i.e. by helping certificate holders avoid violations for not making amendment requests when site changes require amendment requests).

Presentation of Category 1 and Discussion: Mr. Sierman presented staff's recommendation on a second category that could be created with a rule change, known informally as "Category 1." The discussion centered on how category 1 may function and how the issues identified by the advisory committee may effect that functionality. There were additional discussions on how a pre-amendment conference could inform the decision of which path to take, category 1 or 2. Among many other issues, two of the largest issues identified during the category 1 discussion were: one, how to create a discrete list of all the types of amendments that should be eligible for the category 1 classification; and two, how someone in disagreement with a classification decision made by the Department can make an appeal.

Discussion on Contested Cases: Mr. Sierman presented a series of questions soliciting input on the contested case portion of the site certificate amendment process. In the existing certificate amendment process, contested cases must be requested by someone and then granted by Council; however, in the original certificate application process, the contested cases are automatic. This difference in process has spurred some concern that the amendment process lacks sufficient opportunity for meaningful public participation.



Supposing the existing contested case processes remain unchanged, the Committee considered whether the addition of a public review hearing to the amendment process would enhance the opportunity for public participation. Among the many other ideas discussed, the Committee also considered whether the Council should retain its broad discretion in granting contested cases for certificate amendments, and whether the contested case process should be available for a category 1 amendment.

Public Comments: Comments from Carla Mclane, Morrow County Planning Director.

The meeting adjourned at 2:05 p.m.



RULEMAKING ADVISORY COMMITTEE COMMENTS
Meeting #3 – Thursday, October 16, 2014

Name	
	Category 2
Irene Gilbert	Concerned that the staff report may not give you the actual conditions, there would not be enough information for the public to comment completely. Will they have to base their comments on the staff report only? There will be a broad range of quality and completeness. This will limit the public's opportunity to respond, especially in raise it or waive it.
Ginny Gustafson	DPO is essentially a staff report. Staff's analysis with reviewing agency comments, before public has weighed in. The DPO could easily be called a staff report. Does not supplant the public's opportunity to comment. Provides a better opportunity for everyone to understand the issues.
Irene Gilbert	Staff report will look like the current DPO. That helps.
Doris Penwell	Who participates in the pre-amendment process? Answer: developer and department. Not an open meeting.
Ginny Gustafson	Provides venue for input and notification. Provides an opportunity for everyone to understand what is coming.
Jim Johnson	Ag community thinks it is a done deal. The order is out there. I support going to a staff report (not calling it a DPO), so it is not "tainted." Staff reports in land use have conditions. Take away I got from last meeting



	was that we were heading to a land use process rather than a judicial process.
Irene Gilbert	At step 3, preliminary request for amendment, put it on the website, public could start thinking about it earlier.
Shanna Brownstein	List of website, makes good sense. What is the difference between the public reading the request and associated reports rather than the department taking the time to create a staff report...what is the benefit? Staff report feels clunky.
Jim Johnson	Part of problem, public wants to know what Staff is thinking, not just what the request is. The staff report gives the public a chance to understand what staff is thinking. Want to know findings, not just conclusions.
Rick McArdle	Last meeting, Category 1 versus Category 2, it looks like that decision is made before the amendment comes in. How does a challenge to that decision work?
Courtney Johnson	How far do you want to go before determining Category 1 and Category 2? Would the RAI be part of staff report? Is public hearing automatic? What are the timelines? How much time? How much opportunity? When is the opportunity to discuss Category1/Category 2? What is the basis for approving or denying a Contested Case? There is an opportunity for a public hearing to resolve issues. Offering that opportunity for engagement is a good idea.
Dave Price	Step 8, What if something is different in the Proposed Order than the Staff Order, how do you get into the Contested Case process?



Ginny Gustafson	If the Proposed Order is substantially different, those issues are open in the Contested Case. (Things that come up that were not addressed in the staff order.) The same way as the application process works now.
Brendan McCarthy	80% of applications, we are adding additional steps. Draw a parallel to CXT, what additional time does staff anticipate the additional steps require, how does staff anticipate dealing with the additional burden? How are we ensuring these projects will move through in an expeditious manner? USEFUL: need a timeline and estimate.
Todd Cornett	I don't see it adding significantly, adding value to create more meaningful participation, by adding hearing and staff report negates the request/need for a Contested Case, time and cost is saved.
Doris Penwell	When is EFSC and members involved, and how early? Not involved formerly or informally along the way. Todd Cornett: we let them know when posted to website. Ginny Gustafson: notified during EFSC meeting.
Irene Gilbert	To streamline, I would recommend you limit Public Hearing to only folks who have asked to speak to EFSC. Not a full blown Public Hearing open to anyone who hasn't already raised an issue. Ginny: Clarify, did they have to request in their letter, or just because they sent a comment. Irene: Only if they request it.
Shanna Brownstein	Remind everyone this is a standards based system. There has to be a specific standard in question. If it has gone through Agency comment, and issues have been fixed. How do we avoid the comment just to raise a Contested Case to stall projects? We want to avoid obstructionism.
Ginny Gustafson	Lane use process provides that comments must respond to standard, and be specific enough for applicant to respond to.



Jim Johnson	Agencies are not going to be able to raise every issue, compatibility and rural residential development. Do not depend on agencies are not going to bring up all issues.
Rick McArdle	Legislative initiatives - what constitutes a general reopener? How broadly are the issues reopened? Will there be a test as to whether they must speak just to amendment.
Ginny Gustafson	Determination of general reopener would be at the pre-amendment conference. Most amendments are not "general reopeners." A lot of amendments are not, but construction dates are. General reopeners are in Category 2.
Irene Gilbert	As I understand the rules when an amendment comes in, there is a general re-opener.
Brendan McCarthy	Where do requests for expedited or extended review match up with this proposal?
Ginny Gustafson	Category 1 may replace expedited review, and transfer process. Small scale administrative changes. No longer be an extended review.
	Pre-Amendment Conference
Irene Gilbert	Publicize meetings....just a thought. People then could observe what those decisions are.
Doris Penwell	Land use process, don't you have a pre-conference opportunity for applicants to ask questions? It helps.
Brendan McCarthy	Applicants need to be able to talk to regulators. Not every conversation has to be a public conversation.



Georgia Macnab	Pre-application conferences are for us to get our heads around it.
Rick McArdle	Useful for staff do be able to meet with them, there has to be at some point pretty early to be a challenge to the Category 1 or 2. Need to have a productive discussion.
Ginny Gustafson	Some part of the certificate holders risk analysis. Site Certificate holder could request Category 2. Put in an ability to challenge a Category 1 decision sometime down the line. If there is a lot of known public concern, if they proceed down a Category 1 process, there may be a more contentious process later.
Courtney Johnson	Generally a good idea. Doesn't like seeing the meeting as being mandatory. Should be optional. Appeals on Category 1 or 2 and what the path is for that, is a threshold issue. Put something in new site certificate on what the amendment process looks like.
Ginny Gustafson	Pre-amendment conference is a vehicle to bring out issues that have been done. How do certificate holders document a change they did not request a change for?
Doris Penwell	What does the meeting look like? When they ask for the conference, do they know what they want to talk about? Todd Cornett: Want to better prepare the holder to submit a more prepared application for amendment. Doris: What happens if you identify they need to talk with other agencies? Todd Cornett: We can add any whatever agency is needed. This is for engagement.
Ginny Gustafson	Is it a mandatory meeting for a request for amendment? If Site Certificate holder doesn't think an amendment is required, can the



	meeting be a mechanism to make that determination? Or is there a better way to determine if an amendment is requested. Right now there is a complex process.
Irene Gilbert	Require the applicant to notify the department of a proposed change, meeting be optional, but Department could contact applicant and recommend they participate in a pre-amendment conference. Ginny: retain current Change request process? Applicant would still make request, and if they did not request a meeting, the Department could recommend one.
Megan Decker	How will this work on the small side? If I'm required to ask whether an amendment is needed. Ginny: this is more likely where it is going to happen. Option to have a discussion. Is an optional pre-amendment meeting going to improve the process?
Rick McArdle	Not unusual to have a pre-amendment process in land use. I would make it mandatory. It doesn't cost a lot, and may save a lot of resources down the road. Outcome might be that no amendment is required. Applicant that wants to do something different, always has a decision on whether he will be out of compliance. You are not ever going to take away that decision.
Shanna Brownstein	Enormous amount of work in pre-amendment conferences.
	Category 1
Sara Parsons	Does not want transfer to be part of amendment process. Ginny: We're proposing to combine the processes because they are parallel, but different paths. Todd: Transfers are amendments.



Irene Gilbert	Transfers are included in do not involve physical alterations of the site or facility. The exception that is not a category 1 is extending construction dates. Ginny – extending construction is not a Category 1. Also like to see the public added in. Issues that are significant to public, they should not be Category 1.
Megan Decker	Not a whole lot of difference between Category 1 and 2, I'd like to see an administrative level that would not warrant a Contested Case. Ginny: Should there be different standards for a Contested Cases in Category 1? Megan: No point in having categories if still can go to Contested Case.
Ginny Gustafson	Legal parameter, if there is no opportunity for Contested Case, it still would go to Supreme Court. You would still have a record, but you would not have the same clarity in how the issues are framed in the Contested Case record, the issue not framed as clearly.
Shanna Brownstein	Irene's point – adding in public would be impossible to have put in rule language. Staff can't know what the public finds substantive. I feel uncomfortable. Can we put categorization out of hands of staff and put in the public? Can the staff report indicate something is an administrative issue? How does Category 1 avoid the lengthy administrative review? Ginny: we're saying there would be no need for any other agency to substantively weigh in. If Department of Ag reads the staff report....they could comment and request a contested case, and staff could pull it back and go through extensive review.
Brendan McCarthy	Current rules allow the Council to grant to Contested Case if Council determine significant issue of law or fact that would affect the applicable



	<p>standard. There has to be a concern that there is an applicable standard that is being affected. Adding a lot of things into the potential that things will go to contested case without meeting that there is a significant issue of law or fact or applicable standard. Feels like we are fast tracking a lot of issues that would never raise to the level for which they would be awarded a contested case. We're pulling a lot of things into the net.</p>
Courtney Johnson	<p>I agree with Megan, If idea to create a category has less review, having Contested Case in Category 1 puts more pressure on decision to make an amendment in Category 1 or 2.</p>
Ginny Gustafson	<p>Need procedural step of whether it should be a one or two. An off-ramp. The decision would be appealable to the Council. Decision on the merits would go to the Supreme Court.</p>
Todd Cornett	<p>If you eliminate the last bullet point, there is no discretion.</p>
Courtney Johnson	<p>Transfer ok in Category One. Physical category: there could be changes in operations that don't change physical condition, ramping up or down. Some changes in physical condition may impact neighbors. Changes in mitigation requirements. Requiring substantive from agencies, adding "or the public" is not necessarily helpful. Might be helpful to add Increasing or decreasing monitoring. Specific examples that don't require other agency review. If they are going to monitor more, other agencies probably are not going to care.</p>



Ginny Gustafson	Do we put a concrete list in, what about the things that we have not even considered? Quantifying things that don't require additional process is difficult.
Shanna Brownstein	Is agency review required by rule? Ginny: Required by rule, not by statute.
Rick McArdle	Purpose of having this tiered system is to have a streamlined process. I would suggest the bar for EFSC would be higher in a Category 1. Could build into this, whether the categorization was correct.
Larry Givens	Aren't we moving more and more to a land use style than we were currently?
Hanley Jenkins	I think that is the intent. The challenge is trying to figure out where the opportunity is for evaluating the determination between Category 1 and Category 2. Where is the balance between selecting a Category that may be more expeditious (category 1), and the opportunity to challenge the decision. I'd like more discussion in how we do that.
Megan Decker	I was focused on difference between Contested Case requirement, public hearing is another difference, try to keep some sort of flexible standard. Early on a lot of fear.
	Lunch
Shanna Brownstein	Categorization is an issue, unforeseeable. I advocate for one process. Think Category 2 process, staff can say in staff report, this is an administrative change, there is no agency process. That would indicate to the public that we reviewed this, and we think this is a quick thing. Can we change the rules to accommodate a decision that staff makes



	that agencies do not need to comment. Don't like staff making the determination, it will create more problems than it is worth. Would have entire process open for all amendments.
Ginny Gustafson	Should changing the site certificate to comply with federal law have to go through the entire process? Or what about when consolidating previous amendments. Or Port Westward, getting rid of a condition from 1992 that was not needed any longer?
Shanna Brownstein	Is there a way to allow for those things while just having a single process? With an eye towards amendments changing, do we need multiple processes?
Todd Cornett	Are you talking about there being options for the public to participate, but they decide not to participate, and therefore would be more expedited, or are you talking about having "off ramps" if staff determines it is administrative in nature?
Shanna	I don't think I'd make a public hearing not an option, I think you would see the public not engaging. Would become more efficient staff would determine what needed to go out for agency review. Ginny: You think staff can make that determination. I'm suggesting one process, and staff would determine yes or no agency comment.
Brendan McCarthy	I think functionally, it might come out the same. If there is no condition or standard in the site certificate, it does not affect any standard, therefore don't go through an amendment process. Staff could make the determination as to whether it affected a standard. Not go through the entire amendment process.



Shanna Brownstein	Staff uses discretion and the public gets to look at it and give input on whether they agree. Things would move faster.
Megan Decker	There should be a categorization if the process is different enough that is worth the effort to categorize things. We should only have categories if we have strong buy ins to what the process to categorize. I think it works best if it is a transparent exercise of staff discretion according to very general principles. Changes that don't require implicate a standard or do not require substantive review by a reviewing agency. Third, a clear, expeditious way to challenge staff's categorization, and if there is a challenge, an opportunity for the certificate holder to transfer to Category 2.
Jim Johnson	Worry about words like substantive and significant. Those are real discretionary. What is the purpose of this committee? We were supposed to be streamlining, and making it clearer for the public to get involved. Remind ourselves that it is not staff that will decide the criteria, it is Council. EFSC will decide categories. Short of everything being objective, there is going to be discretion. Make things as clear and objective as possible..
Irene Gilbert	I really like Shanna Brownstein's comment. We already have an off ramp. Step 8, if you get no request for a public hearing, staff will look at written comments and prepare an order. I think the public will make a decision on whether they have comments that justify a hearing.
Courtney Johnson	Early concerns about the obstructionist approach. If there are all of these opportunities, is the group concerned that there will be folks blocking amendments at every corner?



Shanna Brownstein	I agree. I don't know how you deal with the subjectivity of selecting Category 1 or 2.
Courtney Johnson	I'm uncomfortable. Using the agency's discretion to apply standards are. Difficult to appeal agency's decision is very difficult. Maybe only Category 2 can work.
Hanley Jenkins	Intrigued by one category. My concern is adequately identifying where "off ramps" are because of trying to streamline the process.
Georgia Macnab	Starting to make sense if there is only one process. But, transferring possession wouldn't even need public comment. There will always be someone who never liked the process from the beginning.
Irene Gilbert	The purpose of being an obstructionist, is that the public has such short time frames to when our comments have to be in. Our goal is to get in every comment possible. Be more transparent up front. Need a way for the public to challenge whether a decision on process is appropriate.
Rick McArdle	Department of Defense believes the change in ownership is a big deal for us.
	Contested Case
Ginny Gustafson	I think what the language is getting to, when there is a request for Contested Case, the Council makes the legal determination. If it is a question of fact that is not adequately covered and cannot be resolved, that would justify going to a Contested Case, if the question of facts are already in the record, they do not go to a Contested Case. Only questions of fact that cannot be resolved on the existing record should require a Contested Case.



Irene Gilbert	The people have a right to know that if it is brand new impacts, a Contested Case is required.
Courtney Johnson	What is goal of Contested Case proceeding in an amendment? What is the difference between the public hearing and the Contested Case?
Ginny Gustafson	To Irene, could a public hearing have resolved the issue, or are you saying sometimes the issues are so great that there should be a Contested Case?
Irene Gilbert	Goes to the issue of impacts. If you don't allow the Contested Case, it is more expensive to get to the Supreme Court.
Ginny Gustafson	Public hearing is to flesh out the issues. To the Council before a Contested Case. Should be a narrow down of the issues.
Jim Johnson	Does the statute require Contested Case? Ginny: Denial of a Contested Case goes to the Supreme Court. Jim: Is there another type of process possible? Ginny: We could look at another option.
Megan Decker	Getting to a public hearing is less litigious Hearing is public, Contested Case is a narrowing of the issues. Issues that are relevant to the legal question are what goes to the Supreme Court. It is not the function of the Contested Case, to narrow issues and build a record on whether the project meets the standards. Language could be clearer, but the parameters for going to the Contested Case have to be related to the standards.
Brendan McCarthy	Megan said it well. Picking up concern that the public doesn't have an opportunity for that "day in court." Contested Case process is not supposed to be that day in court. It is supposed to be a process where there is a determination if there is a significant issue of fact or law and



	whether the project meets the standard in fact or law. The supreme court is that day in court. I understand it is expensive, but they are different processes.
Irene Gilbert	Contested Case is a day in court. It is all in writing. Complete record for going into court which saves money and time. In other states, the Division issues money to the public to go to court. People have the right to a Contested Case. If you frustrate them at the amendment time period, you will get increasing contested cases at the application time period.
Dave Price	Contested Case is not user friendly, does not encourage people to participate. You pursue a point, because you think you are right. If the decision comes back against you, there is no place left to go. Need a place where people can honestly participate. The contested case process is not that. Ginny: does the hearing process provide that. Dave: I'd have to say no. The hearing process is not a place to participate.
Jim Johnson	Why have a CC, and not going to another process. Does the Council the ability to use a third place? Is there another process possible? Ginny: I'm going to look into that.
	Public Comment
Paula McClane	Handouts at meeting are not available on line. From a public engagement prospective, you are missing a piece.



Barry Beyeler	Limited recourse to affect the decision because of the way the rules are constructed. Appreciate the time and energy people are putting into this discussion.
	Return to Contested Case
Doris Penwell	Value of Contested Case and streamlining, when you decide what you do about any proposed rules. Make sure you make decisions that don't drive things another way. If they go to the local level, it is more iterative process. If we can make EFSC an easier process, it keeps projects where they ought to be because projects will happen whether or not we have rules.
Irene Gilbert	Need criteria for when we go to a contested case. She thinks statute says you "will" develop when things go to Contested Case. If EFSC has criteria for making decisions, it would make things easier for them.
Megan Decker	The point is, you are setting up for higher level review on the substantive standards. It can't be about anything other than the substantive standards. Or you're just saying "a day in court" on things we don't have legal authority to decide. If you go in the directions of "impacts," it may feel meaningful, but it isn't what the Council has the ability to make decisions on.
Shanna Brownstein	It strikes me as arguing the wrong part. If the Council is upholding the standard, but they are not comfortable with them, then the Council needs to change the standards.
Rick McArdle	Does not advocate for more contested case type proceedings; it suppresses useful dialog in a less formal environment. At the end of the



	<p>day, an amendment to a site certificate has to meet the same standards as the original application. The processes can be quite a bit different, but any change to site certificate has to be the same development standards. If it is not a Contested Case that gets you there, there has to be some equivalent process to get you that same result. If you don't have the same process in the amendment process, you end up with two separate standards of review.</p>
Courtney Johnson	<p>I agree the Contested Case process is not user friendly, and prevents barriers to engagement by the public. But you can cross examine a witness. A give and take. A decision by an agency has to be supported by the record. Odd to develop record after a decision has been made. In theory, if there is a request for Contested Case and you don't go there, you've never had that full, evidentiary hearing. I think there is value in Contested Case. Maybe there is some standard in the decision to make a contested case for the amendment that has to do with the actual standard and whether there is significant new information, something not captured in application or amendment document itself. Some input from NEPA process might be a way to capture some of the issues.</p>
	<p>Closing thoughts</p>
Hanley Jenkins	<p>Where is the balance if we are going to allow staff to identify the level of amendment? Where is the most efficient way for the public to have input into that decision making so the applicant and department don't get down the road with an amendment application that is ultimately going to be challenged by the public.</p>



Georgia Macnab	Coming into this, my hope was to make the amendment process more clear. Hopefully we've given staff something to work with.
Shanna Brownstein	Appreciate Council members' prospective. I wasn't aware things weighed so heavily. If you have issues, please seek changes to rules or statutes when needed.
Dave Price	Helix is not unique. I can think of three other projects that have experienced multiple amendments more than doubling the size of their projects without adequate public input, and the system needs to be overhauled. Make it possible to encourage people to participate.
Rick McArdle	Appreciate opportunity to be part of it.
Megan Decker	Good luck. I do think an off ramp, categorization at staff report level is a good way to go. On Contested Case, I hope that the Contested Case is exactly what people want, I would really hope that having the public hearings and getting it all up on the record, so EFSC can determine if there is a narrow, litigated process to prepare an issue that needs to go to Supreme Court.
Barry Beyeler	We have been wrestling with this as a Council: is it the amendment process, or is it the differences between what energy generation was 20 years ago to today.
Jim Johnson	This rule advisory committee has been one of the best. Issues are well fleshed out, staff has job to develop draft rule. Get the draft rule out, and then we all have something to shoot at. Don't be afraid to provide options in draft rules. Doesn't have to be an exact rule, plug in options. When does something go into one process or not...scale is an important



	<p>word. On the process, nothing I detest more than a Contested Case hearing. If there is any way to make it more friendly, it is to get away from the judicial thing that is the Contested Case and get it in front of the Council.</p>
Larry Givens	<p>Boils down to public versus developer or development. Public is crying out for better, more input and they want more transparency. Developers want a speedy outcome. Biggest issue is the whole idea of land use and how the land and citizens are impacted by all the different issues. I'm almost under the opinion that the process should be that it goes to the local land use decisions first, before it goes to EFSC or any of the other agencies. But, that would take some statutory fixes. In conversations with Michael Jordan, Richard, some of those folks, Michael has been given the task to streamline and try to boil down some of these commissions, boards, committees. Encourage the Department and Council to look at what it would take to go through local planning, then it goes to a state agency.</p>
Doris Penwell	<p>The department may find that the process would work better with statutory changes. EFSC should look at doing statutory changes.</p>
Irene Gilbert	<p>I've been here pushing for Contested Case on amendments, but what the public really needs is a third-party review. Maybe we need an administrative law judge to hear these. I think this process could be much simpler if it wasn't so legal. Have an independent decision maker listen to all the comments.</p>
Brendan McCarthy	<p>I'm concerned about timeliness. We have obligations and penalties if we don't meet certain timelines. 111d is going to create additional</p>



	<p>requirements. Intense amount of agency review, would or would not meet the standard. There are plenty of opportunities for input to meet standards. I bristle at the implication that we would built a project that is bad for the state. For the most part, the amendments we've done on Port Westward do not create the impacts others are talking about. Otherwise, we can't operate. I firmly believe our council is a bunch of smart people. We vested you to make the decision. I think you exercise good discretion. I want to counsel staff to look at the vise utilities are going to be in. Don't throw the baby out of the bath water. I like the additional public process, but don't add a significant amount of time.</p>
Courtney Johnson	<p>There are good ideas on the Category 2 flow chart, I like potential of only one process and think this might do it. Key points to make that happen. Like the pre-amendment conference helps the developer understand what might happen. The staff report is a time to justify recommendation. Good idea. Good idea to have a public hearing. I think we need to clarify standards for approving a Contested Cases; things like significant new information or exercise of legal judgment or discretion around the standards. These options increase potential steps, but adding in the staff report may be a way to streamline and not have every single amendment trigger each of these stages.</p>