



ENERGY FACILITY SITING COUNCIL

Barry Beyeler, Chair ■ Hanley Jenkins II ■ Betty Roppe ■ Jack Billings ■ Marcy Grail ■ Ann Gravatt

Energy Facility Siting Council August 23-24, 2018 Meeting Minutes

August Minutes were approved at the October 25-26, 2018 EFSC Meeting

Boardman City Hall
200 City Center Circle
Boardman, OR

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The meeting materials and audio recording presented to Council are available online at:
<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

THURSDAY, AUGUST 23RD, 2018

Call to Order: The meeting was called to order at 5:15 p.m. on August 23rd, 2018 by Chair Barry Beyeler.

Roll Call: Council Chair Barry Beyeler, Council Vice-Chair Hanley Jenkins, Council Members Betty Roppe, Marcy Grail, Ann Gravatt and Jack Billings were present.

Oregon Department of Energy representatives present were Assistant Director/Council Secretary Todd Cornett, Senior Policy Advisor Maxwell Woods, Senior Siting Analyst Sarah Esterson, Operations Analyst Sean Mole, Compliance Officer Duane Kilsdonk, Public Affairs and Outreach Coordinator Cliff Voliva, and Division Assistant Esther Kooistra.

EFSC Counsel Patrick Rowe, Department of Justice (DOJ) was also present.

A. Consent Calendar (Information and Action Items) – Todd Cornett, Assistant Director/Council Secretary

1) Meeting Minutes

Action: A motion was made by Vice-Chair Jenkins and seconded by Councilor Roppe that the Council approve the June 29, 2018 meeting minutes with correction of scrivener’s errors.

Vote: Vice-Chair Jenkins, Yes; Chair Billings, Yes; Councilor Beyeler, Yes; Councilor Gravatt, Yes; Councilor Grail; Yes, Councilor Roppe, Yes.

Motion Carried.

2) Council Secretary Report

a. **Agenda Modification:** No agenda modifications at this time.

b. Staffing Updates:

Secretary Cornett introduced Patrick Rowe, Department of Justice, and the new primary DOJ contact for Council. Mr. Rowe is on the agenda tomorrow to discuss contested case thresholds.

Council Member Jack Billing’s term has concluded and this is his final meeting. Secretary Cornett expressed his appreciation for all of Mr. Billing’s efforts and hard work over the last four years.

Siting Analyst Yuan Gao is unfortunately no longer with the Siting Division due to unforeseen circumstances with her employment status. Secretary Cornett stated she was an excellent addition to the Siting Division team and he will keep the Council up to date on the status of the recruitment for her position.

The recruitment to replace Jason Sierman as Rulemaking Coordinator has been initiated and the position is anticipated to be filled in October.

c. Project Updates:

Solar PV Rulemaking: The first Rulemaking Advisory Committee meeting is set for August 30th from 10:00 – 2:00 in Salem. This will be primarily an overview of the scope of the rulemaking background information. RAC members and the public will be able to attend in person or on the phone and via webinar. Secretary Cornett asked if there were Council members that are intending to participate; Vice-Chair Jenkins and Council Member Roppe expressed interest attending over the phone.

Compliance Rulemaking: Considering the vacant Rulemaking Coordinator position, the first Rulemaking Advisory Committee will not be held until later this year or early next year.

Amendment Rulemaking Appeal: Friends of the Columbia River Gorge and a consortium of environmental groups have challenged the amendment rules that were adopted by Council and went into effect October of 2017. The Department of Justice’s appellate division represents the Department of Energy at the Supreme Court. The state’s brief is due in September and the oral arguments will be in early December. Secretary Cornett will keep the Council updated as this moves forward.

Perennial Wind Chaser Power Plant Amendment: The Department received a request by Perennial Wind Chaser Power Plant on August 6th to extend its beginning construction deadline from September 18, 2018 to September 18, 2021 and its ending construction deadline from September 18, 2021 to September 18, 2024. The Department is still in the process of reviewing the amendment request for completeness.

Perennial Wind Chaser also requested Type B amendment review on August 6th. On August 22nd staff determined that Perennial Wind Chaser did not submit information adequate to justify Type B amendment review and confirmed it would remain under the default Type A review.

Summit Ridge Wind Facility: On August 16th, the Department received a request by Summit Ridge Wind to extend its most recent deadline for beginning construction from August 19, 2018 to August 19, 2021 and its most recent ending construction deadline from August 19, 2021 to August 19, 2023. The project has received two prior timeline extensions.

Summit Ridge Wind also requested Type B amendment review on August 16th. On August 24th staff determined that Summit Ridge did not submit information adequate to justify Type B amendment review and confirmed it would remain under the default Type A review.

d. Future EFSC Meeting Dates:

September – Coos Bay, OR. This will likely be entirely devoted to the Jordan Cove exemption request. This will be a two day meeting with public comment. [*note, the September EFSC meeting was subsequently cancelled*]

October – Boardman, OR – We may be ready for Council’s final decision on the Carty Amendment and the DPO hearing for the Wheatridge Battery amendment. [*note, this meeting will be held in Boardman and will be regarding Golden Hills Wind Facility, and not a decision on the Carty Amendment or Wheatridge Battery amendment.*]

e. Senator Olsen Workgroup:

Senator Alan Olsen has established a workgroup that is looking for ways to make the EFSC process more efficient, effective and accountable to Oregon residents and utilities. The next meeting will be on September 10th in the Meitner Conference room at the Oregon Department of Energy Office in Salem from 10:00 a.m. to 12:00 p.m. An agenda has not yet been provided.

B. [5:30 p.m.] Golden Hills Wind Project, Public Hearing on the Draft Proposed Order on Request for Amendment 5 of the Site Certificate (Hearing – Maxwell Woods, Senior Policy Advisor)

Mr. Woods provided a brief overview of the facility and process. Golden Hills Wind Farm LLC. is owned by Avangrid Renewables, LLC. and the facility has not yet been constructed. The requested amendment components include an option to use a mix of wind turbines with different dimensions; if selected, this wind turbine model would also require a wider temporary access road and crane path during construction, taller meteorological towers and to amend Condition PRE-DC-01. Mr. Woods provided an overview of Amendment Type A procedural steps. The Public Hearing and Comment period opened on July 13, 2018 and will close at the conclusion of the August 23, 2018 hearing.

Council will consider all public comments before Council Deliberation, Agenda Item C. More information is located on the [Council Meetings website](#) for additional details pertaining to Mr. Woods’ [presentation](#).

Chair Beyeler serving as the Presiding Officer, opened the public hearing at 5:54 p.m.¹ There were two commenters.

Irene Gilbert, 2310 Adams Ave. La Grande, OR, representing Friends of the Grande Ronde Valley, and as a private citizen, commented regarding her concern about using the new amendment rules with a court

¹ Audio for Agenda Item B = 00:03:02 – August 23, 2018

appeal pending. Ms. Gilbert identified her concerns with the proposed order adding additional non-applicable sections of the site certificate rules, specifically soils. Ms. Gilbert discussed soil compaction, and recommended not putting further restrictions on rules that already restrict the public access to contested cases and comments. Ms. Gilbert discussed her concerns about setbacks from towns and the removal of a “goalpost” rule. Ms. Gilbert’s second comment was regarding the documentation of water resources, particularly wells, and that there should be pre-construction surveys done of the wells around the location and monitoring of wells during construction and operation. Ms. Gilbert provided comments from the American Wind Energy Association indicating there are concerns about how wind turbines affect the flow of water under the soil. Ms. Gilbert discussed the need to ensure safety for pilots and possible risks posed by the proposed increase in height of the turbines. She spoke about setbacks for wind turbines not being adequate and recommended picking a middle ground around 1,000’ for a setback for adjacent property owners and public roadways so that people and their animals are not hit with pieces of turbine and pieces of ice. Ms. Gilbert stated it is well documented that where this construction is to occur, there are ice issues and the weather tends to be very cold in the winter. Ms. Gilbert mentioned her concern for protected areas and species, mentioning birds and bats, and discussed cumulative impacts. Ms. Gilbert asserts the surveys are inadequate; areas reviewed do not have connected corridors; and the impacts to roads in extending areas. Ms. Gilbert mentioned concerns with Tribal and Government to Government requests. Ms. Gilbert provided written documents of her concerns to Council.

Matt Hutchinson, Project Manager, Avangrid Renewables, 1125 NW Couch, Portland, OR, representing Golden Hills Wind Farm LLC. Mr. Hutchinson thanked staff for their time in reviewing the amendment application, supporting their findings and recommendations for changes to the site certificate conditions. Mr. Hutchinson said the amendment allows for a range of wind turbines up to the maximum size. Mr. Hutchinson stated Ms. Gilbert’s concerns are addressed in the draft proposed order.

Councilor Billings questioned the intent to build the project. Mr. Hutchinson said the site certificate was acquired recently and that Avangrid is aggressively marketing and advancing engineering to start construction in 2020.

Councilor Gravatt asked Mr. Hutchinson to address tribal concerns regarding weed control. Mr. Hutchinson responded the Weed Control Plan addresses the CTUIR concerns.

Councilor Gravatt asked how 4.2 MW turbines are logistically moved during construction. Mr. Hutchinson responded the larger turbines are the same as any turbine, but with more trucks and more lifts, same with delivery with slightly more trucks, but fewer turbines to build.

Councilor Gravatt asked where other projects with 4.2 MW turbines were located. Mr. Hutchinson said this class of turbine is not available to purchase but that there are 15 development projects looking at this exact turbine.

Vice-Chair Jenkins’ asked a question related to construction and the concern of soil compaction and increasing the width of the construction roads to accommodate the large crane that will be used to lift the turbine and turbine parts. Mr. Hutchinson clarified the road widths, stating the change is in the impact assumption, not necessarily the width or the drive-able surface. Mr. Hutchinson discussed the crane width is 45’, to increase the assumption for impacts to 100’ wide for disturbance limits, for the cut and fill and to be more conservative to be flexible in design. Vice-Chair Jenkins’ stated the compaction doesn’t increase as a part of this amendment.

Discussion surrounded the setback issue to towns. Mr. Hutchinson responded there is a section of the micro-siting corridor within a mile of Moro. Mr. Hutchinson said regarding water quality

impacts to wells, the turbines are to be located on high ground and wouldn't affect groundwater flow.

Vice-Chair Jenkins asked Mr. Hutchinson if he had any additional comments regarding the 500' threshold. Mr. Hutchinson stated the FAA requirements have a separate approval process, and that supplemental information was provided to staff, specifically associated with the Wasco Airport.

Mr. Hutchinson stated visual information was provided in the amendment request, in response to Vice-Chair Jenkins' comment related to the cumulative impacts in the Columbia River Gorge.

Mr. Hutchinson also stated that surveys for monitoring plans and post construction fatality plans are required as part of the project.

Councilor Grail expressed concern regarding potentially being the first site for approval for this height and asking if other sites were close to approval. Mr. Hutchinson stated the projects in Oregon and Washington have not been approved yet. Elaine Albrich, legal Counsel for Avangrid Renewables on the Golden Hills Wind Farm project stated the Vestas model turbine they will be using is a model that will be put on the marketplace, it is new technology that builds off of pre-existing models.

Mr. Hutchinson stated a 2020 build target; this is the current range of turbines on the market.

Secretary Cornett responded to Councilor Roppe's question regarding a discussion to take place tomorrow. With the amendment process, the Department is seeking comments on the Draft Proposed Order that will be addressed in the Proposed Order.

There were no comments from telephone participants.

The hearing closed at 6:30 p.m. on August 23, 2018.

The meeting was recessed.

FRIDAY, AUGUST 24TH, 2018

Call to Order: The meeting was called to order at 8:30 a.m. on August 24th, 2018 by Chair Barry Beyeler.

Roll Call: Council Chair Barry Beyeler, Council Vice-Chair Hanley Jenkins, Council Members Betty Roppe, Marcy Grail, Ann Gravatt and Jack Billings were present.

Oregon Department of Energy representatives present were Assistant Director/Council Secretary Todd Cornett, Senior Policy Advisor Maxwell Woods, Senior Siting Analyst Sarah Esterson, Operations Analyst Sean Mole, Compliance Officer Duane Kilsdonk, and Division Assistant Esther Kooistra.

EFSC Counsel Patrick Rowe, Department of Justice (DOJ) was also present.

C. Golden Hills Wind Project, Draft Proposed Order on Request for Amendment 5 (Information Item)² – Sarah Esterson, Senior Siting Analyst

Ms. Esterson provided a presentation with an overview of the Draft Proposed Order on the Request for Amendment 5. Ms. Esterson stated the scope of the Council's review today is the draft proposed order which presents the Department's analysis of the Site Certificate holder's ability to satisfy Council's standards and other applicable requirements; to review comments received on the record on the draft proposed order and to provide comments and recommendations to staff for consideration and incorporation into the proposed order. The Council received the notice of the preliminary request for the amendment on May 18, 2018, and on June 15, 2018, a preliminary copy of the preliminary amendment request was provided. On July 13, 2018, Council was provided notice of the complete amendment request and of issuance of the draft proposed order. On August 9, 2018, Council was provided a copy of the draft proposed order and all of the comments that had been received between July 15 and August 9. On August 23, 2018, staff provided hard copies of additional comments received by the deadline.

Ms. Esterson discussed the background of the project; Council issued a site certificate for the Golden Hills Wind Project facility on June 18, 2009, authorizing construction and operation of a wind energy generation facility with electrical capacity of up to 400 megawatts (MW). The facility has not yet been constructed. Golden Hills Wind Farm, LLC submitted a complete Request for Amendment 5 of the Golden Hills Wind Project site certificate on July 6, 2018. The amendment request seeks Council approval for flexibility in its final selection of wind turbine type and meteorological towers, with maximum allowable dimensions not to exceed 650 feet in blade tip height; 404 feet in turbine tower hub height and meteorological tower height; and, not to be below 46 feet in aboveground blade tip clearance. The amendment request also seeks Council approval to change temporary access road and crane path design (increasing road width from 40 to 100 feet for up to 52 miles).

Councilor Billings made a suggestion on line 26, "different sized turbine" vs "differently sized turbine" and commented on the change in size of the area of the turbine and questioned if there were calculations surrounding that. Ms. Esterson referred to a table in the amendment request that identifies the difference in rotor diameter and area.

Ms. Esterson stated the condition amendment that the certificate holder has requested for amending the turbine dimensions by specification falls under the General Standard of Review. The General Standard of Review requires the Council to find there is evidence on the record to support a conclusion of compliance for all applicable standards. Based on the analysis presented in the draft proposed order, the Department believes there is a sufficient amount of evidence to support a conclusion of compliance. The Department also recommend the Council impose a mandatory condition, currently a part of Division 25 that happened to be omitted from the site certificate due to changes in mandatory conditions over time.

Ms. Esterson discussed the Department of Fish and Wildlife's habitat mitigation policies, goals and standards. The Department of Fish and Wildlife provided comment on the record suggesting there isn't sufficient scientific studies to correlate increased rotor swept area with mortality risk. The existing site certificate has a requirement to implement a wildlife monitoring and mitigation plan and in that plan is a requirement to conduct a post construction fatality monitoring study that includes two years of data.

Chair Beyeler asked if comparative data existed beyond the two years of data. Ms. Esterson responded the Department has been working more closely with the Department of Fish and Wildlife; there is a big data set, still determining if this is the right mitigation for this impact.

² Audio for Agenda Item C = 00:02:50 – August 24, 2018

Vice-Chair Jenkins asked if there is a higher mortality rate than anticipated, would amendments to the mitigation plan be brought back to Council. Ms. Esterson confirmed the way the plans are written, it would be agreed upon by the certificate holder, ODFW and ODOE, and as a practice, to bring it back to Council. Mr. Max Woods, Senior Policy Advisor, responded the proposal is for the Council to continue to be able to delegate to the Department the ability to make changes to the plan, but that if additional mitigation is required as a result of the studies, it must come back to Council for review and approval.

Ms. Esterson reviewed the Land Use Standard evaluation and stated the site certificate holder confirmed there had been no updates to the local county code that applied to their facility with proposed changes. Ms. Esterson reviewed the Department's analysis of potential impacts to aerial aircraft operators and concluded the information provided previously was still sufficient even though the turbines are 650' tall, they wouldn't cause a substantial significant interference with farm practice aerial spraying. There are existing conditions that would minimize impacts to agriculture operations; conditions requiring top soil management and weed control plans. There was one recommended amended condition in the land use section. The existing condition established a process for coordinating with Sherman County Road Department and in evaluating conditions of roads prior to construction, and evaluating any road damage caused by facility construction and even included an escrow account to cover potential damages. The recommended amended condition clarified paying for damages at the end of the process.

Ms. Esterson discussed the Protected Areas, Recreation, Scenic and Cultural Standards because each requires that the Council find that facility visibility would not result in significant adverse impacts to protected areas, important recreational opportunities, scenic resources, and certain historic resources. The certificate holder used a visual impact model, called zone of visual influence to identify any new areas of wind turbine visibility and that the analysis greatly overestimates actual impacts. Ms. Esterson mentioned the closest protected area includes the Columbia River Gorge National Scenic Area; there are three aboveground historic resources within the site boundary (Oregon National Historic Trail, Barlow Road Cutoff Trail, and DeMoss Springs Memorial Park). The Department recommends that the Council find that the noise impacts from the facility, as amended, would be less than previously evaluated and would not be likely to result in a significant adverse impact at a protected area or important recreational opportunity within the analysis area.

Ms. Esterson reviewed comments to date:

Received two comment letters from the Oregon State Historic Preservation Office confirming that the facility, with proposed changes, would not be likely to result in visual impacts to historic aboveground resources or ground disturbing impacts to archaeological resources. A comment was received from Oregon Department of State Lands confirming the process related to wetland delineation studies and stated that a removal fill permit would be required if wetlands or waters of the State would be impacted. A comment from the Confederated Tribes of the Warm Springs Reservation of Oregon stating that the tribe may have concerns if the proposed temporary road and crane path design change occurs outside of areas previously evaluated. Confederated Tribes of the Umatilla Indian Reservation expressed concerns on weed control; another comment requested a cumulative habitat assessment (which is not required under the Fish and Wildlife Habitat standard).

Ms. Esterson discussed comments from the Oregon Department of Aviation, proposing an amendment to the Site Certificate Condition PRE-PH-03, which requires the certificate holder to obtain approval from the Federal Aviation Administration via its 7460 process prior to siting the proposed turbines. The proposed amendment would further outline the existing 7460 process. The Department does not recommend amending the condition because the proposed changes focus on the 7460 process, which is not administered by the Department.

Ms. Esterson also discussed comments from Oregon Department of Geology and Mineral Industries (DOGAMI). DOGAMI had requested condition amendments for PRSS01, mostly requesting specifics related to what may happen as part of the pre-construction site specific geotechnical investigation. The Department does not believe the recommendations are appropriate at this time. The Department recommends amending a condition to

require a protocol be developed and submitted to the Department for review in coordination with DOGAMI prior to site specific geotechnical investigation. Vice-Chair Jenkins commented the black and white copy he has does not identify the proposed changes. An edited slide was provided on the projector. Vice-Chair Jenkins commented DOGAMI's recommendations were substantial; a large amount of changes. Ms. Esterson commented the recommendations are consistent with what's recommended in Division 21. Mr. Woods added the pre-construction requirement has a built-in mechanism which is prior to construction, the report has to be approved by ODOE with DOGAMI's support and what they are asking for is much more specific and reiterating some of the information required in Division 21 requirements. Councilor Roppe questioned if there is language in the contract that refers to DOGAMI's standards; Mr. Woods concurred and mentioned the need for flexibility to implement current practices and standards at the time of construction.

Ms. Esterson addressed public comments from Ms. JoAnn Marlette expressing concern that setbacks from private property and used roads were not sufficient to protect from ice or other objects formed from the turbines. Ms. Esterson responded there are two conditions that impose setback restrictions, based on Sherman County Code Ordinance 392007 and another condition that imposes setbacks that range from 110% of the maximum turbine length to pipe at 715 feet, another setback to roads at 1320 feet. The Department recommends to address the comment in the Public Health and Safety for Wind Energy Facilities. Ms. Esterson stated Ms. Marlette's concerns of turbine visibility, but that the visibility analysis has already been discussed and it is not clear if the comment is based on the analysis or if it is a general concern. Vice-Chair Jenkins made a comment that the wind turbine height would damage public view and value of the Deschutes and Columbia Gorge Scenic area, but there is no explanation as to how, so it is a conclusionary statement. Ms. Esterson noted Ms. Marlett made reference to a document that includes setback standards, but did not attach the document to her comments (as the issue had previously been assessed and staff determined the setbacks are appropriate, the Department did not conduct further research into the referenced document).

Ms. Esterson discussed public comments from Ms. Irene Gilbert, Friends of the Grande Ronde Valley and as a private citizen. Ms. Gilbert's first comment of concern was that the application should not be processed as an amendment due to age (original Site Certificate is nearly 10 years old); she stated that for each deadline extension, the certificate holder should be obligated to evaluate how any changes in circumstance, including environmental and regulatory would apply to the facility. Other areas of concern included soil compaction, wells, risk to aircraft operators, setbacks for ice and blade throw, visual impacts, survey areas, impacts to birds and bats, retirement contingencies and the CTWS tribe's concerns.

Discussion was prompted by Councilor Roppe surrounding water resources with Mr. Woods stating there has not been an issue of well impacts from a turbine in the region and Council does not have a specific groundwater standard relating to groundwater or to individual wells, other than under the Public Services Standard in regard to public and private providers of water services and that an individual well on a person's property is not a public provider of water services. If a project or any facility required a water permit or water license that would otherwise be issued by Water Resources Department, that permit or license becomes part of the Site Certificate review and under Council's jurisdiction. In this case, there is no water permit. There is no assessment of potentials of a wind project that would affect a groundwater well.

Councilor Billings commented with no residences or living structures within the site boundary, that any impacts to individual wells was hypothetical and that he would not take that into consideration. Vice-Chair Jenkins questioned the (lack of) standard and commented individual wells are not public providers.

Councilor Grail expressed if there should be concern, that Sherman County, Morrow County and Umatilla County would have requested a standard to address this issue.

Mr. Woods stated wind turbines have been developed across the Columbia plateau for 12-15 years and he has not heard in front of this body, an individual land owner's concerns of well impacts from a wind turbine or turbines and that at least in our region it is not an issue we have heard of.

Chair Beyeler commented there aren't wells out in dryland wheat (referring to Golden Hills) and would be hard pressed to find a farmhouse, but would not be in the proximity of the issue.

Councilor Billings questioned if there were any reports of anyone struck by a chunk of ice from wind turbines. Mr. Woods stated he is not aware of that occurring in Oregon. Mr. Woods commented that ice throw is an issue in the industry, in farther northern climates, and that is why there is setbacks in place and whether it is ice or any other hazard, there is a safety distance that is put into place to mitigate that risk.

Ms. Esterson discussed Ms. Gilbert's concern regarding comment #3, related to an expressed concern of risk to private and commercial aircraft as the proposed wind turbines would exceed the 500' no fly zone. Ms. Esterson referred to the existing condition that requires the certificate holder submit the 7460 form to the Federal Aviation Administration and to the Department of Aviation for each of their structures and that would be the evaluation that applies to Wasco Airport.

Chair Beyeler commented we would be exceeding our bounds by requesting any related additional FAA information.

Ms. Esterson responded to Ms. Gilbert's concern of road and structure setbacks stating the two existing conditions are consistent with County requirements. Mr. Woods added the setback requirements are more stringent than what people have suggested in comments.

Vice-Chair Jenkins questioned an evaluation of ice and blade throw and whether that would be provided. Ms. Esterson responded the Department intended to incorporate the analysis under the Public Health and Safety standard, an analysis that was provided in the amendment request and believed to address Ms. Gilbert's comment. Recommended language to be presented later.

Ms. Esterson referred back to earlier comments in regard to comment 5, expressing concern of visual impacts to the Columbia River Gorge, a national scenic area.

Ms. Esterson referred to a pre-construction requirement survey where the site certificate holder is required to conduct full habitat assessment surveys of areas of ground disturbance impacts would occur.

Ms. Esterson referred to an existing condition requiring implementation of the Wildlife Monitoring Mitigation Plan.

Ms. Esterson discussed the retirement tools and contingencies applied for uncertainties and for future changes.

Ms. Esterson noted Ms. Gilbert's general comment about the perceived concern of consultation with tribes.

Councilor Roppe suggested Ms. Gilbert may be asking if Tribal Council had been contacted vs a staff member, but not sure exactly what the concern is.

Vice-Chair Jenkins made a comment that letters from Warm Springs and Umatilla were received. Councilor Gravatt mentioned a disclaimer on the bottom of Warm Springs emails that may be what Ms. Gilbert is referring to.

Councilor Grail commented part of the problem is where members of the public write where Council Members have to speculate. Councilor Grail stated she finds it hard to identify where the Council is failing to meet the Standards based on the information presented.

Mr. Woods presented draft language on the (draft) proposed order that would address potential issues found under the Public Health and Safety Standard.

Councilor Grail commented the Council has clearly addressed Ms. Marlett's concerns and confirmed wetland delineation surveys have been addressed.

Councilor Gravatt urged the Department and to the Site Certificate applicant to continue engaging with the tribes, as they are significant stakeholders, and to make sure concerns are addressed.

Based on the new recommended findings and compliance with existing and recommended amended conditions, the Department recommended that Council conclude that the facility, with proposed changes, would continue to comply with all applicable Council standards and other applicable rules and statutes, and that the Council should approve the final order and issue an amended site certificate. More information is located on the [Council Meetings website](#) for additional details pertaining to Ms. Esterson's [presentation](#).

[Break]

D. Contested Case Thresholds (Information Item)³ – Patrick Rowe, Department of Justice & Ms. Irene Gilbert, Friends of the Grande Ronde Valley

Mr. Rowe provided a training for Council related to the threshold requirements for proceeding to a contested case in both new site certificate applications and site certificate amendments. The presentation included information related to requests for reconsideration of a denial of a request for a contested case hearing. Council also discussed the differences between the application and amendment process.

Ms. Gilbert⁴ thanked Council for the chance to speak but stated that the agenda item did not reflect her actual request which was related to her request for reconsideration of the Council's denial of her contested case request on Golden Hills Amendment #4 final decision. Ms. Gilbert's presentation focused on two main areas. The first was related to public participation. While the Department and the Council state they want to encourage public participation, there are many examples which lead her to believe they actually want to limit public participation. Examples include:

The Council did not include any of the input provided by the public in the new amendment rules, with the exception of adding information to the website;

Her request for reconsideration of her contested case request on Golden Hills Amendment #4 was not adequately provided to Council members by Mr. Cornett and that Council should not have allowed her be denied via passage of 60 days like they have done on other occasions. The courteous thing to do would be to go over the actual request and make comments and justify the decision.

During the Amendment Determination Request review by Council at the June 29 meeting both Wheatridge Wind Energy and ODOE were each given 20 minutes to justify what they thought the decision should be but member of the public were only given 5 minutes. Every time there is a stated timeframe, the people that get cut off are the public.

³ Audio for Mr. Rowe's presentation for Agenda Item D = 02:03:40 – August 24, 2018

⁴ Audio for Ms. Gilbert for Agenda Item D = 02:54:07 – August 24, 2018

Ms. Gilbert stated that during her comments on the Golden Hills Wind Draft Proposed Order last night she presented eight issues, with documentation of why those issues were appropriate to be concerned about. Today she listened to a scathing review of her comments despite that fact that the American Wind Association's documentation supported what she claims.

With regards to public participation, Ms. Gilbert expressed her frustration in spending energy trying to get the process to work and that it doesn't work for the public. She will continue to file appeals and keep publicizing denials. She requested more respect for the public.

Ms. Gilbert also discussed the new amendment rules:

She has heard claims that it takes a lot of work associated with a contested case. However, because a contested case on an amendment has never been allowed there is no data to prove that;

During Mr. Rowe's presentation he indicated the hearing officer is supposed to make the decision whether or not someone is granted a contested case in the initial application. However, she stated she believes the Council is making that decision, as they did on her contested case request related to Golden Hills Amendment #4.

Ms. Gilbert also stated that the reason the amendment process is faster than the application process, is because public input is not seriously considered.

More information is located on the [Council Meetings website](#) for additional details pertaining to Mr. Rowe's [presentation](#) and Ms. Gilbert's audio recording can be located here.

E. Compliance Update (Information Item)⁵ – Duane Kilsdonk, Compliance Officer

Mr. Kilsdonk provided the Energy Siting Division's annual compliance work plan to focus current process improvement activities and to report on completion of past activities. Mr. Kilsdonk discussed Compliance Categories, Facility Inspections, Annual Report Review, Incident Notification Response, Annual Fee Assessment, Financial Assurance Updates, Site Certificate Conditions, Exempt Facilities, Site Inspection Request Resolution, Violations and Process Improvement.

Mr. Kilsdonk said it is staff's intent to inspect every operating facility at least annually. However, for some of the older facilities, semi-annually may be more suitable. Frequency is determined based on condition requirements such as wildlife monitoring and mitigation plans, re-vegetation plans and habitat mitigation plans. Site visits for facilities located in the same geographic area are schedule together when possible to maximize efficiency and minimize cost. Consistent with OAR 345-026-0080, most site certificate holders are required to submit annual reports no later than April 30 of each year.

Discussion was held surrounding the topic of violation and the resolution process. A 2018/2019 Inspection Calendar was provided that outlined site inspections; Council Members were invited to attend with notice to ODOE.

More information is located on the [Council Meetings website](#) for additional details pertaining to Mr. Kilsdonk's [presentation](#).

⁵ Audio for Agenda Item E = 03:08:57 – August 24, 2018

F. [Working Lunch] Siting Operations Update – 2018-2019 Work Plan (Information Item)⁶ – Sean Mole, Operations Analyst

Mr. Mole provided the Siting Division's 2018-2019 Annual Work Plan. The Energy Siting Division uses the annual work plan to focus current process improvement activities and report on completion of past activities. The work plan provides direction and priorities for staff efforts beyond day-to-day activities and other established responsibilities. Mr. Mole discussed the Work Plan High Level Goals and completed Work Tasks.

Mr. Mole described Work Plan High Level Goals in increasing applicant/certificate holders' trust and perception of value of the state energy siting process by decreasing the siting process unknowns; increasing and enhancing the public's understanding, participation and trust in the state energy siting process; and in increasing the quality and quantity of the Division's connections to local, state, federal and tribal agencies that participate in the state energy siting process. Mr. Mole also discussed regulatory clarity, process improvement and adaptability to changes in energy markets and environmental constraints.

Mr. Mole provided a handout that detailed the Prioritized Work Tasks involving the status of goals in 2018/2019, as well as outlining work tasks to be completed after 2018/2019. He discussed completed work tasks in 2017/2018. More information is located on the [Council Meetings website](#) for additional details pertaining to Mr. Mole's [presentation](#).

G. Public Comment⁷

This time is reserved for the public to address the Council regarding any item within the Council's jurisdiction that is not otherwise closed for comment.

Melanie Plaut, Physician and Concerned Citizen, 3082 NE Regence Drive. Portland, OR 97212, expressed her concern about the EFSC process related to the Jordan Cove Exemption Request. The comment period closed August 13, 2018. Ms. Plaut commented there was inadequate time to understand what was included in their additional technical comments. Ms. Plaut expressed her concern that Jordan Cove is gaming the system by understating the feedback brought into the facility and she commented the need for the complete information to the public in a timely fashion.

Councilor Jack Billings stated it has been an honor to serve on the Council. Councilor Billings said the claim that the Council is disrespectful has no merit whatsoever. Councilor Billings stated he has served with hundreds of public employees and there is no question that Secretary Cornett is one of the most conscientious public servants and has demonstrated restraints against false claims; Secretary Cornett has maintained the highest standards of honesty. Councilor Billings stated he has consistently been impressed by the integrity and competence of the Department of Energy Staff despite the erroneous claims that they are beholden to developers. Councilor Billings thanked everyone for their cooperation and support.

Meeting Adjourned at 1:39 p.m.

⁶ Audio for Agenda Item F = 04:10:30 – August 24, 2018

⁷ Audio for Agenda Item G = 04:42:05 – August 24, 2018