



ENERGY FACILITY SITING COUNCIL

Barry Beyeler, Chair ■ Hanley Jenkins II, Vice-Chair ■ Betty Roppe ■ Marcy Grail ■ Ann Gravatt ■ Kent Howe

Energy Facility Siting Council October 25-26, 2018 Meeting Minutes

**Boardman City Hall
200 City Center Circle
Boardman, OR**

October Minutes were
Approved at the
December 14, 2018
EFSC Meeting

Table of Contents

- A. Consent Calendar (Information and Action Items) – Todd Cornett, Assistant Director/Council Secretary 2
 - 1) Meeting Minutes 2
 - 2) Council Secretary Report 2
- B. Golden Hills Wind Project, Council Review of Proposed Order on Request for Amendment 5 of the Site Certificate: (Action Item) – Sarah Esterson, Senior Siting Analyst 3
- C. [5:30 p.m.] Wheatridge Wind Energy Facility, Public Hearing on the Draft Proposed Order on Request for Amendment 2 of the Site Certificate (Hearing) – Sarah Esterson, Senior Siting Analyst 5
- D. Proposed 2019 Meeting Dates (Information Item) – Todd Cornett, Council Secretary 7
- E. The Climate Trust Audit Update (Information Item) – Todd Cornett, Council Secretary 7
- F. Public Comment 7
- G. Boardman to Hemingway Transmission Line Project Update (Information Item) – Kellen Tardaewether, Senior Siting Analyst 9
- H. Project Updates (Information Item) – Sean Mole, Operations Analyst 11
- I. [Working Lunch] Wheatridge Wind Energy Facility, Council Review of the Draft Proposed Order on Request for Amendment 2 (Information Item) – Kellen Tardaewether, Senior Siting Analyst 11
- J. Biennial Update to Schedule of Fees (Action Item) – Sisily Fleming, Fiscal Analyst 12
- K. Annual Financial Assurance Update (Action Item) – Sisily Fleming, Fiscal Analyst 12
- L. Council-Ratified Emergency Order Approving Department to Use Consultants in Review of ASC Compliance with Historic, Cultural and Archaeological Standard (Action Item) – Kellen Tardaewether, Senior Siting Analyst 13

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, OCTOBER 25TH, 2018

Call to Order: The meeting was called to order at 4:14 p.m. on October 25th, 2018 by Chair Barry Beyeler.

Roll Call: Council Chair Barry Beyeler, Council Vice-Chair Hanley Jenkins, Council Members Betty Roppe, Marcy Grail, and Kent Howe were present. Council Member Ann Gravatt attended by telephone. Oregon Department of Energy representatives present were Assistant Director/Council Secretary Todd Cornett, Senior Siting Analysts Sarah Esterson and Kellen Tardaewether, Operations Analyst Sean Mole, Fiscal Analyst Sisily Fleming, 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 Calendar¹ (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 August 23-24, 2018 meeting minutes with correction of scrivener's errors.

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

Motion Carried.

2) Council Secretary Report

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

b. Staffing Updates:

Secretary Cornett introduced Kent Howe, the newest Council Member. Council Member Howe was confirmed by the Senate on September 27, 2018. Council Member Howe was the long time Planning Director for Lane County and has worked on many of the same issues seen in the review of large scale energy projects.

Secretary Cornett also welcomed Council Member Grail on her first official term. Council Member Grail was also confirmed by the Senate on September 27, 2018. Since Council Member Grail was originally appointed to fill the remainder of John Mohlis' term and there was less than two years remaining on his term, it did not count as her first term.

Secretary Cornett discussed the Governor was not able to appoint a replacement for Dorelle Calica so her position remains unfilled and we have 6 members. In December, we hope to have a replacement for Ms. Calica. Council Member Roppe has indicated her desire to be replaced in December and the Governor's office is also looking for a replacement for her.

The recruitment to replace Jason Sierman was initiated and the Rulemaking Coordinator position is anticipated to be filled in November.

c. Project Updates:

Solar PV Rulemaking: The first Rulemaking Advisory Committee meeting was held on August 30th in Salem, providing an overview of the scope of the rulemaking background information. The second Rulemaking Advisory Committee will be held in Prineville on November 8, 2018 in the City Hall Council Chambers from 10:30 am to 2:30 pm. There will be a webinar and call in option. Brian Walsh from Avangrid Renewables has graciously offered to conduct a tour of the Gala Solar facility, from 8:30 am to 9:30 am. Secretary Cornett stated the Land Conservation and Development Commission

¹ Audio for Agenda Item A = 00:02:47 – October 25, 2018

(LCDC) also initiated a Solar rulemaking project with the purpose to consider whether the existing rules for siting utility scale solar projects through a local conditional use process provides adequate protections for high-value farmland. The next LCDC meeting is scheduled for October 29th.

Compliance Rulemaking: The first Rulemaking Advisory Committee will not be until later this year or early next year.

Amendment Rulemaking: Secretary Cornett provided an update; oral argument before the Oregon Supreme Court is scheduled for 9:00 a.m. on December 5, 2018. On October 10th, the Council received the Department of Justice’s brief in response to the brief submitted to the Supreme Court by the Friends of the Columbia River Gorge and a consortium of environmental groups who challenged the amendment rules that were adopted by Council and went into effect October of 2017. The brief submitted by the Friends of the Columbia River Gorge was sent to Council shortly after the last Council meeting.

d. Future EFSC Meeting Dates:

November 16 – Boardman, OR. This will likely be entirely devoted to the Council’s review and final decision on the Proposed Order on Request for Amendment 3 of the Wheatridge Wind Energy Facility site certificate.

December 14 –The Dalles, OR. This meeting will likely include Council’s review of requests for contested case, if received, on the Proposed Order on Request for Amendment 2 of the Wheatridge Wind Energy Facility site certificate (proposed order), which would then be followed by Council’s review and final decision on the proposed order, if the Council either does not receive or denies requests for contested case. This meeting will likely also include Council’s review of the Proposed Order on Request for Amendment 1 of the Carty Generating Station site certificate, which is the last amendment being reviewed under the old amendment rules (in effect prior to October 2017).

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 most recent meeting was held on September 10th. The next meeting is November 13, 2018. Senator Olsen also visited with ODOE staff to discuss background and roles within the department.

B. Golden Hills Wind Project, Council Review of Proposed Order on Request for Amendment 5 of the Site Certificate²: (Action Item) – Sarah Esterson, Senior Siting Analyst

Ms. Esterson provided a background of the not yet constructed Golden Hills Wind Project. Golden Hills Wind Farm, LLC, certificate holder, 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. The amendment request also seeks Council approval to change temporary access road and crane path design and remove a weight limitation, of wind turbine blades and nacelles, from a previously imposed condition.

Patrick Rowe, Counsel, Department of Justice, provided a procedural overview of contested case requests.

² Audio for Agenda Item B = 00:26:35 – October 25, 2018

Ms. Esterson first presented the request for contested case proceeding on the proposed order (request) received from Ms. Gilbert, as an individual and on behalf of Friends of the Grande Ronde Valley. Staff recommended Council deny the contested case request based on the reasoning and analysis as presented during the presentation and as included in the October 18, 2018 staff report to Council.

Council deliberated on the Request for Contested Case:

Vice-Chair Jenkins stated the staff has made a number of changes, identified in the colored or highlighted portions of the Proposed Order. He said staff did a very good job of addressing Ms. Gilbert's concerns that she raised at the hearing, making those changes from the Draft Proposed Order to the Proposed Order. Vice-Chair Jenkins stated he was a little surprised that wasn't adequate. In some instances of reviewing the request for contested case, it appears as those changes hadn't been taken into consideration. Vice-Chair Jenkins stated he does not have any additional changes beyond those that the staff made between the Draft Proposed Order and the Proposed Order and that those issues were addressed at the time of the hearing and bases were covered. Vice-Chair Jenkins stated he would be challenged to do anything other than deny the request.

Council Member Grail commented she believes the issues have been addressed and she doesn't have any other comments or concerns. Council Member Grail agreed with Vice-Chair Jenkins' comments, stating it would be difficult to identify how the concerns were not thoroughly evaluated and addressed.

Council Member Roppe said she read it very thoroughly and that it addressed all issues raised. Council Member Roppe stated the contested case request should be denied, as the issues did not raise significant issues of law or fact.

Council Member Gravatt stated she appreciated the engagement and conversation, as the formal legalistic process can be daunting and frustrating. Emails indicated there were informal conversations between the applicant and Ms. Gilbert, which Council Member Gravatt appreciates and thinks makes the process better.

Action: A motion was made by Vice-Chair Jenkins and seconded by Councilor Roppe that the Council deny the request for contested case on the Proposed Order for the Golden Hills Wind Project Request for Amendment 5 based on the reasoning and analysis presented in the staff report dated October 18, 2018, which concludes that the issues identified in the request fail to raise a significant issue of fact or law that may affect the Council's determination that the facility, with proposed changes, meets an applicable standard.

Vote: Vice-Chair Jenkins, Yes; Chair Beyeler, Yes; Councilor Gravatt, Yes; Councilor Howe, Yes; Councilor Grail, Councilor Roppe, Yes.
Motion Carried.

Following the Council's decision to deny the request for contested case proceeding, Ms. Esterson then presented the Proposed Order on Request for Amendment 5 (proposed order), focusing on changes made between the draft proposed order and proposed order in response to comments received on the record of the draft proposed order public hearing.

Staff recommended Council approve the proposed order, with modifications, and grant a fifth amended site certificate.

Council deliberated on the proposed order and made the following decision:

Action: A motion was made by Vice-Chair Jenkins and seconded by Councilor Roppe that the Council adopt the modified proposed order as the final order and approve amendment 5 of the site certificate for the Golden Hills Wind Project as presented by staff with the following modifications: 1) incorporate the order on the denial of the contested case, which is 2) on page 85, remove strike out of footnote 118, so that 118 is still there; and 3) on page 96, in the citation to the DEQ noise rules, add reference to OAR 340-035-0035(1)(b)(iii), immediately prior to the finding of fact heading.

Vote: Vice-Chair Jenkins, Yes; Chair Beyeler, Yes; Councilor Gravatt, Yes; Councilor Howe, Yes; Councilor Grail, Councilor Roppe, Yes.
Motion Carried.

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

C. [5:30 p.m.] Wheatridge Wind Energy Facility, Public Hearing on the Draft Proposed Order on Request for Amendment 2 of the Site Certificate (Hearing)³ – Sarah Esterson, Senior Siting Analyst

The public hearing on the Wheatridge Wind Energy Facility Request for Amendment 2 began after Council received a brief overview from staff. The purpose of the hearing was for members of the public to provide verbal comments to Council members on Request for Amendment 2 and the Draft Proposed Order on Request for Amendment 2. Request for Amendment 2 seeks Council approval of the construction and operation of two lithium-ion battery storage systems with a capacity of 20 and 30 megawatts to be located adjacent to previously approved but not yet constructed facility substation and operation and maintenance building sites in Morrow and Umatilla counties. The comment period on the draft proposed order and amendment request closed at the end of the hearing.

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

Three public comment cards were provided:

Carla McLane⁴, PO Box 40, Irrigon, OR, Planning Director for Morrow County, provided comments on behalf of the Morrow County Board of Commissioners serving as a Special Advisory Group. Ms. McLane expressed her concern with the Solid Waste Management Ordinance and asked for clarification.

Ms. Irene Gilbert⁵, 2310 Adams Ave. La Grande, OR, requested additional time to provide documentation. Ms. Gilbert provided documentation regarding hazardous battery storage facilities. Ms. Gilbert requested an extension of one week.

Chris Rouse⁶, 72967 Strawberry Lane, Lexington, OR. Commented he is the closest household that lives near the battery storage facility on the west side. He does not have a problem with the amendment, all for it.

Council's deliberation on Ms. Gilbert's public comment period extension request.

³ Audio for Agenda Item C = 01:32:12 – October 25, 2018

⁴ Audio for Agenda Item B = 01:42:45 – October 25, 2018

⁵ Audio for Agenda Item B = 01:47:37 – October 25, 2018

⁶ Audio for Agenda Item B = 02:01:26 – October 25, 2018

Ms. Gilbert responded to Councilor Grail's request for clarification that she was not aware that all documentation had to be submitted during comments to the Council and that additional documents could not be submitted when asking for a contested case.

Sarah Stauffer Curtiss⁷, Stoel Rives LLC, asked for a five minute break for the Applicant team to confer. Ms. Curtiss, along with Mr. Jesse Marshall, NextEra Energy Resources, stated that the certificate holder is asking Council to deny the request to hold the record open. They believe the specific issue that Ms. Gilbert raised during her testimony is addressed in the draft proposed order as written. Ms. Curtiss asked that Council close the record at the end of the night.

Vice-Chair Jenkins asked Ms. Curtiss and Mr. Marshall to talk about the issue that was raised about the type of battery and if that is significant. Mr. Marshall said the battery chemistry consists of lithium-ion, but without a supply contract signed, it's a matter of vendor and what system will be deployed when it gets contracted. The lithium-ion battery is an economic choice and proven to be reliable. The main difference is the system and how it operates.

Vice Chair Jenkins asked about noise modeling for lithium ion battery storage facilities: Mr. Marshall said the noise is coming from the HVAC unit to maintain the right temperature and that is below the threshold that is required.

Vice Chair Jenkins asked if the fire concerns were addressed adequately; Mr. Marshall said they were comfortable with the draft proposed order.

Council Gravatt asked Mr. Marshall for an example of another project with battery storage. Mr. Marshall said between the past year and this year, there will have been installed 72MW of energy storage. The most recent solar and energy storage facility in Arizona included 20MW of solar and 10 MW energy storage that went online earlier this year. Between next year and 2021, NextEra will be installing approximately another 250MW of energy storage throughout the country, in various different markets. Mr. Marshall said this is just the pipeline of contracted projects, not inclusive of projects that are being developed and not contracted at the moment.

Vice Chair Jenkins commented it has been 34-35 days and that's as prescribed by the Administrative Rules and the issue here is the understanding of what was required to be submitted. The concern is the time needs to be extended for all parties, and then an opportunity for the applicant to respond; how to do that without a new hearing. All parties have had an equal opportunity to respond. It gets complicated as to how to extend that.

Councilor Grail is not in favor of a time extension, it compounds issues.

Secretary Cornett stated it is within Council's jurisdiction to extend and grant a time extension for everyone, recognizing the certificate holder should be given the ability to rebut any information that is submitted. Mr. Cornett discussed the extension request and the effect it would have on the Council's review timeline, in response to Councilor Gravatt's question for clarification on scheduling.

Additional discussion regarding noticing requirements for commenting deadlines and scheduling of meeting events.

⁷ Audio for Agenda Item B = 02:06:55 – October 25, 2018

Vice-Chair Jenkins stated he was sympathetic to Ms. Gilbert’s request. He stated the time given for comment is fair, the standard hasn’t changed, but that it’s unfortunate there has been a misunderstanding about what’s required.

Action: A motion was made by Councilor Roppe and seconded by Councilor Grail that the Council deny the request for a time extension of the public comment period.

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

Motion carried.

The meeting was recessed.

FRIDAY, AUGUST 24TH, 2018

Call to Order: The meeting was called to order at 8:30 a.m. on October 26th, 2018 by Chair Barry Beyeler.

Roll Call: Council Chair Barry Beyeler, Council Vice-Chair Hanley Jenkins, Council Members Betty Roppe, Marcy Grail, and Kent Howe were present. Council Member Ann Gravatt attended by telephone.

Oregon Department of Energy representatives present were Assistant Director/Council Secretary Todd Cornett, Senior Siting Analysts Sarah Esterson and Kellen Tardaewether, Operations Analyst Sean Mole, Fiscal Analyst Sisily Fleming, Public Affairs and Outreach Coordinator Cliff Voliva, and Division Assistant Esther Kooistra.

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

D. Proposed 2019 Meeting Dates (Information Item)⁸ – Todd Cornett, Council Secretary

The Council reviewed proposed 2019 Council meeting dates. More information is located on the [Council Meetings website](#) for additional details pertaining to Mr. Cornett’s [presentation](#).

E. The Climate Trust Audit Update (Information Item)⁹ – Todd Cornett, Council Secretary

The Council received a presentation on The Climate Trust’s 2017 Financial Audit.

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

F. Public Comment¹⁰

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.

⁸ Audio for Agenda Item D = 00:03:30 – October 26, 2018

⁹ Audio for Agenda Item E = 00:10:47 – October 26, 2018

¹⁰ Audio for Agenda Item F = 00:15:54 – October 26, 2018

Gail Carbiner¹¹, 19506 Pond Meadow Ave, Bend, OR. Mr. Carbiner introduced himself, representing Oregon California Trails Association. The 'primary mission' is to preserve and protect the immigrant trails, such as the Oregon Trail, through the state of Oregon. He wanted to indicate the B2H project would cross the trail 9 times. The second reason he is here, is to give an "atta girl to Kellen." He attended 3 of the 4 meetings conducted in Eastern Oregon, and she did a marvelous job outlining where we have been and where we are going to a significantly hostile crowd. Mr. Carbiner questioned the length of time that the public will have to comment on the Draft Project Order after it is published and when the comment period closed. He thanked the Council for listening and commented it was nice to see real faces.

Secretary Cornett said according to OAR 345-015-0220(2), 20 days is the minimum between when the notice is issued in the newspaper and sent prior to the draft proposed hearing. Mr. Cornett said as this is a big project, it will not be 20 days (will be longer) and that there were requests for six months to comment, but it will not be six months (will be shorter). Mr. Cornett reiterated the department hears the questions and the concerns and wants to make sure everyone has an adequate amount of time for review. There is a complete application available now that can be reviewed for areas of concern prior to issuing the draft proposed order.

Council Member Grail stated, based off of feedback from yesterday, people should be aware that it's out there and people should start to review now.

Secretary Cornett said there were five public meetings, starting in Ontario and ending in Boardman, last week, showing the public how to look at documents and he agreed the public deserves an adequate amount of time to comment. Mr. Cornett said the department is not prepared to set a specific timeframe right now.

Vice-Chair Jenkins agreed with Council Member Grail that people should begin to review the application now. There's a lot of information there and that people begin to review the application now. When the draft proposed order comes out, the background information will be available.

Chair Beyeler commented because of the size of the application, it's going to take time. Get started now. Also be aware that for linear facilities, it could set a precedent, take a look at the legal aspects closely.

Carla McLane¹², Planning Director, Morrow County, Box 40, 97844. Ms. McLane commented, regarding the Boardman to Hemingway project, there is a fine balance to find between time and accomplishing a goal. If they can meet the standards, and you need to issue a site certificate, we need to get to that. We need to move to conclusion. This is not a beneficial project for everybody, but is a beneficial project for many. Twenty days is not adequate, but six months is clearly more time than needed. Ms. McLane then commented on the Rulemaking Advisory Committee for Solar PV Meeting, sharing her concern on what wasn't captured in that process.

Carla McLane¹³, as a member of the AOC (as a participant), read and provided her written letter regarding the Solar PV Rulemaking Advisory Committee.

Rikki Seguin¹⁴, Policy Director for Renewables Northwest, 421 SW 6th, Suite 975, Portland, OR 97204, provided additional points, and highlighted 10 of the 26 RAC members are included in the letter provided. Ms. Seguin requested the Council consider two requests: Request Attorney General advice on whether it is possible for non-

¹¹ Audio for Agenda Item F = 00:15:35 – October 26, 2018

¹² Audio for Agenda Item F = 00:24:27 – October 26, 2018

¹³ Audio for Agenda Item F = 00:30:05 – October 26, 2018

¹⁴ Audio for Agenda Item F = 00:39:38 – October 26, 2018

EFSC jurisdictional projects to become jurisdictional and to clearly define the problem or concern that has been identified as warranting a full rulemaking process.

Councilor Roppe commented she would like to have advice from Counsel.

Patrick Rowe, Department of Justice, stated in response to the first question posed regarding whether non-EFSC jurisdictional projects can aggregate to become jurisdictional, he understands the Attorney General's office previously found in the affirmative, which is why ODOE recommended to the Council to proceed with the RAC and potentially look into a rulemaking. Mr. Rowe stated the analysis can be revisited to take into consideration the specific comments made and questions raised by RAC members, and report back to the Council.

Councilor Gravatt commented it is important to revisit.

Council supports the request.

Councilor Grail¹⁵ asked Ms. Seguin to elaborate on her comment that other bodies have similar rulemakings.

Ms. Seguin shared the scope of the Department of Land Conservation and Development's rulemaking meetings and commented it was more of an explanation of the other Rulemaking Advisory Committees.

Discussion was held regarding pausing the PV rulemaking. Vice-Chair Jenkins stated we have already received legal directions from the Attorney General's office; the answer that this is EFSC jurisdictional. Vice-Chair supports reaffirming that. Councilor Roppe asked that we reaffirm before the next meeting. Secretary Cornett said a pause will be an unnecessary delay, since we received an affirmative response, and noted that the commenters represented only a portion of the RAC. Mr. Cornett stated that the letter does not represent all RAC members. If we are talking about a hold or stopping altogether, it would be reasonable to talk to all of the RAC members.

Councilor Roppe stated she does not believe we should delay the next RAC meeting regardless of the response.

Councilor Gravatt stated she supports delaying the PV Rulemaking until a formal memo from the Attorney General's office was provided, and supports revisiting whether this could be policy making or rulemaking.

Amy Berg Pickett, Cypress Creek Renewables, 857 SE Kristen Way, Madras, OR 97741. Ms. Pickett stated her support of the comments in the letter provided today.

G. Boardman to Hemingway Transmission Line Project Update (Information Item)¹⁶ – Kellen Tardaewether, Senior Siting Analyst

The Council received an update on the status of the proposed Boardman to Hemingway Transmission Line application for site certificate.

Ms. Tardaewether provided an overview of the 500 kv Boardman to Hemingway Transmission Line project, describing the approximately 300 mile length located in the Morrow, Umatilla, Union, Baker and Malheur counties in Oregon. The project is regulated by federal and state permitting authorities. Ms. Tardaewether

¹⁵ Audio for Agenda Item F = 00:44:40 – October 26, 2018

¹⁶ Audio for Agenda Item G = 00:56:17 – October 26, 2018

described the application is deemed “complete” when the “applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards;” “application used to draft findings and recommendations for EFSC review in the draft proposed order.” The notice of Application for Site Certificate (ASC) was issued on October 3, 2018, with informational meetings on the ASC held October 15-18, 2018.

Ms. Tardaewether discussed the informational meetings on the ASC that were held in each of the 5 counties, including who attended and that the focus of the meetings was the ASC and public participation in the DPO phase.

Councilor Gravatt requested Ms. Tardaewether remind the Council of the memo that the Department sent to the applicant in April.

Ms. Tardaewether discussed that the memo providing staff’s recommendation of how Council may grant a site certificate for a facility that has not gained site access to conduct all necessary surveys along the route. Because it is a utility, Idaho Power can apply to the Oregon Public Utility Commission for a certificate of public convenience and necessity which allows them to pursue condemnation of property for an easement where the property owner is not a willing seller, after a site certificate is issued. Idaho Power has indicated in a perfect universe, they would negotiate amicably with every property owner and not need to begin that process. After an EFSC approval and gaining access to all properties, Idaho Power will be required to go through the amendment process for review of any properties where historic, cultural, and archaeological resources as well as wetlands or waters of the state had not been fully surveyed based on a lack of access.

Secretary Cornett made an additional point, while it is possible that Idaho Power could get access to properties, it’s unlikely. There’s a lot of property owners, unlikely all will allow Idaho Power on their property.

Vice-Chair Jenkins had two points, stating it is very important that we understand what this Council’s jurisdiction is with this application. The second is concerning potential changes on the part of the applicant. The applicant has made some changes in the last 11 years, but his understanding is now we have a complete application and therefore, there is no real opportunity to change routes or proposals as we go forward without going back through an amendment process.

Ms. Tardaewether stated it is at the discretion of the applicant. If the applicant changes the process, it would go through the completeness review.

Secretary Cornett said the route alternatives are locked right now. If changes are made, they can go back to the complete application phase where we need more information to evaluate or they could wait for final approval by Council, then come in with amendment later on to change the routes. They can’t change the route alternatives right now. As we’re reviewing the application and making findings, we may need more information. If we do that, that information will be made as clear as possible for the benefit of the public.

Councilor Howe commented that prior to his retirement, he was presented with Boardman to Hemingway in its infancy; if BLM is the lead, in their ROD and they go to the Forest Service for their input, why is there a federal review by the Navy?

Ms. Tardaewether responded that there are federal reviewing agencies when federal lands are crossed.

Since both Forest Service land and the Boardman Bombing Range land, which is owned by the Navy, are involved, both of those federal agencies choose to do their own review.

Councilor Howe asked about the noise sensitive properties, in regard to the route, he didn't quite understand noise related to power lines.

Ms. Tardaewether discussed the operational noise, mentioning the Corona Effect, in Exhibit X, in various scenarios, commenting ODOE follows and evaluates the DEQ noise rules. She stated it's the operational noise which is the primary focus.

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

[Break]

H. Project Updates (Information Item)¹⁷ – Sean Mole, Operations Analyst

The Council received brief updates on all active projects. Secretary Cornett deferred to Sean Mole, Siting Division Operations Analyst.

Jordan Cove: the Department received a letter from the applicant indicating its intention to submit an amended application for exemption. Staff suspended their review awaiting further action.

There are currently four Applications for Site Certificate for proposed energy facilities under review: Boardman to Hemingway Transmission Line; Blue Marmot Solar Energy Facility; Nolin Hills Wind Power Project, and Obsidian Solar Center.

There are currently six requests for amendments for existing and previously approved but not yet constructed energy facilities under review: Carty Generating Station, Eugene to Medford Transmission Line, Montague Wind Power Facility, Stateline Wind Project, Perennial Wind Chaser Station and the Summit Ridge Wind Farm.

The Department also anticipates receipt of a request for site certificate exemption for a biodiesel facility located in Port Westward.

More information is located on the [Council Meetings website](#) for additional details.

[Break]

I. [Working Lunch] Wheatridge Wind Energy Facility, Council Review of the Draft Proposed Order on Request for Amendment 2 (Information Item)¹⁸ – Kellen Tardaewether, Senior Siting Analyst

The Council received a presentation and reviewed the Draft Proposed Order on Request for Amendment 2. The public comment period closed on October 25, 2018 at the close of the public hearing.

¹⁷ Audio for Agenda Item H = 01:37:24 – October 26, 2018

¹⁸ Audio for Agenda Item I = 02:06:11: – October 26, 2018

Ms. Tardaewether provided an overview of the certificate holder, facility, facility locations, and components proposed in the amendment request. The certificate holder is Wheatridge Wind Energy LLC, the certificate holder parent company is NextEra Energy Resources LLC. The facility, as approved, is a wind energy generation facility with a capacity up to 500 MW wind; and would include up to 292 wind turbines. The facility is approved, but not yet constructed. The site boundary includes approximately 13,000 acres on private land, within Morrow/Umatilla counties. Request for Amendment 2 seeks Council approval to construct and operate two battery storage systems that would include interconnection facilities, fire suppression systems, and cooling systems.

Ms. Tardaewether provided a presentation of the draft proposed order and comments received on the draft proposed order. Following the presentation, the Department recommended the Council incorporate modifications to the Proposed Order including: administrative conversion and edits; procedural history updates; address comments received; erroneous reference to recommended amendments to Public Services Condition 13 (PRE-PS-05); and amend Land Use Condition 15 to be consistent with Land Use Condition 3.

Council deliberated on the draft proposed order and made the following comments and recommendations:

Council directed staff, as summarized by Secretary Cornett, to amend Land Use Condition #15 within the Site Certificate which is related to setbacks within Umatilla County, which would then read identical to the Land Use Condition #3 from Morrow County that is already in the Draft Proposed Order. The second is to delete erroneous reference to an amendment of an existing condition, which did not occur but was described in lines 37-41 on page 15.

Changes will be reflected in the Proposed Order. More information is located on the [Council Meetings website](#) for additional details pertaining to the [presentation](#).

J. Biennial Update to Schedule of Fees (Action Item)¹⁹ – Sisily Fleming, Fiscal Analyst

The Council considered and deliberated on staff's recommended fee schedule for 2019-2020. More information is located on the [Council Meetings website](#) for additional details pertaining to Ms. Fleming's [presentation](#).

Action: A motion was made by Councilor Grail and seconded by Councilor Roppe that the Council approve the Schedule of Fees as presented by staff.

Vote: Councilor Gravatt, Yes; Councilor Howe; Yes, Councilor Grail, Councilor Roppe, Yes; Vice-Chair Jenkins, Yes; Chair Beyeler, Yes.
Motion Carried.

K. Annual Financial Assurance Update (Action Item)²⁰ – Sisily Fleming, Fiscal Analyst

The Council considered staff's recommended templates for financial instruments, and financial institutions recommended for the Council's list as approved for use by certificate holders in obtaining financial instruments. Ms. Fleming requested replacing gender specific references within the Letter of Credit to general organizational references. More information is located on the [Council Meetings website](#) for additional details pertaining to Ms. Fleming's [presentation](#).

Action: A motion was made by Councilor Grail and seconded by Councilor Roppe that the Council approve the recommended templates for financial instruments, and financial institutions recommended for the Council's list as approved for use by site certificate holders in obtaining financial instruments as presented by staff.

¹⁹ Audio for Agenda Item J = 03:46:54 – October 26, 2018

²⁰ Audio for Agenda Item K = 03:59:16 – October 26, 2018

Vote: Councilor Howe, Yes; Councilor Grail, Yes; Councilor Roppe, Yes; Vice-Chair Jenkins, Yes; Chair Beyeler, Yes; Councilor Gravatt, Yes.
Motion Carried.

L. Council-Ratified Emergency Order Approving Department to Use Consultants in Review of ASC Compliance with Historic, Cultural and Archaeological Standard (Action Item)²¹ – Kellen Tardaewether, Senior Siting Analyst

The Council was presented with a request to ratify an emergency order, approved by Chair Barry Beyeler, to approve the Department's use of consultants to provide Oregon State Historic Preservation Office assistance in the review of impacts to resources protected under the Council's Historic, Cultural and Archaeological standard (Oregon Administrative Rule 345-022-0090). More information is located on the [Council Meetings website](#) for additional details pertaining to Ms. Tardaewether's [presentation](#).

The Council expressed concerns about reviewing agencies relying on consultants to assist them with their mandate to complete work of their agency. Ms. Tardaewether provided clarification to the Council that this was not a request made by SHPO, but a proposal from the Department to assist SHPO, based on a similar agreement in place where SHPO/Golder are assisting SHPO for the B2H review.

Action: A motion was made by Councilor Howe and seconded by Vice-Chair Jenkins that the Council ratify the emergency order issued by Council Chair Beyeler on October 4, 2018 to allow the Department, in consultation with SHPO, to hire consultants to support their review of impacts under the Historic, Cultural, and Archeological standard (OAR 345-022-0090) for the pASC for the proposed Obsidian Solar Center with a report back in six months on the status of how things are proceeding with SHPO.

Vote: Councilor Grail, Yes; Councilor Roppe, Yes; Vice-Chair Jenkins, Yes; Chair Beyeler, Abstain; Councilor Gravatt, No; Councilor Howe; Yes.
Motion Carried.

Meeting Adjourned at 2:00 p.m.

²¹ Audio for Agenda Item L = 04:06:04 – October 26, 2018