



ENERGY FACILITY SITING COUNCIL

Hanley Jenkins, Chair ■ Marcy Grail, Vice-Chair ■ Kent Howe ■ Mary Winters ■ Jordan Truitt ■ Cynthia Condon

Energy Facility Siting Council July 23-24, 2020 Meeting Minutes

**Thursday, July 23, 2020 at 5:00 p.m.
Friday, July 24, 2020 at 8:30 a.m.
City of Condon – Memorial Hall
Webex Teleconference Meeting**

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

Thursday, July 23, 2020 – Condon, OR & Webex Teleconference

Call to Order: The meeting was called to order at 5:32 p.m. on July 23, 2020 by Chair Jenkins.

Roll Call: Council Chair Hanley Jenkins, Vice Chair Marcy Grail and Council Member Cynthia Condon attended in-person. Council Members Kent Howe, Mary Winters and Jordan Truitt were present by teleconference.

Oregon Department of Energy representatives present in person were Senior Siting Analysts Sarah Esterson and Chase McVeigh-Walker. Assistant Director for Siting/Council Secretary, Todd Cornett, Senior Policy Advisor Maxwell Woods, Senior Siting Analyst Kellen Tardaewether, Rules Coordinator Christopher Clark, Division Assistant Michiko Mata were present by teleconference. EFSC Counsel Patrick Rowe of the Department of Justice was also present by teleconference.

A. Consent Calendar (Action Item) – Approval of minutes, Council Secretary Report, and other routine Council business.

1. Agenda Modification

Secretary Cornett recommend that Council postpone Agenda Item D, Rulemaking to Clarify Standard for Contested Case Requests for Type A Amendment, to a future Council meeting based on the following:

- The extended comment deadline concluded on July 16th and we received 178 comments. While many of these were duplicates, staff still did not have enough time to thoroughly evaluate them in order to provide an assessment to Council.
- In numerous comments the question was raised whether or not the filing with the Secretary of State was sufficient based on describing the nature of the rulemaking as a “clarification.” ODOE staff are still evaluating that issue.
- Based on the comments that came up from Council members at the June meeting, we thought it would also be helpful to once again walk through the steps in the amendment review process, with a specific focus on the contested case phase before the Council makes its final decision, so that Council members have the context of how the language in question fits into the overall review process.

Consensus from Council to postpone Agenda Item D.

2. June Meeting Minutes

Vice Chair Grail motioned that the Council approve the minutes of the June 25-26, 2020 meeting minutes as presented.

Council Member Winters seconded the motion.

Motion carried.

3. Council Secretary Report

Staffing Updates

OPA 2 Recruitment update - The recruitment to replace the open Operations & Policy Analyst 2 position has concluded and Walter Adams will be starting August 3rd.

The Climate Trust Appointment

The Climate Trust is the sole “qualified organization” to be eligible to receive offset funds related to the Council’s Carbon standard. In order for The Climate Trust to be a “qualified organization” they must meet several requirements that are established in rule and statute. One of those requirements is listed in OAR 345-001-0010(49)(c)(B)

*Require that decisions on the use of the offset funds are made by a decision-making body composed of seven voting members **of which three are appointed by the Council**, three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental nonprofit organization named by the body, and one is appointed by the applicants for site certificates that are subject to OAR 345-024-0550, 345-024-590, and 345-024-0620 and the holders of such site certificates; and*

Previously, the Council would make those three appointments to The Climate Trust Board. Since The Climate Trust has expanded their scope to do more than just activities related to the Council’s carbon standard, the body that now makes the decision regarding offset funds is the Oregon Offset Committee.

The Council’s current three appointments to the Oregon Offset Committee are:

1. Arya Behbehani - General Manager of Environmental and Licensing Services with Portland General Electric. She was re-appointed on July 1, 2018 and her current term expires on June 30, 2022.
2. Brad Hunter – Vice President & Senior Business Lender with Craft3. He was appointed on April 27, 2018 and his term expires on April 27, 2022.
3. Ryan McGraw – President of Orion Energy Group. He was appointed on April 27, 2018 and his term expires on April 27, 2022.

Secretary Cornett stated he had recently heard from Sheldon Zakreski, Executive Director for The Climate Trust, that Ryan McGraw will be moving out of state and will need to be replaced in the near future. That Council had several options regarding his replacement and that these options are not in order of preference.

1. Appoint from The Climate Trust Board – Sheldon indicated there may some interest from current board members to participate on the Oregon Offset Committee.
2. Appoint a Council Member – In the past, Council members have volunteered and been appointed to serve one of the three positions.
3. Conduct a Solicitation – At least once they have sent out a solicitation seeking resumes and cover letters and the Council conducted an evaluation and appointed from the list of people who have responded.

Secretary Cornett asked Council members if Council had a preference on how to go about replacing Mr. McGraw on the Oregon Offset Committee.

Council Member Condon stated she preferred to have more time since she was new to Council and would like to understand the different options.

Secretary Cornett stated they had a few options and could add this to the agenda for a future meeting, email Council with more information, or Council could reach out individually requesting more info.

Vice Chair Grail stated they need to determine if an EFSC Council member is even interested.

Council Member Truitt agreed, and asked if anyone on the Council would be interested in a position on the committee.

Vice Chair Grail stated she would not.

Chair Jenkins requested this item be put on the August agenda, and to also provide the information for Council regarding the commitment so they could make an informed decision.

Secretary Cornett confirmed staff would provide a detailed staff report next month prior to the August meeting.

Radioactive Materials Enforcement Rulemaking

ODOE Staff has reached out to stakeholders to serve on the RAC for the Radioactive Waste Materials Enforcement Rulemaking. The following organizations have agreed to serve on the RAC:

- Columbia Riverkeeper (Erin Saylor)
- Confederated Tribes of the Umatilla Indian Reservation (Mason Murphy)
- Gilliam County (Lisa Atkin)
- League of Women Voters of Oregon (Shirley Weathers)
- Oregon DEQ (Sarah Wheeler)
- Oregon Health Authority (Hillary Haskins)
- Oregon Physicians for Social Responsibility (Damon Motz-Storey)
- PCC Structural (Bill Couch)
- Waste Management (Jim Denson)
- Former ODOE staff Member Dave Smith

Christopher Clark explained that PCC Structural is affiliated with Precision Cast Parts, and handle materials that include natural radioactive materials. They would be a producer and a handler of some potentially radioactive materials and waste.

Secretary Cornett stated that ODOE held the first RAC meeting on July 15, which was very productive and had good participation by the RAC members. Staff were planning on at least two more RAC meetings as part of this project. Secretary Cornett remind the Council that they are welcome to attend any RAC meetings. Staff would forward the details for the next meeting to the members and to let them know if they were interested in attending ahead of time so staff could ensure there were no quorum issues.

The Department also have had some inquiries from a Gilliam County resident about getting an additional citizen representative on the RAC. We are working with them to identify potential candidates, and have also offered to have a public workshop in September or October to get additional input on the draft proposed rules before they bring them to Council for consideration.

Future Meetings

August 20th and 21st

Depending on what happens during the July 24th meeting they would determine whether or not they needed an August meeting. He anticipated it being one day and by Webex only.

Chair Jenkins and Council Members Condon, Truitt and Howe are available. Vice Chair Grail is likely but possibly not available and Council Member Winters is not available.

Secretary Cornett asked for confirmation this was still correct, and there were no changes.

Chair Jenkins asked Secretary Cornett to confirm they would have a quorum for August.

Secretary Cornett confirmed they would as long as Vice Chair Grail was still available, and if that changed the Department would release the dates as soon as they had confirmation.

September 24th and 25th

They anticipated having a September meeting, but did not yet know if it would be one day or two day meeting. Staff would provide that information once they knew it. Currently they have all Council Members available except Chair Jenkins who will be unavailable. Secretary Cornett confirmed availability and they would have a quorum for September.

- B. [5:30 p.m.] Montague Wind Power Facility, Public Hearing on Draft Proposed Order on Request for Amendment 5 of the Site Certificate (Hearing)**¹ – Council Chair Hanley Jenkins, II conducted a public hearing on the Draft Proposed Order on Request for Amendment 5 of the Montague Wind Power Facility site certificate (RFA5). RFA5 seeks Council approval to split previously approved facility components into three site certificates for the following: Montague Wind Power Facility (201 megawatt (MW) wind), Montague Solar Facility (162 MW solar), and Oregon Trail Solar Facility (41 MW wind and solar) - to be owned by individual limited liability companies created by the current certificate holder owner, Avangrid Renewables, LLC. RFA5 also seeks Council approval to reduce site boundary; increase solar micrositing area; construct and operate new equipment; use an alternative route for a transmission line segment; and, modify site certificate conditions. The purpose of the hearing was for members of the public to provide verbal comments to Council members on RFA5 and the Department’s Draft Proposed Order on RFA5. The comment period on the Draft Proposed Order closed at the end of the hearing. For more information visit the [Montague Wind Power Facility Project Page](#).

Public Comments

Brian Walsh, Avangrid – Provided an overview of the amendment request under Type A to meet their desired timeline. They agree with the DPO analysis and recommended Site Certificate conditions with exception to the minor comments submitted earlier that day. Their comments were intended to simplify and streamline, he specially mentioned condition 118. He mentioned that Montague is currently operating at a capacity like they’ve never seen in the past with other projects, and he’s looking forward to the next phase of the project.

Joyce Weatherford, Ion, Or – Ms. Weatherford had questions regarding the splitting of the project, specifically with the LLC’s. She was interested in the liability allocations that could occur with the split, and decommissioning of the sites. Her second question was regarding electrical transformers or any other associated health risks with these type of sites. She stated that her property seemed to be in the site of the project to be split, and that she has not received any communication from the developers. She asked if there would be any restrictions on this property within the site, and clarification on what the intent was.

Chair Jenkins replied to Ms. Weatherford that this time was reserved for specific issues/questions for this project, and her questions could be addressed by Mr. Walsh at the end of the comment period time or that she contact Mr. Walsh directly. That as a Council they wouldn’t be able to answer her questions specifically as part of today’s process, and hopefully Mr. Walsh can answer at the end of the comment period.

Ms. Weatherford stated the biggest question she would like addressed was with any restrictions to the property because it is within the site.

Chair Jenkins asked Secretary Cornett to direct Council how they should proceed answering Ms. Weatherford’s questions.

¹ Audio for Agenda Item B = 00:27:42 – July 23, 2020

Secretary Cornett recommended they finish taking public comments and then allow Brian Walsh from Avangrid an opportunity to respond to the comments and questions raised during the public comment period.

Chuck Little, Hermiston, OR – Stated considering the previous commenter Ms. Weatherford was not notified about the project affecting her property, and that maybe Council should take another look at this considering they plan to make a decision the following day. He’s been a longtime supporter of energy projects in Oregon, and has been involved in several hearings over the years. He felt this amendment was pushing the envelope and maybe there is a better process to involve more Oregonians to work on these type of projects instead of out of state contractors.

Brian Walsh, Avangrid – Mr. Walsh asked if they could bring Ms. Weatherford back to the microphone to help understand the questions she brought up earlier as he had trouble hearing the audio on the phone.

Ms. Weatherford stated her first point had to do with the liability when splitting up the sites, LLC’s, and decommissioning of the sites, and if there were any health risks associated with the electrical transmission.

Mr. Walsh stated that each project had its own site certificate and conditions which includes a condition for decommissioning. Those conditions require bonding/credits to be posted prior to the start of the project to cover any decommissioning of those facilities, which then have to remain in place for the life of the project for each of the three phases. The security would go away only once the project was fully decommissioned.

Ms. Weatherford stated she had a discussion on the phone regarding issues related to Baseline Rd, but have not had any discussion regarding the property near the Shetler Flat area. She was surprised, and needed to know what if any restrictions this would mean for her property for the future.

Mr. Walsh replied that they already had discussions regarding her property along Baseline Rd with the Military and DOD. As to the Shetler Flat property, the permit allows them to build on the property once they had the agreement and real estate rights to do so with her and her partners. The permit and conditions would not put any restrictions on her property.

Ms. Weatherford asked if they wanted to allow other energy companies to develop, would anything change?

Mr. Walsh stated that it wouldn’t prohibit other energy companies from developing on the property or seeking a permit and developing on their property.

Ms. Weatherford asked for confirmation that there would be zero restrictions to her property as a result of this site certificate.

Mr. Walsh confirmed that was his understanding. He also said he had emailed her with his contact info including his cell, and she was free to call him anytime.

Ms. Weatherford stated she didn’t receive Mr. Walsh’s email, and asked if the Oregon Trail solar site boundary was flexible in terms of if it’s wind, solar, or transmission.

Mr. Walsh confirmed there is flexibility within that area.

Chair Jenkins stated the map identifies the site boundary, but the actual development within that site is flexible.

Ms. Weatherford added that is because it's a micrositing area, and move it around within that boundary.

Mr. Walsh stated on the map in micrositing area three they were free develop anywhere within that boundary.

Discussion on getting Ms. Weatherford Mr. Walsh's contact info.

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

ADJOURN at 6:15 pm

Friday, July 24, 2020 – Condon, OR & Webex Teleconference

Call to Order: The meeting was called to order at 8:31 a.m. on July 24, 2020 by Chair Jenkins.

Roll Call: Council Chair Hanley Jenkins, Vice Chair Marcy Grail, and Cynthia Condon attended in-person, Council Members Kent Howe, Mary Winters, and Jordan Truitt were present by teleconference. Council Members Kent Howe, and Jordan Truitt were present by teleconference.

Oregon Department of Energy representatives present in person were Senior Siting Analysts Sarah Esterson and Chase McVeigh-Walker. Assistant Director for Siting/Council Secretary, Todd Cornett, Senior Policy Advisor Maxwell Woods, Senior Siting Analyst Kellen Tardaewether, Rules Coordinator Christopher Clark, Division Assistant Michiko Mata were present by teleconference. EFSC Counsel Patrick Rowe of the Department of Justice was also present by teleconference.

C. Wheatridge Renewable Energy Facility II, Council Review of Request to Amend Wildlife Monitoring and Mitigation Plan (Information Item)² Sarah Esterson, Senior Siting Analyst. The Council received a presentation from staff on the certificate holder's request to modify the survey methods and use a different statistical analytical model for the post-construction bird and bat fatality monitoring study required under the Wildlife Monitoring and Mitigation Plan (WMMP). During the presentation, staff confirmed that review by the Department and Oregon Department of Fish and Wildlife was ongoing and the WMMP was not yet ready for Council action, to be completed at a future Council meeting. For more information visit the [Wheatridge Renewable Energy Facility II Project Page](#).

Vice Chair Grail asked Ms. Esterson which numbers decreased.

Ms. Esterson replied that the searcher efficiency trials numbers had a decrease in the number of carcasses.

Vice Chair Grail stated she had a hard time understanding why they would decrease that number, and said she would find it helpful if staff could gather more information as they proceed.

Chair Jenkins stated the staff report indicated they expected to receive a report or letter from ODFW, and if Council would receive anything in writing about those discussions.

² Audio for Agenda Item C = 00:03:55 – July 24, 2020

Ms. Esterson confirmed.

Council Member Condon asked for confirmation the delegation of authority and that EFSC maintained authority to approve the plan.

Ms. Esterson confirmed, and that if Council disagreed it's not required to get approval on an amended mitigation plan, but the Department has implemented an informal policy of bringing forth, for Council review, amendments to mitigation plans.

Council Member Condon asked between the two methods that the applicant wants to change to, is there any method to compare them that shows one is better than the other?

Ms. Esterson replied that comparison the new method (modeling tool) was capable of evaluating results using the existing method, to compare the difference in results using existing and new method.

Council Member Condon requested confirmation on the outcome if the new methods are later determined to be flawed.

Ms. Esterson confirmed that if approved methods were later determined flawed, corrections would be applied in the future, but that the certificate holder would not be held responsible for using approved methods, later determined to be flawed.

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

~~**D. Rulemaking to Clarify Standard for Contested Case Requests for Type A Amendments, Council Review of Comments and Possible Final Decision – Continuation (Possible Action Item)**~~³ – Christopher Clark, Rules Coordinator. The Council will review public comments received on the proposed change to OAR 345-027-0371(9) and will consider the adoption of permanent rules. For more information visit the [Rulemaking page](#).

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

E. Public Comment Period⁴ – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that was not otherwise closed for comment.

No public comments on-site, Webex, or on the phone.

F. [8:56 a.m.] Archway Solar Energy Project, Special Advisory Group Appointment (Action Item)⁵ – Maxwell Woods, Senior Policy Advisor. Council appointed the Lake County Board of Commissioners as the special advisory group under ORS 469.480(1) for EFSC proceedings related to the proposed Archway Solar Energy Facility. For more information visit the [Archway Solar Energy Facility Project Page](#).

Chair Jenkins asked Mr. Woods to show them the map of Christmas Valley, and asked the name of lake to the South of Christmas Valley.

Mr. Woods stated it was Summer Lake, and pointed to Christmas Valley on the map.

Council Member Condon asked on the July 22 public notice, is there a requirement that property owners abutting the project are notified?

Mr. Woods stated that there was a full notification provided during the NOI which including emailing and mailing paper copies to adjacent property owners. Due to the rule change the notification goes to property

³ Audio for Agenda Item D = 00:22:59 – July 24, 2020

⁴ Audio for Agenda Item E = 00:23:10 – July 24, 2020

⁵ Audio for Agenda Item F = 00:23:53 – July 24, 2020

owners within 500 feet of the property boundary of where the facility would be located all received notice of the NOI.

Chair Jenkins stated that it seemed majority of the project will be on range land, is any of the project on crop land?

Mr. Woods replied no, that the NOI indicated it was all on open range land. However, additional details will come in the preliminary application.

Secretary Cornett added in response to Council Member Condon's question, that in addition to providing notification to adjacent property owners, they provide email notification to anyone signed up to receive general notifications.

Vice Chair Grail moved that the Council appoint the Lake County Board of Commissioners as the Special Advisory Group to advise the Council in the proceedings related to the review of the Application for Site Certificate for the Archway Solar Energy Facility.

Council Member Howe seconded the motion.

Motion carried.

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

G. [9:25 a.m.] Council Review of Obsidian Solar Center Draft Proposed Order (Information Item)⁶ – Kellen Tardaewether, Senior Siting Analyst presented the draft proposed order (DPO) for the Obsidian Solar Center and comments received during the DPO comment period, which extended from March 12, 2020 through July 20, 2020 (comment period closed at the conclusion of the July 20, 2020 public hearing. For more information visit the [Obsidian Solar Center Project Page](#).

Chair Jenkins stated he proposed to proceed with the informational presentation, but no decisions to be made during the meeting as Council Member Winters was not available. He asked Secretary Cornett to seek any comments she may have since she will not be available for the August meeting either. He asked that they have an in-depth meeting in August addressing public comments then, but asked Council to address any questions regarding the standards today.

Secretary Cornett stated he was fine with Council holding their full discussion until August, but he felt it was helpful for Council to hear the comments in relation to the standard, and have Ms. Tardaewether proceed with her presentation as it was. Then Council bringing any further discussions or comments to the August meeting, if they agreed.

Ms. Tardaewether stated for context she structured the presentation and staff report was 70% targeted towards the comments received on the DPO and the applicant responses. She didn't have an overview or separated presentation of the DPO from the comments, as it's all bundled together.

Chair Jenkins recommended Ms. Tardaewether proceed with the presentation, but the Council should reserve their comments on the public comments until August when they could have a complete discussion since they haven't had a chance to read all the comments received on Wednesday.

Consensus by the Council.

⁶ Audio for Agenda Item G = 00:43:20 – July 24, 2020

Vice Chair Grail stated her concern as she listened to Ms. Esterson was that as the applicant made recommendations, that some of the feedback from the public is how the information can be difficult to follow. She stated that if the information is in one place in the DPO, that could be one way they could serve the public's interest. Additionally, to make things easier for the public is it possible to have the semi or annual report in one place?

Ms. Esterson replied that in their staff report they made the recommendation not to change the condition.

Secretary Cornett stated that what staff did with the Boardman to Hemingway project was between the DPO and Proposed Order was create a "crosswalk" document to align what the comment was and how it was evaluated in the Proposed Order. He stated this would assist the public in evaluating the response to their comments because due to the standards the responses could be scattered throughout the document.

Council Member Condon stated her understanding with the flow battery technology is relatively new compared to the lithium battery technology, and if there is any experience the applicant can point to showing there is less risk associated?

Ms. Tardaewether asked for confirmation from Council Member Condon that her question was "Is there less risk with the flow battery technology?"

Council Member Condon replied that the applicant stated the was a 10 – 20 percent less risk associated with it, that it's one thing to see it and say it. Is there enough experience with it to make that statement?

Ms. Tardaewether stated that Council has not evaluated the flow battery technology yet in the process, but they have evaluated the risks associated with the lithium battery technology. The flow technology non-hazardous descriptions are based on the representations by the applicant. The risk is based on the potential of hazardous materials used in both of the technologies but Council has evaluated the hazardous waste and fire risks associated with the lithium ion technology. Since flow battery technology hasn't been evaluated by Council they can only consider the statements and information in the ASC the applicant has provided at this time.

Council Member Howe are the comments and responses to address the discrepancy between the 2 to 1 ratio and the 1.2 to 1 ratio for habitat mitigation?

Ms. Tardaewether replied no, it was not.

Council Member Howe asked if it changed ODFW's comfort level with those being so far apart.

Ms. Tardaewether replied that the ratio is what will determine the acreage that will be secured by this agreement, and asked Ms. Esterson if she knew the ratio and actual acreage it equaled?

Ms. Esterson replied she didn't know without looking it up.

Ms. Tardaewether stated the applicant originally proposed a mitigation ratio of 1.1 to 1, then ODFW requested a ratio of 2 to 1, and the applicant came back with 1.2 to 1. That the Department is not making recommendations at this point, but the final ratio is and resulting acreage of that is 4,306 for an impact of 3,588 with the 1.2 to 1 ratio mitigation plan. This is the acreage they would have to secure and demonstrate the goals of HMP were achieved. The land owner agreements is the legal way the applicant would secure that mitigation parcel for the ratio that is determined.

Chair Jenkins stated the staff report mentioned the pigmy rabbit surveys, and for borrowing owls and white tail jack rabbits. Are those to be included in incidental surveys?

Ms. Esterson stated that if they observe these other species when doing the surveys then they would want controls for those as well, but not specific surveys as of now.

Chair Jenkins asked if the lighting was primarily on the operation and maintenance buildings?

Ms. Tardaewether stated she also believed there was lighting on the battery storage containers and also the O&M buildings, the step up substations, and the substation. The applicant proposed two centralized battery storage containers so there could be lighting associated with that depending on the completed layout.

Council Member Condon stated it's not in the standard, but the applicant provided information they would accommodate downward lighting they could rely on it, or if they don't do it, is there any repercussion?

Ms. Tardaewether referred back to the Council's General standard of review requires applicant representations to be included as site certificate conditions. The applicant has represented they will provide downward lighting, and the assurance is in the conditions of the site certificate. Individual concerns about visual impacts to adjacent landowners is not covered in the Council's Scenic resources standard.

Chair Jenkins stated he didn't see if there were a mechanism for SHPO to extend the permits beyond the 2 years, do they do it by extension or does the site certificate authorize them for 6 years?

Ms. Tardaewether replied it is the duration from SHPO's guidance documents available on their webpage that outlines the permits are valid for a year, and the applicant is able to renew for a year (for permits outside EFSC jurisdiction). Because this guidance is not designated in SHPO rules or statute, the Department makes recommendations that specify that when SHPO signs and executes the permits they would be granted for the duration of the construction of the facility, consistent with the facility construction.

Vice Chair Grail asked staff to look at the Public Services standard and double check with fire districts regarding wildlife fire mitigation plans, and PUC rules, since this is a rural area that probably doesn't have the extra people to deal with situations like these.

Ms. Tardaewether stated that there is more awareness regarding fire and energy facilities generally all over the State. The Council doesn't have a fire protection standard so they are limited to the scope of their authority to impose requirements. If Council has expertise in the fire protection standards they would encourage them to make recommendations, but as for PUC requirements it wouldn't fit within this applicant without a legal mode of enforcement.

Vice Chair Grails stated she wasn't suggesting there was a standard or a requirement, she was just basing this off of world events and thought it would be best to be as mindful as possible, and go beyond the minimum requirements. That looking at the wildfires it's devastating, and due to the rural area she just wanted to ensure they had control. Her intent was not to cite anything specific from the PUC, or even the State. She just requesting staff have the applicant to listen to the public and the utilities during the process.

Ms. Tardaewether stated when they start writing the DPO they've asked the applicant for more information regarding their plans, where the equipment would be located, what training practices, and believed they provided that information in Exhibit U.

Chair Jenkins stated the District has language that says if the public needs water they would serve them first, and the applicant said they'd supplement with the wells. The discussion states the wells can produce up to 5,000 gallons, which is the domestic threshold. If the wells were used for construction the demand could be greater than the 5,000 gallons per day, which could require a water right permit for commercial use during the construction period. An expanded conversation with the Water Resources Department about the use of those wells beyond the 5,000 gallons since it could influence the language in the conditions.

Ms. Tardaewether asked they discuss this issue along with the next section which was water rights as they go hand in hand. She then went on to present the water rights section of the presentation. She stated Mr.

Reeder's comment and what the applicant represents in the application are consistent and the condition in the DPO is where it's inconsistent.

Chair Jenkins encouraged staff again to have conversations with Water Resources.

Ms. Tardaewether explained the applicant is aware of the limits and have offered to install a meter, but they didn't feel they would go beyond the limits eliminating the need for a water right permit.

Secretary Cornett stated the Council has received a lot of information over the week regarding this project, and they would need time to review it. However, if the Council had any direction for staff they would be open to hearing it now or over the next couple of weeks as they review it to reach out by email or phone individually.

Chair Jenkins stated they would focus on the discussions and issues in August.

Council Member Howe stated he was intrigued by the amount of commenters adjacent to the site regarding the elk migration and how it would impact their properties. So he asked staff to gather information from ODFW regarding that issue, as it would be helpful to him.

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

H. [Working lunch] Montague Wind Power Facility, Council Review of Draft Proposed Order on Request for Amendment 5 of the Site Certificate (Information Item)⁷ – Sarah Esterson, Senior Siting Analyst. Council reviewed the Draft Proposed Order on Request for Amendment 5 of the Montague Wind Power Facility site certificate, comments received on the record of the Draft Proposed Order public hearing, and may provide comments to staff on the Draft Proposed Order for consideration in the Proposed Order. For more information visit the [Montague Wind Power Facility Project Page](#).

Vice Chair Grail stated while she was reviewing the certificate holders comments that they will follow the County's guidance, but not anything additional.

Ms. Esterson stated it would only be valuable if they ensured the requirements were followed, unless the County has other forms or requirements.

Council Member Condon stated the recommended condition to update the retirement seemed to be less than the combined facility, as it went from 21.5 to 7.7 for Montague Wind and 8.1 for Montague Solar, and 3.1 for Oregon Trail. That's due to?

Ms. Esterson stated it was due to how it was originally approved then becoming amendment 4, and changes over time. It went from a 404 Megawatt facility with 181 turbines in the beginning, which was the 21 million. Phase 1 ended up being only 56 turbines, and they were able to adjust the decommission amount. Now with the addition of the solar they were able to update based on both components to 10 million which now has been split.

Council Member Condon asked in regards to the changes in liability with the split making sure the liability is being split and avoiding any negative impacts to the responsible parties.

Ms. Esterson stated that each certificate holder of the new amended certificates will be limited liability companies, similar to as it is now. They rely on Avangrid to demonstrate compliance with expertise on financial assurance.

Council Member Condon asked for clarification and said Avangrid's was not financially responsible.

⁷ Audio for Agenda Item H = 03:35:20 – July 24, 2020

Ms. Esterson stated Avangrid's name was not on the Bond or Letter of Credit. She asked if Mr. Woods or Secretary Cornett had anything to add regarding securities.

Secretary Cornett stated that when there is a request to transfer a facility they look at two issues, organizational expertise and the financial assurance. The parent company is the one with the financial capability to secure the bond for the LLC.

Council Member Condon stated she wasn't understanding completely.

Mr. Woods added the bond from the LLC comes from the bank, it's not from Avangrid or the LLC. It's actually funded by the bank or financial institution who maintains the bond. The relationship between the bank and the LLC is not relevant to them, but the bond is the security as it comes from the bank.

Council Member Condon asked when the bond is secured from the bank, is it for the full 30 or 40 year life, as her experience with letters of credit they are renewed annually.

Mr. Woods explained the bonds are renewed and updated for inflation annually. ODOE gets a new bond or letter each year for each facility that is required to do so.

Vice Chair Grail thanked staff, and most of her questions were answered after reading the comments last night. She asked staff to monitor the progress with the Confederate Tribes, and the roads in Morrow County.

Secretary Cornett looked for clarification in Ms. Esterson's presentation regarding her recommendations, and if she was looking for Council's acknowledgement?

Ms. Esterson confirmed.

Secretary Cornett stated Council didn't have to vote on this, but they were looking for some agreement on the 4 recommendations to include them in the proposed order.

Chair Jenkins asked Council if there were any objections, and there were none. So he instructed Ms. Esterson to move forward with the recommendations.

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

Secretary Cornett made an announcement regarding the deadline to request for a contested case in the Boardman to Hemingway Project to the Hearing Officer. They issued a notice of the proposed order which allows the public the opportunity to request participation in the contested case. The original deadline for that request is August 6, 2020, and they received a request to extend that deadline out 21 days to August 27. This would allow anyone who commented on the DPO that wanted their issues to be evaluated in the contested case to submit their request to participate until August 27. An email notification will be going out that day, as well as being posted to the ODOE's webpage.

Meeting adjourned at 1:35 pm

For more details visit the [Council Meetings website](#).