



ENERGY FACILITY SITING COUNCIL

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

Energy Facility Siting Council

June 25, 2021

Meeting Minutes

Friday, June 25, 2021 8:30 a.m.

WebEx Teleconference

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- I. Oregon Renewable Energy Siting Assessment (Information Item) – Wally Adams, Operations and Policy Analyst; Ruchi Sadhir, ODOE Associate Director for Strategic Engagement & Development/Tribal Liaison; and Jimmy Kagan, Institute for Natural Resources – Portland Director, OSU, will provide an overview and status update of the grant awarded to ODOE and the Department of Land Conservation and Development.

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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>

Call to Order: The meeting was called to order at 8:31 a.m. on June 25, 2021 by Chair Grail.

Roll Call: Chair Marcia Grail, Vice-Chair Kent Howe, Council Members Hanley Jenkins, Jordan Truitt, Cynthia Condon were present. Council Member Perry Chocktoot joined during Agenda Item E.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Senior Siting Analyst, Chase McVeigh-Walker; Siting Policy Analyst and Rules Coordinator, Christopher Clark; Operations Analyst, Wally Adams; Siting Compliance Officer, Duane Kilsdonk; Associate Director for Strategic Engagement & Development, Ruchi Sadhir; Nuclear Waste Remediation Specialist, Jeff Burrig; and Administrative Assistant Dawnita Bruce. EFSC Counsel Patrick Rowe of the Department of Justice and Sara Reif, Energy Coordinator for the Oregon Department of Fish and Wildlife were also present.

Chair Grail confirmed that agenda modifications were not proposed.

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

Consideration of Minutes

April 22-23, 2021 Meeting Minutes

Council Member Jenkins motioned Council to approve the minutes of the April 22-23, 2021 meeting as presented.

Vice-Chair Howe seconded the motion.

Chair Grail called on the Secretary to call the roll.

Motion carried unanimously.

Secretary Report

Secretary Cornett offered the following comments during his report to the Council.

Staffing Updates

- Kate Sloan, who joined the Department April 5, 2021 as a Senior Siting Analyst, introduced herself to the Council.
- Dawnita Bruce, who joined the Department on May 3, 2021 as the Administrative Assistance, introduced herself to the Council.

Project Updates

- Wheatridge Renewable Energy Facility III
Construction is underway on 50 MW of the approved 150 MW solar photovoltaic facility in Morrow County.

- **Montague Solar Energy Facility**
Construction is underway on all 162 MW of the approved solar photovoltaic facility in Gilliam County. An Amendment Determination Request was received on May 27, 2021 and is under review to determine whether changes for the justification to the goal exception findings, previously approved by Council, require an amendment to the site certificate.
- **Bakeoven Solar Project**
Construction is underway on 64 MW of the approved 303 MW solar photovoltaic facility in Wasco County. On June 11, 2021 a Request for Amendment, was received to split the site certificate into three site certificates: Bakeoven Solar Project (60 MW PV); Daybreak Solar Project (140 MW); and the Sunset Solar Project (103MW). A request for review under the Type B process was also included and notices of both requests went out on June 18, 2021.
- **Columbia Ethanol Project**
An Amendment Determination request was evaluated to determine whether the site certificate for the facility, designed to produce forty-four million gallons of ethanol each year in Morrow County, required an amendment due to the rebranding of its parent company. On June 18, 2021 the Department issued a determination that an amendment was not required.

Long Term Wildlife Report Updates

Wildlife Monitoring Reports have been posted online for public comment for the Biglow Canyon Wind Farm, Klondike III Wind Farm, Leaning Juniper IIA Wind Farm, Leaning Juniper IIB Wind Farm, and the Stateline Wind Project. The sixty-day comment period closes on July 27, 2021.

Council Member Condon, referring to the Department's review of the Wildlife Monitoring Reports, asked for additional details regarding the scope of the review.

Ms. Esterson explained that while all Wildlife Monitoring and Mitigation Plans are different, all include requirements for review by Oregon Department of Fish and Wildlife. Some have specific review criteria, such as long-term raptor nest surveys, raptor nest youth declines, and ground squirrel surveys.

Council Member Condon confirmed with Ms. Esterson that additional mitigation could be required if warranted by this review.

Supreme Court Ruling

Supreme Court has issued ruling in favor of the Friends of the Columbia Gorge on two issues raised related to the amendment rulemaking. First, the ability to change a site boundary through the amendment determination request and not a full amendment review – the Court ruled a site boundary expansion cannot occur without a full amendment review. Second, the Court addressed the ability of the Council or the Hearing Officer to establish limited parties in a contested case. The Supreme Court confirmed that agencies may adopt rules governing the scope of participation of people appearing as limited parties, but held the language of Council's rules doesn't adequately distinguish between full and limited parties. This ruling doesn't have a direct impact on current contested cases as the Hearing Officer in those cases also relied on an Attorney General model rule but will be re-evaluated in the amendment rulemaking process scheduled for 2022.

Council Member Condon questioned how Council will be involved in the determination of party status in a contested case.

Secretary Cornett explained that involvement will take place through the rulemaking process for the amendment rules with broad stakeholder input.

Council Feedback Survey

A survey has been sent to Council members to evaluate the information delivery methods and effectiveness.

Council Member Condon questioned the frequency of the survey requests.

Secretary Cornett explained surveys will be tailored for each meeting and responses are appreciated as soon after a meeting as possible.

Future Meetings

- Council members confirmed their availability for the next scheduled meeting July 23, 2021.

B. Madras Solar Energy Facility Final Order (Action Item)¹ – Chase McVeigh-Walker, Senior Siting Analyst presented the Proposed Order on the Application for Site Certificate for the Madras Solar Energy Facility, a proposed 63-megawatt solar energy generation facility, to be located in Jefferson County. Council reviewed changes from the Draft Proposed Order to the Proposed Order, and the conclusion of the contested case. Following the presentation, Council will either approve or amend the Proposed Order as the Final Order and issue a site certificate or will reject the Proposed Order and deny a site certificate. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Jenkins expressed concern regarding the county ordinance limiting temporary uses to six months, and asked Secretary Cornett or Ms. Esterson to share some of the ideas they had previously discussed on how to address this requirement as it applies to the temporary concrete batch plant.

Ms. Esterson explained that the Proposed Order included a description of the temporary batch plant; that description would be reflected in the Site Certificate, if approved. To address Council Member Jenkins concern, Ms. Esterson recommended that Proposed Order Section III.A be revised to describe that the temporary batch plant would only be onsite for 6 months within a twelve-month period.

Council Member Jenkins affirmed that the proposed changes addressed his concern.

Council Member Condon questioned how the language addresses the issue of the batch plant being needed for longer than six months.

Ms. Esterson stated that Jefferson County Zoning Ordinance limits the use of the batch plant in exclusive farm use land to six months and that while the batch plant was always intended to be temporary, the language was intended to reiterate the County's requirements by defining the duration of temporary. She went on to provide that the applicant's proposed construction schedule is expected to occur in three phases over a nine-month period and the applicants ability to meet this requirement is anticipated.

Council Member Condon, regarding the Goal 3 exceptions on page 105 of the Proposed Order, expressed confusion on the recommendations for Council consideration.

Mr. McVeigh-Walker explained that the Department recommends Council adopt some but not all of the applicant's proposed reasons to justify an exception.

¹ Audio for Agenda Item B = 00:41:07 – 2021-06-25-EFSC-Meeting-Audio

Chair Grail requested confirmation on whether comments made by the Oregon Department of Fish and Wildlife were addressed in the Proposed Order and expressed the importance of fire safety during the construction and operation of the 230 KV transmission line.

Mr. McVeigh-Walker stated that conditions have been proposed restricting construction during nesting seasons to address the concerns over Golden Eagles by ODFW. Conditions have also been proposed to address fire safety as well.

Chair Grail expressed her confidence in staff's recommendations and reiterated the importance of Council's awareness and consideration of these potential impacts.

Chair Grail opened the floor to Council discussion or possible motion.

Council Member Jenkins asked whether the proposed language offered during the presentation by Ms. Esterson would require the motion be made with amendments to the proposed order for inclusion in the Final Order.

Secretary Cornett explained that Council would need to provide that amendment in their motion to incorporate it into the final order.

All Council Members agreed that Secretary Cornett would specify the changes requested when the motion is made.

Prior to offering a motion Vice-Chair Howe emphasized the Goal 3 exception findings: locational dependence based on the existing transmission line; facility will be constructed on land with predominately non-arable soils; facility presents no direct or indirect impacts to scenic, cultural, historic, or archeological resources or wetlands, waters of the state and special status species.

Vice-Chair Howe motioned for Council to approve the Proposed Order as the Final Order for the Madras Solar Energy Facility with changes presented by staff and issue a site certificate.

Secretary Cornett specified the changes as follows: add language to the project description in Section IIIA of the Final Order that the temporary batch plant is limited to a sixth month time frame as already described in the land use standard.

Council Member Jenkins seconded the motion.

Chair Grail called on the Secretary to call the roll.

Motion carried unanimously .

C. Public Comment Period² – The following individuals took the opportunity to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment, which included Madras Solar Energy Facility, Boardman to Hemingway Transmission Line Proposed Order and the Obsidian Solar Center Proposed Order, which are in the contested case process.

- Jodi Parker, Laborers' International Union of North America, Local 737, Portland, Oregon
Ms. Parker introduced herself and described the Union and their impacts to the state. She asked Council, in recognition of other rules and laws, to consider local hiring standards, labor standards, safety records, and utilization of state approved training programs. She explained the role of the union and the

² Audio for Agenda Item C = 01:38:02 – 2021-06-25-EFSC-Meeting-Audio

importance of providing living wages within communities. She concluded by thanking Council Members for their service.

- D. Annual Siting Division Work Plan (Information Item)³ – Wally Adams, Operations and Policy Analyst** presented the draft 2021-22 Siting Division Work Plan which includes recommended process improvement projects and activities. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During this presentation the following discussion occurred:

Council Member Condon questioned whether the definition of stakeholder includes the public.

Mr. Adams affirmed that the term is intended to be all-inclusive and noted that he would update the draft.

Council Member Condon noted the complexity of public participation in the siting process and inquired as to whether improvements to the public process are part of the public comments project.

Mr. Adams explained that the intent of the online portal is to assist the public in connecting their comments to targeted Council standards to maximize participation in the process.

Secretary Cornett added that this online tool will be used in addition to, and in conjunction with, other tools the department has developed to enhance public participation, such as public information meetings, and the public guide.

- E. EFSC Program Evaluation Request for Proposal (Information Item)⁴ – Wally Adams, Operations and Policy Analyst** presented ODOE's efforts to hire an outside consulting firm to conduct a comprehensive review of the EFSC program, including outreach to all stakeholders and Council members, and submittal of a report with recommended improvements. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During this presentation the following discussion occurred:

Council Member Condon asked Mr. Adams to describe the anticipated approach for soliciting public input in the program evaluation.

Mr. Adams replied consultants would handle that task.

Chair Grail asked whether Council could be involved in establishing the outreach strategy.

Mr. Adams stated that Council suggestions are always welcome, and Secretary Cornett noted additional formal and informal methods for Council participation.

Chair Grail acknowledged Mr. Adams for his presentation.

³ Audio for Agenda Item D = 01:45:25 – 2021-06-25-EFSC-Meeting-Audio

⁴ Audio for Agenda Item E = 02:05:00 – 2021-06-25-EFSC-Meeting-Audio

- F. Legislative Update (Information Item)⁵ – Sarah Esterson, Senior Policy Advisor and Jeff Burrignt, ODOE Nuclear Waste Remediation Specialist** provided an update to Council on the legislative session and bills related to ODOE, EFSC and state-level energy policy. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During this presentation the following discussion occurred:

Council Member Condon asked Mr. Burrignt to describe “historical participant” as it relates to rulemaking advisory committee members associated with the proposed radioactive waste disposal regulations rulemaking following the passage of SB 246.

Mr. Burrignt explained that “historical participant” includes previous ODOE staff that were involved in the original development of the radioactive waste rules.

Secretary Cornett reiterated that the Department is still in the early stages and encouraged Council members to provide their suggestions as early as possible.

Vice-Chair Howe suggested that a land fill operator be included in the rulemaking advisory committee.

- G. Wildlife Monitoring and Mitigation Plans and Post-Construction Surveys Overview (Information Item)⁶ – Sarah Esterson, Senior Policy Advisor and Sarah Reif, Oregon Department of Fish and Wildlife Energy Coordinator** presented on how Wildlife Monitoring and Mitigation Plans and Post-Construction Surveys are established and amended.

During this presentation the following discussion occurred:

Council Member Condon asked whether the surveys were completed during migration periods for migrating birds.

Ms. Reif provided that while the timing may vary by facility, the sampling is intended to be completed during migration.

Council Member Condon asked how the thresholds of concern are determined.

Ms. Reif explained that fatality rates are reported annually as monitoring occurs, and thresholds of concern are based on annual populations related to fatality rates.

Council Member Chocktoot commented on a report published by the US Fish and Wildlife Service, “Birds of Conservation Concern 2021, Migratory Bird Program⁷.” He stated that 134 species are of conservation concern on the continental scale. He shared the significance of winged species to Oregon’s Indigenous Tribes and emphasized the responsibility of protecting them.

Vice-Chair Howe asked what the rate of the rotor speeds are, and whether the decrease of three meters per second was a significant cut in the rotor speed and questioned whether there was a detector on the rotor that would decrease or shut down the turbine.

⁵ Audio for Agenda Item F = 02:25:54 – 2021-06-25-EFSC-Meeting-Audio

⁶ Audio for Agenda Item G = 02:57:30 – 2021-06-25-EFSC-Meeting-Audio

⁷ [BCC2021.indd \(fws.gov\)](#)

Ms. Reif explained that some facilities are experimenting with different detection methods such as infrared and radar to mitigate fatalities.

Council Member Chocktoot asked whether wind turbines create a negative airspace and suck the birds or bats into them.

Ms. Reif responded that she has not reviewed any studies that have indicated a negative airspace behind the rotor swept area. She explained that though there was early hypothesis that the turbines could create barometric trauma to bats that theory has since been set aside as unviable.

Council Member Condon asked whether it would be appropriate to craft site certificate conditions or standards to establish turbine speeds for no net loss or whether it could be considered by Council

Ms. Esterson offered that Council Member Condon's suggestion could be a potential outcome of the broader policy discussion.

Secretary Cornett explained information provided are ideas for policy decisions and tools for future consideration and Council decisions are not being requested at this time.

Chair Grail suggested additional presentations on each standard may also be helpful for Council moving forward.

Secretary Cornett agreed and to bring a prioritization list to Council at the next meeting to plan future meeting agendas.

Vice-Chair Howe and Chair Grail appreciated Ms. Reif for her time in preparing and presenting to the Council.

H. Compliance Update (Information Item)⁸ – Duane Kilsdonk, Compliance Officer provided Council an overview of the energy facility compliance program. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Chair Grail asked Mr. Kilsdonk to explain the reporting requirements when events, such as a turbine fire, occur.

Mr. Kilsdonk replied that reporting requirements vary by the type of incident; in this case notification is required within 72 hours and the Department is also included in the telephone notification system.

Council Member Condon asked whether mineral oil is an efficient coolant for transformers this size.

Mr. Kilsdonk explained that while there is an overheating issue the mineral oil does not appear to be the catalyst.

I. Oregon Renewable Energy Siting Assessment (Information Item)⁹ – Wally Adams, Operations and Policy Analyst, Ruchi Sadhir, ODOE Associate Director for Strategic Engagement & Development/Tribal Liaison, and Jimmy Kagan, Portland Institute for Natural Resources Director provided Council with an overview and status update of the grant awarded to ODOE and the Department of Land Conservation and Development to collect data and information through assessments and a mapping tool to build an understanding of the

⁸ Audio for Agenda Item H = 04:08:07 – 2021-06-25-EFSC-Meeting-Audio

⁹ Audio for Agenda Item I = 04:59:45 – 2021-06-25-EFSC-Meeting-Audio

opportunities and constraints that come with renewable energy and transmission in Oregon. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Chocktoot expressed concern over the dissemination of cultural resource information as it is confidential.

Ms. Sadhir explained that the information will be based on process, and that cultural resource information will not be publicly available through the ORESA mapping tool.

Council Member Condon asked whether the mapping tool could be used by the public interested in relocating to determine their proximity to potential developments.

Mr. Kagan affirmed it as a potential use of the tool.

Council Member Condon asked whether the recent legislation directing a hydrogen study were incorporated in this process.

Ms. Sadhir stated that it wasn't since it is not commercially available.

Vice-Chair Howe asked whether other states that have completed this type of assessment or whether they have developed similar tools related to renewable energy.

Ms. Sadhir shared her awareness of similar grants awarded to multiple other states in the west for their efforts. She mentioned the California Energy Commission uses this model, and the State of Washington is also completing similar assessments to meet their renewable portfolio goals.

Council Member Chocktoot commented on his desire for Oregon to utilize the energy generated within the State rather than it being sent on the grid to California.

Council Member Condon asked how hydropower factors into energy usage versus generated rates.

Ms. Sadhir replied that hydropower is not considered in the studies performed.

Council Member Chocktoot added that energy generated from Oregon's Klamath hydro facilities is minimal due to the age of the facilities.

Council Member Condon asked whether potential proposals for the Snake River were considered in the assessment.

Ms. Sadhir confirmed they were not.

Council Member Condon asked how hydropower factors into energy usage versus generated rates.

Ms. Sadhir replied that hydropower is not considered in the studies performed.

Council Member Condon noted the opening screen of the mapping tool and suggested adding a "welcome screen" for the public, as it appears only geared towards developers currently.

Chair Grail echoed Council Member Condon's comments, and stressed the importance of educating the public to enable early, meaningful participation in the EFSC process.

Secretary Cornett emphasized the value of the mapping tool and its ability to provide information to all participants in the process, developers and the public alike. He expressed his excitement in the continued evolution of the tool as it will be continually updated.

Vice-Chair Howe stated the importance of indicating disclaimers on the data to ensure there aren't misinterpretations of the information.

Mr. Kagan agreed and noted similar disclaimers in other tools.

Adjournment

Chair Grail adjourned the meeting at 3:20 pm.