



# 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

July 23, 2021

### Meeting Minutes

Friday, July 23, 2021 8:30 a.m.

WebEx Teleconference

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- C. **Golden Hills Wind Project-Request to Amend Wildlife Monitoring and Mitigation Plan (Action Item)** – Sarah Esterson, ODOE Senior Policy Advisor; Sarah Reif, Oregon Department of Fish and Wildlife (ODFW) Energy Coordinator; Matt Hutchinson, Avangrid Renewables Sr. Permitting and Environmental Manager and Andrea Chatfield, Western EcoSystems Technology, Inc. This agenda item is a continuation of Agenda Item D of the April 22-23, 2021 meeting.
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- I. **Organizational Expertise Standard Overview (Information Item)** – Sarah Esterson, ODOE Senior Policy Advisor

## Friday July 23, 2021 –WebEx Teleconference

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 July 23, 2021 by Chair Grail.

**Roll Call:** Chair Marcia Grail, Vice-Chair Kent Howe, Council Members Hanley Jenkins II, Cynthia Condon and Perry Chocktoot were present. Council Members Jordan Truitt and Mary Winters were absent.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Senior Siting Analyst, Kellen Tardaewether; Senior Siting Analyst, Kate Sloan; and Administrative Assistant, Dawnita Bruce. Energy Facility Siting Council (EFSC) Counsel Patrick Rowe of the Department of Justice; Kyler Sherry, The Climate Trust; Sara Reif Oregon Department of Fish and Wildlife; Matt Hutchinson, Avangrid Renewables; and Andrea Chatfield, Western EcoSystems Technology were also present.

*Chair Grail confirmed there were no proposed agenda modifications.*

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

### **Consideration of June 25, 2021 Meeting Minutes**

*Council Member Condon commented on Agenda Item D, referencing language used in regards to the public and stakeholders, seeking confirmation that the language in question was changed to reflect that the public and stakeholders were not separate.*

*Secretary Cornett confirmed the draft document containing language in question has been changed to reflect no separation between public and stakeholders.*

*Council Member Condon commented that overall council should be careful not to separate the public from stakeholders.*

*Chair Grail confirmed that concerns were addressed.*

*Council Member Jenkins asked whether changes should be made.*

*Council Member Condon responded that no changes were to be made.*

***Council Member Jenkins motioned Council to approve the minutes of the June 25, 2021 meeting as presented.***

***Vice-Chair Howe seconded the motion.***

***Motion carried unanimously.***

## Council Secretary Report

### Project Updates

- Stateline Wind Project Amendment 6.

The request consists of changes to the approved turbine specifications, megawatt output, number of turbines, and associated development improvements. Also Includes the addition of 50 megawatts of battery storage, includes two options related to wind blade replacement or turbine replacement. Option A, would be the replacement of three existing turbines, and option B, would be the construction of two new turbines and the replacement of one existing turbine. Amendment number 6 also includes the request to use the type B amendment review process.

### Staff Overview Presentations of Council Standards

Secretary Cornett inquired if the Council had any preferences as to the order of the presentation of standards at future Council meetings.

*Chair Grail asked the council if there were any preferences to the order of standards. She commented that whichever standard best aligns with what is on the agenda makes the most sense to her.*

*Council Member Condon expressed preference for standards where the Council is relying on Department of Energy staff to provide the necessary information.*

### 2021 Legislative Session-EFSC Related Bills

- House Bill 2064: **Description:** Reduces EFSC quorum from 5 – 4.  
**Status:** Approved and becomes effective on September 25, 2021.  
**Next:** Rulemaking needed to change OAR 345-011-0005(1) to reflect new quorum number.

*Council Member Jenkins asked if Council decisions will require a unanimous vote, when the quorum is changed to four or will it just be a majority?*

*Secretary Cornett stated that in most circumstances it would just be a simple majority vote that would allow for approval of an action item. However if it is the approval of a new site certificate there is a separate statute that requires four affirmative votes and the bill did not change that statute. So, it will still take four affirmative votes of the council to approve a new site certificate.*

- House Bill 2063: **Description:** Eliminates need to receive an exemption from EFSC for standby generation facilities.  
**Status:** Approved and becomes effective on September 25, 2021.  
**Next:** Rulemaking needed to change OAR 345-015-0350(6) and any associated rules.
- Senate Bill 246: **Description** - Requires EFSC to adopt standards and rules necessary to prevent disposal

of radioactive waste in Oregon. Provides Director of State Department of Energy and council additional authority for administration and enforcement of laws related to disposal of radioactive waste.

**Status:** Approved and becomes effective on January 1, 2022.

**Next:** Rulemaking needed change Division 50.

*Secretary Cornett commented that Jeff Burrigh and Maxwell Woods with the Nuclear Safety and Emergency Preparedness Division are requesting council move forward with rulemaking associated with this bill and will be recommending Rulemaking Advisory Committee members at the September 27, 2021 Council meeting.*

- House Bill 2021: **Description:** Section 28 prohibits Energy Facility Siting Council from issuing a site certificate for new fossil fueled power plants and from amending an existing site certificate that would significantly increase carbon dioxide emissions.  
**Status:** Approved and becomes effective on September 25, 2021.  
**Next:** Rulemaking is likely needed to reflect prohibition and define what the term significantly means as it relates to the bill language.
- House Bill 5006: **Description:** Includes direction to Oregon State University to conduct study about painting turbine blades to increase visibility for birds and reduce avian deaths and requires consultation with ODOE.  
**Status:** Approved and becomes effective on June 30, 2021.  
**Next:** Will begin coordination with OSU regarding study shortly.
- Senate Bill 762: **Description:** Directs Public Utility Commission to convene workshops related to risk-based wildfire protection and risk-based wildfire mitigation procedures and standards for public utilities.  
**Status:** Became effective on July 1, 2021  
**Next:** Wait for PUC to initiate workshops.

*Chair Grail asked if this was different than what is already going on with the PUC wildfire rulemaking.*

*Secretary Cornett responded that it relates to that rulemaking and will likely provide more direction as to the outcome of that rulemaking.*

## Future Meetings

Council members confirmed their availability for the next scheduled meeting August 27, 2021, either in person or remotely. This meeting will be a hybrid meeting, available both in person and virtually.

*Chair Grail commented that the sooner we can get back to meeting in person the better.*

## B. The Climate Trust Financial Audit for 2020 and Annual Update (Information Item)<sup>1</sup> – Todd Cornett, ODOE Assistant Director for Siting/Council Secretary provided an overview of the 2020 Financial Audit and Kyler

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<sup>1</sup>Audio for Agenda Item B = 00:41:07 – 2021-07-23-EFSC-Meeting-Audio

Sherry, The Climate Trust Program Manager provided an annual update of The Climate Trust. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>2</sup>.

*During the presentation the following discussion occurred:*

*Chair Grail asked how The Climate Trust decides where and how to spend Climate Trust funds.*

*Ms. Sherry responded that The Climate Trust is obligated to spend the funding on carbon offset programs, but that it is not location specific. However, The Climate Trust tries to spend in the Pacific Northwest.*

*Chair Grail asked about the Oregon Offset Committee members that are required to be appointed by EFSC and if they are required to be Council members.*

*Secretary Cornett stated that EFSC appointees can be but do not have to be EFSC members.*

*Council Member Condon asked if a project offset isn't met and offsets don't return properly, what are the consequences?*

*Ms. Sherry stated that The Climate Trust only pays upon delivery of the offset.*

- C. Golden Hills Wind Project-Request to Amend Wildlife Monitoring and Mitigation Plan (Action Item)<sup>3</sup>** – Sarah Esterson, ODOE Senior Policy Advisor; Sarah Reif, Oregon Department of Fish and Wildlife (ODFW) Energy Coordinator; Matt Hutchinson, Avangrid Renewables Sr. Permitting and Environmental Manager and Andrea Chatfield, Western EcoSystems Technology, Inc. Council received a presentation on the request by Golden Hills Wind Farm LLC to amend components of the Wildlife Monitoring and Mitigation Plan. This agenda item is a continuation of Agenda Item D of the April 22-23, 2021 meeting. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>4</sup>.

*During the presentation the following discussion occurred:*

*Council Member Chocktoot asked “What prohibits predators from picking these carcasses up before you have a chance to count them?”*

*Ms. Chatfield, stated that is one of the bias trials WEST conducts to measure the scavenging rate.*

*Council Member Chocktoot commented on the variability of predator behavior, they change their hunting area and pattern. He questioned the efficiency of conducting these trials on a twice a month interval.*

*Ms. Chatfield stated that each trial is 40 days long and WEST is able to get two studies in per season.*

*Council Member Condon expressed that she was troubled by the amount of modeling and estimation around these trials. She then asked how is the modeled/estimated data verified against reality.*

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<sup>2</sup> [ppt. presentation](#)

<sup>2</sup> ppt. presentation

<sup>3</sup> Audio from Agenda Item C = 0:48:49 – 2021-07-23-EFSC-Meeting-Audio

<sup>4</sup> ppt. presentation

*Ms. Chatfield responded that the results of these studies can only be as accurate as the data being collected and entered into the model.*

*Council Member Condon stated that her concern is how are the findings of these studies being verified in nature as an accurate study.*

*Council Member Chocktoot expressed concern that Golden Hills is located in the Pacific Flyway and that it has been stated that air is not part of any wildlife habitat, but for birds air is habitat. To state that it is not habitat for animals could be misleading.*

*Council Member Condon posed a follow up question to Council Member Chocktoot's concern and asked how the Pacific Flyway is considered?*

*Ms. Reif stated that yes Golden Hills is located within the Pacific Flyway and post construction fatality monitoring is very important to insure that any impacts are addressed or mitigated.*

*Chair Grail stated that this post construction monitoring is project specific and not precedent setting.*

***Vice Chair Howe motioned to approve the request by Golden Hills Wind Farm, LLC to amend the Wildlife Monitoring and Mitigation Plan as presented by staff.***

***Council Member Jenkins seconded the motion.***

***Motion carried***

**D. Public Comment Period** – This time is reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment<sup>5</sup>.

- Jodi Parker, Laborers' International Union of North America, Local 737, Portland, Oregon  
Ms. Parker 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 importance of providing living wages within communities. She concluded by thanking Council Members for their service.
- Irene Gilbert, La Grande, OR  
Ms. Gilbert thanked council members Chocktoot and Condon for speaking to the impact wildlife may see from these developments. Ms. Gilbert offered a hypothetical scenario referring to how the contested case process is handled, she then began to describe how a hearing officer can throw out cases prior to being heard as full contested cases. She then began to state that the EFSC appointed Hearing Officer for the Boardman to Hemingway Transmission Line should be removed.

*Chair Grail stopped Ms. Gilbert and informed her that the topic of Boardman to Hemingway Transmission Line is closed for comment at this time.*

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<sup>5</sup> Audio from Agenda Item D = 2:07:16 – 2021-07-23-EFSC-Meeting-Audio

- E. Project Updates (Information Item)**<sup>6</sup> – Kellen Tardaewether, ODOE Senior Siting Analyst provided brief updates on her active projects. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>7</sup>.

*During the presentation the following discussion occurred:*

*Chair Grail stated that she would be recusing herself on anything related to Boardman to Hemingway and will be asking Vice Chair Howe to step in when discussion or council business are called for.*

*Council Member Condon asked when the public is first notified of a project.*

*In discussing the difference between an expedited review application and an application for site certificate, Ms. Tardaewether stated that when an application is deemed complete there is a public notice sent out, and an informational meeting on the application.*

*Council Member Condon asked if that is when adjacent property owners are notified (for an expedited review).*

*Ms. Tardaewether confirmed that is correct.*

*Secretary Cornett asked Ms. Tardaewether to explain why, at 324 acres, the West End Solar Energy Project is EFSC jurisdiction, when normally it reviews much larger facilities.*

*Ms. Tardaewether stated that there is a portion of the facility, about 238 acres, that is considered high value farmland under ORS 195.300. Any solar PV project over 160 acres on high value farmland is EFSC jurisdictional.*

*Council Member Jenkins asked if there was battery storage associated with Bakeoven Solar Project.*

*Ms. Tardaewether responded that the project includes a 100 MW battery storage system.*

- F. Eugene to Medford Transmission Line Amendment 4 Hearing Officer Appointment (Action Item)**<sup>8</sup> – Sarah Esterson, ODOE Senior Policy Advisor. Council will consider appointment of a Hearing Officer from the Oregon Office of Administrative Hearings to conduct all proceedings for the Eugene to Medford Transmission Line Amendment 4 which proposes expansion of the site boundary from approximately 23,975 to 24,463 acres; decommissioning of an existing 115 kV transmission line; construction and operation of a new 17.6-mile 230 kV transmission line to be double circuited with the existing 115 kV transmission line; a new 500/230 kV substation (Sams Valley substation); upgrading of the existing Grants Pass substation to accommodate the termination of the new proposed 230 kV transmission line; reconductoring a 4.9-mile segment of existing 230 kV transmission line; and, substantial modification of existing access roads. The components included in the preliminary RFA would be located within Jackson and Josephine counties, and the City of Rogue River. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>9</sup>.

*During the presentation the following discussion occurred:*

*Chair Grail explained that she may have to recuse herself on this topic.*

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<sup>6</sup> Audio from Agenda Item E = 2:22:14 – 2021-07-23-EFSC-Meeting-Audio

<sup>7</sup> [ppt. presentation](#)

<sup>8</sup> Audio from Agenda Item F = 3:03:39 – 2021-07-23-EFSC-Meeting-Audio

<sup>9</sup> [ppt. presentation](#)

Secretary Cornett stated that it would be okay for Chair Grail to run the Agenda Item, but would need to recuse herself from voting.

Council Member Jenkins stated the language used in the staff report for Hearing Officer Appointment recommends that ALJ Allen be appointed to conduct all proceedings. He asked for clarification of, other than the contested case proceeding, what proceeding would ALJ Allen be involved in for the amendment request?

Ms. Esterson stated that the other proceeding would be running the Draft Proposed Order Public Hearing.

**Vice Chair Howe motioned council appoint Administrative Law Judge Joe Allen from the Oregon Office of Administrative Hearings as the Hearings Officer for the Eugene to Medford Transmission Line Amendment number 4 as recommended by staff.**

**Council Member Jenkins seconded the motion.**

**Motion Carried**

- G. Wagon Trail Solar Project Hearing Officer Appointment (Action Item)**<sup>10</sup>– Sarah Esterson, ODOE Senior Policy Advisor. Council will consider appointment of a Hearing Officer from the Oregon Office of Administrative Hearings to conduct all proceedings for the Wagon Trail Solar Energy Facility, a proposed 500 MW solar photovoltaic energy generation facility in Morrow County, Oregon within a site boundary of 7,339 acres (11.47 sq. miles). More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>11</sup>.

**Vice Chair Howe motioned Council appoint Administrative Law Judge Joe Allen from the Oregon Office of Administrative Hearings as the Hearings Officer for the proceedings the proposed Wagon Trail Solar Project as recommended by staff.**

**Council Member Jenkins seconded the motion.**

**Motion Carried**

- H. Boardman Coal Plant Discontinuation of Terrestrial Monitoring Plan (Action Item)**<sup>12</sup>– Kate Sloan, ODOE Senior Siting Analyst. Council will consider certificate holder’s request to terminate long-term Terrestrial Monitoring Program at the Boardman Coal Plant. More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>13</sup>.

**Council Member Jenkins motioned that the Council approve the request of Portland General Electric to terminate the Boardman Coal Plant Terrestrial Monitoring Plan as presented by staff.**

**Vice Chair Howe seconded the motion.**

**Motion Carried**

- I. Organizational Expertise Standard Overview (Information Item)**<sup>14</sup>– Sarah Esterson, ODOE Senior Policy Advisor, will provide an overview of the Energy Facility Siting Process Organizational Expertise standard.

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<sup>10</sup> Audio from Agenda Item G = 3:12:22 – 2021-07-23-EFSC-Meeting-Audio

<sup>11</sup> [ppt. presentation](#)

<sup>12</sup> Audio from Agenda Item H = 3:17:29 – 2021-07-23-EFSC-Meeting-Audio

<sup>13</sup> [ppt. presentation](#)

<sup>14</sup> Audio from Agenda Item I = 3:32:26 – 2021-07-23-EFSC-Meeting-Audio



More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#)<sup>15</sup>.

*During the presentation the following discussion occurred:*

*Council Member Condon commented that she found it interesting that only a summary of their organizational expertise is required, as she views these certificates as very valuable. To rely on a summary has given her pause, she would like to see more detail.*

*Ms. Esterson stated that Division 21 requirements for Exhibit D states*

*“Information about the organizational expertise of the applicant to construct and operate the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0010, including:*

*\*\*\**

*(E) If the applicant has no previous experience in constructing or operating similar facilities and has not identified a prime contractor for construction or operation of the proposed facility, other evidence that the applicant can successfully construct and operate the proposed facility. The applicant may include, as evidence, a warranty that will, through contracts, secure the necessary expertise;”.*

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*Vice Chair Howe commented that it is Council’s duty to do the evaluation of an applicant’s ability to meet the requirement for proof of experience.*

*Council Member Condon agreed with Vice Chair Howe; however, she felt a deeper understanding of the developer is needed.*

*Ms. Esterson stated the information provided is the requirements for information an applicant must provide when the entity is a limited liability corporation, indirect subsidiary or if there are multiple entities involved.*

*Council Member Condon asked if Council is limited to these requirements alone.*

*Ms. Esterson stated Council is not necessarily limited to the requirements.*

*Secretary Cornett commented that the purpose of the documents provided in today’s overview are for reference and informational purposes. But staff wants to ensure that Council is provided this type of standards overview information in a way that makes sense to them.*

*Council Member Condon asked should a Council member find a standard or rule that they have questions about or Council wants to see a different process or rule how would they go about getting that to staff.*

*Secretary Cornett stated that if it is a matter of understanding or needing clarification about how a standard is evaluated, a Council member could reach out to staff for clarification. However, if it is pertaining to a potentially different way to review a standard,, than that should be brought up during a Council meeting for full Council discussion and deliberation.*

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<sup>15</sup> [ppt. presentation](#)

*Chair Grail agreed with Secretary Cornetts statement and suggested that perhaps Council touch base after a presentation to see if further discussion is needed.*

**Adjournment**

Chair Grail adjourned the meeting at 1:15 pm.