



ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Ann Beier ■ Richard Devlin ■ Katie Imes

Energy Facility Siting Council Meeting Minutes

Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Friday, July 18, 2025 8:30 AM

- A. Consent Calendar (Action & Information Item)¹ – Approval of June 13, 2025 Meeting Minutes; Council Secretary Report; and other routine Council business.
- B. Amendment Rulemaking Public Hearing (Public Hearing)²
- C. Leaning Juniper IIB Wind Power Facility Amendment 3 Proposed Order Review/Possible Final Decision (Action Item)³
- D. Public Comment Period⁴
- E. Wheatridge Renewable Energy Facility East Wildlife Monitoring and Mitigation Plan Amendment (Action Item)⁵
- F. Compliance Program 6-month Review (Information Item)⁶
- G. Annual Process Improvement Plan (Information Item)⁷
- H. Organizational Expertise Retirement & Financial Assurance Phase III Rulemaking Initiation (Action Item)⁸

¹ Audio/Video for Agenda Item A = 00:04:46 – 2025-07-18-EFSC-Meeting-Audio/Video

² Audio/Video for Agenda Item B = 00:23:44 – 2025-07-18-EFSC-Meeting-Audio/Video

³ Audio/Video for Agenda Item C = 01:01:01 – 2025-07-18-EFSC-Meeting-Audio/Video

⁴ Audio/Video for Agenda Item D = 02:03:18 – 2025-07-18-EFSC-Meeting-Audio/Video

⁵ Audio/Video for Agenda Item E = 02:27:50 – 2025-07-18-EFSC-Meeting-Audio/Video

⁶ Audio/Video for Agenda Item F = 03:31:29 – 2025-07-18-EFSC-Meeting-Audio/Video

⁷ Audio/Video for Agenda Item G = 04:41:28 – 2025-07-18-EFSC-Meeting-Audio/Video

⁸ Audio/Video for Agenda Item H = 05:00:18 – 2025-07-18-EFSC-Meeting-Audio/Video

I. Overview of Cultural, Historic and Archeological Standard (Information Item)⁹

J. Boardman to Hemingway Transmission Line (Information and Action Item)¹⁰

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: Chair Howe called the meeting to order on June 18, 2025, at 8:30 a.m.

Roll Call: Chair Kent Howe, Vice-Chair Cynthia Condon, Council Members Ann Beier, Richard Devlin, and Katie Imes were present in person. Council Member Marcy Grail was present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett; Senior Policy Advisor Sarah Esterson, Senior Siting Analysts Kellen Tardaewether and Christopher Clark, Rules Coordinator Tom Jackman, Operations and Policy Analyst Bibi Bartley, Compliance Officer Egan Bull and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

Agenda Modifications:

For Agenda Item D, Habitat Special Project Coordinator for Oregon Department of Fish and Wildlife, Jeremy Thompson, joined Christopher Clark.

For Agenda Item F, Secretary Cornett joined Egan Bull, Sarah Esterson and Bibi Bartley.

A. Consent Calendar (Action & Information Item)¹¹ – Approval of June 13, 2025, Meeting Minutes; Council Secretary Report; and other routine Council business.

Council Member Devlin motioned Council approve the minutes of the June 13, 2025 meeting as presented and recommended by staff.

Council Member Grail seconded the motion.

The motion carried unanimously.

Council Secretary Report

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

- Council and Staff Update

⁹ Audio/Video for Agenda Item I = 05:33:08 – 2025-07-18-EFSC-Meeting-Audio/Video

¹⁰ Audio/Video for Agenda Item J = 05:47:20 – 2025-07-18-EFSC-Meeting-Audio/Video

¹¹ Audio/Video for Agenda Item A = 00:04:46 – 2025-07-18-EFSC-Meeting-Audio/Video

Compliance Officer – The ODOE’s biennial budget has been approved by the legislature, which includes a new Compliance Officer position. The Department will initiate recruitment for the position soon.

The Climate Trust Oregon Offset Committee Appointment – Vice-Chair Condon’s 4-year term on The Climate Trust’s Oregon Offset Committee expired in October 2024. Vice-Chair Condon is interested in being reappointed. This will be included on the next Council meeting agenda as an Action Item. If anyone else is also interested in that appointment, notify Secretary Cornett before the next Council meeting, or state their interest at the next EFSC meeting.

Vice-Chair Condon noted the offset committee does not meet often. She suggested adding a report from the meetings to a future EFSC agenda to inform Council of updated information.

Secretary Cornett stated that typically, there is a yearly update from the Climate Trust included in the EFSC meeting schedule. It would be possible to add a report from the appointed committee member to the update.

- Project Updates

Heppner Wind Project – The Heppner Wind Project is a proposed 190 MW wind power generation facility in Morrow County, starting approximately 6 miles east of the City of Heppner. The Parent Company is NextEra. While the Department received the Notice of Intent in late March, the applicant requested that Staff suspend work on it in late April. In early June, they requested that Staff reinstate work on the Notice of Intent. There is now a project page with the Notice of Intent and a public notice with a comment period that concludes on August 22nd. The Department will present a public information meeting at the Willow Street Innovation Hub in Heppner on August 12, starting at 5:30 p.m.

- Wildlife Mitigation Plan Updates

There are several EFSC facilities with site certificates requiring the implementation of a Wildlife Monitoring and Mitigation Plan (WMMP). Some WMMPs include a requirement for the Department to provide wildlife monitoring results to the public for review and comment. To support the public’s understanding of this opportunity, Staff prepares a summary memo and post the results to the website and announce the results during a Council meeting. At the June EFSC meeting, the wildlife results for the Stateline Wind Project were reviewed during the Secretary's Report.

Staff has reviewed wildlife monitoring results for 5 additional facilities; these results were provided to Council via staff memo on July 17, 2025; the memos and results were also posted to the project webpage for the applicable facilities with an announcement of a 30-day public comment period, extending through August 18.

WMMPs typically require a post construction fatality monitoring study – applicable for the first two years post construction or first year post repower; long- and short-term monitoring for raptor nests and Washington ground squirrel, if the facility is within suitable habitat; and incidental wildlife monitoring and reporting (i.e., onsite incidental observations of fatality or injury). For the 5 facilities reviewed, the 2024 monitoring season was limited to incidental wildlife monitoring. The 5 operational facilities include Biglow Canyon Wind Farm, a 450 MW wind facility in Sherman County; Leaning Juniper IIA and Leaning Juniper IIB Wind Power Facilities – two facilities totaling about 200 MW of wind in Gilliam County; Klondike III Wind Project, 300 MW wind in Sherman County, and Pachwaywit Solar Project, a 162 MW solar in Gilliam County. For incidental wildlife observations, there were 2 common raven fatalities observed at Leaning Juniper IIB and Pachwaywit Solar Project.

2025 is a more substantive monitoring year, where long-term raptor nest and Washington ground squirrel monitoring results will be provided for all mentioned facilities except the Pachwaywit Solar Project. These results will be presented next year.

- Additional Updates

Ms. Irene Gilbert provided a comment letter on June 20, 2025 and requested it be forwarded to Council. After evaluating the contents of the email, it was determined to be appropriate to forward to Council and was sent to Council on June 23, 2025. The email referenced two issues, both related to HB 3681. Ms. Gilbert requested that the issues be placed on a Council meeting agenda. The first issue was related to changes in a site boundary without an amendment. The Council currently has rules that allow that, but not the statutory authority. HB 3681 provided that statutory authority, and that bill goes into effect in January 2026. There is a public hearing on the draft amendment rules at today's meeting. Ms. Gilbert is free to comment on those rules as well as anything else within the scope of the amendment rulemaking. The second issue refers to the Certificate of Public Convenience and Necessity (CPCN). HB 3681 also made changes to Council's statutes related to a CPCN that authorizes a utility to pursue eminent domain. Secretary Cornett explained the process for an investor-owned utility to pursue eminent domain. The Department is still evaluating the question and is not prepared to provide a summary of the changes in HB 3681 to Council at this meeting.

Vice-Chair Condon confirmed Ms. Gilbert's involvement in the Amendment Rulemaking Advisory Committee.

Vice-Chair Condon questioned how the process works for non-investor-owned utilities.

Secretary Cornett provided his understanding that a non-investor-owned utility would not be able to use the least cost plan rule required to pursue eminent domain. They may be able to use the system reliability rule in their effort.

- Upcoming Potential Meeting Dates

September 18-19, 2025

October 23-24, 2025

- A. Amendment Rulemaking Public Hearing (Public Hearing)¹²** – Tom Jackman, Rules Coordinator, provided background information on changes to the Amendment Rules. Tom Jackman, acting as the Presiding Officer, explained the legal requirements for providing comments on the record and facilitated the public hearing. Interested individuals had an opportunity to provide oral testimony on Amendment Rulemaking and the proposed rule language. Written comments may also be submitted to the Department by 5:00 p.m. on Friday, August 1, 2025.

Vice-Chair Condon questioned how determination is made as to the location of a public hearing.

Mr. Jackman stated the determination is based on perceived public interest and the significance of the project. Either the Council or the Chair can make the decision. This additional flexibility was to allow greater opportunity for public outreach.

Secretary Cornett added that there will be a public hearing, although it may be virtual or in another location if there is a specific driver for a specific location for a meeting. The starting point for the determination is that there is a public hearing, and the hearing will be in proximity to the facility. If the Department believes there is justification to hold the public hearing elsewhere or virtually, they will make that recommendation and the Chair or Council would make the final determination.

Council Member Beier noted her appreciation for the slide presentation, which provides a helpful summary of the additional opportunities for public input. She also noted her approval for the additional time provided in the Amendment Rules for public comment responses as it helps to provide an early opportunity to resolve any issues.

Public Comments provided

Ms. Irene Gilbert

Ms. Gilbert noted she had submitted comprehensive written comments to Staff, which were provided to Council. She stated that she has also provided a copy of the Oregon Supreme Court decision for an appeal she had filed regarding House Bill 3681, which allows for site boundaries to be expanded without an amendment. She expressed her concern for the change to the rules that require non-contested cases to go directly to the Supreme Court, as she believes it eliminates due process for any applicant or citizen who has objections to the decisions made by EFSC. She encouraged Council to consider changing its evaluation of whether to allow a contested case. She believes the rules overturn federal requirements for due process. She

¹² Audio/Video for Agenda Item B = 00:23:44 – 2025-07-18-EFSC-Meeting-Audio/Video

stated a description of what is required by due process and noted she does not believe the requirements are present in the Council's review for contested cases. She stated her belief that there were (secretive) meetings for House Bill 3681, which included developers, utilities, and ODOE, with no members of the public included.

Ms. Angela Crowley-Koch

Ms. Crowley-Koch, representing Oregon Solar and Storage Industries Association (OSSIA), stated OSSIA supports the changes and the draft rules, noting appreciation for the work of the Staff and the RAC. It was a good process, and the changes are long overdue. She noted the Staff's memo did a good job of clarifying why contested cases are not appropriate. They outlined how the law requires Council to grant a contested case, but only when there are significant issues affecting the law that are reasonably likely to affect the Council's determination. The changes in streamlining come at a very critical time. Federal changes have made it more difficult to build renewables. To meet Oregon's greenhouse gas reduction goals, the State needs to do everything it can to streamline processes and not leave investments and projects stranded. OSSIA believes that the draft rules strike a good balance between streamlining the process and having an increase in public hearings and the ability for the public to comment.

The Public Hearing was closed at 9:29 a.m.

B. Leaning Juniper IIB Wind Power Facility Amendment 3 Proposed Order Review/Possible Final Decision (Action Item)¹³ – Kellen Tardaewether, Senior Siting Analyst, presented the Proposed Order on Request for Amendment 3 and comments received on the record of the Draft Proposed Order to the Council for their review.

Council Member Devlin asked if the existing collector line system would be abandoned or removed, or would it be removed during the termination process in the future.

Mr. Darren Cavanaugh, representing Avangrid Power, stated that, as there will be a small increase in the overall capacity for the project, the new cables will be put in the existing collector line system after the removal of the previous cables.

Vice-Chair Condon questioned what the remedy would be if the facility exceeded the noise limits after the repower.

Ms. Tardaewether stated that a previous condition was applied to the application that requires an updated noise assessment based on the final technology and the manufacturer's specifications. She added that for wind facilities and all the affected properties, there are noise waivers for the property owners that would be impacted.

¹³ Audio/Video for Agenda Item C = 01:01:01 – 2025-07-18-EFSC-Meeting-Audio/Video

Vice-Chair Condon questioned whether the applicant had provided ways the terminology added to the Retirement Conditions and Findings could be misinterpreted or subject to challenge, as stated in their comments.

Ms. Tardaewether provided the history of the revised terminology included in the Retirement Conditions and Findings, noting it could be subject to challenge if or when Council determines there is a public health, safety, or environmental issue.

Council Member Beier requested a review of the finding that the amount of the bond is adequate to formalize the finding. She noted her appreciation for Staff updating the conditions to be consistent with other decisions.

Secretary Cornett confirmed the review of the finding. He further noted that to the extent that the conditions can be updated for consistency, Staff will continue to do so.

Ms. Tardaewether presented the language for the bond amount contingencies for the Retirement Conditions for Council to review.

The Department and Council reserve the right to adjust the contingencies, as appropriate and necessary to protect public health and safety or the environment and ensure the certificate holder's bond or letter of credit is sufficient to restore the site to a useful, non-hazardous condition.

Vice-Chair Condon questioned whether the Leaning Juniper IIA site certificate has the same language included in its Retirement Conditions.

Secretary Cornett stated Staff would provide an answer after reviewing the certificate.

Later in the presentation, Ms. Tardaewether confirmed that the language for the Retirement Conditions for Leaning Juniper IIA was conceptually the same language as for Leaning Juniper IIB.

Council Member Imes questioned whether Council's recent discussions and suggestions regarding water contracts were included in the language for water use in the Public Services Conditions.

Ms. Tardaewether confirmed that the language included represents the most recent water template conditions.

Recommended Public Services Condition 128 (PRE): Prior to and during the facility repower, as applicable, the certificate holder shall:

a. Identify all water-related needs and estimate daily and annual water demand for repower construction.

b. Provide evidence such as a contract or purchase agreement demonstrating that adequate water supply to meet repower construction demand has been secured and that water for all repower construction activities will be legally obtained by service providers or third-party permits.

Council Member Beier motioned the Council to issue a Final Order approving the certificate holder's request for Amendment 3 to the site certificate for the Leaning Juniper IIB Wind Power Facility, utilizing the Department's Proposed Order as the basis for the Final Order, and issue the 3rd amended site certificate consistent with the Final Order as presented and recommended by Staff.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

C. Public Comment Period (Information Item)¹⁴ – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

Ms. Irene Gilbert

Ms. Gilbert stated that regarding the Boardman to Hemingway Transmission Line (B2H) project construction update to be presented, there have been multiple requests for copies of the final monitoring and mitigation plans, as well as surveys conducted on specific properties. The results have not been provided as Idaho Power has filed multiple requests for advanced occupancy. There are concerns that the surveys may be incomplete, and concerns regarding issues in Washington State involving Tetra Tech's review of energy projects. She expressed her concern about her belief that not all B2H has been approved for construction as required by mandatory conditions for the site. She would like Idaho Power to be aware that an advanced occupancy does not authorize the start of construction unless they have been given the authorization by ODOE. She stated that there are also some issues with the B2H regarding the certificate of public convenience and necessity involving issues with Pacific Corp and the customer base they would be serving with the transmission line, such as Google. Several individuals and groups have asked the Public Utilities Commission to reevaluate the issuance of a certificate of public convenience and necessity.

Vice-Chair Condon questioned the assumption that Google did not qualify as a customer for Pacific Power.

Ms. Gilbert stated individual property cannot be condemned to provide it to a for-profit entity, as she believes is happening with Pacific Corp and the transmission line.

¹⁴ Audio/Video for Agenda Item D = 02:03:18 – 2025-07-18-EFSC-Meeting-Audio/Video

Ms. Wendy King

Ms. King stated her concern for the studies that were done by a third-party contractor for Idaho Power for site certificate conditions for B2H as she believes they contain many errors. There were also errors in reports submitted for the Wheatridge East project. She has submitted her corrections to the studies to the State Historic Preservation Office as instructed by the ODOE compliance team, but there has been no procedure or assurance that the record has been corrected. She believes that there are compliance issues with the raptor survey that was completed on her property, as it was completed via a helicopter, which she stated is not capable of identifying nests and haysheds. They have been asked to report any issues of noncompliance with the buffer zones. As the studies were conducted with ODFW protocol, the certificate holder is in compliance. Surveys and studies were established to determine and mitigate impacts, though she now believes accuracy isn't mandatory or important. Because of the addition of many renewable energy projects in the area, she believes the wildfire prevention and risk mitigation standard needs to be reviewed and updated as the landscape has changed. She urged EFSC to revisit the need for a cumulative effects standard to help protect public safety and cropland soils that are relied on for livelihood.

Mr. David Welch

Mr. Welch, representing the Oregon-California Trails Association, stated his concern that cultural resources are not being given proper consideration in repower projects, as they can represent new impacts. New impacts might require some new mitigation. He has requested that the mapping tool ORESA, utilized by Council, show the Oregon Trails System to indicate the possible impacts. He also stated that some of the functions on the ORESA mapping tool do not work.

Council Member Beier questioned whether the ORESA mapping tool contains a layer with the trails system.

Secretary Cornett stated he did not have that information at this time. He explained the protocol involved in having Oregon State University add layers to the ORESA mapping tool, noting his appreciation for Mr. Welch's comments. The Department wants the tool to be as helpful and valuable as possible.

Mr. Joe Stipple

Mr. Stipple, representing Idaho Power, responded to Ms. Gilbert's comments. In late June 2025, Stop B2H and Irene Gilbert submitted findings to the Oregon Public Utilities Commission (PUC) regarding the Certificate of Public Convenience and Necessity (CPCN) for B2H, issued in June 2023. The CPCN issued by the PUC gives Idaho Power condemnation authority for properties on B2H. He cannot speak directly about Pacific Corp's business case in any detail. Idaho Power understands that Pacific Corp remains a committed partner and continues to support B2H as a partner with Idaho Power. While Idaho Power does not believe the concerns raised by Stop B2H and Ms. Gilbert have any merit, the PUC has issued a notice indicating that it will consider the comments that have been filed at an upcoming

public meeting. The process involving the PUC has no direct bearing on the B2H site certificate issued by ODOE. The CPCN was obtained to provide condemnation authority for Idaho Power, and there was no direct relevant site certificate condition. The CPCN was not a permit that Idaho Power was required to obtain as part of any site certificate condition. Additionally, the Council made an assessment of the need for the project based on Idaho Power's needs. This was an issue that was litigated as part of the contested case for the original site certificate application, and the hearings officer concluded that Idaho Power has demonstrated the need for the project based on Idaho Power's Integrated Resource Plan (IRP), and the IRP met the least cost planned goal. Nothing has changed for Idaho Power, and they are moving forward with the project partner, Pacific Corp.

Chair Howe closed the Public Comment Period.

D. Wheatridge Renewable Energy Facility East Wildlife Monitoring and Mitigation Plan Amendment (Action Item)¹⁵ – Senior Siting Analyst Christopher Clark and Habitat Special Project Coordinator for Oregon Department of Fish and Wildlife Jeremy Thompson reviewed amendments to the Wildlife Monitoring and Mitigation Plan for Wheatridge Renewable Energy Facility East.

Vice-Chair Condon asked if there was a median that was the average for bird and bat fatalities at wind facilities.

Mr. Thompson deferred the question to slides later presented for the agenda item.

Council Member Imes asked whether, during blade inspections at the site, monitoring for wildlife fatalities also occurs.

Mr. Clark stated that anytime workers on the site find a carcass, it is reported. Protected species have additional requirements.

Council Member Imes asked whether there was other evidence of collisions besides carcasses.

Mr. Thompson further explained that while there have not been any specific reports of bird/bat strikes on blades, reports of such events would be part of the incidental find protocols and are reported as part of the annual reporting process. Also, during post-construction fatality monitoring, the incidental finds are included in the calculations for the fatality estimates.

Council Member Devlin questioned if there are higher levels of fatalities during the migration period for specific species.

¹⁵ Audio/Video for Agenda Item E = 02:27:50 – 2025-07-18-EFSC-Meeting-Audio/Video

Mr. Thompson provided that the larger number of mortalities seen for bats is specifically during the migration period in late fall, adding that there is not such a variance for the raptor mortalities.

Council Member Beier asked if the certificate holders proposal to begin monitoring in the winter, as opposed to the fall, could result in missing information for the migratory season.

Mr. Thompson explained that there would still be a full year of data collected. The proposed change is based on when the project begins construction.

Mr. Clark added that the proposed changes are intended to allow the certificate holder to get their contractors on board and the survey teams set up. It provides time for everything to be in place and for the developers to do a good job. He also provided the results of the post-construction fatality monitoring studies are posted online, and the data are disaggregated by season, by search, and also by location within the facility.

Vice-Chair Condon asked whether other states have similar surveys and if there are other methods for measuring mortalities.

Mr. Thompson stated permitting and monitoring of projects across the West is highly variable. Fortunately, a significant amount of data has been collected, and valuable information has been learned in Oregon. He explained that while there is no current dialogue with other states, there is a lot of opportunity to review, evaluate, and to potentially address issues better in the future.

Dr. Julie Garvin, representing NextEra Energy, noted that the methods for monitoring used, as well as the expectations and standards in Oregon, are consistent with other states and even more rigorous in many aspects. She noted that, currently trending for some other states are mortality rate thresholds for mitigation plans rather than the number of fatalities. This allows for the data to be continually updated as more studies are completed.

Vice-Chair Condon requested further explanation of the monitoring schedule.

Mr. Clark stated the monitoring is initiated within 6 months of commercial operations starting at the first full season, which would be winter (November 15th). There will be monthly turbine inspections as well as road and binocular scans once a month until spring, at which point they increase to weekly and then continue to November 15. A second year of monitoring will take place in year 5 of operation.

Council Member Imes questioned the proposed change of no option for another year of monitoring in year 2 as a response to an exceedance in the number of fatalities.

Mr. Thompson stated while generally there is the option of either a second year of weekly monitoring or utilizing a mitigation plan, the certificate holder has opted to move directly to a potential mitigation plan if there is an exceedance.

Council Member Imes asked whether the fluctuation in migration patterns is noted with any anomalies in bird fatalities.

Mr. Thompson stated that with bats, migration patterns are considered in the fluctuation and anomalies in fatalities. Regarding bird fatalities, the anomalies are related to several variables such as the proximity to nesting areas. There is no specific pattern.

Council Member Devlin asked if there was a specific species of bats included in the bat fatalities.

Mr. Thompson stated the hoary bat is the most commonly found, followed by the silver-haired Bat. Both bat species are small bats.

Chair Howe, referring to the map representing changes to the USFWS Eagle Rules and Wind Energy Permit Eligibility across the United States, noted the distinct differences between the Western and Eastern states and the ability to apply for permits.

Mr. Thompson explained that the differences are representative of specific permitting requirements in the Western States, particularly in areas with high populations of golden eagles. It demonstrates how the permit pathway would look for a developer.

Council Member Imes suggested establishing a timeline to future considerations requiring Wildlife Mitigation Plans.

Council Member Beier agreed with the suggestion, suggesting that ODOE and ODFW also assess what other states and regions are doing for WMP as a specific item within their work plan. She also noted she would be interested in reviewing trends in mortality levels to analyze the impacts of changing landscapes regarding wind facilities.

Mr. Clark stated the Department is reviewing the feasibility of adding the WMP analysis as a potential process improvement issue or potentially through the rulemaking schedule.

Council Member Beier noted her appreciation for NextEra's contribution to the process, adding that part of this process should involve the developers, as they may come up with additional creative solutions.

Vice-Chair Condon asked, noting the higher than median bat fatalities, whether addressing the bat mortality threshold first may be an option.

Mr. Thompson provided that, even though one threshold may stand out more than the others, developing a holistic solution and proposal for Council would be the best pathway.

Developing a proposed solution will require additional help from other sources with their specific expertise.

Mr. Clark stated there is a lack of understanding regarding bat migration and populations, and little understanding about what sort of off-site mitigation measures would help them. There is a need to examine science and for technical guidance to help guide the discussions for the development of WMP for bats.

Vice-Chair Condon, noting the threshold for bat mortality is higher than the median, suggested that Council and Staff be aware while developing future mitigation plans.

Council Member Devlin stated that his assumption is that endangered or threatened species, or an invasive species would be first addressed within a mitigation plan.

Council Member Imes asked if the information and suggestions from Council was clear enough.

Mr. Clark stated the informal direction received is that Council wants ODOE and ODFW to work on this issue and return to Council in the future with a more formal proposal.

Council Member Devlin motioned the Council approve the amendments to the Wheatridge Renewable Energy Facility East Wildlife Monitoring and Mitigation Plan as presented and recommended by staff.

Council Member Grail seconded the motion.

The motion was carried unanimously.

E. Compliance Program 6-month Review (Information Item)¹⁶ – Compliance Officer Egan Bull, Senior Policy Advisor Sarah Esterson, and Operations and Policy Analyst Bibi Bartley provided Council with an update on compliance program activities.

Vice-Chair Condon, noting her appreciation for the graph representing the hours worked on the compliance program by year, requested that the number of facilities be included in the graph.

Secretary Cornett stated the information would be complex as it would include operational sites as well as pre-construction and construction sites, and the dedicated compliance work involved. The information will be included in a future meeting.

Council Member Beier expressed her appreciation for the reminder that the Department can utilize contractor support as needed.

¹⁶ Audio/Video for Agenda Item F = 03:31:29 – 2025-07-18-EFSC-Meeting-Audio/Video

Secretary Cornett stated there is the ability to utilize local governments and other state agencies, as well as contractor support, if additional help for specific subject matters is needed.

Vice-Chair Condon questioned, in addition to the written record for annual reports, whether there is time at the site to provide a visual assessment on the ground in conjunction with the reports.

Ms. Bartley stated there are site inspections performed from May through August. Each compliance site inspection is typically a one-day inspection and will often be conducted in conjunction with consultants, who have subject matter experts on specific issues or mitigation plans. The number of site inspections at a particular site can be increased if there are major mitigation issues or other issues that require attention.

Vice-Chair Condon questioned whether a compliance incident would be included in the Annual Report Review cycle.

Ms. Bartley advised a compliance incident requires a separate process. The reporting of an incident within 72 hours is a requirement of the Annual Report. Compliance incidents are dealt with on a case-by-case basis outside of the annual reporting.

Secretary Cornett added many of the site certificate conditions are addressed verbally via phone calls. Site visits are reserved for inspecting conditions that require a physical on-site inspection to maximize the efficiency of site visits. If there is an ongoing compliance or mitigation issue that relates to a condition that was not or could not be previously dealt with, it would be addressed at the annual site evaluation.

Council Member Imes, noting the compliance incident of the open hatch door on a turbine at the Biglow Canyon facility, expressed her concern for the need to address an ongoing equipment failure issue at the site.

Secretary Cornett stated while each incident is reportable, they are not necessarily a violation of a condition. There are upcoming rulemakings that will allow Council to address whether cumulative incidents or patterns should be a compliance violation.

Council Member Imes stated that there should be a protocol for violations. While a cumulative pattern of compliance incidents is not specified in rules, Council does have the statutory authority to act upon a violation.

Secretary Cornett stated examining individual instances versus patterns will be part of Council's review for the compliance rulemaking.

Council Member Imes questioned whether there are additional site visits if there is a pattern of compliance issues at a site.

Ms. Bartley provided the results of the annual onsite inspection determine whether it is necessary to do a second inspection.

Secretary Cornett stated there is a review of each individual incident. If it is determined that there is a violation, that would trigger an additional review. The majority of incidents that are reported by PGE on the Biglow Canyon facility are not violations of conditions.

Council Member Beier suggested Staff examine the patterns and practices regarding cumulative incidents at facilities to aid Council in understanding its options for responses with compliance rulemaking.

Ms. Esterson added part of the issue has been that the standards address construction and operation, and avoiding impacts associated with construction and operation. There is no risk assessment involved. The standards do not provide prompts to evaluate risk and failure. An incident expansion evaluation connected to the Standards could provide information regarding the impacts and help to develop appropriate conditions.

Council Member Imes questioned what the cause of the fire incident at the Stateline wind Facility was.

Mr. Bull stated the cause is undetermined at this time.

Secretary Cornett added there were no facility components involved. The habitat mitigation area was affected, and the damage will be evaluated.

Council Member Beier questioned if there is a feedback loop with the emergency managers that requires an after-incident report to see how fire mitigation plans worked. There are new wildfire mitigation plans now. Some facilities may not have had to update or include them. An after-incident report could provide lessons learned on the ground, which would help Council and Staff with the development of future mitigation plans for wildfires.

Ms. Esterson provided older facilities, where the wildfire mitigation plan has not been implemented, have obligations to do annual training and provide any new information gathered to the Department. The Department has more resources now and recognizes the importance of feedback in developing and implementing a robust wildfire mitigation plan.

Vice-Chair Condon suggested an after-incident report from local fire protection agencies should also be included.

Secretary Cornett stated the compliance program update is scheduled to be presented to Council every six months. Council can determine the frequency and number of updates necessary to have a firm understanding of the compliance program.

Council Member Beier expressed her appreciation for the presentation as it has provided clarity regarding the different aspects of compliance.

Vice-Chair Condon stated the six month update is fine unless there is a substantial issue that arises.

Secretary Cornett noted there is a monthly update of any new compliance incidents provided to Council included in the EFSC meeting Secretary Report.

F. Annual Process Improvement Plan (Information Item)¹⁷ – Operations and Policy Analyst Bibi Bartley provided an update on the Siting Division’s annual plan for programmatic improvements.

Council Member Imes questioned her understanding that the 2025-2026 work plan was compiled with the help of a consultant and how the work plan is implemented.

Ms. Bartley provided some of the goals, identified as siting program improvement goals, were originally identified in conjunction with a consulting agency. There are coordinated weekly meetings with Secretary Cornett to review and map out the project plans.

Secretary Cornett added that there are also quarterly performance evaluations based on what the expectations were for that quarter.

Ms. Bartley added that the Siting Division Team, as well as other divisions in ODOE, are involved in various ways in the completion of the work plan goals.

Council Member Beier stated the process improvements that have been made by the Department in support of siting activities over the last couple of years are impressive. It shows the attention given in the effort to improve the efficiency in operations to streamline the siting process.

Secretary Cornett stated the Department continues to make consistent and incremental improvements through an aggressive rulemaking schedule and through the process improvement projects that Ms. Bartley is working on. The compliance project management tools were developed largely from Ms. Bartley’s work, allowing Staff to better forecast and track compliance issues.

Vice-Chair Condon questioned, as more people are utilizing the ORESA mapping tool, is there an ongoing effort by the Department to make it more accessible and useful, as well as updated with current information.

¹⁷ Audio/Video for Agenda Item G = 04:41:28 – 2025-07-18-EFSC-Meeting-Audio/Video

Ms. Bartley provided the ORESA tool is primarily managed by Bailey Harris, Research Analyst, GIS Specialist for ODOE. The data management and programming of the tool, which includes regular updates, is performed by Oregon State University as part of the original contract for the tool. There were recent updates, including moving to a new platform, a new look, and a significant increase in user friendliness. Work is currently being done to update the video tutorial for the tool with the recent changes. The tutorial will be presented to Council at a future meeting.

Vice-Chair Condon stated that as the tool is being more utilized by Staff and members of the public, the information should be current, and additional information should be added as needed.

Ms. Bartley, noting earlier comments regarding the Oregon Trails System, stated the recent updates include an additional map layer representing the documented trails.

- G. Organizational Expertise Retirement & Financial Assurance Phase III Rulemaking Initiation (Action Item)¹⁸** – Tom Jackman, Rules Coordinator. The Council considered Staff’s recommendation to initiate the Phase III Organizational Expertise Retirement & Financial Assurance Rulemaking.

Council Member Beier questioned whether reviewing the Organizational Expertise and the Retirement & Financial Assurance Standards together would result in the standards being combined.

Mr. Jackman explained that the Standards would remain separate standards. As there are several similar conditions within both standards, there is an opportunity for the RAC to be combined for the review of the Standards.

Secretary Cornett noted there will be additional discussions about combining standards for future rulemakings to come before Council. The Council will need to weigh whether combining the review of specific standards will create more efficiency or more complexity.

Vice-Chair Condon agreed that one RAC could accommodate both of these as separate standards, though she would not like these standards to be combined as they are very different and individually important standards.

Mr. Jackman stated logically, it makes sense to keep the two standards separate, while acknowledging that there is some overlap.

¹⁸ Audio/Video for Agenda Item H = 05:00:18 – 2025-07-18-EFSC-Meeting-Audio/Video

Council Member Devlin expressed his approval for having multiple related standards reviewed by a RAC as it would allow for additional understanding of the shared conditions required by the standards.

Council Member Beier suggested adding an advisor to the RAC who could help better understand the many permutations of corporate structure. Understanding corporate relationships and how they form organizational expertise and then linking it to the financial risk of the bond and financial assurance, would be helpful.

Mr. Jackman agreed that additional expertise is warranted, specifically for understanding corporate structure and its relationship to financial assurance. If there is no one available for the RAC, the Department will seek to retain an expert.

Secretary Cornett added that the Department will have the expertise needed, whether that is staff, a member of the public, a developer representative, or a consultant. The Department has the resources to hire an outside expert to provide expertise in those specific areas, not only for this rulemaking.

Vice-Chair Condon stated her preference would be an attorney or expert who has not previously advised developers and understands corporate structure and corporate law risks and also knows state government rules and regulations.

Mr. Jackman anticipates additional interest in this rulemaking schedule, which will create a larger pool of participants, resulting in more diverse RACs.

Vice-Chair Condon motioned the Council initiate the Organizational Expertise Retirement & Financial Assurance Phase III Rulemaking, with the scope and objectives recommended by Staff, and approve the creation of a Rulemaking Advisory Committee, as presented in the Staff report. She further motioned that the Council delegate the authority to appoint specific members to the Rulemaking Advisory Committee to the Department.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

Council Member Beier questioned whether it would be helpful for Council Members to participate on a RAC.

Secretary Cornett stated it would be helpful, though there cannot be a quorum (4 council members). If a council member or multiple council members were present, it would be easier to understand the issues and questions being raised, which would be valuable when Council is deliberating.

Council Member Beier suggested that Council Members attend the RAC for the Organizational Expertise and Financial Assurance.

After further discussion, the Department will arrange scheduling for Council Members to attend RACs to avoid having a quorum.

- H. Overview of Cultural, Historic and Archeological Standard (Information Item)¹⁹** – Sarah Esterson, Senior Policy Advisor, provided Council with an overview of the Cultural, Historic and Archeological Standard; new data, policy, guidance, and information, and plan requirements.

Secretary Cornett requested an example of what a pedestrian survey could entail.

Ms. Esterson stated that qualified archaeologists develop transects of a proposed microsite corridor and physically walk the area and identify resources. Some developers are additionally utilizing the expertise of tribal monitors. Sometimes there is surface testing, probing to see how many more isolates or resources might be associated with an individual find.

Secretary Cornett stated applicants can do a literature survey for the site boundary. Authorization to build anywhere within a microsite corridor where there is potential for subsurface cultural resources requires significant effort to establish the transects, to do the subsurface probes, and to have the volume of people who are qualified to perform the surveys.

Ms. Esterson added that survey coverage applies to indirect impacts as well as when facilities have a visual impact to above-ground historic resources, the surveys could go outside of the site boundary.

- I. Boardman to Hemingway Transmission Line²⁰** – Sarah Esterson, Senior Policy Advisor
- 1. Construction Update (Information Item)** – Council received an update on the construction schedule and ODOE's resource plan for compliance oversight.
 - 2. B2H Fire Prevention and Suppression Plan Amendment (Action Item)** – Council received a presentation on the request by Idaho Power Company to amend components of the Fire Prevention and Suppression Plan.

Council Member Beier confirmed her understanding that there would be some firefighting equipment in any active work area within the site boundary.

¹⁹ Audio/Video for Agenda Item I = 05:33:08 – 2025-07-18-EFSC-Meeting-Audio/Video

²⁰ Audio/Video for Agenda Item J = 05:47:20 – 2025-07-18-EFSC-Meeting-Audio/Video

Ms. Esterson stated the plan requires the contractor and IPC to provide firefighting equipment on site during construction, including fire extinguishers, shovels and axes, and that each employee on site can assist in the event of a fire.

Vice-Chair Condon asked whether the fire mitigation plan includes a specific distance from an active work area, such as a welding area, for the firefighting equipment.

Ms. Esterson stated that welding has specific firefighting requirements, which include a five-gallon backup pump with any welding unit in addition to the standard equipment required for all vehicles.

Mr. Stipple, representing Idaho Power, stated that there is no specific distance included. He stated there will be a lot of activity around every single piece of equipment, specifically noting the heavy equipment vehicles, as well as numerous people overseeing, and inspectors with additional firefighting equipment, will be available. During fire warning times, there must be a water truck within a specified proximity, which would be available to take care of any issues. The procedures align with the BLM and ODF fire requirements.

Chair Howe expressed his concern that the water mechanism of spray has gone from 20 to 50 gallons to 5 gallons.

Mr. Stipple stated there will be multiple vehicles and personnel with 5 gallons of water. There are logistical issues regarding the 20-50 gallons of water and the ability to transport on an ATV. He noted that during red flag warning days and days with high-risk activities, such as welding, there will be a special fire watch and water tank in proximity.

Chair Howe inquired if the “fire watch person” would be tasked with overseeing multiple activities simultaneously throughout the site.

Mr. Stipple stated there will be a designated fire watch person for each activity on the site.

Ms. Esterson noted, the plan requires a 500-gallon water truck to be within 500 feet of any activity during red flag warnings, in response to previous questions.

Council Member Beier questioned whether the fire plan includes abiding by the fire standards for federal lands.

Mr. Stipple stated that if there are restrictions on federal land, Idaho Power typically applies for a waiver. The waiver would allow Idaho Power to perform the project work because of the robust fire mitigation plan in place.

Vice-Chair Condon motioned the Council approve the updates to the Boardman to Hemingway Transmission Line Fire Prevention and Suppression Plan as presented and recommended by staff.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

Chair Howe adjourned at 3:14 pm

FINAL