

Verbatim Transcript of Monthly Council Meeting

Washington State Energy Facility Site Evaluation Council

March 20, 2018



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WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
Ellensburg, Washington
Tuesday, March 20, 2018
1:30 p.m.

MONTHLY COUNCIL MEETING
Verbatim Transcript of Proceeding

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1 A P P E A R A N C E S

2 Councilmembers:

- 3 KATHLEEN DREW, Chair
4 JAMIE ROSSMAN, Department of Commerce
5 CULLEN STEPHENSON, Department of Ecology
6 MIKE LIVINGSTON, Department of Fish and Wildlife
7 DAN SIEMANN, Department of Natural Resources (via phone)
8 DENNIS MOSS, Utilities and Transportation Commission

9 Local Government and Optional State Agency:

- 10 KELLY COOPER, Department of Health (via phone)
11 IAN ELLIOT, Kittitas County

12 Attorney General's Office:

- 13 JON THOMPSON, Assistant Attorney General

14 EFSEC Staff:

- 15 STEPHEN POSNER
16 JIM LASPINA
17 TAMMY MASTRO
18 SONIA BUMPUS
19 JOAN AITKEN
20 AMI KIDDER
21 CHRISTINA POTIS

22 Guests:

- 23 ERIC MELBARDIS, Kittitas Valley Wind Power Project (via phone)
24 JENNIFER DIAZ, Wildhorse Wind Power Project (via phone)
25 DEBBIE KNAUB, Columbia Generating Station (via phone)
26 MARK MILLER, Chehalis Generating Facility (via phone)
27 CHRIS SHERIN, Grays Harbor Energy Center (via phone)
28 KAREN MCGAFFEY, Perkins Coie (via phone)
29 RICK MILLER, Wind Business Development at EDF- Renewable Energy
30 (via phone)
31 KELLY WOOD, Attorney General's Office, Council for Environment
32 Protection Unit (via phone)

33 * * * * *

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2 March 20, 2018

3 1:29:52

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5 CHAIR DREW: Can everybody hear me in the room? Okay.

6 FEMALE SPEAKER: No.

7 CHAIR DREW: No? I can move it closer, make sure we're
8 able to do that. How's that? Is that better?

9 FEMALE SPEAKER: Yes.

10 CHAIR DREW: Okay. Thank you.

11 Thank you for being here today. We are beginning our
12 meeting of the Energy Facility Site Evaluation Council. We
13 have several people joining us by phone, so I'm going to ask
14 them to make sure and mute your phones unless you are
15 speaking to the Council so we won't have feedback that makes
16 it difficult for others to hear.

17 My name is Kathleen Drew. I am the Chair of the EFSEC
18 Council. This is my third meeting. I joined the Council in
19 January.

20 Before we begin the rest of the meeting, I wanted to just
21 share some information with all of you. I am really pleased
22 to see all of you here today. I wanted to share some
23 information about our Council meetings. This is what we
24 consider to be a regular monthly meeting of the EFSEC
25 Council. Most of our monthly meetings have historically

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1 been in Olympia. And during these meetings, we hear reports
2 from each entity that has a site certification agreement
3 with EFSEC. So you will hear us go through all of those on
4 the agenda.

5 We then receive updates from projects that have submitted
6 site certification applications. And we will hear updates
7 from the staff today, both on Desert Claim Wind Site, as
8 well as the Columbia Solar application.

9 The Council may take action on certification agreements
10 or permit renewals when we have permit renewals in front of
11 us, if it's warranted at that time.

12 During this meeting, the Council will discuss when we
13 will have formal comment periods for both of the projects
14 that are before us. So I wanted to make sure that everybody
15 here knows there will be additional opportunity for comment
16 on both of those projects, so just to make that clear.

17 I also wanted to make sure you are aware that in the back
18 is a signup sheet, and you can identify if you want to be on
19 the overall mailing list or on a project-specific mailing
20 list to get all the updates and information that way.

21 Although we don't have a specific comment period today,
22 we decided to have our meeting here because when we had out
23 meeting last month in Olympia, I thought it was incredibly
24 difficult for anybody who would be interested in the project
25 to be able to just listen over the phone or listen

1 afterwards. And so that's why we are here today, is so that
2 you can be here and also have opportunities to talk to the
3 staff after the meeting about the process and ask questions
4 about that, should you choose to do so.

5 Another advantage of -- well, I will just finish that. I
6 was ahead of my own notes. I was just going to say that you
7 can meet and talk to the staff and the Councilmembers, as
8 well.

9 So I want to thank you again for being here. And with
10 that, Tammy, will you call the roll?

11 MS. MASTRO: Department of Commerce?

12 MR. ROSSMAN: Jaime Rossman is here.

13 MS. MASTRO: Department of Ecology?

14 MR. STEPHENSON: Cullen Stephenson, here.

15 MS. MASTRO: Fish and Wildlife?

16 MR. LIVINGSTON: Mike Livingston, here.

17 MS. MASTRO: Department of Natural Resources?

18 MR. SIEMANN: Dan Siemann is on the phone.

19 MS. MASTRO: Utilities & Transportation Commission?

20 MR. MOSS: Dennis Moss is here.

21 MS. MASTRO: Local governments and optional state
22 agencies for the Columbia Solar Project, Department of
23 Health?

24 MS. COOPER: Kelly Cooper is on the phone.

25 MS. MASTRO: And Kittitas County.

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1 MR. ELLIOT: Ian Elliot.

2 MS. MASTRO: Chair, there is a quorum for the regular
3 Council and for the Columbia Solar Project Council.

4 CHAIR DREW: Thank you. We have a proposed agenda in
5 front of us. Is there a motion to approve that proposed
6 agenda?

7 MR. STEPHENSON: I will move that we approve the agenda.

8 MR. MOSS: Second.

9 CHAIR DREW: Any comments or additions?

10 (No audible reply)

11 CHAIR DREW: I have one item I'm going to speak to at the
12 end of the meeting, which is a Memorandum of Agreement that
13 we are signing with Ecology and EPA on our NPDES -- or
14 National Pollutant Discharge Elimination System -- permits.
15 So I would like to add that after the Columbia Solar
16 Project.

17 MR. STEPHENSON: I will move that we approve the amended
18 agenda.

19 CHAIR DREW: Thank you.

20 All those in favor?

21 MULTIPLE SPEAKERS: Aye.

22 CHAIR DREW: Opposed?

23 (No audible reply)

24 CHAIR DREW: Motion carries.

25 Next on our agenda is the minutes, the minutes for the

1 February 20th meeting. Are there any corrections to the
2 minutes?

3 (No audible reply)

4 CHAIR DREW: I have one correction. On page 52, line 4,
5 Mr. Elliot, it says "sustained," and I believe Mr. Elliot
6 said "abstained."

7 Is that correct?

8 MR. ELLIOT: That's correct.

9 CHAIR DREW: So if we could correct that in the minutes.
10 Are there any other corrections?

11 (No audible reply)

12 CHAIR DREW: Is there a motion?

13 MR. MOSS: Chair Drew, I would move that we adopt the
14 amendments of the February 20th, 2018 meeting of the
15 Washington State Energy Facility Site Evaluation Council, as
16 corrected.

17 MR. ROSSMAN: Second.

18 THE CLERK: Oh. It's been moved and seconded. And those
19 were the monthly Council meeting --

20 MR. MOSS: That was the monthly meeting.

21 CHAIR DREW: Okay. So those are approved. And --

22 MR. ROSSMAN: Don't --

23 CHAIR DREW: Oh. Okay. All those in favor?

24 MULTIPLE SPEAKERS: Aye.

25 CHAIR DREW: Opposed?

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1 (No audible reply)

2 CHAIR DREW: Moving ahead of myself. Okay.

3 Then we also have the transcripts of the executive
4 session. Is there a motion to approve those?

5 MR. ROSSMAN: So moved.

6 MR. MOSS: I will second.

7 CHAIR DREW: Motion is to approve and seconded. All
8 those in favor?

9 MULTIPLE SPEAKERS: Aye.

10 CHAIR DREW: All those opposed?

11 (No audible reply)

12 CHAIR DREW: Motion carried. Those minutes are approved.

13 Now we are moving into reports on our projects -- excuse
14 me -- on our sites.

15 The first item is Kittitas Valley Wind Project. Eric
16 Melbardis is --

17 MR. MELBARDIS: Good afternoon, Chair Drew and EFSEC
18 Council. This is Eric Melbardis at the Kittitas Valley Wind
19 Power Project with EDP Renewables. For the reporting
20 period, all operations were routine and there is nothing to
21 report.

22 CHAIR DREW: Okay. Thank you.

23 Any questions?

24 (No audible reply)

25 CHAIR DREW: Okay.

1 Moving on to the Wildhorse Wind Power Project. And
2 Jennifer Diaz is here.

3 Oh, time delay on our microphone. Sorry. There we go.
4 Thank you.

5 MS. DIAZ: All right. Thank you, Chair Drew and
6 Councilmembers. For the record, my name is Jennifer Diaz.
7 I'm with Puget Sound Energy at the Wildhorse Wind and Solar
8 Facility. It's great to have you all in Ellensburg.

9 I only have one non-routine item to update the Council
10 on. And that's under Compliance and Environmental. In
11 accordance with WAC 463-72-080, a five-year review of the
12 decommissioning and site restoration plan was completed and
13 updates were submitted to EFSEC staff on February 15th.

14 Updates include feedback received from Golder Associates
15 based on their review of the plan which was completed in
16 July of 2016. And that's all I have.

17 CHAIR DREW: Okay, thank you.

18 Columbia Generating Station, Debbie Naub [phonetic].

19 Debbie, are you on the phone?

20 MS. KNAUB: Yes, I am. Hello.

21 CHAIR DREW: Hello.

22 MS. KNAUB: This is Debbie Knaub --

23 CHAIR DREW: Knaub.

24 MS. KNAUB: -- Energy Northwest. Good afternoon. And we
25 do not have any changes for the Columbia Generating Station,

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1 other than that we have an inspection tomorrow with the
2 Department of Ecology for our waste, dangerous waste
3 program. And Ecology will be with us all day tomorrow doing
4 inspections, as well as reviewing records and interviewing
5 personnel. And that is different than our update from last
6 time. That is the only update.

7 CHAIR DREW: Okay. Thank you. And staying with Debbie,
8 WNP 1/4.

9 MS. KNAUB: Yes, there is no change from our report of
10 the last time.

11 CHAIR DREW: Thank you.

12 MS. KNAUB: Thank you.

13 CHAIR DREW: Chehalis Generating Facility, Mark Miller.
14 Mark, if --

15 MR. MARK MILLER: Good afternoon, Chair Drew. I
16 apologize. Councilmembers and Staff, I am Mark Miller, the
17 plant manager at the PacifiCorp Chehalis Generation
18 Facility. I have no nonroutine comments to provide and
19 would offer, if there are any questions.

20 CHAIR DREW: Any questions?

21 (No audible reply)

22 CHAIR DREW: Thank you.

23 Moving on to Grays Harbor Energy Center, Chris Sherin.

24 MR. SHERIN: Good afternoon, Chairperson Drew and EFSEC
25 Councilmembers. This is Chris Sherin, plant manager at

1 Grays Harbor Energy Center. All of our operations have been
2 routine, and the only change I will note since our monthly
3 operational report was sent out is that in 2.1 we have
4 received our final approval of the -- from EFSEC of our
5 engineering report addendum for an NPDES permit.

6 CHAIR DREW: Okay. Any questions?

7 (No audible reply)

8 MR. SHERIN: Thank you.

9 CHAIR DREW: Did you have anything to add on that?

10 Mr. LaSpina has something to add to that from EFSEC
11 staff.

12 MR. LaSPINA: Good afternoon, Chair Drew and
13 Councilmembers. At this time I would like to update you on
14 the completion of a recent milestone regarding the Grays
15 Harbor Energy NPDES engineering report, which, by the way,
16 has been ongoing for several years. I thought you might
17 like closure on this long-running issue.

18 EFSEC issued the current NPDES permit to Grays Harbor
19 Energy for its Grays Harbor Energy Center Facility on
20 May 13th, 2008. EFSEC issued a permit modification on
21 November 1st, 2010 to correct technical errors. The
22 facility discharges cooling water in the Chehalis River near
23 Satsop, Washington.

24 EFSEC staff and its compliance contractor, the Department
25 of Ecology's Southwest Regional Office, have been working

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1 with Grays Harbor Energy on engineering report to
2 demonstrate compliance with standards contained in state and
3 federal laws.

4 Over the past several years, EFSEC Ecology and Grays
5 Harbor Energy have collaborated to reduce and/or eliminate
6 several sources of pollutants from the facility's discharge
7 to the river.

8 On March 15th, 2018, the EFSEC manager approved the
9 engineering report with the exception of arsenic in the
10 discharge. In its recommendation letter, Ecology concluded
11 that the arsenic in the discharge required further study
12 that will be addressed in a new permit EFSEC expects to
13 issue later this year.

14 And I can answer any questions you may have at this time.

15 CHAIR DREW: Are there any questions from Councilmembers?

16 Mr. Rossman? Can you use the microphone? Here, you can
17 pass this one.

18 MR. ROSSMAN: Thank you. Sorry about that. Thanks for
19 that part and congratulations on reaching that milestone. I
20 know we had been hearing monthly updates on the arsenic
21 levels, and they have been declining. And my understanding
22 was it looked like that situation was resolved. Can you say
23 anything more about the situation with arsenic? Is it still
24 being tested? And, if so, what are the levels? What are
25 Ecology's concerns? Anything on that?

1 MR. LaSPINA: I can very briefly address it. There's a
2 couple issues involved with the arsenic issue. One is that
3 the water quality criteria for arsenic is extremely low.
4 It's 0.018 micrograms per liter, which is very low. So we
5 have a couple -- we have -- there are several facets to this
6 problem.

7 One is that if there is treatment technology available to
8 take it out, it would be so prohibitively expensive that
9 it's not even practical.

10 Another issue is that -- I don't know if you're aware,
11 but arsenic is a naturally occurring contaminant in all the
12 rock in many parts of this state. So the levels are
13 actually higher than the water quality standards even before
14 it comes into the power plant. So basically what we're
15 going to do -- and there's also some other issues, too -- so
16 what we're going to do is, rather than hold up the approval of
17 the engineering report, we're going to have the permittee do
18 a monitoring study to get a better handle on the issue and
19 so the -- like, as I said, the issue will be addressed in
20 the next permit, which is due to be issued in here.

21 CHAIR DREW: Mr. Rossman, I also expect that the Council
22 will go and tour that facility sometime within the next few
23 months, and we will have additional information that we can
24 dig into at that time.

25 MR. LaSPINA: I mean, does that answer the question?

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1 MR. ROSSMAN: Do you happen to know what levels the
2 testing has been coming out at for the -- I think it's been
3 maybe six months or so since we have stopped having that
4 information reported?

5 MR. LaSPINA: It's approximately 3 micrograms per liter.

6 MR. ROSSMAN: And that's down from the -- it had been up
7 in the 25s, 30 --

8 MR. LaSPINA: 30 and even more.

9 MR. ROSSMAN: Okay.

10 MR. LaSPINA: So the idea is -- see, there's an economic
11 test involved with approval of the engineering report. And
12 what happens is, Ecology looks at the facility's revenues
13 and the cost of treatment and that sort of thing.

14 MR. ROSSMAN: But just to clarify, so we have held the
15 gain that we made with the replacement of the cooling
16 towers --

17 MR. LaSPINA: Yes.

18 MR. ROSSMAN: So it's about 10 times less --

19 MR. LaSPINA: Yes.

20 MR. ROSSMAN: -- but it's still more than ideal.

21 MR. LaSPINA: Yes.

22 MR. ROSSMAN: Okay, thank you.

23 MR. LaSPINA: So it was reduced 90 percent, basically.

24 MR. ROSSMAN: Thank you.

25 CHAIR DREW: Any other questions?

1 (No audible reply)

2 CHAIR DREW: Thank you.

3 Now an update on the Tesoro Savage Vancouver Energy
4 Distribution Terminal, Mr. Posner.

5 MR. POSNER: Good afternoon, Chair Drew, Councilmembers.
6 Just a quick update. The Governor made his decision on
7 January 29th, agreed with the EFSEC recommendation to deny
8 the project. That began a 30-day time period for parties to
9 file petitions for judicial review. That deadline was
10 February 28th. There were no petitions filed. So at this
11 time, we have ceased work on the project. The project is
12 essentially cancelled.

13 That's all I have.

14 CHAIR DREW: Any questions?

15 (No audible reply)

16 CHAIR DREW: Thank you.

17 Moving on to Item H, Desert Claim, Mr. LaSpina.

18 MR. LaSPINA: Good afternoon, Chair Drew and
19 Councilmembers. I'm here today to provide you with an
20 update for the Desert Claim Wind Project. EFSEC issued the
21 Desert Claim Site Certification agreement to the certificate
22 holder on February 1st, 2010. Construction of the project
23 has not commenced.

24 EFSEC received a request to amend the existing site
25 certification agreement from the certificate holder on

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1 February 26th, 2018. And I'm just going to read off a very
2 brief list of the changes from the project that's currently
3 licensed to the proposed amendment. So the differences
4 are -- proposed changes to the project include:

5 A reduction in the number of wind turbines from 95 to no
6 more than 31. However, the generating capacity of each
7 turbine will be larger than that authorized in the existing
8 SCA.

9 A reduction in the generating capacity of the entire
10 project from about 190 megawatts to no more than 100
11 megawatts.

12 A reduction in the project footprint from 5,200 acres to
13 4,400 acres.

14 No turbines will be placed east of Reecer Creek, avoiding
15 environmentally-sensitive areas. In addition, a parcel has
16 been added to the western border of the project.

17 An increase in the minimum distance from turbines to
18 residences from 1687 feet to no less than 2500 feet.

19 A reduction of habitat and vegetation disturbance.
20 Disturbance during the construction phase will be reduced 30
21 percent and permanent impacts will be reduced by 40 percent.

22 A 36 to 48 percent reduction in turbine rotor sweep area
23 due to the reduced number of turbines. So, in other words,
24 that's the area of the sweep of the blades for all the
25 turbines.

1 Mr. Rick Miller, the project director, is on the bridge
2 line to answer any questions you may have about the proposed
3 amendment request and -- oh, got another piece here. Sorry.

4 CHAIR DREW: An important one.

5 MR. LaSPINA: Yes, yes. Sorry about that. On April
6 11th, EFSEC plans to hold a public hearing here on the
7 amendment request. More details about time and logistics
8 will be provided in the next week or so, so stay tuned.

9 So Mr. Rick Miller should be on the line and can answer
10 any questions you may have.

11 CHAIR DREW: So my understanding is on April 11th, it
12 will be an evening comment period; is that correct?

13 MR. LaSPINA: Yes.

14 CHAIR DREW: Do we not have a facility scheduled yet?
15 Oh, here. It will be here.

16 MS. BUMPUS: That's correct, Chair Drew. It will be held
17 here.

18 CHAIR DREW: And do we have a starting time.

19 MS. BUMPUS: We don't have the details on a start time
20 yet. We will be working that out in the next week and we'll
21 send an update to the Council.

22 CHAIR DREW: Okay. So the evening of April 11th at this
23 location will be the public hearing on the site
24 certification agreement amendment.

25 MS. BUMPUS: Thank you.

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1 CHAIR DREW: And are there other questions from
2 Councilmembers.

3 MR. MOSS: I have a question.

4 CHAIR DREW: Mr. Moss.

5 MR. MOSS: This is on? I noticed -- this was in the
6 comments, if I got the math right, the number of turbines is
7 being reduced by about two-thirds from 90 to 30.

8 MR. LaSPINA: Yes, sir.

9 MR. MOSS: And it sounded to me as though the acreage
10 involved in the project is being reduced by about 20
11 percent. Maybe I got that right?

12 MR. LaSPINA: You're just about right, sir.

13 MR. MOSS: So what does this portend in terms of the
14 project? Are we talking about far less density in terms of
15 the density of the turbines and the use shed, or something
16 else going on here that accounts for that rather dramatic
17 difference?

18 CHAIR DREW: Do we want the applicant to answer that or
19 are you prepared?

20 MR. LaSPINA: He could provide a better answer if he's on
21 the line.

22 CHAIR DREW: Mr. Miller, you said? Rick Miller?

23 MR. LaSPINA: Yes.

24 CHAIR DREW: Okay.

25 MR. RICK MILLER: Yes, hello. Can you hear me all right?

1 CHAIR DREW: Yes, we can.

2 MR. RICK MILLER: Okay, great. Hi, my name is Rick
3 Miller. I am the director of Wind Business Development for
4 EDF Renewable Energy.

5 Councilman, what you just said is accurate, and we look
6 forward to making a full presentation to you and the whole
7 Council and the public on the 11th. The project site will
8 be less dense, relatively speaking, from the original
9 certified project.

10 CHAIR DREW: Okay. Thank you.

11 Any other questions?

12 MR. MOSS: Well, I would like to follow up on that.

13 CHAIR DREW: Follow up.

14 MR. MOSS: And is the intent there something that is
15 responsive in some way to the local community's interest or
16 is there some other reason for changing the density.

17 MR. RICK MILLER: I would characterize it more of a
18 function of changes in turbine technology over time. The
19 individual turbines have a greater generating capacity, name
20 plate capacity, so we require less turbines to generate
21 relatively the same number of megawatts. And we have just
22 sized project down to up to 100 megawatts to be more
23 consistent with the size of projects that we're seeing
24 interest for from the offtake market.

25 MR. MOSS: Okay. Thank you, Mr. Miller. That answers my

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1 questions.

2 CHAIR DREW: Mr. Elliot?

3 MR. ELLIOT: Yeah, clarification from Staff. Is this a
4 revision? Is this a new permit? Or exactly what is the
5 status of the application?

6 MS. BUMPUS: This is a request to a site certification
7 agreement amendment, so we're just looking at the proposed
8 changes in the SEA to see if there are any differences in
9 impacts, if there are any changes that need to be made to
10 mitigation measures or conditions. So it's basically just
11 an amendment to the SEA.

12 CHAIR DREW: It may require, but we have not determined,
13 a SEPA -- that they have a SEPA checklist. And so that's
14 one of the things that we're looking at. Is that right, Ms.
15 Bumpus?

16 MS. BUMPUS: That's correct. And they --

17 CHAIR DREW: And so -- go ahead.

18 MS. BUMPUS: They were also required to submit an updated
19 SEPA checklist that reflects, you know, any changes to
20 impacts or mitigation measures for those impacts, so we're
21 looking right now at all of that information and reviewing
22 it. And in the next couple of weeks we're going to be
23 bringing Golder on to assist us in looking at other
24 resources for which we don't have agency contractors. So
25 there will be more information about the project on April

1 11th, and then of course the applicant will be here in
2 person to present, as well.

3 CHAIR DREW: Go ahead.

4 MR. ELLIOT: I was surprised at the number of passerines
5 and also the number of endangered species that were hit by
6 wind turbines as a matter of course that seems to be
7 acceptable. Has there been studies done with respect to
8 this new technology with respect the size of the turbines
9 and the blades and the speed and this kind of much.

10 MR. LaSPINA: I would see if Mr. Miller has an answer.

11 MR. RICK MILLER: Yeah. Hi, this is Rick Miller again.
12 Yeah, I mean, it would be my preference to be prepared
13 answer that question on April 11th. We certainly can come
14 with some updated information related to abeyant species and
15 species concerned. We have got a lot of study of this type
16 over the years, and we can be sure to give you a full update
17 on that, if that's acceptable.

18 MR. ELLIOT: Okay.

19 CHAIR DREW: My understanding -- and I don't know that I
20 heard this in the description -- is that although there are
21 fewer turbines, they're also taller. Yes.

22 MR. ROSSMAN: Chair Drew.

23 CHAIR DREW: Mr. Rossman?

24 MR. ROSSMAN: Thank you. I believe that as part of the
25 underlying site certification agreement, there were

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1 agreements -- and I'm not sure what they're called
2 exactly -- between the project sponsor and the Department of
3 Fish and Wildlife, and between the project sponsor and the
4 Council for the Environment at the --

5 MR. LaSPINA: Stipulations.

6 MR. ROSSMAN: Stipulations, thank you. And I assume WDFW
7 will be able to weigh in on how this change would affect
8 stipulations -- that side of stipulations. Have you thought
9 at all about how the Council for Environment, which is an
10 entity that exists during the adjudicative process on the
11 underlying siting, how any changes to that stipulation
12 related to this amendment request would be considered?
13 Because it seems like we don't have the other party there in
14 the way that we do with Fish and Wildlife.

15 MS. MCGAFFEY: Hello, everyone. This is Karen McGaffey
16 from Perkins Coie and I represent Desert Claim in this
17 matter and was involved in the original permitting process,
18 as well, negotiating with the Council for the Environment
19 and WDFW.

20 With respect to both those stipulations, the company is
21 prepared to continue to abide by the agreements that were
22 made with both of those agencies or entities. And -- but as
23 you say, I think it's going to be important that both of
24 those entities also weigh in on whether any changes to the
25 project should require any additional or different

1 conditions. We have reached out over the years to those
2 organizations. I have reached out to the Attorney General's
3 Office, the folks who typically serve as the Council for the
4 Environment. And we're happy to continue those discussions
5 and make sure that they're aware of the April 11th meeting
6 so that they can participate, as well.

7 MR. LaSPINA: And I would add to that, Council Member
8 Rossman, I have spoken personally with Bill Sherman, who is
9 the Council for the Environment, and he's aware of what's
10 going on and he will be looking at the original agreement
11 and will be providing some input to us, as will DFW on the
12 agreement that they had with the certificate holder.

13 MR. ROSSMAN: Great, thank you.

14 MR. WOOD: This is Kelly Wood on the phone. I'm at the
15 Attorney General's Office in the Council for Environment
16 Protection Unit here on Bill's behalf today. He's traveling
17 and unfortunately couldn't make the call. But I can
18 confirm, yeah, that we are tracking on this and I expect
19 that one of us will be at the April 11th hearing.

20 CHAIR DREW: Thank you. Can we get your name one more
21 time, please?

22 MR. WOOD: Yes. It's Kelly Wood.

23 CHAIR DREW: Thank you. For the record I wanted to make
24 sure.

25 Other questions from Councilmembers?

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1 (No audible reply)

2 CHAIR DREW: Okay. Thank you. Good discussion.

3 Moving on to the Columbia Solar Project, the project
4 update. Ms. Kidder.

5 MS. KIDDER: Good afternoon, Chair Drew and
6 Councilmembers. I have a brief SEPA update for you this
7 afternoon. Since the last Council meeting, EFSEC has issued
8 a SEPA threshold determination for public comment on a draft
9 MDNS for the proposed facility. The period for public
10 comment opened for 4 days on Tuesday, February 27th and
11 closed at 5 p.m. on Tuesday, March 13, 2018.

12 EFSEC received 18 comments from both the public and
13 agencies. And we received comments on several topics
14 including use of agricultural land for solar facilities,
15 recreational impacts, avian impacts and water rights and
16 water supply. Staff received comments on cultural
17 resources, which we will continue to work with DAHP to
18 resolve.

19 CHAIR DREW: And who is DAHP?

20 MS. KIDDER: Department of Archeological and Historical
21 Preservation.

22 Staff also received new information during this comment
23 period on water rights for the proposed sites. Staff has
24 been researching water rights since the beginning of the
25 review of the application for site certification and

1 understand it's an important issue. We have been working
2 with Ecology throughout the process, and we will use the
3 information received during the public comment period to
4 update the mitigation measure in the MDNS. Staff are still
5 reviewing comments and developing responses, as appropriate.

6 Are there any questions on the SEPA update?

7 CHAIR DREW: Thank you.

8 Ms. Bumpus.

9 MS. BUMPUS: Thank you. Good afternoon, Chair Drew and
10 Councilmembers. So just to add to Ami's update on the SEPA
11 comments, EFSEC staff are also planning to meet with the
12 County here to talk about the comments we received from the
13 local government. We want to make sure that we understand
14 the concerns. We did get very good comments, and we want to
15 have an in-person meeting, if possible, to make sure we
16 understand their concerns as we're working to finalize the
17 MDNS.

18 So Staff will definitely be updating Council on the
19 progress of that effort. So that's what I had to add on the
20 SEPA update specifically.

21 The other thing I wanted to talk about before I go into
22 the expedited process update is that some Councilmembers had
23 expressed an interest in seeing the site at the February
24 Council meeting. So in your packets, there is the Tuusso
25 Columbia Solar Site visit notes. There are some additional

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1 photos of the five sites that Ms. Kidder and I visited with
2 the applicant. And so this just may be of interest to those
3 of you that were wanting to look at the sites.

4 But, also, I wanted to let the Council know that on
5 April 11th, we're planning to get together with the Council
6 and go out to the five sites that are where the solar panels
7 would be installed. So those of you that are interested in
8 going, we're going to be providing more details about the
9 time.

10 Right now it's planned for the morning of April 11th, so
11 we would probably meet in one location, possibly here, head
12 out to the five sites, and then we would come back to have
13 our hearing in the evening for Desert Claim.

14 So we will keep you updated with more information.
15 Obviously there's a lot more detail that you need for that.

16 CHAIR DREW: And can you explain in terms of -- I know
17 that even though we will not be discussing the project, that
18 it is officially -- other than asking questions but not
19 making any decision on the project -- it is an open meeting,
20 and so we will publish the time that it starts. We will not
21 provide transportation, but members of the public may choose
22 to also be -- provide their own transportation to that tour.

23 Is that correct?

24 MS. BUMPUS: That's correct, Chair Drew. Thank you for
25 adding that.

1 Are there any other questions about the site tour that's
2 planned or the site visit notes?

3 MR. ROSSMAN: I just want to say, thank you very kindly
4 for arranging that. I know the logistics have been
5 difficult. I appreciate it very much.

6 MS. BUMPUS: Thank you. So we will keep you posted.

7 Now, the next thing I want to talk about is the expedited
8 process update. At the last Council meeting, the Council
9 made a land use consistency determination. There's
10 currently a draft order being prepared, so that's going to
11 be prepared for you to review, so you will be receiving
12 that -- I'm not sure, Stephen may have a timeline, but you
13 will be receiving it shortly.

14 And then the other thing I wanted to talk about is the
15 request that Councilmembers had from the last Council
16 meeting that Staff look for ways to gather more information
17 about site-specific conditions for the five solar sites. So
18 after discussing this internally with Mr. Posner and my
19 staff, we would like to recommend an idea for the Council to
20 consider. And this would include basically preparing a
21 draft site certification agreement, so this would obviously
22 be a little bit down the road. But we would prepare a draft
23 site certification agreement, and we would send this out
24 basically for --

25 CHAIR DREW: I think it's multiple -- potentially five,

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1 right?

2 MS. BUMPUS: Yes, sorry. That's right. There would be
3 five draft site certification agreements that we would send
4 out for --

5 CHAIR DREW: One for each site.

6 MS. BUMPUS: -- public comment. And we would also
7 propose that during the public comment period that we would
8 hold a hearing, the Council would hold a hearing here. We
9 would receive comments on the draft SCA or SCAs. And we
10 think that this would be a path towards getting more
11 information, particularly as we're, you know, preparing
12 these five different SCAs that would be detailed and
13 specific to each site, and would be a good opportunity to
14 get additional information if, for some reason, we haven't
15 gotten that already through the SEPA process and the land
16 use hearing.

17 CHAIR DREW: Thank you.

18 Are there any questions or comments?

19 Mr. Moss?

20 MR. MOSS: I just would like to comment that I appreciate
21 Staff being proactive on this and taking the measures that
22 are indicated by your update today. I think it will help
23 inform the Council as we move forward on this. I appreciate
24 it.

25 CHAIR DREW: Other comments?

1 (No audible reply)

2 CHAIR DREW: Thank you.

3 With that, we move to the additional item I put before
4 us, which is an update on the EFSEC Ecology NPDES Memorandum
5 of Agreement. The U.S. Environmental Protection Agency
6 established the National Pollutant Discharge Elimination
7 System, or NPDES program, in 1972 under the Clean Water Act
8 to implement a comprehensive program to regulate wastewater
9 discharges to the nation's water bodies.

10 The NPDES program is implemented in the state of
11 Washington by the Department of Ecology and EFSEC.

12 In 1979, the EPA delegated to EFSEC the authority to
13 implement a water discharge permit program for
14 EFSEC-licensed facilities. By this delegation the NPDES
15 authorizes EFSEC to issue permits, oversee compliance with
16 permit requirements and enforce permit conditions, as
17 necessary.

18 And the implementation of this program in the state of
19 Washington is addressed by two Memorandums of Agreement or
20 MOA. The first MOA I will address is between EFSEC and
21 Ecology, that describes the roles and responsibility between
22 the two agencies to implement the NPDES program at the state
23 level.

24 In accordance with state law, EFSEC works closely with
25 Ecology to maximize coordination and minimize duplication.

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1 On this past February 26, 2018, EFSEC and the Department of
2 Ecology signed an updated Memorandum of Agreement or MOA,
3 which I believe is the first update since 1979. So it is a
4 big deal. That describes the commitments of each agency to
5 implement the National Pollutant Discharge Elimination
6 System program in the state of Washington.

7 Highlights of this MOA commit EFSEC and Ecology to
8 coordinate issuance of discharge permits, compliance
9 inspections, enforcement actions and support for review and
10 approval of engineering reports and additional technical
11 issues.

12 Briefly, this MOA commits Ecology to provide permit
13 writers, inspectors and additional technical support
14 services to EFSEC, and EFSEC in turn commits to reimburse
15 Ecology for its services.

16 Does anyone have any questions on this?

17 Mr. Elliot.

18 MR. ELLIOT: Who -- which of the entities is ultimately
19 responsible for issuing violations and follow-up on the
20 technical portions of it?

21 CHAIR DREW: Mr. LaSpina.

22 MR. LaSPINA: Sir, can you --

23 CHAIR DREW: You just have to wait.

24 MR. LaSPINA: Hello?

25 CHAIR DREW: Yes.

1 MR. LaSPINA: Can you repeat your question, sir?

2 MR. ELLIOT: I hope so. Which of the two entities, EFSEC
3 or Department of Ecology, is ultimately responsible for
4 enforcement of whatever violation or potential violation
5 there is of the MOA?

6 Mr. LaSPINA: Ultimately, it is EFSEC's call. However,
7 we receive technical report -- technical support from
8 Ecology.

9 MR. ELLIOT: I am not sure I understood the answer.
10 Could you repeat the answer?

11 Mr. LaSPINA: I was trying to make it maybe too brief.

12 MR. ELLIOT: Yeah, because somebody is responsible for
13 managing the violation. And, ultimately, what ends up
14 happening is somebody sues somebody for not following
15 through with a violation, and so we end up in a "Who's going
16 to get sued and who's going to end up paying?"

17 Mr. LaSPINA: Can I just attempt to answer that? Are you
18 talking about a regulated facility that's been cited for a
19 violation? That's what you're talking about. So it would
20 be EFSEC if it's an EFSEC-regulated facility. We're the
21 ones that issue the permits.

22 MR. ELLIOT: Okay.

23 MR. LaSPINA: We are responsible for enforcement action.
24 Ecology is our technical support agency, but they are not
25 the permitting or enforcement agency.

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1 MR. ELLIOT: Okay.

2 MR. LaSPINA: Does that answer -- does that answer your
3 question?

4 MR. ELLIOT: It answers the question and it opens some
5 other questions up, I think, probably, for legal staff.
6 Okay.

7 CHAIR DREW: Okay. Thank you.

8 Other questions?

9 (No audible reply)

10 Then we also have a second MOA that will be signed by
11 EFSEC, Ecology and the EPA that describes the roles and
12 responsibilities of state agencies to EPA. And in this MOA,
13 EPA delegates authority to EFSEC and Ecology to implement an
14 NPDES program.

15 And, in return, EFSEC and Ecology commit to comply with
16 applicable federal regulations that describe the contents of
17 permits, permit issuance processes, compliance and
18 enforcement procedures, and additional federal requirements.

19 In the past, my understanding is that -- and I may get
20 this wrong -- EPA had a separate MOA with Ecology and EFSEC.
21 And this time it's combined. So Ecology and EFSEC represent
22 the State, but we both have our same sections -- or
23 different sections in the MOA. So I am happy to share that
24 with the Council as it's completed.

25 Mr. Rossman?

1 MR. ROSSMAN: Thank you, Chair Drew. A question on that.
2 If I recall during permitting of a previous project, there
3 was an issue in contention as to a portion of discharges and
4 whether they would be permitted through EFSEC or through, in
5 that case, the local government authority subdelegated by
6 the EPA. And is that going to be addressed in this MOA and
7 that situation made even clearer? I think we got to clarity
8 in an order, but will that be addressed in this MOA.

9 MR. LaSPINA: I believe you're talking about pretreatment
10 authorization to POTW?

11 MR. ROSSMAN: Yes.

12 MR. LaSPINA: And we don't have that delegation authority
13 from the EPA.

14 That's a specific delegation program that EPA gives to
15 state agencies, and we are not authorized to exercise -- or
16 to issue permits under that piece of the NPDES program.

17 Getting that delegation involves enormous resources that
18 the agencies would have to have, and only Ecology has those
19 resources.

20 MR. ROSSMAN: Yes. Just wondering if the MOA speaks to
21 it at all.

22 MR. LaSPINA: Yes, it does.

23 MR. ROSSMAN: Okay.

24 MR. LaSPINA: It does.

25 MR. ROSSMAN: Thank you.

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1 CHAIR DREW: Go ahead.

2 MR. STEPHENSON: Thank you, Chair Drew.

3 As I understand it, Jim, let me make sure that I'm
4 getting this right. If EFSEC has the authority as issued
5 from EPA, then EFSEC would issue the permit and enforce the
6 permit. If, as in the case of the pretreatment, they don't,
7 then someone else would issue that permit and they would
8 enforce that permit. So it's not going unenforced; it's
9 just not from EFSEC.

10 Is that right?

11 MR. LaSPINA: That's exactly right.

12 MR. STEPHENSON: All right.

13 CHAIR DREW: Okay.

14 Any other questions?

15 (No audible reply)

16 CHAIR DREW: Thank you. I will share those documents
17 with the Council. If there is nothing else to come before
18 the Council?

19 MR. POSNER: One other item. I just wanted to let
20 Councilmembers and everybody know that our longest-serving
21 site specialist, Jim LaSpina, is leaving EFSEC.

22 CHAIR DREW: Very important.

23 MR. POSNER: And Jim began at EFSEC in 2007. Over the
24 years he has been our primary compliance specialist at all
25 of our operating facilities, including the Columbia

1 generating station, the only operating nuclear power plant
2 in the Pacific Northwest. So Jim has had his hands full
3 over the years, and we have big shoes to fill.

4 We are currently recruiting for a siting specialist, and
5 we wish Jim the best in his future endeavors.

6 CHAIR DREW: Thank you, Jim.

7 Mr. LaSPINA: It's been a real pleasure working with the
8 Council and my colleagues over the years. And at the very
9 least, I hope to leave things better. So it's been a real
10 pleasure, but it's time to move on. Thank you. Thank you
11 for your support, all of you.

12 CHAIR DREW: Thank you. I would like to once again say
13 that if any members of the public wish to discuss any of the
14 issues that we talked about with staff members, please feel
15 free to do so after the meeting. And the meeting is
16 adjourned.

17 (Meeting is adjourned.)

18 2:18:32

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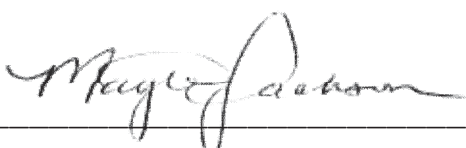
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C E R T I F I C A T E

STATE OF WASHINGTON)
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Marjorie Jackson, CET