

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of) Deliberative
SATSOP COMBUSTION TURBINE PROJECT) Session
AMENDMENT NO. 5) Pages 1 - 135
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A Deliberative Session in the above matter was held on Wednesday, September 15, 2010, at the Montesano City Hall, 112 North Main Street, in Montesano, Washington at 9:17 a.m., between the Energy Facility Site Evaluation Council.

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CHAIR LUCE: Good morning. Today is September 15, 2010. We are gathered at the Montesano City Hall in Montesano, Washington to participate in the deliberations for an application by Grays Harbor Energy Center for an amendment to their existing site certificate agreement and to allow the construction of Units No. 3 and 4.

The proceeding today will be overseen by myself with the help of Al Wright, our Executive Director. My name is Jim Luce, Chair of the Energy Siting Council. At this point in time I think I would begin by asking Council Members and staff to identify themselves, and we will start with Mr. Jim La Spina at the table to my far left.

MR. LA SPINA: Thank you, Chair Luce. Jim La Spina, EFSEC staff.

1 MS. TALBURT: Tammy Talburt, EFSEC Staff.

2 MR. FRYHLING: Dick Fryhling. I represent the
3 Department of Commerce.

4 MS. ADELSMAN: Good morning, Hedia Adelsman
5 representing the Department of Ecology.

6 MR. WRIGHT: I'm Al Wright, manager of EFSEC.

7 MR. MOSS: I'm Dennis Moss, Utilities and
8 Transportation Commission.

9 CHAIR LUCE: Jim Luce, Chair.

10 MS. McDONALD: Mary McDonald, representing the
11 Department of Natural Resources.

12 MR. TAYER: Jeff Tayer, Department of Fish and
13 Wildlife.

14 MS. WILLIS: Terry Willis, Grays Harbor County
15 Commissioner.

16 MR. CREWS: Kyle Crews, Attorney General's Office.

17 CHAIR LUCE: We have with us today parties, and
18 I'll ask the parties to identify themselves at this point.

19 MS. MCGAFFEY: Karen McGaffey from Perkins Coie
20 representing Grays Harbor Energy.

21 CHAIR LUCE: Do we have any other parties with us
22 today?

23 MR. ANDERSON: Mark Anderson, Department of
24 Commerce.

25 MS. GARROW: I'm Tami Garrow, Satsop Development

1 Park.

2 CHAIR LUCE: Thank you, Tami.

3 Today's session is a deliberative session. It's
4 an open meeting under the state's Open Meetings Act. The
5 public is welcome to attend. There is no provision for
6 public input today, although at the conclusion of its
7 deliberations the Council may in its discretion allow
8 comments by the parties and the public to this case.

9 This is a meeting for the Council to engage in the
10 deliberations on the issues presented by the case. The
11 Council will set the agenda and then beginning with the
12 issues we will work through them. If there's no objection
13 Council Members have received documents previously. I would
14 suggest that we work through the issues in the order they're
15 laid out in the memo of August 24, 2010 titled Issues List
16 and Results of Facilitation Discussions among Staff,
17 Applicant, and Mr. Marvin.

18 Do Council Members have a copy of that document?

19 MS. WILLIS: Mr. Chair, I do not have a copy of
20 that. If there is an extra one that would be great;
21 otherwise, I can take one and have it copied here if
22 somebody will give me theirs.

23 CHAIR LUCE: Do we have an extra copy of that?

24 MS. TALBURT: Yes.

25 MS. WILLIS: Thank you.

1 CHAIR LUCE: So do other Council Members have a
2 copy of that particular document? So assuming that's a yes?

3 MS. McDONALD: Yes.

4 CHAIR LUCE: Is it agreeable to work from that
5 document in working through the issues?

6 I'm assuming that's a yes.

7 I want to thank Al Wright and staff for working up
8 this particular document which I found very helpful. Unlike
9 an adjudication opposing parties involved would have already
10 agreed and had points made in those briefs. There's no
11 briefing in this particular case. So we have drawn in this
12 issues list the documents filed with us today and including
13 those filed by the Applicant and including those drawn from
14 other sources.

15 The Applicant as is customary has submitted a
16 statement of position, a letter, and I understand a second
17 letter which is not before the Council today, but which
18 Council will be provided copies of prior to our final action
19 on finalizing the Draft SCA. Council may produce its own
20 order notwithstanding the fact that the Applicant has as
21 customary submitted a Draft SCA. The Counsel for the
22 Environment has submitted a position of statement on the
23 water and air permits. The NPDES and PSD are on separate
24 tracks in whether to grant, modify, or deny the proposed
25 permit will not be considered today, although I will ask

1 Mr. Wright to briefly comment on their status. So that
2 constitutes my opening remarks.

3 Do Council Members have anything they would like
4 to say at this time before we begin?

5 All right. Al, you prepared this document list.
6 Do we want to start with the issues in the order that they
7 are laid out or would you prefer to deal with them in some
8 other way?

9 MR. WRIGHT: I think the order is fine. There's
10 also you had a document that was mailed to you dated
11 September 15 which was Bob Wallis' agenda just so people
12 aren't confused. They're in the same order more or less,
13 and the September 15 agenda was a result of our August 24
14 document. So just in case you look at both and wonder why
15 there's two, they're basically one in the same. The order
16 is fine with us unless Council Members have any concerns and
17 would like to start in some other order.

18 CHAIR LUCE: Let's begin then with Mr. Wright.

19 MR. WRIGHT: By the way, Bob Wallis, our
20 Administrative Law Judge, who would normally facilitate this
21 proceeding is ill, and that's the reason for Bob not being
22 here, and the reason for us doing this a little differently
23 than we would have just so you know.

24 CHAIR LUCE: Let's begin with the Citizens
25 Advisory Committee Group, however it's characterized.

1 MR. WRIGHT: We prepared this document as a
2 discussion document based on your last meeting, your last
3 deliberative session based on a meeting that we set up with
4 Judge Wallis and representatives of the Applicant and
5 Mr. Marvin sat in as the Counsel for the Environment. And
6 we went through the issues in an attempt just to clarify and
7 hopefully narrow the issues and the debate and to try to
8 identify where there was controversy that existed, and
9 that's the result what you have in front of you.

10 The first one is the conversation you had
11 previously about some form of loosely defined as a community
12 advisory committee, and this resulted, of course, from the
13 testimony you received from a number of parties,
14 particularly the neighborhood parties, who indicated they
15 found it very useful when the company contacted them, gave
16 them a tour of the plant, talked to them, but there was some
17 ongoing interchange between them and the Applicant prior to
18 the filing of this particular application, and they thought
19 that was a very productive and very good activity.

20 The second part is there was some discussion among
21 you about this is very similar to the TAC Committee,
22 Technical Advisory Committee that you have in a number of
23 your wind farm projects. So those were kind of the two
24 genesis of this discussion. In the facilitation discussion
25 the major issues that were brought up, well, one the TAC is

1 relatively dissimilar to what we're talking about here
2 because the TAC grew out of a need for a lack of science in
3 many of these issues, bird control and others, on wind
4 farms, and so there was an adaptive management type of
5 approach where as the knowledge and the science grew you had
6 an advisory committee that could deal with that and they
7 could come back and suggest solutions to the Council or in
8 any form that the scientists decide that that was
9 appropriate.

10 This is not a question of science. This is a
11 question of communication and collaboration, and so the TAC
12 model is not necessarily a really good model for this type
13 of discussion, but there seems to be consensus, at least
14 there was no objection that we could find, to some form of
15 community advisory committee, a community discussion group,
16 a forum whatever terminology you would like to use, that
17 should be formed and that would ensure this level of
18 communication between the plant owner and the neighborhood,
19 surrounding neighbors on a regular basis.

20 There has been discussion of possibly having the
21 County involved in this, if not being the chair or whatever.
22 And there was discussion about, you know, maybe even twice a
23 year might be good enough as the need arises, but there was
24 concern expressed by the Applicant to the level of authority
25 that such a group might be given. There was clear consensus

1 that that level of discussion is a very good thing, but
2 there was concern about authority, and the authority centers
3 around any kind of alleged or perceived re-opener to the SCA
4 because the SCA is basically the license for the project and
5 that becomes once finalized a financial instrument. And
6 there was a lot of concern about the financial institutions
7 looking at some open-ended document as opposed to a real
8 license or permit. So that was probably at least from our
9 identification that was probably the major concern that was
10 brought up relative to this kind of forum.

11 MS. ADELSMAN: Are we going to take each issue and
12 talk about it before we move to the next?

13 MR. WRIGHT: Yes.

14 MS. ADELSMAN: Because I have some concern on this
15 one I think. Al, like you said, I think there's a big
16 difference between the TAC really where a continuation of
17 some of the technical we wanted to make sure there's a
18 discussion of new data and so on. So there's a big
19 difference.

20 I really have a problem in us trying to play this
21 mediator role of having the company meet with the community.
22 I think we could encourage the company to do that, and it
23 should be done, you know, just orally or something, but I
24 have a real issue in adding any of this in the SCA. I don't
25 think it's our role. I think our role is to look at what

1 needs to be happening with this facility, and I think the
2 company heard enough from the neighbors to be able to if
3 they're responsible, which I don't have any doubt about
4 that, to establish their own group with whoever they would
5 like to participate and listen to them and give them tools
6 and all of this and not involving us. So I personally would
7 not want anything in the SCA that will be related to this.

8 CHAIR LUCE: All right. Thank you. That position
9 is clear. Others wish to make a statement on this?

10 MR. TAYER: Yes, Mr. Chair. I also have a couple
11 of concerns about this, but they may be diametrically
12 opposed to Hedia's opinions.

13 MS. ADELSMAN: So this is Ecology and I'm not used
14 to it.

15 MR. TAYER: My observation is the TACs are part
16 science but certainly not dominated by science. Half of the
17 people on the TACs that we have currently are neighbors or
18 representatives from cattlemen or Audubon that they're not
19 science people. There may be 30, 40 percent that actually
20 have a science interest that are coming to the table with
21 science. The others are more interest groups. I would say
22 the Cattlemen's Association, the Farm Bureau, Audubon,
23 neighbors, neighboring landowners. So I guess I don't see
24 that the TACs we have are purely science. I do see them
25 being directly aligned with adaptive management, and my

1 question was or my concern about this basically is that in
2 the noise section which we're going to talk about later it
3 seemed like there was testimony, all the expert testimony we
4 had was to develop some sort of an adaptive management to
5 respond to the noise at home level, and so it seems like
6 that's perfectly aligned with what TACs do.

7 We try to have a performance outcome, and then you
8 have a group that tries to manage along the way versus
9 guessing what you should do ahead of time. I'm trying to
10 merrry up some sort of a system that can do adaptive
11 management with what I thought I heard in the testimony
12 which was that we ought to go to the outside, measure what's
13 happening out there, and then develop some actions that can
14 resolve those noise problems. I don't know. If you don't
15 have a forum for that, I'm not sure what method we're going
16 to use to do some adaptive management on that end.

17 CHAIR LUCE: Thank you.

18 Other Council Members wish to discuss this or
19 comments?

20 Yes, Terry.

21 MS. WILLIS: Thank you, Mr. Chairman. The County
22 uses a variety of committees similar to this, not
23 particularly a technical committee, but maybe more on the
24 citizens advisory across the board and find them to be quite
25 useful for just communication, just what you were talking

1 about and to make sure that there's a forum of which
2 communication can actually happen, and that it's somewhat
3 regular and predictable as to when it will be and when it
4 might happen.

5 So I have less apprehension that this won't be a
6 useful product as to this particular company, but I also
7 agree that, and I'll leave that to the experts that sit on
8 this panel, that the SCA may be not the area to address it
9 or how do you address it within that. I don't know exactly.
10 As a commissioner I don't know how to do that, but I don't
11 think I want to see this thought process tossed to the side
12 at all because I think it could be quite useful, and it
13 could be adapted to fit this particular circumstance.

14 CHAIR LUCE: Thank you. Others?

15 I'm sorry, Hedia. Let's let all Council Members
16 speak before you.

17 MS. ADELSMAN: No, you go ahead.

18 MR. MOSS: I think that particularly given the
19 Applicant's willingness to participate in something like
20 this and its efforts have been reported to us on various
21 occasions to improve interactions with members of the
22 community, I don't see any reason that we can't provide for
23 a citizens advisory committee of some sort in terms of
24 stating its form and purpose in the SCA. Not giving it any
25 particular authority and not having EFSEC as a body be a

1 participant but certainly have the opportunity to be, if you
2 will, a monitoring role with a staff representative invited
3 to whatever meetings this body might hold and so forth. It
4 does seem to me it should be based in the community.

5 Perhaps the county government can sit in that committee
6 along with some members of the community, and this is a good
7 way to ensure that lines of communications are kept open.

8 As far as any recommendations this group might
9 come up with, just as any other member of the public can
10 come before a public body such as EFSEC, they could
11 certainly come and present ideas to EFSEC in the future.
12 And if there was the allegation concerning violations of the
13 SCA, then, of course, we as a deliberative body would have
14 to consider that. But I don't know if that's striking the
15 middle ground here between what I've heard so far, but
16 that's my position on it.

17 CHAIR LUCE: Mary, do you have any comments?

18 MS. McDONALD: I agree with what Dennis had to
19 say. I thought the citizens advisory council would be a
20 perfect way to have a forum for the neighbors to communicate
21 to the Applicant, and I don't know what kind of authority
22 they should have, if they should have any other than to come
23 and make recommendations. But I think some type as far as
24 the procedure I agree with the Terry. I don't really know
25 including in the SCA, the site certificate, what's the

1 process for that. But it seems like it would be a good
2 thing to have.

3 CHAIR LUCE: Dick, do you have any thoughts?

4 MR. FRYHLING: I'm not sure whether this should be
5 in the SCA or maybe I'd even like to change from the
6 community advisory council to maybe the neighborhood
7 advisory council. And I think if this is in there, it
8 should be limited to one thing and that is to assist in
9 communication between Grays Harbor and the neighbors. It
10 should have no other responsibilities other than
11 communications.

12 Now that's already started up there in fact, and
13 this would just be formalizing what they've already started
14 to do with the surrounding neighbors. And maybe if we do
15 put something in the SCA, it should be to assure that they
16 have at least a mediator here or something to discuss
17 because I think to assist communication between the two
18 parties would be the basis for having something in the SCA
19 that said this.

20 CHAIR LUCE: Thank you.

21 I'll tell you what my thinking is. My thinking is
22 that a community action group was a good idea, a very good
23 idea, should be included in the site certificate agreement
24 to involve the neighbors, hopefully the County would choose
25 to have a representative there. EFSEC staff could be

1 available as appropriate. Recommendation, yes, for the same
2 reasons that Dennis stated that any citizen can show up and
3 make a recommendation. I think this group would be
4 beneficial both to the Applicant, to Grays Harbor Energy,
5 and to the community, and to EFSEC. It's not a TAC, but
6 there is an adaptive management type set of issues here
7 potentially, including noise which has been the one that
8 we've heard the most about, and I do believe that it belongs
9 in the site certificate agreement. So that's the Chair's
10 position with respect to this.

11 MS. ADELSMAN: Can I?

12 CHAIR LUCE: I assumed that you might have
13 something to say again.

14 MS. ADELSMAN: Yes. First of all, I think I'm
15 very concerned of having a group not having discussed what
16 the group is going to be doing, what is its authority. So
17 just to kind of put a group together for me I think it's
18 maybe too premature to talk about this particular issue. If
19 they talk about some of the other issues and then I say if
20 it's noise, at that time we could decide, okay, so if the
21 SCA is going to have some requirement or additional studies,
22 maybe we could have a group that would review some of the
23 studies or do something else.

24 The other part for me we talked about adaptive
25 management. It's really usually used when you have either

1 the requirement is not clear or you decide the science is
2 still evolving. In the case of noise we know what the
3 regulations are going to be. We need to set out a
4 compliance, and, you know, if the company is complying with
5 those regulations, I don't see what is a community advisory
6 group what are we going to do with them. I mean we deal
7 with thousands of advisory groups in Ecology, and we better
8 have them there for a particular purpose. If not, they
9 become either a nightmare for EFSEC because we have some
10 obscure, we don't even have clarity about authority. And
11 the role they take on, whatever they want, or we just, you
12 know, tell them you just meet for the sake of meeting, and
13 we are not going to do anything particular with what you
14 propose.

15 So I'm suggesting that we really give some very
16 good thought about establishing the rules before and for
17 what is the purpose and so on. I'm kind of disturbed about
18 hearing we don't know what they're going to be doing, but it
19 would be a good idea to have a group. So I'm almost
20 suggesting that you postpone going into the issue until
21 later.

22 CHAIR LUCE: I respect your comments but strongly
23 disagree with them. I thought we had a softer, kinder,
24 gentler representative from the Department of Ecology.

25 MS. ADELSMAN: I'm soft kinda.

1 CHAIR LUCE: Be that as it may, I want to get a
2 tentative sense of -- we can talk about the structure. This
3 is not an open-ended group. This is to facilitate
4 communications. If I recall correctly there's some general
5 language in the TAC provisions in other SCAs that could be
6 adapted to this, and I would ask staff having heard
7 everything that the Council Members had to say to take a
8 shot at putting that into a provision in the site
9 certificate agreement. So I will call for a tentative
10 decision now with respect to the community advisory group.
11 So I'll start on my immediate right and hope that you
12 participate in this.

13 Terry, would you support this?

14 MS. WILLIS: I would support this in a variety of
15 ways that you actually go through and identify what the
16 duties, responsibilities, structure, and limitations are;
17 that you identify that this is an advisory group and that
18 there is some other group whether it's you as EFSEC is the
19 actual decisionmaker, and that the community that Grays
20 Harbor would be more than happy and willing to participate
21 in some manner on this.

22 CHAIR LUCE: It occurs to me that this is a
23 community group; that the County does have a vested interest
24 in this project.

25 MS. WILLIS: Yes, I heard the terminology the

1 neighborhood advisory committee. I actually am more
2 comfortable with community because I think this may -- I
3 know from where I live I'm not their neighbor up there, but
4 I live below them and I know exactly when they start up and
5 exactly when they're working which is good news to me.
6 That's dollars in the air as far as I'm concerned. I see
7 dollar signs every time I hear the rumbles so it's okay with
8 me. So I go with the community advisory committee.

9 CHAIR LUCE: Jeff.

10 MR. TAYER: So I'm supportive of this. I think
11 everybody has done, the Chair and Terry have done and Dennis
12 have done a great job of putting the right kinds of caveats
13 on this side board. So I'm in support of this in the
14 context that its being discussed.

15 CHAIR LUCE: Mary?

16 MS. McDONALD: I support it.

17 CHAIR LUCE: The Chair supports.

18 Dennis?

19 MR. MOSS: Yes, I do.

20 MS. ADELSMAN: I would be in support of having the
21 community advisory committee, but I am opposed to having it
22 as part of the SCA requirements.

23 CHAIR LUCE: Dick?

24 MR. FRYHLING: I would support having an advisory
25 council committee. I think when we look at this I would

1 like the staff to also look at some definitions that when
2 you start talking about community advisory council what we
3 are, some parts of the state law that you find what
4 community action councils are and other councils. So I
5 think they need to do a little definition research.

6 CHAIR LUCE: All right. I'm going to note for the
7 record that we have six people supporting, six Council
8 Members have voted to include this in the Draft SCA, one
9 Council Member has voted to oppose this, and I would ask
10 staff to prepare the language consistent in the Draft SCA
11 with what they have heard from Council Members today.

12 MR. FRYHLING: I would like to see this group be
13 able to solve problems between the neighbors up there and
14 not ever have to bring anything to EFSEC because we don't
15 want to be the mediator of any of these things. We want
16 them to have some kind of a forum to solve problems that
17 they have.

18 CHAIR LUCE: I couldn't agree more. That's one of
19 the purposes of this group.

20 Mr. La Spina, just a minute.

21 Al, do you understand from a manager's perspective
22 the direction that the Council has given you on this?

23 MR. WRIGHT: I believe I do. Chair, some of the
24 concerns that Mr. Fryhling has already expressed that I
25 don't think your intent is to have this get wrapped up into

1 by virtue of being an EFSEC committee wrapped up in all of
2 the state advisory committee dealings. I think that it
3 really belongs to the County level and not at the state
4 level. With your permission I would work closely with Terry
5 on drafting this.

6 CHAIR LUCE: Great.

7 MS. WILLIS: Mr. Chairman?

8 CHAIR LUCE: Yes, Terry.

9 MS. WILLIS: Could we prepare for the divorce too
10 just in case that should this become such a nightmare?

11 MS. ADELSMAN: It will.

12 MS. WILLIS: That I would like to know ahead of
13 time that at some point EFSEC needs to decide to disband for
14 whatever reason.

15 CHAIR LUCE: Absolutely.

16 MS. WILLIS: Does it come back to the EFSEC
17 Council?

18 CHAIR LUCE: The Council would amend the SCA at
19 that point in time and you'll need the provision.

20 MS. WILLIS: And that's in protection of everybody
21 involved, both the business and the citizens and the county
22 themselves.

23 MS. ADELSMAN: On what basis are we going to amend
24 the SCA in this case? I mean amending the SCA is not a
25 small task. We just kind of say, "You guys are at war,

1 we're going to delete?" I mean I'm still a little concerned
2 and hopefully Kyle can help us sometimes with some of the
3 legal stuff we're doing.

4 CHAIR LUCE: I guess we will get assistance from
5 the Attorney General on this. Thank you very much.

6 MR. FRYHLING: Someplace a year from now, two
7 years from now, ten years from now there may not be a need
8 for this period because all the parties are getting along.
9 Why have a yearly meeting or a monthly meeting or whatever
10 if it's not needed so that we talk about not needing
11 something or getting rid of it. That's the other side of it
12 and I hope that's what happens.

13 CHAIR LUCE: I would ask Kyle to look into that,
14 but it would seem to me that there should be a way to write
15 something that would allow the Council to extinguish the
16 group on its motion, but that's a legal issue. We're not
17 going to deal with it here today. You'll take a look at it.
18 Thank you very much.

19 MS. ADELSMAN: Jim, I have another suggestion. I
20 know everybody voted.

21 CHAIR LUCE: Yes, we did.

22 MS. ADELSMAN: The other suggestion is when we
23 transmit this to the Governor for approving, what if she
24 then recommends to the company to establish something as a
25 communication between the company and the neighborhood, and

1 then you kind of have some really good language that will
2 tell the neighborhood that we understand their concern, and
3 we really want to have the dialogue happen between them and
4 EFSEC is not a third party or somebody who is out there
5 trying to facilitate something that is not really directly
6 concerning us. So there is other mechanisms for us to do it
7 besides putting it in the SCA.

8 CHAIR LUCE: I understand. Everything that I know
9 about the Governor is that she would strongly support this
10 provision.

11 MS. ADELSMAN: You already talked to her about
12 this?

13 CHAIR LUCE: No, no. I'm basing that on five
14 years or more of experience with the Governor.

15 So thank you. We've worked through this issue
16 successfully, and staff will prepare draft language and
17 present it as part of our SCA.

18 As long as I'm at it, Al, when is our next meeting
19 on the draft site certificate agreement?

20 MR. WRIGHT: Assuming that we are successfully
21 getting through all of the issues today at some level of
22 resolution, and if you don't want to meet tomorrow which we
23 have set aside already, then your next scheduled
24 deliberative session is Wednesday the 29th of September.
25 The expectations at that time was you would finalize your

1 discussions and deliberations on the SCA. You'll have in
2 front of you both a draft order, a draft SCA, and all of the
3 attachments, and you would go through that in detail on a
4 kind of word by word, and you would then be ready for
5 approval or ready for Council action whatever that is on the
6 one the 12th of October. That is our schedule.

7 CHAIR LUCE: So hopefully this draft can be mailed
8 to Council Members well prior to that meeting so that we can
9 do the careful review line by line as you say individually
10 and then maybe send comments, suggestions, as we may have
11 them to you and Bob Wallis who will be working on this.

12 MR. WRIGHT: Bob and I have discussed this. We
13 hope to have the total package in draft form out to you no
14 later than the 22nd which gives you a week then prior to the
15 29th, and we will do that on the caveat that Bob is ill at
16 the moment, but staff will get that done one way or the
17 other so you will have a week. While it is a lot of words,
18 the substantive issues are basically what you were going to
19 talk about here today.

20 CHAIR LUCE: Thank you. The next issue on the
21 August 24 list is the CO2 mitigation plan.

22 Al, do you want to walk us through that?

23 MR. WRIGHT: Mr. Chairman, we did have a
24 discussion in our facilitation issue on the CO2 mitigation,
25 and staff has done some research on this issue for a number

1 of reasons, including that your director didn't know
2 anything about this issue as far as how the CO2 mitigation
3 plan worked.

4 But basically what you have in front of you is a
5 statute, a set of rules that provides flexibility for the
6 Applicant to decide which of the three methods of CO2
7 mitigation they choose to implement into their application,
8 and that is while the numbers and all are dictated by the
9 statute the three methods are, one, that the Applicant can
10 go to a qualified third party, and I'll come back to the
11 qualified third party in just a minute. They can go to a
12 qualified third party, write them a check in essence for the
13 amount of money that's required in the statute, and the
14 qualified third party will then go to project people who
15 negotiate projects that meet the CO2 requirements, and they
16 will manage the expenditure of the money.

17 The second one is to buy carbon credits in the
18 carbon credit marketing programs that are available, and the
19 third one is the party could manage their own CO2 mitigation
20 program by negotiating with other parties or other
21 interested entities, put together a proposal to meet the CO2
22 requirements, mitigation requirements, and then manage the
23 program accordingly. That decision, that choice lies with
24 the Applicant, and the Applicant has chosen that's stated in
25 the application that it wants to simply go to one of the

1 parties on the qualified third-party list, write a check,
2 and have them manage the program. And it is my
3 understanding that the Applicant is still very definite
4 about that position. In the facilitation discussion we
5 discussed that.

6 In your discussions, your deliberative discussions
7 as you will recall you had quite a bit of discussion about
8 the fact that how you manage the actual physical individual
9 projects, and the fact that there is Grays Harbor County has
10 expressed a great deal of interest in having those projects
11 to the extent they can be and meet the CO2 mitigation
12 requirements to be within Grays Harbor County both because
13 it's a local issue and because then the money, the revenues
14 and the expenditures for the CO2 program would be spent
15 within the county. We've explored the options the County
16 has available to them to make sure that happens is, one, the
17 County could get on the qualified third-party list, and then
18 go to the Applicant and see if they're willing the County to
19 be the third party. That has a process all unto itself.

20 The second is to not try to do that and simply
21 have the County work with the qualified third party to
22 ensure that the projects are within Grays Harbor County to
23 the extent that's allowable in the mitigation plans. That's
24 where we stand at the moment.

25 I looked at the RFQ that you put out to create the

1 qualified third party. You've only put out one call for
2 qualified parties. You have selected three parties to be on
3 that list, and there are fairly detailed requirements within
4 that list of qualifications that you have to meet to be a
5 certified third party to accept, be able to accept the
6 money. So that's where we stand today.

7 I have not had a chance to get back -- I will
8 supply all this information to Grays Harbor County. I
9 haven't had a chance for Commissioner Willis and I to get
10 back together and talk about what the County might want to
11 do, and maybe that would be a good place to start.

12 The Applicant is pretty clear where they are and
13 what they want to do and the provisions for the qualified
14 third party proceedings and the calculations are very
15 straightforward and specified in law. So I don't think
16 there is any discussion of that part of it that is fruitful.
17 I mean it's their choice, and both the rules and the statute
18 are clear what they have to do. The debate I believe or the
19 discussion I believe is simply what does EFSEC want to do to
20 assist the County in its desires to see that the money and
21 the projects and the activities are within Grays Harbor
22 County.

23 CHAIR LUCE: My assumption before we start with
24 individual Council Members, my assumption is that the
25 Applicant would pay a sum of money which has been determined

1 and EFSEC would issue a request for proposals -- no?

2 MR. WRIGHT: No.

3 MS. ADELSMAN: No, we haven't done that before.

4 MR. WRIGHT: No, EFSEC's role is all done.

5 MS. ADELSMAN: Calculating.

6 MR. WRIGHT: The calculation is prescribed. All
7 you have to do is oversee that it is done by law.

8 CHAIR LUCE: No, I understand that.

9 MR. WRIGHT: Then the Applicant selects off of the
10 list that is already established. Now the only input that
11 EFSEC has is that if you decided your list is limited, which
12 it is, there's only three parties on the list, you could on
13 your own volition reissue a request for qualifications to
14 expand the list that the Applicant gets to choose from. You
15 could take that action if you decided to, but once you
16 establish the list you don't get to choose what the party
17 is. The Applicant gets to do that.

18 CHAIR LUCE: Maybe I said this inartfully, but I
19 believe the Council could express a desire that the projects
20 or project have a preference in priority for Grays Harbor
21 within Grays Harbor County, and I think that the Council
22 does have the ability to ask the Applicant whatever process
23 is used to try to do that.

24 MS. WILLIS: Mr. Chair, can I provide some
25 information on this?

1 CHAIR LUCE: All right.

2 MS. WILLIS: Your staff was very good. Al and I
3 in his learning he provided me with quite a bit of
4 information on my own to look over and, of course, Grays
5 Harbor County has an interest in this mitigation, these
6 mitigation dollars and the process. So what I read into it,
7 and I believe it is absolutely very clear, that Grays Harbor
8 Energy has the ability to select how they do this and it is
9 their option. They get to pick and they have chosen what
10 they want to do on that, and that is to make a monetary
11 donation right up front within the first 120 days and be
12 done with that and I respect that.

13 I also read language in there about your RFQ about
14 the process EFSEC went through to pick the qualified third
15 parties that could actually handle these. And that is a
16 very extensive process you went through with a lot of
17 scientific information about CO2 and the qualifications they
18 need for that. So having gone through the RFQ I am pretty
19 comfortable with the fact that Grays Harbor would not
20 qualify with that kind of expertise in our own doings, and
21 even if you opened it up we would not be able to actually
22 put in an application and qualify. So I would like to
23 respect that you've already picked three qualified
24 third-party companies to handle the monetary dollars.

25 What I did see in the language was that there was

1 a little flutter at some point in time of language that says
2 that there would be a contract between Grays Harbor Energy
3 and the third party, and I don't know how much maneuvering
4 room there is within that contract for additional language.
5 And because Grays Harbor Energy did make statements in their
6 response letter saying they too would also like to see these
7 dollars spent locally, if maybe there's room within that
8 contract with the third party to specify that at that point
9 in time. I'm kind of looking to the attorneys in the room
10 and other legal staff to determine whether that's a
11 possibility or not.

12 In the meantime let me assure you that Grays
13 Harbor has already taken some actions to look for projects
14 that would actually qualify and would be more than happy to
15 work with one of your selected third parties to actually get
16 those projects on the ground and start working towards that
17 to see that those dollars were spent in the right manner and
18 that meet all the stipulations you need to but also relieves
19 the burden off of Grays Harbor Energy to actually get
20 involved in an additional process that they are really not
21 required to. And at some point in time I have show and tell
22 I would like to talk to you on it, but I'll leave that for
23 maybe later down the road.

24 CHAIR LUCE: Jeff.

25 MR. TAYER: Well, we had a conversation between

1 the qualified contractor in the Chehalis case where we were
2 able to express our priority for local projects, and I felt
3 like the feedback we got was that the company was I think it
4 was the Climate Trust was trying to prioritize local
5 projects. So whatever we can do to replicate that dialogue
6 I think would be a way to do this. So that's what I would
7 say.

8 CHAIR LUCE: All right. Mary?

9 MS. McDONALD: I support with Terry in that I
10 guess I would also support not with this application but
11 maybe in the future consider opening that up for more
12 qualified experts to put in a bid if they meet the
13 qualifications in the RFQ.

14 CHAIR LUCE: Dennis?

15 MR. MOSS: I support everything I've heard so far.
16 I think it would be wonderful at some point in the future as
17 Mary was just suggesting that EFSEC could perhaps encourage
18 some initiative, University of Washington or similar
19 education facility, to participate with perhaps local
20 government entities or whatever. I assume there is some
21 perhaps high degree of scientific expertise required to
22 identify and successfully implement these sorts of things,
23 and that those on the list meet those sorts of
24 qualifications or have those qualifications. It sounds like
25 there has been success in talking with the Climate Trust in

1 the past so I encourage that too. I think it's all we can
2 do at this juncture is to encourage this sort of initiative
3 locally, but there is not much we can do about the
4 requirement.

5 CHAIR LUCE: Hedia?

6 MS. ADELSMAN: Okay. So, number one, when we talk
7 about the SCA, our role is purely to make sure that there is
8 compliance with that section and calculating. We make sure
9 that the Applicant uses the qualified entities that have
10 been identified and then that ultimately things do happen.

11 It would be nice to have some time frame. I think
12 when we dealt about Chehalis we left it open. It may be
13 really good for us to kind of have a time when some of this
14 happens. Now, Ecology with the DNR and many others are
15 working very hard on forest protocols eventually for offset.
16 In later dates I think there will be some requirement at
17 least coming from the state as to what project would qualify
18 for the offsets, especially if we are talking about the
19 forest.

20 I am like Dennis I think or somebody said I think
21 ultimately it would be really good to open up the list to
22 other qualified third parties. I know the Nature
23 Conservancy would be interested and would do an acquisition
24 in the area in Grays Harbor and others, and they thought
25 this also would be something that they would be very

1 interested in. So maybe our role would be just to express
2 the interest of various groups and let the company work with
3 the third party to execute whatever they need to execute.
4 But I don't think our role is to say in the contract we have
5 this third party you want to make sure the County is
6 included or consulted or whatever. I think it is a little
7 bit beyond personally our reach.

8 CHAIR LUCE: Dick?

9 MR. FRYHLING: I would like to go along with what
10 Dennis and Hedia said. I'd just like to have the philosophy
11 that we spend locally, we spend in the state, and this money
12 doesn't go to the Amazon or Cambodia or someplace. I would
13 like to have it invested in our state and hopefully locally,
14 but that's up to the parties, the third party and the
15 Applicant.

16 CHAIR LUCE: Well, I think it is clear that the
17 Applicant has the right to choose to make a monetary payment
18 and that it has chosen to do so in all of its communication
19 with us. And I think it is also the Applicant has heard
20 today the sense of the Council that we would strongly prefer
21 that these project mitigation dollars be spent within Grays
22 Harbor County. So that's probably about what we can say.
23 So is there anything else to add to this issue?

24 Hearing nothing we will consider --

25 MS. WILLIS: Mr. Chair, can I make a comment?

1 CHAIR LUCE: Yes.

2 MS. WILLIS: I don't believe that the philosophy
3 from this Council will get them where they want to go
4 because if the universe could work on philosophy we wouldn't
5 have attorneys to start with. So I think there needs to be
6 a little more teeth put someplace, and I would like to see
7 us make the extra effort to actually make that happen or at
8 least try to make that happen. With that I'll thank you for
9 letting me comment.

10 CHAIR LUCE: We will look for a way unless the
11 Council Members object to put in writing of some form our
12 hope that these mitigation dollars will be spent within
13 first Grays Harbor, second within the state. I can't tell
14 you right now what form that's going to take, but I can
15 visualize it taking that role.

16 MS. WILLIS: Okay. I'll agree to send this down
17 this path and let us work on it again.

18 CHAIR LUCE: Jeff, is that --

19 Yes, Hedia.

20 MS. ADELSMAN: So you're maybe talking about some
21 language that says something about EFSEC's desires that we
22 would like to see some of the mitigation spent locally,
23 whether in the state or whatever. It is just not an
24 enforcement, just for a desire on our part.

25 CHAIR LUCE: I understand that, Hedia. We'll see

1 how it writes. I can visualize it in a letter to the
2 Applicant. I can visualize it in a letter to the Governor.
3 There's a number of different ways I can visualize it, but
4 it can happen. It won't be in the SCA, but it will be very
5 clear.

6 MS. ADELSMAN: Well, I thought our purpose today
7 is to talk about issues and come to some resolution. That's
8 why I was pushing, you know, can you get an agreement that
9 there would be a letter or something and not come back later
10 and have another conversation.

11 CHAIR LUCE: Would Council Members agree to a
12 letter to be directed to the Applicant as part of the SCA,
13 finalizing SCA a copy of which would be provided to the
14 Governor together with the package of documents which she
15 will review in the course of making the final decision on
16 approval? Would Council Members agree to that?

17 Terry?

18 MS. WILLIS: I would agree to that. I would also
19 encourage what I alluded to earlier that the contract
20 between Grays Harbor Energy and the third party be reviewed
21 to see if Grays Harbor Energy would like stronger language
22 in that contract to see if it is possible of putting it
23 there.

24 CHAIR LUCE: To the extent that we have the
25 authority to do so.

1 MS. WILLIS: Recognizing that EFSEC may not have
2 authority to ask for that, but we are working in cooperation
3 with Grays Harbor Energy that they would have the authority
4 to do that.

5 CHAIR LUCE: Okay. Good.
6 Jeff, you okay with that approach?

7 MR. TAYER: Yes.

8 CHAIR LUCE: All right. Mary?

9 MS. McDONALD: I thought it was a good idea. I'm
10 okay with the input and it was a good idea to have a time
11 frame.

12 CHAIR LUCE: I think it's a very good idea too;
13 otherwise, these things can go on forever.

14 Dennis?

15 MR. MOSS: I don't see any impediment of having
16 some discussion in the SCA itself or an order about our
17 discussion and decision about this. It's not a condition,
18 it's not mandatory, but there's no reason we can't say this
19 is what we decided, what we think ought to be done.

20 CHAIR LUCE: Certainly we can include that in the
21 order.

22 Hedia?

23 MS. ADELSMAN: I think a letter or just in the
24 order not in the SCA something that is a message from us to
25 encourage the company to work with the County, explore, blah

1 blah, blah, whatever. I want it in terms of encouragement
2 but nothing more than that.

3 CHAIR LUCE: Understood.

4 Dick?

5 MR. FRYHLING: I go along with what Hedia just
6 said.

7 MS. ADELSMAN: Oh, thank you.

8 CHAIR LUCE: All right. We will put encouragement
9 into the order and into a letter which will be part of the
10 package which we forward to the Governor.

11 MR. MOSS: And lawyers have a name for it dictum.

12 CHAIR LUCE: Dictum, yes. Not over dictum.

13 All right. I am counting all Council Members in
14 agreement on that issue.

15 All right. We're going to close the issue of CO2
16 mitigation at this point, and we have Issue No. 3.

17 Al, there was a discussion about single limited
18 liability corporation or multi-limited corporation. My
19 understanding is that that's pretty well resolved. You want
20 to walk us through your issue list and tell us what you are
21 currently thinking.

22 MR. WRIGHT: Yes, Mr. Chairman. This question was
23 brought up by staff because in the application we did not,
24 and the ALJ agreed we didn't really understand what was
25 being proposed as far as the use of multiple LLCs on the

1 ownership of the plant until we got to the testimony on the
2 first night where the Applicant explained the project. And
3 there it became clear that there was that Unit 1 and 2 were
4 under the ownership of Grays Harbor, LLC. I'm not sure of
5 the exact name of it, and that Units 3 and 4 would be under
6 an ownership of some form of a separate corporate entity. I
7 use that term as a more general term.

8 And so while the Applicant has asked for an
9 amendment to a license so we have a single SCA, we will
10 ultimately have a single SCA, but there would be two owners
11 involved. So the question came up of, well, since the SCA
12 deals with the project from construction to burial for all
13 intended purposes, and there's site restoration provisions
14 and all the other things that go with the end of the project
15 how would we deal to ensure that we capture all of the
16 liability into all the appropriate responsible parties?

17 We discussed it with the Applicant in our
18 facilitation discussion, and they agreed to provide us some
19 materials in return. What we got back basically is the
20 Applicant does propose that the LLC for 1 and 2 remain as it
21 is, and that there would be when 3 and 4 is constructed the
22 finance. And let's see if I have this clear now. The
23 financing mechanism necessary to construct Units 3 and 4
24 would most likely require a separate corporate entity to be
25 able to build 3 and 4. And then there was a possibility

1 depending on how the outcome, which nobody knows at this
2 point what the outcome of that is, there was a potential at
3 sometime in the future this may migrate into one single
4 Grays Harbor Energy facility, but that's an issue that's
5 left open ended.

6 CHAIR LUCE: All right.

7 MR. WRIGHT: So that was kind of my understanding
8 of where we are. The discussions we had and the research
9 that Bob did on this we didn't find any reason to object to
10 that. It's just something that's a little different than
11 you've had. Even though we went back and looked at some of
12 the SCAs, there have been dual parties in previous SCAs so
13 it is not a completely unique issue. This is more I think
14 an FYI issue that this is going to be involved in the SCA.
15 The one that's issued will have two names on it, and that is
16 not, contrary to what I thought, that is not an uncommon
17 occurrence.

18 CHAIR LUCE: So this is more as you said more for
19 our information. Site restoration --

20 MS. ADELSMAN: Can I ask a question?

21 CHAIR LUCE: Yes, please.

22 MS. ADELSMAN: In my memory I thought there's a
23 requirement for a private company like this to post
24 annually.

25 CHAIR LUCE: That's where we're going site

1 restoration.

2 MS. ADELSMAN: Oh, okay.

3 CHAIR LUCE: Site restoration on --

4 MS. ADELSMAN: Because we have it now with 1 and
5 2.

6 CHAIR LUCE: Yes.

7 MS. ADELSMAN: Then two would have it for 3 and 4.

8 CHAIR LUCE: Yes.

9 MS. ADELSMAN: So it really doesn't matter who
10 owns it as long as we have it.

11 CHAIR LUCE: I think it's more of a financing
12 issue my guess would be for the company that if 1 and 2
13 paper is being carried by some entity, they might not want 3
14 and 4. They might have an interest in keeping 1 and 2 and
15 not have that encumbered by 3 and 4.

16 MS. ADELSMAN: But the model from EFSEC's
17 perspective as long as we have those restoration and bonding
18 covering I don't really care who owns it personally.

19 CHAIR LUCE: Right.

20 MS. ADELSMAN: Okay. All right.

21 CHAIR LUCE: All right. Any other comments or
22 questions on this for our information issue?

23 All right. We don't have to decide this at this
24 point. We don't have to decide this one.

25 The next issue up. We'll just take a quick

1 update. This is not a decision matter either today, but,
2 Al, could you update us on the water and air quality
3 permits.

4 MR. WRIGHT: And I will go through those
5 individually because they are definitely separate. We have
6 had a fairly extensive and lengthy process with the water
7 quality permit which is governed primarily by the Department
8 of Ecology as far as the technical background and the
9 technical requirements. This isn't a permit issued by
10 EFSEC, and it is a permit that in essence has already been
11 issued on the plant as it stands because of the proposal and
12 the configuration of the effluence and all of that that goes
13 with that. The decision was not to have two permits for 1
14 and 2 versus 3 and 4 but to have a single permit because
15 basically there's a single discharge, and a number of other
16 technical issues. But for your sake we do have a single
17 permit. It is being revised to cover both Units 1 and 2 and
18 3 and 4.

19 Like I said, the process has been fairly
20 extensive. We have I believe -- no, I don't believe. We
21 have closure with the Department of Ecology on that permit.
22 It's being finalized internally in EFSEC now. It will be
23 looked at by the Department of Ecology one more time, and by
24 the time you get to either the 29th or October 12 that
25 permit will be finalized and ready for your approval as part

1 of the order in the SCA.

2 CHAIR LUCE: Thank you.

3 MR. WRIGHT: And it will be attached as an
4 appendix.

5 CHAIR LUCE: Hedia, you're our representative from
6 Ecology.

7 MS. ADELSMAN: I think we had a really good
8 meeting, and I believe that at the end there was some good
9 feedback both from the person from Ecology but also the
10 proposal from the company, and I think Jim was going to
11 insert some language. There was some concern about
12 degradation and so on, and so hopefully there will be one
13 last scanning by Nancy and then she will be able to issue
14 this.

15 CHAIR LUCE: Thank you.

16 The other program, Al?

17 MR. WRIGHT: On behalf of the staff I would like
18 to thank Hedia for all of her help on this. We got to
19 closure and Hedia deserves a lot of the credit for that
20 bringing the Ecology people together and our staff and
21 getting it done.

22 MS. ADELSMAN: Thank you, Al. Now we don't really
23 have to wait until October 12 on this one. So if can be
24 ready for this on the 29th or something because it's still
25 covering an existing plant and the sooner we have this

1 permit approved the better it is and really it's not
2 related.

3 CHAIR LUCE: So I will ask Mr. La Spina to make
4 sure.

5 MR. LA SPINA: The schedule is for you to approve
6 it at the October 12 Council meeting so you would have
7 adequate time to review it and whatever.

8 CHAIR LUCE: Okay. If it could be done sooner
9 that's better.

10 MS. ADELSMAN: So it is a month from now. All
11 right.

12 MR. LA SPINA: October 12 would be the next time
13 that you all will be together to approve it was the idea.

14 CHAIR LUCE: Terry.

15 MS. WILLIS: Can I ask if you're done with this
16 subject, before we move off the permits I was going to ask
17 some generic questions for clarification for myself. As I
18 was going through the original application of the Applicant,
19 the ten acres that was used for the laydown area that
20 language is still in there. So I was asking for
21 clarification does the permit still include that ten acres?

22 MS. ADELSMAN: No.

23 MS. WILLIS: Should it be removed from the
24 language then? Or I'm not sure from your process. Does the
25 ten acres have anything to do with the processes put

1 together that the --

2 MS. ADELSMAN: The NPDES?

3 MS. WILLIS: Yes.

4 MS. ADELSMAN: No, the ten acres has more to do
5 later on when we stop talking about mitigation relating to
6 the water and some of the stuff with the SCA, but it has
7 nothing to do with the NPDES.

8 MS. WILLIS: Okay. But it does have to do with
9 the SCA. So the language still needs to stay in there.

10 MS. ADELSMAN: Yes, mitigation that was something
11 that was agreed between Fish and Wildlife.

12 MS. WILLIS: And that's where I'm getting confused
13 because I thought from our conversations that that started
14 to come out of play there and so I need to know whether --
15 yeah, I think we need to clear that up.

16 CHAIR LUCE: We will. I don't think it is in the
17 SCA anymore. I think it's owned solely by the PDA, and the
18 company has no property interest of any sort in that
19 particular piece of property. So I think, you know --

20 MS. WILLIS: And that was the clarification I was
21 looking for because it was in the original paperwork, and so
22 if we're going into now the new more modern updated it needs
23 to be removed.

24 MR. WRIGHT: Actually, Mr. Chairman, on Issue 5
25 that will come up.

1 CHAIR LUCE: Okay.

2 MS. WILLIS: Another question.

3 CHAIR LUCE: Sure.

4 MS. WILLIS: Mr. Chair, just a cleanup question
5 for my own. The critical areas ordinance was passed by the
6 County since this process was started. Is there anything
7 that this action needs to look at that might have to do with
8 the fact there's something new in place with the County?
9 I'm putting the question out there. It doesn't have to be
10 answered at this moment in time, but I think it's something
11 that you might want to look into. Okay. Thank you. I'm
12 done.

13 MS. ADELSMAN: Can I ask does the critical areas
14 cover like the wetlands and the discharge all of this?

15 MS. WILLIS: Exactly, exactly. It would have
16 anything to do with like I say critical areas could be
17 wetlands, could be setbacks, could be a variety of things.
18 But it is something that did not exist when this process
19 started and now does exist. So I just didn't want you guys
20 to go all the way to the end of your process and then say,
21 oh, yes, by the way, we have to look at this.

22 MR. CREWS: There's a vesting statute in the
23 books.

24 MS. WILLIS: There's a what?

25 MR. CREWS: A vesting. That you take the project

1 as it come with the laws that are in place and you can't
2 change them. The County doesn't change them. So basically
3 they're vested by their application that they have now.

4 MS. WILLIS: Okay. Good. If that's the case,
5 then that's the case. Thank you for the clarification.

6 CHAIR LUCE: All right. Al, we have one more
7 permit?

8 MR. WRIGHT: Yes, we have actually two more. If I
9 could, Mr. Chairman, I just want to ask a question on that.
10 Is there a known issue here or is this just asking that we
11 make sure we clear them all up on the critical areas?

12 MS. WILLIS: There is no known issue. It was just
13 I didn't want the Applicant to get to the end of the process
14 and discover that the County had taken steps that others
15 were not aware of.

16 CHAIR LUCE: My guess is that this 80.50.110 that
17 our chapter governs all other laws and regulations would
18 control. I mean it's not a question of preemption, but
19 EFSEC's permits everything supersedes all state and local
20 ordinances or laws.

21 MS. WILLIS: Okay. Thank you.

22 CHAIR LUCE: I think that would be applicable in
23 this case, but that's a good issue. Thank you for raising
24 it.

25 Al.

1 MR. WRIGHT: I'm going to deal with water quality
2 next because it's easier when we deal with the more complex
3 issue last. Water quality there is a change, of course, in
4 the water withdrawal proposal because --

5 MS. ADELSMAN: Water quantity.

6 MR. WRIGHT: I'm sorry. Water quantity. And
7 there is a change, of course, in the water quantity
8 withdrawal provisions. We have discussed that at some
9 length. There seems to be no controversy surrounding the
10 proposal. There is a considerable amount of language change
11 necessary in Appendix 3 to conform to what is now being
12 proposed as opposed to what there was before. That has been
13 cleaned up I believe between the Applicant and our staff,
14 and I believe it is approved by Department of Ecology that
15 they're okay with it. So I know of no problems there. And
16 that Appendix 3 by the time we get to you on the 29th will
17 be ready to resolve that little water quantity issue. So
18 there is more than one single water quality provision, but
19 they're all covered in one unit in the SCA called Appendix
20 3.

21 MS. ADELSMAN: In Appendix 3 that Brett Caldwell
22 sent you his report, I'm assuming we kind of summarize some
23 of that to make sure it' on the record.

24 MR. WRIGHT: I think we have, but I'll make sure
25 we do.

1 MS. ADELSMAN: It might be really good because we
2 revisit these things years from now. You may want to look
3 or just attach it. I think I sent it to you in a copy.

4 MR. WRIGHT: All right. We'll see that that gets
5 done.

6 MS. ADELSMAN: If you can't find it, let me know,
7 Jim. I will send it again.

8 MR. LA SPINA: Okay.

9 MR. WRIGHT: Is there any questions on the water
10 quantity part? I think we're in pretty good shape on that.
11 There doesn't seem to be any controversy.

12 MS. ADELSMAN: One of the questions that I asked,
13 and I think there was testimony by the PDA relating to the
14 water right and so on. I wouldn't really mind if you had in
15 Appendix 3 some of that information put in there from the
16 testimony about their water right. I think it wasn't too
17 much, but because there was a question at least for me about
18 does the PDA have enough water to be able to provide to the
19 company and I think the testimony was yes. So if you could
20 capture some of that it would be really good. It should be
21 on record I would say.

22 MR. WRIGHT: Okay. We can do that.

23 CHAIR LUCE: Is there one more permit to cover?

24 MR. WRIGHT: Yes, there's air quality.

25 CHAIR LUCE: All right.

1 MR. WRIGHT: Air quality is kind of the inverse of
2 the water quality. The decision here was to because they're
3 separate units to keep the air quality permit for Units 1
4 and 2 do apply for new air quality permits for 3 and 4. And
5 that is a process while heavily participated in by the
6 Department of Ecology is dictated by the Environmental
7 Protection Agency because they have not delegated the permit
8 issuing authority to the State of Washington and so
9 therefore these are basically EPA permits. And so we had
10 both a revision to the existing permit for 1 and 2 and a
11 brand new permit for Units 3 and 4 under consideration by
12 the Department of Ecology and then ultimate approval had to
13 go to the Environmental Protection Agency. That's been a
14 fairly long and extensive process.

15 There's been a number of meetings before my time
16 and a couple of meetings since my time on this issue. As of
17 last Friday we got notice from the Environmental Protection
18 Agency that the two permits, one revised, one new is now
19 available with EPA's tentative draft approval that the
20 permits are ready to go to public comment and public
21 hearing. This is the one procedural glitch that we still
22 have in this process that we have not taken these permits
23 because we didn't have clearance from EPA through any kind
24 of public process which the process belongs to EFSEC, and we
25 have to conduct it.

1 So it is my proposal to get these permits. The
2 drafts are suppose to be to us sometime this week. If we
3 can get them on the street with the public notice for review
4 by the end of the week or early next week, we could have a
5 30-day review period before the end of October. Somewhere
6 on or about the 12th of October we could come over here and
7 hold a public hearing in the evening since you're getting
8 together on October 12 anyway, and we could finalize the
9 permits. And we have to have EPA's signature on those
10 permits and still have them ready in a time frame that is
11 somewhat comparable to the October 12 deadline.

12 So that's where those permits are. I won't even
13 attempt to get into the details of them. I could just say
14 that we are at a point where those permits seem to be
15 acceptable to the EPA, and that's the governing activity
16 because they're the ones that have to put their signature on
17 them as well at an EFSEC signature. They do become a part
18 of the appendix in the SCA just like the NPDES permit and so
19 with a little luck we get those and we can go through a
20 30-day review. And I'm assuming there isn't tremendous
21 controversy associated with them. We could get a public
22 record put together and get those ready for signatures.

23 MS. ADELSMAN: So do we need -- I can't
24 remember -- do we need the permits before we send out
25 recommendation if we decide to do that?

1 MR. WRIGHT: We went back and looked. Both Bob
2 and I went back and looked at the statute. It's not
3 required that you have those permits ready or signed by the
4 time you send a recommendation to the Governor, but
5 apparently traditionally at EFSEC it has been the practice
6 to have the package totally sewed up and complete before you
7 send your recommendation to the Governor.

8 CHAIR LUCE: Anything else on that one?

9 MR. WRIGHT: That's all I have.

10 CHAIR LUCE: Now I think Issue No. 5 is primarily
11 a for-your-information type issue preserving the distinction
12 between the regulatory terms of the site certificate
13 agreement from 1 and 2 to 3 and 4.

14 MR. WRIGHT: Yes. This subject came up tied
15 somewhat to the conversation that we've already had about
16 the LLCs and there being possibly two different governing
17 entities and ownership and resulted from our reviews on the
18 existing SCA and beginning the attempt to convert into a new
19 document.

20 What we found was because of the long history of
21 the project as it's built today, Units 1 and 2 and its
22 colorful ownership pattern and historical ownership pattern,
23 the SCA contained a lot of provisions many of which are now
24 antiquated. The example I would give you is there's a lot
25 of provisions in the SCA about the gas pipeline, and as it

1 turns out, and those were proposed to be taken out in this
2 review, and I was the one that raised the concern because
3 there's provisions in there about site restoration of the
4 pipeline, etc., and, you know, I asked how you can take
5 those out legitimately in the SCA. Well, come to find out
6 the SCA doesn't even cover the pipeline anymore. The
7 pipeline was long gone before this existing SCA for Units 1
8 and 2 was finalized.

9 So there is a number of remnant provisions in the
10 SCA. So the decision was based on our facilitation meeting
11 that the Applicant would go back and based on their
12 knowledge attempt to recommend cleaning all of those kind of
13 remnant provisions out, and then we would review those at
14 EFSEC staff level, make sure that they're appropriate to
15 take out, and then we come to conclusions what we were
16 calling a clean slate SCA that dealt only with the modern
17 and necessary provisions and preservation of any historical
18 facts or provisions that were necessary. And that's where
19 we are and we're just about done with that, if we're not
20 already done with that process.

21 MS. ADELSMAN: I just had a quick question. So
22 the Applicant is going to go to work on the existing SCA and
23 eventually recommend I'm assuming to EFSEC they want the
24 amendment must be changed and we are free follow that. Is
25 this then going to correspond with the timing of us issuing

1 a new single SCA?

2 MR. WRIGHT: Yes. We're in essence done with this
3 work. You will see and I haven't talked to the Chairman
4 about this issue. I don't know whether you would like to
5 see kind of an old SCA with the provisions taken out that
6 brings us to the clean slate SCA and then the provisions for
7 a new SCA? I assume you didn't want to go through that
8 exercise, but if you did we could easily do it.

9 And then from the clean slate SCA of 1 and 2 we
10 are creating then the combined SCA that will govern 1 and 2
11 and 3 and 4. So there's kind of a little two-step process
12 here. Normally we wouldn't even get into the conversation,
13 but since the question was brought up we kind of designed it
14 this way.

15 CHAIR LUCE: We'll want a redlined SCA that shows
16 the deletions from the --

17 MS. ADELSMAN: Combine it, combine it.

18 CHAIR LUCE: Right. We'll have the original SCA
19 with all the deletions redlined and then a combined SCA, and
20 so I think that's a fairly -- I don't think that's too
21 difficult of documents.

22 MS. ADELSMAN: Why can't we have just one document
23 that would show existing changes and then all the new stuff,
24 one document?

25 MR. WRIGHT: I think you're saying the same thing.

1 CHAIR LUCE: We're saying the same thing.

2 MS. ADELSMAN: Oh, I'm sorry. I heard maybe talk
3 about two. My mistake.

4 MR. WRIGHT: The thing I didn't want to give you
5 is one redlined SCA with both the housekeeping and the new
6 provisions in it because you won't be able to distinguish
7 them. So we'll give you what is in essence the old SCA with
8 the redline version that are "housekeeping", and then the
9 SCA with the redlined version of what's changed to make it a
10 new SCA.

11 MS. ADELSMAN: I'm suggesting that we just get
12 only one.

13 CHAIR LUCE: Well, you can have one and I'll get
14 two. Now, this is a pretty ministerial action. Okay? This
15 is real ministerial, Hedia. I think it's a question of how
16 your receive your copy.

17 MS. ADELSMAN: Well, it's a little bit more than
18 ministerial because there's 1 and 2 and there are going to
19 be some other changes besides just ministerial.

20 CHAIR LUCE: Okay. All right.

21 MR. WRIGHT: We can solve this.

22 CHAIR LUCE: We'll work it out.

23 MS. ADELSMAN: I would like to have just one so
24 I'm not reading it twice.

25 MR. WRIGHT: We can meet all those requirements.

1 CHAIR LUCE: Terry.

2 MS. WILLIS: On the permit for 1 and 2 EFSEC has
3 the ability to change those permits at this point in time?
4 It's not just to do house cleaning to take language that's
5 old, but to actually make some changes to it?

6 MS. ADELSMAN: No, only the Applicant could; is
7 that right?

8 MR. WRIGHT: No. If they had asked for an
9 amendment to the SCA for Units 3 and 4 you would not be able
10 to do this. The Applicant did not do that. The Applicant
11 came and said I want to amend this SCA. So the SCA is open
12 for amendment, and so by virtue of doing that my
13 understanding is you can clean up the whole document.

14 CHAIR LUCE: Basically to restate that, if the
15 Applicant had filed a new application and had said we want
16 to file an application for Units 3 and 4 and then we would
17 be dealing with only Units 3 and 4. The Applicant chose
18 then to amend the existing SCA by which it opened up the
19 existing SCA which includes Units 1 and 2, and it wants to
20 add 3 and 4. So 1, 2, 3, and 4 are before us.

21 At least that's how I read the documents. So
22 actually that's a pretty good bridge to the last sentence of
23 that Paragraph No. 5 prior to the resolution noise is one of
24 the confusing issues regarding how to treat Units 1 and 2
25 versus Units 3 and 4 will be discussed below. So maybe we

1 can start that discussion now and just move -- I'm sorry,
2 Hedia, yes.

3 MS. ADELSMAN: Can we take a break?

4 CHAIR LUCE: We can take a break.

5 MR. FRYHLING: Jim, I was going to suggest
6 something else.

7 CHAIR LUCE: Okay.

8 MR. FRYHLING: Taking I think this is Bob's
9 deliberative session agenda.

10 CHAIR LUCE: Yes.

11 MR. FRYHLING: I'd like to leave noise to the end
12 in looking these things over because that's where the
13 discussion is going to take place and take place and take
14 place I assume. Looking at his list of environmental
15 monitoring, lighting, and the standard three openers is what
16 we haven't totally discussed yet today.

17 CHAIR LUCE: They're on Al's list. We'll just
18 jump ahead. Okay?

19 MR. FRYHLING: I would rather leave noise to
20 discuss last.

21 CHAIR LUCE: Great. And I think Hedia's called
22 for a break so let's take a 15-minute break.

23 (Recess taken from 10:42 a.m. to 11:02 a.m.)

24 CHAIR LUCE: We will be back on the record, and we
25 are going to address several what I would describe as

1 secondary issues prior to getting to the noise issue which
2 will take some time potentially.

3 So, Dick, you had raised issues that you would
4 like to have addressed, and do you want to begin?

5 MR. FRYHLING: Well, on the September 15 agenda
6 the first one I don't think we've covered is the
7 environmental monitoring. I don't think so.

8 MR. WRIGHT: We have not.

9 CHAIR LUCE: All right.

10 MR. FRYHLING: Basically what it says is that
11 since this is not a green field development and it is
12 limited in geographical scope the whole time monitor should
13 not be required, but do we need somebody to do that?

14 CHAIR LUCE: Al, could you talk about the
15 environmental monitor in terms of the discussion you had
16 with the Applicant and the other parties.

17 MR. WRIGHT: Yes. This issue was brought up
18 because you have fairly extensive provisions in your wind
19 farm SCAs for environmental monitors. They're by in large a
20 relatively large contract that they are pretty much full
21 time during construction. There is a provision in the
22 existing SCA for something that I'll call in loose terms the
23 equivalent of the environmental monitor, construction
24 monitor provision that I don't believe during the
25 construction of the first project it was used very

1 extensively, but the provision is there.

2 And so we brought this issue up about, you know,
3 environmental compliance, environmental monitor during the
4 discussions we had with the Applicant present, and basically
5 the Applicant recognized that there was a provision in the
6 existing SCA. It will stay in the SCA. We're proposing to
7 elaborate on it a bit. The issue was brought up that this
8 is not a green field construction project rightly so, and
9 the environmental monitoring while necessary may not be
10 continuous. It should only be when necessary and definitely
11 not on the construction projects that are not related to
12 compliance with the SCA such as how do you put together a
13 gas-fired turbine. And so I think there was agreement
14 reached on that.

15 All we're saying here is there will be in that
16 section -- it's already in the SCA -- there will be a little
17 expansion on environmental monitoring, and that will be a
18 provision that puts a requirement on EFSEC to provide the
19 monitor and requirement on the Applicant, of course, to pay
20 for it, but it will be limited in scope.

21 CHAIR LUCE: Council Members?

22 MS. McDONALD: I have a question.

23 CHAIR LUCE: Yes.

24 MS. McDONALD: I don't know what a green field
25 development is.

1 MR. WRIGHT: Simply a starting from zero with an
2 open field and you go out and build a plant. When we built
3 1 and 2 it was in essence a green field construction even
4 though that's not exactly accurate because the site was
5 there. But a wind farm is a good example. A wind farm
6 basically at least most of the time is just an open field,
7 and you go out and start building, constructing wind
8 facilities.

9 MS. McDONALD: So the construction of 3 and 4
10 wouldn't classify as a green field?

11 MR. WRIGHT: Most of the construction for 3 and 4
12 are going to be on sites that have been highly disturbed
13 already by various construction activities. Keeping in mind
14 this is an old nuclear site that has been --

15 MS. McDONALD: No, I'm there. I have another
16 question. Is that okay?

17 CHAIR LUCE: Sure.

18 MS. McDONALD: What would they monitor? I mean if
19 we've got water quality, water quantity, we got air, what
20 would the environmental -- I mean I hear that it shouldn't
21 be required, but if they were to do it what's left?

22 MR. WRIGHT: There will be provisions. There are
23 provisions in the SCA for things like stormwater runoff
24 compliance, road construction, runoff from the roads if they
25 were to bring in -- in this case they won't -- if they were

1 to bring in a rock crusher. There's all kinds of
2 environmental compliance for air and water quality on the
3 rock crusher. Those are the kinds of things that go in the
4 wind farm construction, and we're required to have
5 environmental monitors on site. The SCA requires that and
6 it is fairly as I say for that case it's fairly extensive.

7 MS. McDONALD: So the permit that we just talked
8 about previously don't address that kind of monitoring?

9 MR. WRIGHT: There is a provision in the original
10 SCA about monitoring construction activities. It doesn't
11 necessarily use the word environmental, but it is very
12 general in nature, and I don't believe historically looking
13 at it that it was really utilized very well.

14 MS. ADELSMAN: The permits that we're talking
15 about, the NPDES and so on, really that's for the
16 construction. There will be separate things for
17 construction. The reason we ask for environmental monitors
18 for the wind projects is the lack of compliance. There's a
19 lot of issues with erosion where Ecology finds a company was
20 not in compliance and went out many times and then at the
21 end they decided to hire an independent environmental
22 monitor. And then I think we then required it for I can't
23 remember if it was for Desert Claim or something.

24 I think in this particular case you're going to
25 have some stormwater. There may be other permits I don't

1 know like you said short term under air and so on. I think
2 the monitoring can, of course, it should be checking with
3 Ecology where they're willing to go out and do the
4 monitoring of the permit and the staff. And honestly if
5 there's a lack of compliance eventually we could say that
6 you need to get some kind of independent, not somebody from
7 the company, but I personally don't believe we need a
8 full-time monitor for the project. There has to be some
9 monitoring in the construction.

10 MR. WRIGHT: An example is on Desert Claim which
11 is coming up and we will be hiring an environmental monitor.
12 The contract for that is between \$300,000 and \$400,000. It
13 is a big project. A big from our point of view. We're not
14 talking about anything like that for this kind of activity.

15 MS. McDONALD: No, I was just trying to -- thanks
16 for the clarification. I didn't understand the difference
17 for the construction period and one for the plant. I got
18 it.

19 MR. WRIGHT: Once it's constructed basically the
20 permits in the SCA govern most if not all the environmental
21 conditions.

22 CHAIR LUCE: They're overseen by EFSEC staff,
23 monitored by EFSEC staff.

24 MS. McDONALD: I got it now.

25 CHAIR LUCE: Any other questions with respect to

1 environmental monitor?

2 MR. FRYHLING: The next one is the standards
3 re-opener, and that's looking at if this is not built in the
4 next ten years what happens. I think that is
5 straightforward. It's kind of a standard item in all SCAs.

6 CHAIR LUCE: All right.

7 Al, you want to walk you us through that?

8 MR. WRIGHT: In your SCAs in general there are two
9 standards what I'll call opener clauses. One is a five-year
10 provision that says if there are in the eyes of the Council
11 there are substantial change to conditions you can go back
12 in and reopen the SCA. And particularly if the construction
13 hasn't started yet, then the Applicant has the obligation of
14 coming back to you. If they have not started construction
15 and say there are no changed conditions of substance and
16 therefore you ought to let the SCA stand as it is and
17 continue the permit. And so the obligation is basically not
18 on the Applicant but on the Council to kind of determine
19 whether the changed conditions are substantial or not.

20 The second term, the second condition is what you
21 call the ten-year clause, and that is if the Applicant has
22 not constructed the project by the end of ten years the
23 burden is on the Applicant then the second time around to
24 come to back to the Council and say not only is there not
25 changed conditions, but there are appropriate new conditions

1 to justify the continuance of the permit beyond the ten-year
2 period. And if you don't decide to proactively extend the
3 permit, then the SCA would terminate.

4 So the distinction I make, and quite frankly it
5 isn't that clear in the language, but for the sake of
6 discussion the difference I make is in the five years the
7 burden is really on you to decide to do something other than
8 let the permit continue, and based on changed conditions and
9 the ten year the burden of proof is more on the Applicant to
10 show why you should continue beyond the ten-year period with
11 the permit.

12 We're proposing that those at this point, at least
13 the staff is proposing that not change but those basically
14 be the same. There's been discussion about what constitutes
15 changed conditions. That's probably worthy of a Council
16 discussion at either now or when you get the language of
17 whether you want to go beyond what you have to be explicit
18 about changed conditions.

19 CHAIR LUCE: Council Members?

20 MS. ADELSMAN: I just have a question. Al, have
21 we in the history or maybe somebody else in EFSEC did a
22 five-year review based on changed condition and identify
23 what the changed conditions are?

24 MR. WRIGHT: Jim knows. Jim should answer this.
25 You've done five-year reviews. I don't think you've ever

1 found a change of condition, but I'm not sure about that.
2 Just did one on Cherry Point not very long ago.

3 Mr. Chairman?

4 CHAIR LUCE: Yes. I don't know, Hedia.

5 MS. ADELSMAN: Cherry Point was different, wasn't
6 it? I mean they scaled down.

7 CHAIR LUCE: Say that again.

8 MS. ADELSMAN: Cherry Point was a little
9 different. I mean they scaled down.

10 CHAIR LUCE: They're all a little different. So
11 here's my thinking on this five years, and I'm going to talk
12 about the context of standards. The Applicant has made a
13 persuasive case that the standards which EFSEC has adopted
14 and are in place now should govern the issue, should govern
15 the site certificate agreement, and I would agree with this
16 position. I would also say that if at the end of five years
17 the Applicant has not begun construction on these
18 facilities, and if in that time frame the state by
19 rulemaking not by Council decision alone, but by rulemaking
20 has changed some of the standards that those standards,
21 those changed standards which by rulemaking not just by
22 Council decision that we just want to do would constitute
23 changed circumstances.

24 So hypothetically the seismicity standard, okay,
25 just to take the first word that came to my mind. If we

1 change that and the Applicant had not constructed the plants
2 or commenced construction, then the new seismicity standard
3 after five years would constitute a change in condition, and
4 that would be true also with noise. So for the first five
5 years and maybe forever the existing standards that EFSEC
6 operates under which are adopted by rule would control.

7 If, on the other hand, nothing has been done, and
8 if again by rulemaking not by Council decides it wants to do
9 something different, if Ecology or someone else has changed
10 the rules, then the new rules would apply as a changed
11 condition after that five-year period. Am I making sense to
12 people? So that's my interpretation of what a changed
13 condition would be from the Council perspective.

14 MR. MOSS: I think that's fine. I would caution
15 against being very specific in the SCA in that regard or in
16 any other regard in connection with the events that can
17 occur 5 years or 10 years out. There will probably be a new
18 EFSEC at that time. There are all sorts of things that may
19 change between now and then, but we don't anticipate it
20 sitting here today, and I think our lawyer would advise us
21 to the extent we are perhaps too specific we may
22 unintentionally exclude our ability to be flexible with
23 respect to things that we don't identify.

24 CHAIR LUCE: I would agree.

25 MR. MOSS: So I would say I don't know what the

1 standard clause says, but staff is recommending we stick
2 with I assume it's fairly general, and I would encourage
3 that it continue to be that way; and I do support staff's
4 recommendation that it remain in the five years and ten
5 years.

6 CHAIR LUCE: Other Council discussions?

7 MS. McDONALD: I heard two different things. I
8 heard you say that that SCA would be good for five years
9 with existing standards, and if they didn't start building
10 and the standards changed according to the rule, this is
11 maybe at year six, then they would have to incorporate the
12 new standards.

13 CHAIR LUCE: Well, the SCA is going to be good.

14 MS. McDONALD: For five years.

15 CHAIR LUCE: Well, it's going to be good for ten
16 years.

17 MS. McDONALD: Okay. That's what I wanted to
18 know.

19 CHAIR LUCE: But if after five years there's been
20 no action.

21 MS. McDONALD: Year six nothing's been done.

22 CHAIR LUCE: Year six nothing's been done, and
23 during that time frame the state not EFSEC, but the State
24 has decided by rulemaking -- I suppose EFSEC can decide by
25 rulemaking too -- to change whatever standards, whether be

1 seismicity or noise or --

2 MS. McDONALD: Whatever.

3 CHAIR LUCE: -- whatever, then those new standards
4 would apply.

5 MS. McDONALD: Okay. I got it.

6 CHAIR LUCE: Jeff.

7 MR. TAYER: Chair, I support what's just been
8 said. I support the staff's recommendation. I think that,
9 you know, I think I heard Council Member Moss arguing for
10 something broader than language that would limit you to
11 rulemaking as the only thing that could trigger the change.

12 CHAIR LUCE: Right. I just want to make it clear
13 that there would be that rule.

14 Dick, is that --

15 MR. FRYHLING: I think this is what we find in our
16 other SCAs; that I think we should just go with this.

17 CHAIR LUCE: Hedia.

18 MS. ADELSMAN: I just asked Kyle if he could find
19 the language in the rules that talks about this and see what
20 do we say in our rules on this changed condition or just all
21 it says is changed condition, is there more to it. So I
22 think he's looking for it.

23 CHAIR LUCE: Well, good.

24 Have you found it?

25 MR. CREWS: No, I haven't found it.

1 Al, have you seen it in your travels?

2 MR. WRIGHT: All I've done is look at the terms
3 and conditions in the SCA. I did not go back to either of
4 the rules or the statute and look at what it says. My
5 general look at those, if I remember them correctly, I don't
6 ever remember any specific statements about that.

7 MR. CREWS: I don't either.

8 MS. ADELSMAN: I would like to see if we can
9 confirm that because I think personally, you know, if it
10 says specifically standard and so then I don't have any
11 problem with it. But just whatever the language of that is
12 in the rule let's go ahead and use that, and I'm suspecting
13 it's broad like Dennis said.

14 MR. MOSS: If it's in the rule.

15 MS. ADELSMAN: If it's in the rule. But I would
16 like to know what is it that we put because I remember we
17 discussed this during the rulemaking a long time ago.

18 MR. WRIGHT: We can do that and put the quote on
19 the statute in there if it exists, and we can provide it to
20 you when we get the language.

21 MS. ADELSMAN: I would suggest that I do like the
22 five and ten years, but I also would like it to be very
23 close to what we have in our rules right now, what you said.
24 We must have a provision. I remember that.

25 MR. WRIGHT: In the SCA?

1 MS. ADELSMAN: No, in the rules.

2 MR. CREWS: In the WAC.

3 MS. ADELSMAN: In the WAC. I think we do have a
4 provision in the WAC.

5 CHAIR LUCE: We do. WAC 463-68-060.

6 MS. ADELSMAN: You found it?

7 CHAIR LUCE: Yes, I found it.

8 MS. ADELSMAN: If it is short could you just read
9 it.

10 CHAIR LUCE: It's not necessarily short, but I
11 would be glad to read it. Would you like me to read it?

12 MS. ADELSMAN: Well, anything about the five.

13 MR. CREWS: There it is.

14 CHAIR LUCE: All right. Review and reporting
15 changes in project status or site conditions. If
16 construction does not both start within five years of the
17 effective date of the site certification agreement and
18 thereupon continue in a reasonably uninterrupted fashion
19 toward project completion, then at least ninety days prior
20 to the end of the five-year period, the certificate holder
21 shall report to the Council its intention to proceed or not
22 to proceed with the project. If the certificate holder
23 intends to proceed with the project, the certificate holder
24 shall submit a report to the council describing:

25 (1) The nature and degree of any changes to the

1 following since the effective date of the site certification
2 agreement: (a) Project design; (b) Statements and
3 information in the application; (c) Statements and
4 information in project-related environmental documents; and
5 (d) Project-related environmental conditions.

6 (2) Whether any new information or changed
7 conditions indicate the existence of probable significant
8 adverse environmental impacts that were not covered in any
9 project related environmental documents including --

10 THE REPORTER: Could you slow down just a little
11 bit.

12 CHAIR LUCE: Just put in WAC 463-68-060 -- but not
13 limited to, those prepared under Chapter 43.21C RCW.

14 (3) Suggested changes, modification, or amendments
15 to the site certification agreement and/or any regulatory
16 permits.

17 I think you can read it, Hedia. It's pretty much
18 like I just said.

19 So I forgot, Shaun, you were here.

20 Then it goes on to say that if the certificate
21 under WAC construction may start or restart construction has
22 been suspended only upon the Council finding that no changes
23 or amendments, regulatory permits, or project related
24 documents are necessary appropriate or upon the Council's
25 approval of any necessary appropriate changes or amendments.

1 So I think that that language is broad enough to
2 encompass this. The Council may retain an independent
3 consultant at certificate holder's expense to evaluate and
4 make recommendations about whether changes to the site
5 certificate agreement, regulatory permits, or project
6 related environmental documents are necessary or
7 appropriate. This may include but is not limited to
8 verification of project related environmental conditions,
9 regulatory requirements, or appropriate technology.

10 So and that again is WAC Chapter 463-68 entitled
11 Site Certification Agreement Start of Construction,
12 Expiration, and Reporting. I think it's broad enough to
13 incorporate what Dennis has talked about and we have talked
14 about here today.

15 And I apologize, Shaun. I looked down and I
16 wanted to see if I could get the whole paragraph in one
17 breath. Almost. Okay.

18 Other comments?

19 Okay. Let's see. We got, Dick, on your list does
20 that include ownership or have we dealt with that?

21 MR. FRYHLING: We dealt with ownership, and I
22 think this is Bob Wallis' list.

23 CHAIR LUCE: Lighting?

24 MR. FRYHLING: Lighting.

25 CHAIR LUCE: Okay.

1 MR. FRYHLING: And I think what we've got here and
2 what they've done basically covers what should probably be
3 in the SCA. But they've done things that needed to be done,
4 and I guess maybe we just repeat what they've done in the
5 SCA to make sure it applies to 3 and 4.

6 CHAIR LUCE: Okay. Water withdrawal I think we've
7 covered.

8 MR. WRIGHT: I hope we've covered that.

9 CHAIR LUCE: I'm looking to see if there are any
10 other secondary issues.

11 MS. ADELSMAN: Can I go back to lighting?

12 CHAIR LUCE: Sure.

13 MS. ADELSMAN: I know they've done a lot of
14 things. Should we be documenting it in the site
15 certification agreement so in the future, you know, somebody
16 else, the company is bought by somebody else and they decide
17 not to continue to comply with what this company is doing
18 and the SCA reflects the fact that they need to do this,
19 continue with these changes?

20 CHAIR LUCE: No, I agree. No, I agree.

21 MS. ADELSMAN: Because you said no additional
22 provision was suggested, and I'm suggesting that we run
23 further and include whatever they did now, and I'm not
24 talking about this company complying. But who knows two
25 years from now they could sell it, and I want to make sure

1 the next one they don't come back and say it's not in the
2 SCA and we don't have to do it.

3 CHAIR LUCE: No, I agree with that, and there
4 should be a provision in the site certificate agreement that
5 deals with lighting. In fact, I think there have been some
6 in other site certificate agreements, and they talk in terms
7 of minimizing lighting disruption.

8 MS. ADELSMAN: So you agree that we need to?

9 CHAIR LUCE: Yes I, agree. Do other Council
10 Members agree that that should be in the site certificate
11 agreement?

12 MR. MOSS: Sure.

13 CHAIR LUCE: We have an agreement.

14 MS. ADELSMAN: Wow, one.

15 CHAIR LUCE: No, we have more than one than on the
16 citizens advisory committee.

17 Dick.

18 MR. FRYHLING: On the September 15 here the
19 deliberative session document here the last one is --

20 CHAIR LUCE: Noise.

21 MS. McDONALD: Jeff has one.

22 CHAIR LUCE: I'm sorry, Jeff. Go ahead.

23 MR. TAYER: There is one more on our sheet here.
24 That's the issue of spill prevention control before we move
25 onto the noise.

1 MS. ADELSMAN: There is one other one.

2 CHAIR LUCE: All right. Let's talk about spill
3 prevention control.

4 MR. TAYER: I don't know what that means exactly.

5 MS. ADELSMAN: Well, this is spilling all kind of
6 stuff.

7 MR. WRIGHT: This came up in the discussion we had
8 with the Applicant, the facilitation discussion, because
9 there is existing spill prevention control language in the
10 existing SCA. The Applicant's redlined version of the SCA
11 proposed to take that spill control out of the SCA, and
12 that's how it ended up being an item for discussion.

13 I believe, and I haven't come back to this one,
14 but I believe that the agreement at this point is that spill
15 control language will remain in the revised SCA. Is that
16 correct, Jim?

17 MR. LA SPINA: Yes.

18 MS. ADELSMAN: It is under construction and also
19 under operation.

20 MR. WRIGHT: If I remember it correctly, it covers
21 both construction and operation, and I don't believe we're
22 talking about any alteration in it. I believe it will stand
23 as it is; is that right?

24 MR. LA SPINA: In this case all these plans
25 probably at least needs to be looked at to be updated to

1 current standards, but there will probably be very minor
2 revisions.

3 MS. ADELSMAN: Do we know why the company wanted
4 to take it out?

5 MR. WRIGHT: It was I think, if I remember the
6 discussion, it was that the company did not propose to take
7 it out. But in the draft we were working from during the
8 discussion it was out of there, and so I'm the one that
9 brought it up and why is this out of there and apparently
10 there was no provision to do this.

11 CHAIR LUCE: The bottom line we're going to leave
12 it in.

13 MR. WRIGHT: It is in.

14 CHAIR LUCE: All right. We want to start with
15 noise. I am working with from Al's August 24 memo, Issue
16 No. 6 noise, and it has got a couple of different facets to
17 it. Projects 1 and 2 I think the Applicant has offered us a
18 letter, July 9, 2010 letter I believe specifying certain
19 actions that it would take in addition to the fact that --
20 well, certainly additional actions it would take with
21 respect to 1 and 2. We can have some additional discussion
22 among Council Members if there's some other things that the
23 Council feels are appropriate.

24 I guess I would say generally with respect to
25 noise that the Council's consultant, correct me if I'm

1 wrong, has agreed that the Applicant is in compliance with
2 the existing noise standards.

3 The second facet to this is Units 3 and 4, and the
4 Applicant has made some proposals regarding noise studies
5 and construction of noise, studies prior to start of
6 construction. There has been an issue raised regarding
7 continuous noise monitoring which is another issue, and, Al,
8 I'm going to let you lead the discussion on this and take it
9 on whatever order you wish.

10 MR. WRIGHT: Any order I wish?

11 CHAIR LUCE: Any order you wish following the
12 order that you've laid out.

13 MR. WRIGHT: I found out who was wishing.

14 CHAIR LUCE: Anywhere you want.

15 MR. WRIGHT: I recommend as opposed to wish, I
16 recommend what we do and at least it has been helpful for me
17 in the noise issue to try to categorize the concerns and the
18 issues into some compartments and deal with them separately.
19 Quite frankly I think they need to be dealt with separately,
20 and those are one is the WAC noise standard kind of yes or
21 no are we complying with it and do you want it in the SCA.
22 The second one is Units 1 and 2 are they in compliance with
23 the existing SCA and if not what to do about that. Third is
24 what the -- and in that is the Applicant's proposal from the
25 June 9 letter or the more encompassing letter that we got in

1 the Applicant at the close of comments. The recommendations
2 are the same.

3 The third issue is what to do with the Applicant's
4 proposals on Units 3 and 4, and then there is what I refer
5 to kind of as a gray issue of between the time that you
6 complete this SCA and the Applicant has not yet started
7 construction of 3 and 4 but operation of 1 and 2 continues,
8 and that's where this continuous monitoring issue comes up
9 and what to do about that provision.

10 I think if you separate those into those
11 compartments we can deal with them easier than if you try to
12 lump it all together. So let me try that unless anybody
13 objects. The first one is the existing SCA does not include
14 by specific reference the state noise provision; however, I
15 believe because of the general wording in the SCA that the
16 existing state noise standard applies, but it is not
17 explicit in the SCA. The proposal is to put it in the SCA,
18 make it explicit, and there is no disagreement or
19 controversy about whether or not the existing noise standard
20 is being met. I'm posing that as a premise that I have not
21 seen any substantial evidence that indicates from any of the
22 testimony or the record that they have violated the noise
23 standard as it exists today.

24 So the proposal is to put it in the SCA, but it
25 will not, it is clear that at least under 1 and 2 conditions

1 it is not a governing factor, and so it is not something
2 that we need to have huge debate about.

3 CHAIR LUCE: Would Council Members agree with
4 that?

5 Terry?

6 MS. WILLIS: Yes, I believe so.

7 CHAIR LUCE: Jeff?

8 MR. TAYER: Yes.

9 CHAIR LUCE: Mary?

10 MS. McDONALD: Yes.

11 CHAIR LUCE: I agree with that.

12 Hedia?

13 MS. ADELSMAN: Yes. What about Dennis?

14 CHAIR LUCE: I'm sorry, Dennis.

15 MR. MOSS: That's all right. It seems to me
16 there's two questions. One is whether to include the noise
17 standard in the SCA, and it would apply to 1 and 2 and 3 and
18 4 presumably, and the other was the discussion regarding
19 compliance as demonstrated by what we heard in this process.
20 I don't think that should be in the SCA.

21 Compliance with the standard is an ongoing
22 question. It may be in compliance today. It may not be in
23 compliance tomorrow. I don't see any advantage in saying,
24 well, so far they've been compliant. You might want to say
25 something in the order about what we heard in this

1 proceeding, but we can't determine for all time and all
2 purposes that they are compliant with the noise standard.
3 So if that was part of the proposal. I would say, no, that
4 should not be there.

5 MR. WRIGHT: No, that was not part of the proposal
6 in the SCA. What I was saying was that debate that we had
7 already is basically I believe closed; that they up to now
8 they have not been in violation.

9 MR. MOSS: I agree with that. I just didn't want
10 to see it as part of the SCA.

11 MR. WRIGHT: No, it would not be part of the SCA.

12 MR. MOSS: With that caveat I would say yes.

13 CHAIR LUCE: Hedia?

14 MS. ADELSMAN: So let's make sure. So what we're
15 talking about is just information that we received that we
16 agree with that. It has nothing to do with the SCA so far.

17 MR. WRIGHT: Yes, it's part of the record.

18 MS. ADELSMAN: Then a yes.

19 CHAIR LUCE: Dick?

20 MR. FRYHLING: Yes.

21 CHAIR LUCE: So the next part of that discussion,
22 Al, go ahead.

23 MR. WRIGHT: The next part is 1 and 2. You have
24 terms and conditions on 1 and 2 in the SCA for 1 and 2
25 specifying in somewhat general terms what needs to be done

1 in the way of the noise control. Our consultant that we
2 hired came back with recommendations that said that the
3 existing operations and the existing facilities are not in
4 compliance with those terms and conditions. The Applicant
5 has come back to you on July 9 with a letter specifying a
6 number of conditions that they propose to implement starting
7 immediately and having completed no later than June 15, 2011
8 to meet those deficiencies in terms and conditions.

9 And I don't want to open an argument about whether
10 or not they're deficiencies or they're voluntary actions. I
11 just want to say the Applicant has volunteered these actions
12 to ensure that they are in compliance with the SCA, and I
13 don't want to open an argument about whether that is or is
14 not in compliance. They just said they'd do it, and so we
15 have that on the record at the time we held the noise
16 hearings.

17 In addition, they've gone on to talk about some
18 other measures which we'll get to in terms of 3 and 4, but
19 that is what they are proposing to meet any deficiencies or
20 exceed any deficiencies in 1 and 2. And I have specifically
21 asked the question and Judge Wallis has also specifically
22 asked the question is there anything in the record or
23 anybody that contends that there are necessary actions above
24 and beyond these actions to meet compliance with the
25 existing SCA on 1 and 2? And I have not got back any

1 positive responses so I'm operating on the assumption that
2 there is no opposition to the Applicant's proposal for these
3 measures to be implemented and that within known conditions
4 that they should meet compliance with the SCA on 1 and 2.

5 MS. ADELSMAN: I'm sorry to really sound confused
6 on this, but we just all of a sudden agreed that the company
7 is in compliance based on all the reports that we got?

8 MR. WRIGHT: No, we agreed that the company's
9 operation was meeting the state standard, noise control
10 standard which is not even a compliance issue in your SCA
11 explicitly, but your SCA goes on to talk about explicit
12 things that need to be done for 1 and 2, and those were
13 intended to not be in compliance and the Applicant has
14 responded to that. So they're responding to your conditions
15 not the standard.

16 MS. ADELSMAN: Okay. So we're saying based on the
17 operation they meet the standards even though the standards
18 are not specifically stated in 1 and 2, and then there are
19 some other provisions of the SCA that deals with noise and
20 then -- okay. I got it.

21 MR. WRIGHT: And then these are at this point
22 allegedly offered up to meet or exceed those conditions
23 voluntarily, and I have found nothing in the record and
24 nothing's been added yet that they're not.

25 So that's where we are with those, and I want to

1 come back to those conditions on 3 and 4 because we have
2 additional parts to that.

3 MR. TAYER: Al, a question. I want to try to make
4 sure I understand this correctly. That's because the
5 conditions in 1 and 2 were prescriptive and not outcome
6 based; is that --

7 MR. WRIGHT: That's correct.

8 MR. TAYER: All right. Thank you.

9 MS. McDONALD: Just to clarify then too is what
10 we're asking for is the standards for 1 and 2 and 3 and 4 to
11 all be the same?

12 MR. WRIGHT: You want to separate the standards
13 and prescriptive measures?

14 MS. McDONALD: Yes.

15 MR. WRIGHT: The answer to your question on the
16 standard is, yes, it will all be the same.

17 MS. McDONALD: Yes, I'm there.

18 CHAIR LUCE: And the Applicant's letter of August
19 30, 2010 at page 3, you have it before you, identifies
20 within the existing SCA some specific provisions concerning
21 noise and refers to major sources of sound shall be enclosed
22 and then goes onto No. 3 to talk about major noise sources,
23 including blah, blah, blah.

24 Did you get that blah, blah, blah?

25 THE REPORTER: Yes.

1 CHAIR LUCE: The Applicant then offers and again
2 offers, and I propose we accept the offer to undertake
3 certain measures to minimize the noise issues associated
4 with Units 1 and 2, whether they're doing so pursuant to
5 existing state noise standards or provisions in the existing
6 SCA really is sort of irrelevant. They're offering it, and
7 those offers are contained in page 4 of the August 30, 2010
8 letter, and the bullets are laid out there. I think there
9 are four bullets and they are proposed and Al said to be
10 completed by is it July 15, 2011?

11 MR. WRIGHT: That's June 15.

12 CHAIR LUCE: Strike that. June 15, 2011. And I
13 believe that most of the testimony that I heard that I think
14 the Council heard during public sessions focused on these
15 issues, and I believe that our expert believed that these
16 fixes would substantially minimize the current noise issues
17 associated with the project. Now, I'll just leave it there.
18 Council Members?

19 MS. ADELSMAN: So I'm trying to think about the
20 actions then for both perspectives. If I look at what's
21 being proposed, then we are really talking about putting the
22 noise limits that are set in the rules in the SCA which we
23 are not and then putting in the SCA these improved
24 procedures that the company will continue to implement these
25 improved procedures. So we're going to take some of this

1 and turn them around in some provision that will take place?

2 MR. WRIGHT: I think our recommendation would be
3 we would put as either an appendix or an insertion the
4 Applicant's offer, and the Council's SCA would in essence
5 accept that offer. I wouldn't recommend we want to rewrite
6 those terms and conditions, but that's up to you.

7 CHAIR LUCE: I would recommend we anticipate the
8 offer as specified in the July 9, 2010 letter as further
9 clarified, supplemented in the August 30, 2010, page 4,
10 identification of specific actions to be taken. Remembering
11 that we reserve, we're overseeing this.

12 MS. ADELSMAN: No, no, I understand, but this
13 offer, you know, once they come to us and we put it in the
14 SCA they become provisions.

15 CHAIR LUCE: Right.

16 MS. ADELSMAN: I mean it's more than the company
17 is offering them to us and actually saying these are
18 conditions.

19 CHAIR LUCE: Right. It's an offer and acceptance
20 which constitutes a contract which is the essence of the
21 SCA.

22 MR. WRIGHT: My only point was I would be
23 reluctant to want to engage in rewording these in the terms
24 and conditions and just because that would create a debate
25 on it itself. But if we're accepting it, we're accepting

1 it.

2 MS. ADELSMAN: So I have a question on the fourth
3 bullet, the one that talks about doing the studies that is
4 conditioned on 3 and 4 being constructed.

5 MR. WRIGHT: If I might offer, we're going to get
6 to 3 and 4. I was trying to move through 1 and 2 first.

7 MS. ADELSMAN: Yes, but the condition is related
8 to 1 and 2, and it says then do it only if, and my question
9 is 5 years, 10 years from now they're not constructing 3 and
10 4, then really this bullet would not go into effect the way
11 I read it.

12 MR. WRIGHT: But that bullet does not affect these
13 conditions above that.

14 CHAIR LUCE: You're both right.

15 MS. ADELSMAN: Yeah, I understand what you're
16 saying. I understand, but at the same time we deal with
17 just 1 and 2 and some of the issues the additional field
18 study for 1 and 2 would help and it's not going to happen.

19 MR. WRIGHT: That's absolutely correct.

20 MS. ADELSMAN: Unless --

21 MR. WRIGHT: What you're going to get are these
22 conditions.

23 CHAIR LUCE: Council?

24 I'm sorry, Mary, go ahead.

25 MS. McDONALD: The only other thing I remember

1 being brought up was a wall. It seemed like there was
2 several parties that brought up that they would like a west
3 wall, and that was kind of touched on, and that isn't
4 mentioned here. Does anyone --

5 MS. WILLIS: The west wall exists, a portion of it
6 does, and I think what the conversation was that they were
7 asking that it be extended or modified because there was an
8 escape for noise I think they were referring to.

9 CHAIR LUCE: Okay. So let's have some Council
10 Member discussion on the extension of the west wall.

11 Terry.

12 MS. WILLIS: I think that if I remember what the
13 language is correctly, it is actually proposed to be
14 addressed during the construction of 3 and 4, the
15 modifications to that wall were suggested there, if I'm
16 remembering how I read it correctly. But I know that it's
17 an issue now so if you don't build 3 and 4 or if it is
18 delayed quite a ways down the road, I would think you would
19 want to address it the same as you do these others.

20 I'm not sure which way I weigh in on that heavily
21 because I know that they had an actual start date of August
22 of 2010 originally, and they only planned to build in 22
23 months. That's not very far away so it could be addressed.
24 If things were going to happen that quickly, then that would
25 be appropriate to include it when you do 3 and 4 and address

1 it all at the same time. If we're delayed out five years, I
2 mean you were talking about five and ten years and that's a
3 possibility, it should be addressed at this moment in time.

4 CHAIR LUCE: Okay. Jeff.

5 MR. TAYER: Well, in my perfect world we would do
6 what's been listed and then measure whether that
7 accomplished what we were trying to accomplish, and then add
8 if we needed to until we got where we needed to be. So that
9 would be my preference. I think this is set up that way.

10 For the most part this wall question seemed to be
11 kind of an outlier and then the issue of potential for
12 lengthy delays is another concern I guess I have. But other
13 than that I think the sequence is laid out -- other than
14 those two concerns I guess the sequence is laid out pretty
15 well. Probably my preference I guess would be given that
16 level of uncertainty we would on the wall it would be to
17 have some time frame where it could be integrated into the
18 construction of 3 and 4, but if it didn't happen during that
19 time frame that it would be added to 1 and 2.

20 CHAIR LUCE: Okay.

21 Mary.

22 MS. McDONALD: Well, I'm kind of the one that
23 brought up the subject because I wasn't sure and wanted us
24 to have a lot of other food for thought. But where I'm
25 going with it is that I appreciate the Applicant coming

1 forward with voluntary measures to begin with, and then I'm
2 struggling with asking for additional measures. But if I
3 have a preference, I guess we heard testimony that people
4 wanted that wall, and they thought that it would be a
5 benefit and then I thought that the noise specialist brought
6 it up too.

7 I would prefer the money to be spent on a
8 correction instead of more monitors, instead of waiting for
9 a study to be completed saying that a wall would be a good
10 thing. But I'm really struggling with asking them for the
11 additional voluntary measures so I don't know. I'm still
12 sitting on the fence.

13 CHAIR LUCE: Okay. So we've got a fence sitter.

14 All right. Dennis?

15 MR. MOSS: Well, I do see an interplay here with
16 the discussion we had earlier today about the community
17 advisory committee, and I note that what we heard during
18 this process from the Applicant was its recognition that the
19 issues are sort of site specific or perhaps even specific to
20 individuals who are neighbors of this plant, and the company
21 was as I heard it committed to working on it from that
22 perspective, and that presumably would be a part of this
23 ongoing communications process that we talked about earlier
24 today. It may be that in the course of doing that
25 construction of some additional acoustical wall or other

1 measures may become obvious candidates to improve the
2 situation to the extent it needs improving.

3 So I'm fairly comfortable with that without
4 necessarily explicitly requiring anything in addition to
5 what they've offered to do June 15, 2011 which presumably
6 these things will improve the noise situation and perhaps to
7 the complete satisfaction of everyone and perhaps not. But
8 I think that's one comfort factor that I gain from this
9 whole community advisory committee process. I think my
10 sense is that the Applicant is committed to continuing work
11 with the community and the neighbors on this and so I gain
12 some comfort in that. But I want to hear more from other
13 people what they think about the idea of composing
14 additional conditions.

15 CHAIR LUCE: Hedia.

16 MS. ADELSMAN: First of all, I don't believe, and
17 the record doesn't show that there was support that this
18 testimony by the scientists on both sides about the benefits
19 of the wall. I don't think that was even brought up by
20 them. I think the citizens kind of expressed some interest,
21 and it was coming from the citizens at least expressed
22 extending this wall.

23 I am like Dennis even though I don't want the
24 community advisory, whatever, to be in the SCA. I think
25 this is a product that could come out of having the company

1 have a group that they would work with that could be looking
2 at some kind of recommendations and talking about it. So I
3 don't see the need to add it or to put it in as an
4 additional requirement, but maybe something that will
5 eventually may end up happening as part of the dialogue
6 between the company and the community or the neighborhood.

7 MR. WRIGHT: Mr. Chairman?

8 CHAIR LUCE: Yes.

9 MR. WRIGHT: Could I offer just a piece of
10 information on the wall?

11 CHAIR LUCE: Please.

12 MR. WRIGHT: Because Mary and some of the others
13 have brought the wall question up so since we put this
14 information out I have gone to the Applicant and asked them
15 what their intent with the wall was and Hedia is right. The
16 sound consultants focused really on the sound, kind of the
17 sound culprits if you will and not so much on the
18 preventative kind of wall design, and the response I got
19 from the Applicant was the bulleted Item 1 in the July 9
20 letter that says install acoustic walls around the
21 combustion turbine exhaust transition pieces was their
22 response to that issue because they're talking about
23 building walls at the place where the sound culprit was
24 identified as opposed to going out on the exterior project.
25 That's the response I got back.

1 CHAIR LUCE: All right.

2 MS. McDONALD: Okay.

3 CHAIR LUCE: Dick?

4 Hedia, do you have more?

5 MS. ADELSMAN: Who?

6 CHAIR LUCE: Do you have anything else you wish to
7 say?

8 MS. ADELSMAN: Me? No.

9 CHAIR LUCE: Dick?

10 MR. FRYHLING: I think the wall ought to be
11 something considered on the way here. I think we want to
12 see what these other measures do. So I would say that can
13 be one of the what if part of the process.

14 CHAIR LUCE: Then to summarize I think the wall
15 would be a subject of continuing jurisdiction of the Council
16 to the extent that it became an issue over time. We have
17 continuing jurisdiction over the project. We do.

18 MS. ADELSMAN: Yes, but you're picking
19 specifically a wall.

20 CHAIR LUCE: I'm not.

21 MS. ADELSMAN: We have general things, but a
22 couple.

23 CHAIR LUCE: I'm not identifying the wall.

24 MS. ADELSMAN: Oh, okay. All right.

25 CHAIR LUCE: I'm just simply saying the Council

1 has continuing jurisdiction over all of the projects, and
2 that would be if it were raised would be an issue at that
3 point in time that it is raised. I'm not singling out the
4 wall.

5 MS. ADELSMAN: Okay, sorry.

6 CHAIR LUCE: All right. Al, go ahead. Where are
7 we now with respect --

8 MR. WRIGHT: Now my recommendation is that we deal
9 with the language for 3 and 4, and then lastly you've got
10 this gray area that I'm referring to that says what if 3 and
11 4 doesn't happen for some prolonged period of time, and is
12 there anything in that void, if you will, that you want to
13 address.

14 The proposal from the Applicant is to incorporate
15 all the existing elements on 3 and 4 that are in 1 and 2,
16 including the voluntary actions above and to undertake a
17 study. And I have imposed into this my own interpretation.
18 That study would be a pre-engineering study. In essence it
19 would be an early study, not a later study to identify the
20 reasonable cost effective mitigation measures that could be
21 done for 3 and 4 that aren't known at this time based on the
22 study, and it's my understanding, and I did not have this
23 understanding when I first read this letter, that those
24 conditions that they found in the study would also to the
25 extent they're reasonable and cost effective is the

1 operative language would be retrofitted to 1 and 2 at that
2 time of construction of 3 and 4.

3 I think that's an important addition to this that
4 I personally didn't read into that July letter. So they're
5 talking about going back at the time they run the studies on
6 3 and 4, find whatever conditions above and beyond what's
7 already been done to that date for 1 and 2. They'll do
8 those additions for 3 and 4 in addition to what was done on
9 1 and 2. But they will also go back, and to the extent
10 reasonable and cost effective, retrofit 1 and 2. I want to
11 clarify because like I say I did not understand that the
12 first time around.

13 CHAIR LUCE: Okay.

14 MS. WILLIS: Question?

15 CHAIR LUCE: Question.

16 MS. WILLIS: Does that mean in addition to the
17 already ones that they have volunteered to do that we just
18 listed earlier?

19 MR. WRIGHT: If you're talking about the results
20 of the study that we don't know what the those terms and
21 conditions might be that result from that study they will
22 impose those on 3 and 4 given their caveat, but they will
23 also retrofit them if they're different to 1 and 2.

24 MS. WILLIS: So they're already going to do the
25 volunteer ones to the existing plant.

1 MR. WRIGHT: They're going to do that now.

2 MS. WILLIS: Then they'll do the additional
3 studies which goes back to 3 and 4 and back to 1 and 2.

4 MR. WRIGHT: Yes.

5 CHAIR LUCE: I think there was testimony to the
6 effect or a question was asked whether it would be an
7 incremental amount of noise above and beyond what was
8 involved in mitigating 1 and 2 as a result of 3 and 4. Are
9 the two greater than the whole than they are individual
10 parts, and if so, the additional mitigation would take place
11 as reasonable and cost effective.

12 MS. WILLIS: Because the bottom line is that four
13 plants I gather will not emit more noise then.

14 CHAIR LUCE: Well, that's to be determined.

15 MS. WILLIS: Yes, right, but that's the goal.

16 CHAIR LUCE: That's the goal, right.

17 MS. WILLIS: They won't emit more noise than they
18 already are.

19 MS. ADELSMAN: So what's in front of us is either
20 we have a condition that talks about that study and the kind
21 of condition. Do we go beyond that? And, Jim, you already
22 said we always have jurisdiction. Do we just say based on
23 the results of the study then at that time the Council will,
24 you know, decide what to do and maybe impose? Or do we now
25 in the language go ahead and talk about the study and talk

1 about the results of the studies, whatever is going to come
2 out of that will be major changes would be imposed in 3 and
3 4 and retrofit to 1 and 2? I mean there's two ways of
4 approaching it.

5 CHAIR LUCE: I would say the latter, Hedia. I
6 would rather be a little more specific than just say the
7 Council retains continuing jurisdiction.

8 MS. ADELSMAN: Okay.

9 MR. WRIGHT: What you normally do in your SCAs
10 that I looked at is under this kind of provision, unlike the
11 one above where you just kind of accept what they offer,
12 this one what you would normally do and that would be in the
13 past, is you would write their language and you would
14 include the provisions that says when they complete the
15 study that they would bring the results of that to the
16 Council for consideration and approval, and then they would
17 move ahead and they would submit plant specific engineering
18 plans to the Council for approval. Then you go through
19 those phases just like you would on a new project.

20 MS. ADELSMAN: That was my first proposal.

21 CHAIR LUCE: Okay. Then maybe I was
22 misunderstanding your proposal.

23 MS. ADELSMAN: The second proposal just says we'll
24 implement the results of the study.

25 CHAIR LUCE: I don't know what the results of the

1 study are so it's kind of hard to predict that.

2 All right.

3 MR. TAYER: Mr. Chair?

4 CHAIR LUCE: Yes, Jeff.

5 MR. TAYER: My question is about sequencing. I'm
6 trying to envision this because I think I remember some
7 pretty aggressive construction timelines of 3 and 4, and it
8 seems like in the interest of not spending more money than
9 you need to you would want to put the three elements that
10 are in described here under these acoustical walls, the
11 silencers on 1 and 2 and the silencer system before you
12 would then go out and do the study which you would want to
13 do before you decide what you're going to do on 3 and 4.

14 CHAIR LUCE: Okay.

15 MR. TAYER: It seems like you do the retrofit and
16 then you see what it did for you and then you apply it to
17 the construction. I'm just a little curious on how that all
18 lines up with the construction plans.

19 MR. WRIGHT: That's the last part that I referred
20 to in this gray area. If they were to leap off and do 3 and
21 4 within a year or two, this whole sequencing would be fine.
22 But what if there's a five-year or seven-year gap between
23 completing June of 2011 and the beginning of 3 and 4, then
24 you don't have any information on how well you did with all
25 of these provisions that have been voluntarily agreed to.

1 MS. ADELSMAN: Yes, but, Al, I think the way that
2 he described that if it's going to be completed by June 15,
3 2011, then they're going to start construction of this plant
4 before that. So you will have this already completed.

5 MR. WRIGHT: No doubt about that.

6 MS. ADELSMAN: So the study, Jeff, will account
7 for those measures just by the way they put the schedule
8 together, isn't it?

9 MR. WRIGHT: But you won't know when that study is
10 going to occur.

11 MS. ADELSMAN: I understand, but it is not going
12 to occur before July 15.

13 MR. WRIGHT: It definitely will not occur before
14 June 15, 2011.

15 MS. ADELSMAN: So you would have the results.

16 CHAIR LUCE: Yes. All right. Al.

17 MR. WRIGHT: There's no doubt about that.

18 CHAIR LUCE: Yes.

19 MR. WRIGHT: So that's kind of the 3 and 4
20 proposal, and, you know, caveated by the fact that you write
21 it in the form of an SCA, normal SCA that they bring the
22 results to the Council and the Council would approve.

23 Then that leaves us this last issue. Okay. Let's
24 say there's a 5- or 7-year gap between June 2011 and
25 whenever these studies would be started, and there is

1 nothing. There will be no new information in the way of
2 studies or monitoring on the existing facilities, and the
3 proposal has been and discussed by you by continuous
4 monitoring system of some type not yet specified to ensure
5 that people know what the noise levels are at the boundary
6 or wherever the appropriate measuring spot is.

7 And the Applicant has argued against that that
8 you're below the standard as it is. They're proposing to do
9 a sizable amount of additional mitigation, and there is that
10 it is a lost investment to invest in an expensive monitoring
11 program to show nothing than you're meeting the standard.
12 So you have what I refer to as this gray area. The argument
13 that the existing 1 and 2 units, however they operate unless
14 they operate some manner well beyond what we know now, the
15 continuous monitoring probably will show compliance with the
16 standard 99 percent of the time.

17 You do have the additional issue of you don't know
18 what these new measures will do post June 2011. So one of
19 the kind of the middle of the road points might be some form
20 of recognition or verification of the results of 2011. This
21 is one option.

22 The other option is just to require a continuous
23 monitoring program based on the -- and I don't think I've
24 been told and this is not good example, but based on kind of
25 the water quality example of, you know, that the effluent is

1 going to be within the standards, but you're required to
2 monitor it anyway so you have monitoring programs. Those
3 are kind of your options or you could just wait until 2011
4 after it is constructed.

5 A third option would be if the noise complaints
6 fall off and we don't hear much more after 2011 declare
7 victory and move onto Units 3 and 4 whenever they're ready.
8 It seems to me that in this debate those are kind of your
9 options.

10 MS. ADELSMAN: So three options the way you laid
11 it out?

12 MR. WRIGHT: I made up three options. You could
13 make up more if you want.

14 MS. ADELSMAN: So you're talking about continuous
15 noise monitoring that would happen after June 15, 2011 and
16 then the third one is?

17 MR. WRIGHT: The third would be just base it on
18 compliance. After 2011 if the plant is running, and I'm
19 kind of assuming that by 2011 if some other things happen in
20 the energy world that we think is going to happen, this
21 plant is going to be running more than it is running now.
22 And if you're not getting complaints, you could declare
23 problem solved and move on to see what they do with the
24 studies on 3 and 4. I'm making these up. I get a lot of
25 license with it.

1 CHAIR LUCE: Let's start as we did previously.

2 Terry, you've got some thoughts on that?

3 MS. WILLIS: I do. To start with I'm not for this
4 continuous monitoring. I believe we have issues already
5 there. We've already determined that they were in
6 compliance and we still have complaints. So just to prove
7 they're still in compliance isn't going to make the
8 complaints go away because the complaints are specific to
9 certain types of noises and other things.

10 Also I said at one of the other meetings that I
11 thought the continuous monitoring would be helpful to the
12 business itself because they would have then a documented
13 process that said, no, they were within compliance. But
14 instead of putting it in the SCA that they're required to do
15 continuous monitoring, I would rather leave it up to the
16 business to determine whether that is useful to them
17 depending on how it goes with the complaints and the
18 adjustments they make and everything as to whether they make
19 that record for themselves.

20 So at this moment in time I'm not in favor of the
21 SCA demanding they do continuous monitoring.

22 CHAIR LUCE: Jeff?

23 MR. TAYER: I think at least for now I'm in
24 agreement that continuous monitoring might be too much. I
25 guess I wonder if given the amount of investment that's

1 going to be made in those three remedial items it wouldn't
2 be a good idea to figure out some reasonable way to collect
3 some data of what it was before and what it was afterwards.
4 It would be good for us. I think it would be good for them.

5 CHAIR LUCE: Mary?

6 MS. McDONALD: I'm not in support of continuous
7 monitoring. I guess we did those two studies, and if
8 there's money to be spent on evaluating the noise problem,
9 if our community action committee comes forward and says,
10 hey, we still have problems, I think the company then would
11 be more inclined to invest in the temporary study than if
12 they had continuous monitoring. It just allows for more
13 money to be spent in the corrections instead of study.

14 CHAIR LUCE: Right.

15 MR. MOSS: I generally agree with what others have
16 said. I just want to echo what Jeff said which I think it's
17 in the Applicant's best interest, and it certainly would be
18 in our interest to have some kind of follow up what we have
19 in the way of noise studies just to see how effective these
20 additional mitigation steps that are going to be taken by
21 mid next year how effective those are. And I think I would
22 inform the Applicant both with respect to existing
23 operations but also perhaps with respect to design for 3 and
24 4 which would then be supplemented further by the study
25 that's committed to here as that construction is undertaken.

1 CHAIR LUCE: Okay. Good.

2 Hedia.

3 MS. ADELSMAN: I am with the group on the
4 continuous monitoring. I don't see the need for it. I
5 think Bullet No. 2 which is the procedure for recording and
6 following up on complaints is one way of monitoring. Also I
7 agree with Jeff and Dennis that either having a survey,
8 having some kind of feedback or having something a little
9 bit more scientific that we decide whether the various
10 things that they installed are actually working. There is
11 no additional noise or the noise went down and maybe some
12 partial measurements that could be in different places, some
13 measurement at the places where the complaints are and so on
14 and see whether they are seeing a reduction. Maybe using
15 the same monitoring sites they have done before to see what
16 the difference is.

17 But I think personally if you are going to have
18 this subcommittee, advisory committee or whatever it is,
19 this is another thing that the group can be looking at if
20 you want to give them some kind of responsibility at the end
21 whether there's improvement. Maybe have the company share
22 with them the results and see if there's enough improvement
23 actually they're fine with it or maybe they need to do
24 something else.

25 CHAIR LUCE: Thank you. Dick?

1 MR. FRYHLING: I go along with the group. I don't
2 think the continuous monitoring needs to take place yet. I
3 think after June 15 we need to have some measure of what's
4 happened with this work that's been done on 1 and 2. If
5 this neighborhood community group is in existence after
6 June 15, they can get together and say, oh, yeah it is
7 better or it's worse or whatever. If this gentleman wants
8 to have his glass of wine when he gets home from work out on
9 his patio, and it's fair that he can now have his glass of
10 wine, then it's a success. So this company has been
11 successful.

12 I think we have to wait for any additional
13 monitoring until after those improvements have been made.

14 CHAIR LUCE: Well, I was the one who initially
15 thought about continuous monitoring, and I've reconsidered
16 my position. I don't think continuous monitoring is
17 necessary at this point in time.

18 MS. ADELSMAN: You don't want to be 6 to 1?

19 CHAIR LUCE: What?

20 MS. ADELSMAN: You don't want to be 6 to 1?

21 CHAIR LUCE: Like you?

22 MS. ADELSMAN: In this case I would be the
23 majority.

24 CHAIR LUCE: No, Hedia, I'm smarter than that.
25 It's more fun this way. No, I don't think continuous

1 monitoring is necessary.

2 So, Al, does that constitute the sum and substance
3 summary of the noise issues?

4 MR. WRIGHT I believe so.

5 MS. ADELSMAN: Are we done?

6 CHAIR LUCE: I was going to try and summarize what
7 I think I've heard.

8 MR. WRIGHT: Yes, since you're going to give staff
9 the direction now to go back I would like that.

10 CHAIR LUCE: So what I've heard on noise is this:
11 We will include in the new SCA the specific noise standards
12 as specified in WAC whatever which is not currently the
13 case, but we will put them in; that the Council will accept
14 the offer as set forth in the July 9, 2010 letter from the
15 Applicant and as further specified in the August 30, 2010
16 page 4 letter for the items that it will do between now and
17 June 15, 2011. They're specified and I'm not going to read
18 them.

19 That at the conclusion of that work there will be
20 a baseline done to compare what we now know as the noise --
21 to compare what we now know about noise with what we will
22 know after those improvements have been. That we will
23 postpone until such time as necessary not specified but the
24 wall issue. The wall issue will be the subject of
25 continuing jurisdiction which may be brought at some point

1 in time in the future to the Council, but we're not going to
2 lay it out as such as expecting it to be anything more than
3 part of the overall continuing jurisdiction.

4 That there will be no need for continuous
5 monitoring. Of course, we don't have to put that in. There
6 is no continuous monitoring. And that in connection with 3
7 and 4 at which time they are to be constructed there will be
8 an acoustical specialist who will compare 3 and 4 and 1 and
9 2, and to the extent that there are additional increments of
10 noise identifiable from 1 and 2 that as a result of 3 and 4
11 to the extent that the overall noise level has been
12 increased that the company will undertake such additional
13 reasonable cost effective mitigation measures to reduce that
14 additional noise. That's probably not the most artfully
15 stated, but that's the best that I can do. Does anybody
16 want to add to that?

17 MS. McDONALD: Just a clarification. The baseline
18 that you asked for after the retrofits have been done to 1
19 and 2, I understood that it was going to be voluntary as I
20 heard several Council Members, at least I thought I did,
21 about maybe the Applicant would see it would be in their
22 best interest. And then what I heard from you is that
23 you're requesting it.

24 CHAIR LUCE: I can go either way on that. We have
25 a baseline already based on what our consultant did.

1 MS. McDONALD: Right. That wouldn't include the
2 housing things though.

3 CHAIR LUCE: I'm perfectly fine with making that
4 voluntary. All right?

5 If Council Members want that voluntary, that's
6 fine. If you want it required from my perspective that's
7 better, but I'm flexible.

8 MR. TAYER: I think as I understand this, and I'm
9 not quite completely sure of this, but I think we already
10 have a baseline.

11 CHAIR LUCE: Well, we do.

12 MR. TAYER: So what I want to see is some data
13 that shows what was done in these three bullets, what it
14 accomplished. So I really I think we need to have that.

15 CHAIR LUCE: The question is whether it should be
16 voluntary or should it be required.

17 MR. TAYER: I think we need to have it.

18 CHAIR LUCE: I do too, but other Council Members
19 may not feel the same way.

20 Terry, do you think it should be required?

21 MS. WILLIS: I can go either way on this so I'll
22 leave it up to the rest of the board to make that
23 determination.

24 CHAIR LUCE: Oh, that's too easy.

25 MS. WILLIS: I know. I'm sorry. Come back to me

1 in a few minutes if you want it.

2 CHAIR LUCE: Mary?

3 MS. McDONALD: I know, I know. I raised it
4 because I was in a conundrum about it, and then I heard you
5 make a decision. And then I was thinking, oh, did we make
6 that? I guess I think it would be worthwhile to have it.
7 Yes, I'd ask for a requirement.

8 CHAIR LUCE: Three.

9 Dennis?

10 MR. MOSS: Yes, I would make it a simple majority
11 at least by saying I think it should be. We have a baseline
12 and we should measure against that baseline. We need that
13 information because we don't know. It's not just this
14 project, but on an ongoing basis and somebody comes forward
15 and says we want to do this and we find out it was a waste
16 of money or we find out it was a wonderful expenditure, and
17 it's information we should have.

18 CHAIR LUCE: I think it's going to actually
19 protect the company.

20 MR. MOSS: Absolutely.

21 CHAIR LUCE: Hedia?

22 MS. ADELSMAN: I personally think they should come
23 back after June 15, 2011 to let us know that they did this
24 and also provide us with information, and I would leave it
25 to the company on the performance of these various things

1 that they put together and hopefully showing that they have
2 improvement.

3 CHAIR LUCE: So that's a yes?

4 MS. ADELSMAN: It's not a money down the drain for
5 this.

6 CHAIR LUCE: So that's a yes for the requirement?

7 MS. ADELSMAN: Yes.

8 CHAIR LUCE: Dick?

9 MR. FRYHLING: Yes.

10 CHAIR LUCE: All right. Back to you, Mary.

11 MS. McDONALD: Yes. I said yes.

12 CHAIR LUCE: You were the conundrum.

13 MS. McDONALD: Oh, I resolved it.

14 CHAIR LUCE: Terry, are you still conundrum?

15 MS. WILLIS: No, I'll go along with the board and
16 say yes. After hearing some of the comments and the fact
17 that we are not going to request them to do continuous
18 monitoring, yeah, I think it makes more sense. They've
19 already spent the money on the original baseline. They're
20 going to do improvements so let's see if those improvements
21 actually worked. Thank you.

22 MR. MOSS: I have a separate point based on what
23 you said.

24 CHAIR LUCE: Yes, sir.

25 MR. MOSS: What I understood you to say was that

1 they would do additional cost effective work on 1 and 2 only
2 to the extent that there was a net increase in noise caused
3 by 3 and 4 or in addition to 3 and 4. I don't believe
4 that's what the commitment is. So I just want to clarify
5 that point. If they do 3 and 4, then they're going to do
6 this study, and that study identifies additional reasonable
7 cost effective mitigation that would be implemented on 1 and
8 2. Then that would be done whether there's a net reduction
9 or a net increase or no change at all. That's my
10 understanding of it, and I think that's how it should be
11 because the most desirable outcome I think for everyone with
12 respect to this would be a net decrease even with the
13 addition of 3 and 4.

14 CHAIR LUCE: I think -- I'm sorry, Hedia. Go
15 ahead.

16 MS. ADELSMAN: I think Al when he summarized what
17 the provision is going to be for this one it was the right
18 way to do it.

19 CHAIR LUCE: He did and I misspoke.

20 MS. ADELSMAN: Okay.

21 MR. MOSS: I just wanted to correct that.

22 CHAIR LUCE: I don't do that often.

23 All right. Do we have directions to staff on the
24 noise issue? Can we have another ten-minute break?

25 MS. ADELSMAN: What remains? Committee?

1 CHAIR LUCE: Maybe we're done. All right. I
2 guess there is something else. All right. I'm going back
3 to my script.

4 MR. WRIGHT: Mr. Chairman?

5 CHAIR LUCE: Yes, sir, Al.

6 MR. WRIGHT: We did tell the Applicant and other
7 parties they could speak.

8 CHAIR LUCE: Oh, that's correct. That's correct.
9 We told the Applicant we would give them an opportunity to
10 speak. I was analogizing our discussion on this to fishing,
11 and when you go fishing, the thing you want to do is after
12 you hook the fish you want to get it up to the boat. Then
13 you want to get it in the net and on the boat. You don't
14 want to let it get up to the boat and make another run on
15 it. So what we wanted to do here was to complete the
16 Council's deliberations, and having completed them give the
17 Applicant the opportunity to speak to our decision.

18 Yes, Hedia.

19 MS. ADELSMAN: Jim, I would like to go back and
20 revisit. We gave the staff some guidance at least on the
21 community advisory committee but ask them more questions
22 about where I would like to see there's opportunity for the
23 Council to look at more direction to the staff on this.

24 CHAIR LUCE: And I've asked you to prepare
25 direction. Are you prepared?

1 MS. ADELSMAN: No. You know, first of all, I
2 stated my position, but if we're going to have an advisory
3 group, again the advisory group is to the company itself.
4 And whether the County is the one facilitating or somebody
5 else, that's fine. There are several questions that --

6 CHAIR LUCE: Okay.

7 MS. ADELSMAN: Let me finish up -- that Bob had in
8 here. Definitely they're not decision makers. For me EFSEC
9 should not be part of that, the group itself, and be even
10 receiving anything from them. But I want the group to talk
11 about it. That's my opinion. It's not really as critical
12 as the whole group's opinion of what this is.

13 CHAIR LUCE: That's fine. We'll take ten minutes
14 and discuss that, but first we're going to have a ten-minute
15 break. So we're going to come back to the citizen advisory
16 group for ten minutes, and then we're going to allow the
17 Applicant and anybody else who's here that wants an
18 opportunity to speak.

19 MR. FRYHLING: Before I do that, Jim, I would like
20 to raise a question to this Council.

21 CHAIR LUCE: Yes.

22 MR. FRYHLING: I can do it now or I can do it
23 after we get done with the community council. I think this
24 Council needs to visit this site. We've been talking about
25 noise for an hour or an hour and a half or ten hours to go

1 back and look over the last two or three months, and we need
2 to go up there and listen to what noise is. I think if
3 we're going to make decisions on noise, then we need to have
4 the experience at least of hearing what this equipment
5 sounds like from the location, and from two or three of the
6 people that live up there what it sounds like from a half
7 mile away or a mile away or 15 feet away or whatever. I
8 think this Council needs to have that opportunity.

9 CHAIR LUCE: I think we can have that opportunity.
10 Council Members who wish to attend to that visit should be
11 afforded the opportunity to do so, and we'll do so with
12 respect to whatever process our lawyer tells us that we
13 need, whether they need to notice or not. So we'll do that,
14 Dick.

15 We'll take a ten-minute break now. We'll come
16 back, we'll discuss the citizens advisory group for ten
17 minutes and then we are going to hear from the Applicant.
18 Thank you very much. We stand in recess.

19 (Recess from 12:24 p.m. to 12:34 p.m.)

20 CHAIR LUCE: We'll be back on the record. This is
21 the continuation of deliberations of the Energy Siting
22 Council with respect to the Grays Harbor Project. Before
23 our break we agreed to come back afterwards and spend ten
24 minutes or less talking about the citizens advisory group.
25 In the interim there has been some thinking given to this

1 over the watercooler, and I would ask Jeff and Terry to
2 address what their thoughts were because I think they're
3 closely aligned with my own and then have a Council Member
4 discussion that is appropriate.

5 So Jeff, Terry, whichever way you want to take it.

6 MR. TAYER: I guess we were wondering whether
7 there was a way that we could work with the county on this
8 where we would direct the company to work with the County.

9 MS. ADELSMAN: Could you speak up a tiny bit.

10 MR. TAYER: I don't believe that. I'll have to
11 recall my police voice. I guess what we were talking about
12 and wondering about is whether there's a way that the
13 Council can have the company work with the County, and that
14 the advisory committee since it's a community group within
15 Grays Harbor County that the County convene this group. It
16 would be a County advisory committee that would then
17 ultimately relay back if necessary to the Council or
18 hopefully not.

19 CHAIR LUCE: But going through the County.

20 MR. TAYER: Going through the County.

21 CHAIR LUCE: So, Terry, you want to talk about
22 that a little bit?

23 MS. WILLIS: Sure. One of the things we were kind
24 of dividing out is if you have the community group, and then
25 they would draw together to make recommendations to the

1 business Grays Harbor Energy in this case. And if they
2 couldn't resolve -- if they could come up with something
3 that's amicable, then great, we're done with it. If they
4 couldn't resolve something or thought it was a bigger issue
5 that needed to have deliberation on it, they could bring it
6 to the county commissioners and at that point in time the
7 county commissioners could weigh in on it or not.

8 And then if it was something that needed to come
9 before the EFSEC board, it could be filtered through the
10 county commissioners to the EFSEC board. And it would give
11 you kind of a process step, and you pointed out,
12 Mr. Chairman, that any citizen, of course, could bring. If
13 that process didn't work for any particular citizen they
14 could bring you something specific to the EFSEC board kind
15 of as an appeals process, but their lines of communication
16 to EFSEC were not limited at that time.

17 CHAIR LUCE: Right.

18 MS. WILLIS: I think that gives you the guidance
19 of how the structure might be. I'd like maybe a little more
20 guidance in the conversation as to maybe the subject
21 matters. Are they only suppose to talk about certain
22 subject matters? Is it limited to only certain issues such
23 as noise or could it be other issues? So I think we need
24 some guidance for staff on that, and then that will make our
25 next meeting much more effective and they'll still be able

1 to bring us something back.

2 CHAIR LUCE: All right. One of the things brought
3 to my attention that I wasn't aware is that is OFM is now
4 considering that technical advisory committees to be subject
5 to all the normal advisory laws and regulations that extends
6 to any sort of state advisory committee and that's above and
7 beyond. So that's why we're looking for another structure
8 so that it's not an Energy Siting Council Citizen Advisory
9 Group but working through the County.

10 I would like to find some way to reimburse the
11 County for reasonable expenses, if necessary, for this
12 particular group meeting periodically. We're not talking
13 about a lot of dollars here. We're probably talking about
14 coffee and doughnuts and some talk. But the point is I
15 think some reasonable recovery of expenses would not trigger
16 the advisory council rules and regulations of the state.

17 MS. WILLIS: In these economic times that would be
18 very commendable on your part.

19 CHAIR LUCE: I don't want to give any specific
20 recommendations to my own thinking to this group. I think
21 the purpose and the intent of this group is to foster
22 understanding and cooperation between the Applicant and the
23 adjoining community and County specifically addressing such
24 issues as may be appropriate at the time of the group's
25 meeting. So I really don't want to drill down on noise.

1 There's no reason to single out one issue as opposed to
2 another.

3 MR. TAYER: I wonder if in terms of something
4 concrete to look at is if staff and Al and Terry could work
5 in the interim between now and the next meeting to put
6 together something in writing that we could look at?

7 CHAIR LUCE: I think that would be very helpful.

8 MR. FRYHLING: I think if we're going to have
9 this, they have to have a mission and a goal. And just to
10 have a group meeting to have a group meeting isn't something
11 we should be discussing. I think if noise is an issue then
12 that should be the mission at this point in time. It
13 shouldn't be whether we have parks up there or whether we
14 should be doing something else. I think there is one goal
15 in this group and that was to address the problem. The
16 problem as we defined it at this point has been the noise
17 issue. I just don't think we should have a community group
18 with an open ended that's part of EFSEC.

19 CHAIR LUCE: Let's have something written up and
20 brought. Hedia that addresses your concern I think, your
21 interest that it not be EFSEC driven.

22 MS. ADELSMAN: But it would still be in the SCA?

23 CHAIR LUCE: It could be. We'll have to talk to
24 the attorneys about that. I do not want to trigger the
25 Advisory Committee Act requirements. So that would be --

1 just a minute, Mr. La Spina.

2 So that's my thinking on that to avoid that, and
3 we can listen to the Applicant's suggestion.

4 MS. ADELSMAN: So is there a reason why it's not
5 something that we're encouraging the company to do and it's
6 up to the company and the neighborhood to kind of decide so
7 what is it that they want to have dialogue about and
8 communication about and leave it to them instead of us even
9 being involved?

10 CHAIR LUCE: Issues associated with the project.
11 I mean they're not out there to discuss the number of salmon
12 running up the river or maybe water quality, who knows.

13 MR. TAYER: We would appreciate that.

14 CHAIR LUCE: But I understand what you're saying.
15 It's not an open ended. It's issues related specifically to
16 the project. So we'll write something up, Hedia, and then
17 you can chew on it.

18 MS. ADELSMAN: I'm not saying that. I'm saying
19 leave it up to them to decide what the agenda is going to be
20 and whatever they want to cover, and if they want to cover
21 noise or if they want to cover I don't know some balloons
22 hanging around.

23 CHAIR LUCE: Vagrants hanging around, traffic
24 issues.

25 MS. ADELSMAN: Construction issues possibly.

1 CHAIR LUCE: All right.

2 Jim, did you have something you want to say?

3 MR. LA SPINA: No, sir.

4 CHAIR LUCE: Does that help, Al, to work on some
5 language?

6 Kyle, make sure that we don't trigger the Advisory
7 Committee Act regulations.

8 MR. WRIGHT: Staff will have a draft for you prior
9 to the next meeting.

10 CHAIR LUCE: Okay. We have one item left, and
11 that is an opportunity for the Applicant or other members of
12 the public to address the Council.

13 MS. MCGAFFEY: Thank you, Chairman Luce. This is
14 Karen McGaffey speaking on behalf of the Applicant or rather
15 the certificate holder Grays Harbor Energy.

16 I guess I'd like to start by thanking Bob Wallis,
17 Al Wright, Counsel for the Environment Bruce Marvin, and the
18 rest of staff who participated in a meeting with us a couple
19 weeks ago that I thought was very productive in providing
20 more information and answered some of the questions that
21 arose during the Council's previous deliberations and kind
22 of sorting out some of the details about some of the general
23 concepts that were discussed earlier.

24 I also want to thank the Council for this
25 opportunity to speak and address some of the issues that

1 came up during deliberations. I think from our perspective
2 one of the virtues that we found in the expedited process
3 was the opportunity to have a direct dialogue with the
4 Council, be able to answer your questions as they arose, be
5 able to point out issues of concern to us rather than being
6 stuck with the very formal procedure of submissions and
7 interactions which doesn't allow kind of that free-flowing
8 dialogue, but I think from our perspective at least we found
9 it to be very helpful.

10 Following the Council's last session for
11 deliberations we submitted a somewhat lengthy, and I
12 apologize for that, letter at the end of August that
13 discussed a number of issues in detail. And it's obvious
14 from the discussion that many of the Council Members had a
15 chance to review that, and we appreciate that opportunity.
16 I'm going to try my best not to retread over ground that was
17 already covered there.

18 We have also had an opportunity to submit to staff
19 draft proposals for the language in the site certification
20 agreement which it sounds like you may not have an
21 opportunity to see. So, for example, some of the issues
22 that were raised today like the issue that Hedia raised
23 about lighting I believe we have proposed specific language
24 that would incorporate the measures that have been done with
25 respect to lighting in the SCA proposal. So I think when

1 you get a chance to see before the next session the
2 combination of our efforts and staff efforts that will
3 really put in very clear terms what's being proposed and
4 what the issues are.

5 So with that introductory comment, I want to just
6 touch on a few of the issues that were discussed today. The
7 first one relates to CO2 mitigation. As the Council is no
8 doubt aware this is the first project that has appeared
9 before EFSEC under new statute or regulatory requirements
10 for CO2 mitigation. The Council has been doing CO2
11 mitigation for some time but under different structures.

12 You've had experience, for example, with
13 PacifiCorp on the Chehalis project in trying to implement
14 its own mitigation projects, and as you know there's been
15 some issues with the timing and delays associated with that.
16 You've also had some experience with money being sent to the
17 Climate Trust to implement projects, but none of them under
18 quite the arrangements that are similar -- they're similar
19 to but not identical to the new statutory regulatory
20 structure.

21 I think the discussion today was absolutely right
22 that the Applicant or certificate holders have the option of
23 how they want to proceed with mitigation. Grays Harbor
24 Energy has chosen to provide funding to one of the qualified
25 organizations primarily because Grays Harbor Energy isn't in

1 the business of implementing CO2 mitigation. They're not
2 experts on it, and I think as a Council you recognize and
3 certainly the legislature recognizes that if significant
4 amounts of money are going to go to CO2 mitigation, it ought
5 to be put in the hands of people who know what they're doing
6 and can get the most bang for your buck when it comes to
7 mitigation.

8 We also understand that there is an opportunity
9 there to not only mitigate CO2 emissions but to reap
10 economic benefit from the activities and environmental aside
11 from CO2 reduction associated with those projects, and so
12 Grays Harbor certainly has no objection to try to find
13 opportunities for that money to be spent locally. I think
14 that the Council recognized that that's really not a site
15 certification agreement issue.

16 The Council has identified agencies and
17 organizations that are approved to receive this money. I
18 think through that process of approving those organizations
19 you as a Council have a significant opportunity to influence
20 how those organizations spend the money. The Climate Trust
21 and others know if they don't spend the money in a way that
22 you're happy with, you can take them off the list. Again,
23 that's not an SCA issue, but I'm pretty confident that as
24 this plays out you will have an opportunity to make very
25 clear to those organizations that you have a preference for

1 a local implementation.

2 The second issue I want to discuss is noise. I
3 think we found the discussion today to be very helpful, and
4 I appreciate in particular Al's efforts to try and divide up
5 the subissues in different categories, and I think we've
6 eliminated some of the confusion that we probably
7 contributed to earlier. There are just some of those
8 subissues that I want to discuss specifically.

9 One has to do with the extension of the noise wall
10 which currently is along the west along Keys Road of the
11 facility, and there were as Council Members had noted some
12 comments by residents about whether it would make sense to
13 extend that wall along the southwest corner. I think that
14 Hedia was correct that no expert advocated doing that; that
15 that was merely sort of an idea posited by some members of
16 the public.

17 I guess what I want to make clear is that is not
18 something that Grays Harbor Energy proposes to do at this
19 time. It's not something that was required by the SCA, and
20 it's not something that I think the experts identified as
21 being an effective way to reduce the noise that some people
22 experience. Instead the idea is to put some smaller walls
23 around particular pieces of equipment that have been
24 identified producing particular sounds. Whether or not the
25 noise wall would be extended in connection with the

1 construction of Units 3 and 4 remains to be seen. What the
2 application says about that is that if it is required to
3 comply with the WAC noise limits, that's a possible way to
4 make sure the project is in compliance. We don't anticipate
5 that that wall will be required in the future, but it would
6 be an option to require if it were necessary to achieve
7 compliance. Again, it's not something that under the
8 Council's regulations would be required. All the Council's
9 regulations require is that the WAC standard be met.

10 I also want to emphasize that extending that noise
11 wall is not a small thing to contemplate. Extending around
12 that corner we haven't gotten final design estimates of what
13 it would cost, but we're hearing that that would be several
14 hundreds of thousands of dollars to do which I think is why
15 the noise experts are more focused on doing things at the
16 source of particular noises rather than trying to create a
17 barrier around the site.

18 The second item related to noise that I want to
19 touch on is the study. I think Al correctly described it as
20 a pre-engineering study that would take place during the
21 engineering design of Units 3 and 4 to try and see whether
22 there are any additional cost effective reasonable measures
23 that could be taken to reduce noise levels above and beyond
24 what is required by the regulations. What I do want to
25 emphasize here is this was a voluntary offer by the

1 Applicant. If the Applicant hadn't offered to do this, you
2 would not have the authority to require them to do it. The
3 regulations say comply with the WAC for new projects, and
4 there's no requirement to do this kind of cost effectiveness
5 study. So this is I think a significant commitment that the
6 Council has made above and beyond what they're required to
7 do under state law.

8 The third thing I want to address briefly is this
9 issue of monitoring. We were very pleased to hear a
10 consensus on the Council against requiring continuous
11 monitoring. For the first time today, however, we heard an
12 idea about requiring data to be collected after the
13 installation of the additional measures that Grays Harbor
14 has identified. So presumably some kind of study at the end
15 of next summer, something after those things are installed
16 by June.

17 We have concerns about this proposal. Again, I
18 want to emphasize that this kind of study is not a minor
19 undertaking. The study that Grays Harbor commissioned to
20 determine and demonstrate compliance was an expense that
21 exceeded a hundred thousand dollars. As you heard when Mike
22 Theriault gave a presentation in the meetings in July, it's
23 not just a simple matter of putting some monitoring devices
24 around. It takes an acoustical expert to really analyze
25 that data and try to figure out what noise levels are coming

1 from what in the community. So while I understand the
2 Council's sense that it would be interesting and nice to
3 have that kind of data. That is not an insignificant
4 expense to try and collect that data, and I guess from Grays
5 Harbor's standpoint we think that including that kind of a
6 requirement in the SCA is something that goes beyond the
7 Council's authority to do.

8 I think there's consensus here that the current
9 facility complies with the regulatory standards. You know,
10 the testimony during the hearings was that the existing
11 facility was 10 to 20 decibels below the regulatory
12 standard. Once they install these additional silencers and
13 acoustical walls, I think the only reasonable conclusion is
14 that level is going to go down from there. It's certainly
15 not going to go up. So requiring that kind of data
16 collection is not necessary to determine compliance with the
17 SCA which I think would be only a basis to require it.

18 Now I think the points made today are well taken
19 that it might be from a business standpoint a smart thing to
20 do, and I think the company is going to have to consider
21 that from a business standpoint. But it's our view that
22 that should not be a requirement in the SCA.

23 The next item I would like to talk about is the
24 Community Advisory Committee concept that's been discussed.
25 Grays Harbor Energy's view is that communication with the

1 community is a good thing. I think we all have seen through
2 the course of these proceedings the benefit of increasing
3 communication. Some issues that the neighbors had we were
4 able to resolve, and I think the relationship with the
5 community has improved for them and has improved because of
6 that. So it's certainly my expectation that the company
7 will continue to want to do those community outreach
8 efforts. Although we tend to agree with Hedia's comments
9 that it's not really the Council's role to require that,
10 Grays Harbor Energy doesn't oppose a requirement to engage
11 in increased communication or ongoing communication with the
12 neighbors.

13 I think the question really is how is that
14 structured, what's the mission, what does that look like. I
15 think some of the points today are very well taken that the
16 SCA should not establish some kind of very specific
17 structure that over time may not be very functional, and
18 then we find ourselves later in the position of having to
19 amend the SCA. I think this is another situation where more
20 general language in the SCA that would allow development
21 over time of whether it made sense to have more meetings or
22 less meetings or stop meetings makes a lot of sense.

23 In actually talking with Jim over the break one
24 idea that occurred to us and occurred to Jim, and I think
25 it's a good one, is the notion of the SCA requiring Grays

1 Harbor Energy to develop and submit for the Council's
2 approval of a Community Communication Plan. That by
3 structuring it in a plan it could change over time. The
4 Council would have ongoing ability to review revisions to
5 the plan, but it might make sense at some time to have
6 quarterly meetings. It might make sense to have annual
7 meetings. What those meetings looked like and who was
8 involved could be spelled out in the plan and again could
9 change over time allowing the Council, of course, to review
10 the proposal but not creating some kind of a complicated
11 structure that would be subject to a bunch of regulatory
12 requirements who knows even what those would be.

13 I guess in response to the last couple of
14 comments, the suggestion about perhaps having the County
15 involved and there being appeals to the county
16 commissioners, I guess my caution there is I think it's
17 important that whatever is set up not be a structure that
18 creates unrealistic expectations. I think we agree that
19 communication is good and that through communication often
20 problems can be resolved. But if we set up a structure, for
21 example, that would allow some sort of appeal to the county
22 commissioners, that might create some kind of expectation
23 that the county commissioners could do something about it,
24 and, of course, they've got no jurisdiction over the
25 project. Likewise if you set a structure that creates an

1 appeal to EFSEC, it creates expectation that you as a
2 Council have an ability to resolve all problems or all
3 complaints and can just willy-nilly impose additional
4 requirements. And, of course, your role once you issue an
5 SCA is to require compliance with the SCA.

6 So while it's certainly true that any member of
7 the public can come to any EFSEC meeting and make comments,
8 I think it's important that you not create a structure that
9 creates an impression among neighbors or members of the
10 community that they've got certain rights or entitlements or
11 that they can expect certain responses that are not, you
12 know, consistent with your regulations in the law.

13 And I guess my suggestion is to come up with some
14 idea like the plan, communication plan idea where we could
15 foster communication. You would have some oversight of it,
16 but it won't impose a bunch of regulatory requirements.

17 The final topic that I want to mention which I
18 think relates to a number of the topics I've discussed and
19 that you discussed this morning, during the course of the
20 discussion this morning several times I've heard words like
21 adaptive management, continuing jurisdiction, and other
22 phrases that imply that there would be going forward an
23 ongoing ability for the Council to impose additional
24 requirements on the project. That is something that has us
25 very concerned. In a project that costs hundreds and

1 millions of dollars and requires financing from major
2 financial institutions in order to make the project work
3 those institutions need to understand what's required and
4 what's not required. They can't think that, oh, this month
5 there will be some new mitigation requirement, next month
6 there will be something else, and who know what will happen
7 a month Monday after that. And that is not the way EFSEC
8 has historically approached permitting. There's been a
9 permit that's had defined requirements. Really the TAC
10 context for wind projects has been an exception, and that
11 was an exception that was proposed by the applicants because
12 of scientific uncertainty and because of the understanding
13 that both the science and the technology was evolving.

14 Here I think, you know, the issue that we've all
15 been talking about is noise, and there's an objective
16 standard. There's a clear regulatory requirement in your
17 regulations. It's not really an issue that's suited to
18 adaptive management or some kind of continuing jurisdiction
19 aside from obviously your continuing jurisdiction to ensure
20 compliance with the SCA. I guess what I want to stress is
21 that another sort of phrase I heard several times was the
22 idea of resolving problems.

23 Quite frankly it is not your job to try and
24 eliminate every neighbor's complaint or resolve every
25 neighbor's complaint. You know as a company Grays Harbor

1 hopes to be able to resolve complaints, but sometimes you
2 can't do that. Sometimes you cannot make everyone happy.
3 Here we've got a situation where a project exists, and an
4 expansion is being proposed on an industrial site; one of
5 the only sites in the county where this kind of facility is
6 allowed and other kinds of industrial facilities are
7 allowed.

8 There may be people who live around that facility
9 that have an unreasonable expectation of what their
10 surroundings are like. They may want perfect silence. They
11 may want other things that they're just not entitled to.
12 Through increased communications we are hopeful of trying to
13 resolve as many complaints as possible, minimize complaints,
14 but at the end of the day that's not what the statute or
15 regulations say that everyone has to be completely happy
16 about it. And from the company's standpoint it's going to
17 be very important that the SCA is written in the way that
18 creates certainty about what's required and what isn't.

19 And I know for those of you who have been on the
20 Council for many years you've gone through the process of
21 developing standards through rulemaking in order to create
22 that kind of certainty which I think is a process that was
23 very important for future energy development in this state,
24 and it's a process that we want the SCA to reflect.

25 So those are my comments. I appreciate having the

1 time to do it. If there are questions about anything I've
2 have said or questions that you have throughout the
3 discussions that I can answer or the company can answer
4 we're happy to do that.

5 CHAIR LUCE: Thank you. Council Members?

6 MS. ADELSMAN: Can we ask questions?

7 CHAIR LUCE: If you want to go down that road,
8 sure.

9 MS. ADELSMAN: I just want some clarification on
10 this community advisory committee. In one hand you said you
11 don't have a concern about maybe even having it named or put
12 in the SCA, but then your proposal which I like personally
13 much better is to have you submit a plan on how you do the
14 outreach and communication and use that plan for
15 recommending forming an advisory group. Then it's in there
16 for us to look at that plan and say this looks like a good
17 element for communication. Is that fair?

18 MS. MCGAFFEY: You know, that's my -- this idea
19 about a plan I've had approximately an hour to think about,
20 but I think that does make a lot of sense. Rather than
21 getting you in a situation of trying to come up with the
22 details now, it gives an opportunity for some real thought
23 to go into those details. And I think, you know, the
24 company has been doing communication lately and I think they
25 have an idea of what's been effective and what hasn't. They

1 may not have all the answers, and in developing that plan it
2 may make sense to talk to the County and talk to other
3 people. But I think that's a way to accomplish what the
4 Council's looking from the standpoint of increasing
5 communication without getting bogged down in SCA conditions
6 that might prove problematic later.

7 MS. ADELSMAN: Mr. Chair, coming from a regulatory
8 agency where we do get into the situation usually our
9 approach is to ask for a plan whether it's an outreach plan
10 or mitigation plan, and then we would review the plan, and
11 then, you know, decide whether that plan is acceptable or
12 not. So personally I'm hoping that we lean toward that
13 recommendation.

14 CHAIR LUCE: Well, we'll carefully consider that.
15 Any other comments from Council Members? Any other comments
16 from the public?

17 MR. FRYHLING: There is one thing actually.

18 CHAIR LUCE: I'm sorry. Dick, go ahead.

19 MR. FRYHLING: Karen mentioned Grays Harbor
20 County's involvement in this citizen advisory group. This
21 SCA agreement is between us and the Applicant and Grays
22 Harbor isn't a part of that. They're kind of becoming a
23 little sidebar out here that this particular item would go
24 to. You know, I guess as the county commissioners as a
25 county person they want to be involved in what's going on

1 out there, but I'm not sure. It was mentioned that the
2 County should be an appeal process of this communication
3 plan or whatever. I'm not sure that's something we should
4 have down in the SCA or whatever when we do get it done
5 because it's between us and it's between the Applicant.

6 CHAIR LUCE: Understood.

7 MS. WILLIS: Can I comment on something because I
8 thought it was a very interesting idea to have actually a
9 communication plan. So I'm definitely not opposed to that.
10 As far as kind of we came up with this, and maybe the
11 appeals process is the improper wording to use as to what we
12 were describing, but it is not out of the jurisdiction of
13 the county commissioners to forward a comment or something
14 or look to the EFSEC board and say, "This is the issue that
15 has come up that's been brought to our attention. Is there
16 any remedy for it?" And we could do that on any given day
17 as far as a community program bringing it forward.

18 I don't disagree at all with looking at other
19 alternatives like she has mentioned and, yes, we don't have
20 to stick with what was recommended today if we feel there's
21 something else out there that would work better.

22 CHAIR LUCE: And the Council has a long history of
23 working very closely with local governments and communities
24 and listening to their advice on issues related to Council
25 jurisdiction.

1 MS. WILLIS: Sure. We have lots of times we'll
2 make recommendations to other jurisdictions and they don't
3 have to follow them, but we can sign on the bottom line in
4 some letters of suggestions.

5 CHAIR LUCE: Right.

6 All right. Is there anything further? I don't
7 see anything further so I think we will at this point in
8 time declare this deliberation session adjourned. There
9 will be ensuing meetings October, September --

10 MR. WRIGHT: September 29.

11 CHAIR LUCE: September 29.

12 MR. WRIGHT: Same place?

13 MS. TALBURT: I can try to get it. I haven't done
14 that yet.

15 MR. WRIGHT: Why don't we try to do that today
16 while we're here.

17 Assuming the same place, same time. Unless you
18 request something different kind of the same format, and
19 then, of course, you have a regular afternoon EFSEC meeting
20 on October 12 that we hope we will finalize deliberations.
21 That is the day after it's been pointed out to me of one of
22 our temporary layoff "furlough" days. It's also Columbus
23 Day.

24 MS. ADELSMAN: It's a Monday.

25 MR. WRIGHT: It's a Monday, and I don't know that

1 that has any bearing because it will be a daytime meeting
2 and not a nighttime meeting, and you all know that we get
3 into trouble when we go to nighttime meetings on a furlough
4 week, but this one should not be a problem.

5 MR. MOSS: Speaking of budgetary issues,
6 Mr. Chair, I'm wondering given the relative absence I would
7 say of any public participation today and the probably
8 likely absence of any public participation on September 29
9 or October 12 if we couldn't simply meet in Olympia?

10 CHAIR LUCE: Can I get a sense of the Council on
11 that?

12 MS. ADELSMAN: I agree. I think it would be --
13 we've had several meetings here.

14 CHAIR LUCE: Terry, what do you think?

15 MS. WILLIS: Since I'm the only one that doesn't
16 have to drive today, I'm thinking it worked out fine for me.
17 But, no, if it's just a matter of me going to Olympia and
18 that's the decision, I would be happy to drive to Olympia.

19 CHAIR LUCE: I think that's a good idea, Dennis.
20 So we'll schedule those two meetings in Olympia and prior to
21 the September 29 meeting we will have how many days to
22 review this draft?

23 MR. WRIGHT: If everything goes well or even badly
24 we hope to have it to you out of our offices on Wednesday so
25 you will have a week more or less.

1 CHAIR LUCE: All right. I would encourage
2 everyone to read carefully line by line actually because
3 that will allow -- and then maybe we can to the extent that
4 you have substantive comments not minor, substantive
5 comments maybe you could, Council Members, forward those to
6 Al so he can consolidate those so that when we meet we will
7 have some structure and discipline to our next meeting.

8 All right. I declare this meeting adjourned.
9 Thank you very much for attending.

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11 (Deliberative session adjourned at 1:09 p.m.)

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1 In re: Satsop Combustion Turbine Project
2 Amendment NO. 5

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A F F I D A V I T

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10 I, Shaun Linse, CCR, do hereby certify that the
11 foregoing transcript prepared under my direction is a
12 full and complete transcript of proceedings held on
13 September 15, 2010, in Montesano, Washington.

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Shaun Linse, CCR 2029

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