



ONE-WEEK TRANSCRIPT TURNAROUND

Digital Transcripts • Internet Realtime • HD Legal Video • Picture-in-Picture Depositions
Remote Depositions • Designation Editing • Nationwide Scheduling • HD Videoconferencing

Transcript of Proceedings

September 13, 2024

Horse Heaven Wind Farm v.

Thank you for choosing BA Litigation Services for your court reporting, legal video, and deposition technology needs. It is always our goal to provide you with exceptional service. If there is anything we can do to assist you, please don't hesitate to let us know.

Sarah Fitzgibbon, CCR
Vice President



The Premier Advantage™
PDF transcript bundle contains:

- Full-size and condensed transcripts
- Printable word index
- Hyperlinked selectable word index
- Embedded printable exhibit scans
- Hyperlinked selectable exhibit viewing
- Common file formats: txt, lef, mdb accessed via *paperclip* icon

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENERGY FACILITY SITE EVALUATION COUNCIL

Horse Heaven Wind Farm

September 13, 2024

Hearing Held Friday, ~~March 10, 2023~~

621 Woodland Square Loop SE

Lacey, Washington

Taken by: ANN MARIE G. ALLISON, CCR
Certified Court Reporter #3375

A P P E A R A N C E S

(Attendees present via Teams Video Conference,
unless otherwise noted)

KATHLEEN DREW, EFSEC (Present in person)

ELIZABETH OSBORNE, Commerce

ELI LEVITT, Ecology

ANDREA GRANTHAM, EFSEC (Present in person)

MIKE LIVINGSTON, Fish and Wildlife

LENNY YOUNG, Natural Resources

ED BROST, Horse Heaven

STACY BREWSTER, Utilities and Transportation

SONIA BUMPUS, EFSEC (Present in person)

AMI HAFKEMEYER, EFSEC (Present in person)

AMY MOON, EFSEC

SEAN GREENE, EFSEC

JON THOMPSON, Assistant Attorney General

ZACK PACKER, Assistant Attorney General

SARAH REYNEVELD, Counsel for the Environment

ADAM TOREM, Administrative Law Judge

1 BE IT REMEMBERED that on Friday,
2 September 13, 2024, 3:30 p.m., at 621 Woodland Square Loop
3 SE, Lacey, Washington, before Ann Marie Allison, Certified
4 Court Reporter, the following proceedings were had, to wit:

5
6 ***

7 (Meeting held via Teams Video Conference
8 and in person)

9
10 CHAIR DREW: Good afternoon. This is
11 Kathleen Drew, chair of the Energy Facility Site Evaluation
12 Council, calling to order our special meeting for Friday,
13 September 13th.

14 Ms. Grantham, will you call the role?

15 MS. GRANTHAM: Certainly.

16 Department of Commerce.

17 E. OSBORNE: Elizabeth Osborne present.

18 MS. GRANTHAM: Department of Ecology.

19 E. LEVITT: Eli Levitt present.

20 MS. GRANTHAM: Department of Fish and
21 Wildlife.

22 M. LIVINGSTON: Mike Livingston present.

23 MS. GRANTHAM: Department of Natural
24 Resources.

25 L. YOUNG: Lenny Young present.

1 MS. GRANTHAM: Utilities and Transportation
2 Commission.
3 S. BREWSTER: Stacey Brewster present.
4 MS. GRANTHAM: For Benton County, Ed Brost.
5 E. BROST: Present.
6 MS. GRANTHAM: Assistant Attorney General,
7 Jon Thompson.
8 J. THOMPSON: Present.
9 MS. GRANTHAM: And Zack Packer.
10 Z. PACKER: Present.
11 MS. GRANTHAM: Administrative Law Judge Adam
12 Torem.
13 JUDGE TOREM: Present.
14 MS. GRANTHAM: I will call council staff who
15 may speak today: Sonia Bumpus.
16 S. BUMPUS: Present.
17 MS. GRANTHAM: Ami Hafkemeyer.
18 **A. HAFKEMEYER: Present.**
19 MS. GRANTHAM: Amy Moon.
20 **A. MOON: Amy Moon present.**
21 MS. GRANTHAM: And Sean Greene.
22 S. GREENE: Present.
23 MS. GRANTHAM: Is there anyone present for
24 the Council for the Environment?
25 S. REYNEVELD: Yes, Sarah Reyneveld is

1 present.

2 MS. GRANTHAM: Thank you.

3 Chair, there is a quorum.

4 CHAIR DREW: Thank you, Ms. Grantham.

5 Council members, you see before you the agenda for
6 today. I will ask if there's a motion to adopt the agenda.

7 S. BREWSTER: Stacey Brewster, so moved.

8 CHAIR DREW: Thank you.

9 Second?

10 E. LEVITT: Eli Levitt, second.

11 CHAIR DREW: Okay. All those in favor say

12 "Aye."

13 (Aye)

14 CHAIR DREW: Opposed?

15 (No response)

16 CHAIR DREW: The agenda is adopted.

17 Before we move on to the council discussion on the
18 Horse Heaven Wind Farm, I have an update from Executive
19 Director Sonya Bumpus about an issue that's recently come to
20 our attention.

21 Ms. Bumpus.

22 S. BUMPUS: Thank you, Chair Drew and council
23 members. For the record, this is Sonia Bumpus.

24 So at our last special meeting, the council
25 deliberated on the project for this final action that's

1 before you today. And since that time, EFSEC has learned
2 that there was an application submitted by the applicant for
3 the transfer of water rights that is currently with the
4 local water conservancy board for use of the Gould Well.

5 We wanted to make sure that we let the council
6 know about this, and we have prepared some information that
7 Sean Greene is going to share with you, and we'll take any
8 questions that you have afterwards.

9 Mr. Greene.

10 S. GREENE: Thank you. For the record, this
11 is Sean Greene.

12 In regards to this request, this application would
13 permit the project to make use of Gould Well's water rights
14 to meet project needs during construction and operation.
15 While the FEIS, the Final Environmental Impact Statement,
16 does not cover the specific environmental impacts associated
17 with the withdrawal from this discrete water source, it does
18 fully evaluate environmental impacts associated with the
19 project use of a similar off-site water source.

20 The use of Gould Well would result in roughly
21 equivalent environmental impacts as the example of the water
22 source used in the FEIS analysis. Staff does not anticipate
23 any new or increased project environmental impacts as a
24 result of the use of Gould Well's water rights as a
25 potential water source.

1 As part of the applicant's water rights transfer
2 request, EFSEC staff will work with the Department of
3 Ecology to ensure that impact analysis specific to the Gould
4 Well water rights transfer is completed and included in the
5 FEIS, either as an addendum or supplemental. Addendums and
6 supplementals are a standard part of SEPA process to
7 incorporate any new or updated information into an EIS and
8 it was always anticipated that this FEIS would be similarly
9 updated over time.

10 The draft SCA before the council today includes
11 multiple authorizations that the project would need to
12 receive between the execution of the SCA and the ~~start of~~
13 ~~construction~~ ^{start of} ~~startup~~
~~instruction~~, including a requirement that the applicant
14 provide certification of water availability to EFSEC. This
15 condition of the SCA requires that the applicant provide
16 EFSEC with information showing that the water source that
17 they use will be sustainable and adhere to the best
18 management practices.

19 It is the opinion of staff that the council has
20 been provided with a comprehensive analysis of project
21 impacts on the regional aquifer in this FEIS and that this
22 water rights transfer request does not materially affect
23 council's ability to cast an informed vote on whether to
24 recommend this draft SCA for the governor's approval.

25 And I'll take any questions if you have them.

1 CHAIR DREW: Are there any questions from
2 council members?

3 (No response)

4 CHAIR DREW: Okay. Moving on then to the
5 council discussion -- oh, is there a question from a council
6 member? I don't know who that is.

7 MS. GRANTHAM: I think that's just feedback
8 from Ed.

9 CHAIR DREW: Okay. So moving on to the Horse
10 Heaven Wind Farm discussion, all of you council members have
11 had the opportunity to review the proposed draft SCA that
12 staff has prepared under request from us to respond to the
13 governor's concerns and direction. Does anyone have any
14 questions about the information that has been provided, the
15 discussion from the last meeting and anything at all about
16 the proposed draft SCA revisions?

17 (No response)

18 CHAIR DREW: Okay. At this point I'd like to
19 ask if there is a motion to approve the revised draft SCA
20 for the governor, and I would ask for a roll call vote.

21 S. BREWSTER: Stacey Brewster, so moved.

22 CHAIR DREW: Thank you.

23 Is there a second?

24 E. OSBORNE: Elizabeth Osborne, second.

25 CHAIR DREW: Elizabeth Osborne second.

1 Thank you.

2 I will ask the -- and Ms. Grantham to call the
3 roll of the council on the approval of the proposed draft
4 Site Certification Agreement.

5 MS. GRANTHAM: And I will start with you,
6 Chair Drew.

7 CHAIR DREW: Aye.

8 MS. GRANTHAM: Department of Commerce.

9 E. OSBORNE: Aye.

10 MS. GRANTHAM: Department of Ecology.

11 E. LEVITT: Aye.

12 MS. GRANTHAM: Department of Fish and
13 Wildlife.

14 M. LIVINGSTON: Nay.

15 MS. GRANTHAM: Department of Natural
16 Resources.

17 L. YOUNG: Nay.

18 MS. GRANTHAM: Utilities and Transportation
19 Commission.

20 S. BREWSTER: Aye.

21 MS. GRANTHAM: And for Benton County, Ed
22 Brost.

23 E. BROST: Nay.

24 MS. GRANTHAM: There are four "Ayes" and
25 three "Nays," Chair Drew.

1 CHAIR DREW: I neglected to ask if there were
2 comments, and it is appropriate for people to give their
3 comments, if you wish to, at this point in time.

4 Mr. Young.

5 L. YOUNG: Thank you, Chair Drew.

6 I was not able to support the original SCA and
7 recommendation of the governor because I felt that the SCA
8 did not specially reduce impacts to Yakama Nation
9 traditional cultural properties, and my concern in this area
10 is only heightened by the revision of the -- council just
11 voted on.

12 And I do appreciate the specific attention to the
13 Yakama Nation TCPs by the bounding out of an area around
14 Weber Canyon, but in terms of comparing the revision to the
15 original SCA, that's a wash because that area had been
16 bounded out for other reasons in the original SCA.

17 And the way the rest of the revision is
18 configured, there's a lot of land that was bounded out
19 previously that is now back in play, and as we were briefed
20 by staff at our August 29 meeting, substantial number of
21 turbines, as originally indicated, as we've been working
22 through the process, that would come back into play, back
23 onto the land.

24 So my concerns around Yakama Nation TCPs have only
25 been heightened by the revision, and that's the reason I

1 voted "nay" today.

2 CHAIR DREW: Thank you.

3 Ms. Osborne.

4 E. OSBORNE: Thank you, Chair Drew.

5 I first of all want to take a moment to say thanks
6 to this group for allowing me some extra time for this vote.
7 I had an unexpected medical issue, and I really appreciate
8 your understanding.

9 I listened to the meeting recording from
10 August 29th, and again, very much appreciated the questions
11 and discussion of the council members and the work by staff
12 to prepare for this decision and address the council's
13 questions at that time.

14 I shared some concerns, I think that had been
15 voiced by others, around impacts to traditional cultural
16 properties, but overall, each of the mitigation measures
17 that were ~~opposed~~^{proposed} by staff and that have been considered by
18 this council are acceptable to me, and that's really the
19 comment I wanted to make. Thank you.

20 CHAIR DREW: Thank you.

21 Other comments? Ms. Brewster.

22 I think you're muted.

23 S. BREWSTER: Sorry. I thought I had clicked
24 unmute.

25 CHAIR DREW: That's okay.

1 S. BREWSTER: A number of the public comments
2 commended the original SCA for its science-based protections
3 and ~~litigation~~ mitigation measures, especially for ferruginous hawk.
4 And I think -- you know, I thought about it quite a bit. I
5 think the same is true for this revised version. It allows
6 for more specific scientific evaluation and adaptive
7 management and mitigation, which includes exclusion beyond
8 the point six miles around hawk nests, while balancing the
9 need for green energy production.

10 So I was for the original SCA, and I appreciated
11 those hard boundaries. This new one puts them a bit more in
12 flux, but I think it allows for sufficient protections and
13 an opportunity to study it further. I think it's -- I'm
14 okay with this.

15 CHAIR DREW: Thank you.

16 Other comments?

17 (No response)

18 I wanted to say thank you to all of you for all of
19 your time and effort and attention that you have put in
20 throughout this process, your thoughtful consideration.
21 It's not an easy task. This is a very complex project that
22 our statute requires us to really take that look of
23 providing for abundant clean energy at a reasonable cost,
24 while at the same time addressing the impacts to the
25 environment and the broad interests of the public.

1 And we can all look at the same information and
2 have a slightly different answer, and I just appreciate all
3 the work that you've put forward, coming from your
4 perspectives, to add to our consideration as a whole, of
5 this project.

6 And I'd especially like to thank the hard work of
7 the EFSEC staff in putting the information before us,
8 putting the options before us, helping us work through this
9 very challenging balancing of the need for clean energy,
10 with impacts that we see to the community and to the
11 wildlife in the area.

12 So my great appreciation to everyone on this
13 council and on the staff who has spent long, hard hours, and
14 motion is carried.

15 With that, this meeting is adjourned.

16 Oh, Lenny, go ahead. I will, Mr. Young, allow you
17 to -- almost cut you off then.

18 L. YOUNG: Thank you. I was just going to
19 inquire. Of course, our attention has been focused on the
20 SCA, the revision, but is there going to be something
21 similar to the report that transmits the revised SCA to the
22 governor? Is there a cover letter or a document like we had
23 before that would be going with this one?

24 CHAIR DREW: I've discussed this with our
25 counsel, Jon Thompson, and because what we are required to

1 do is provide just the revised SCA. It will have a cover
2 letter from me just explaining what those changes are.

3 L. YOUNG: Okay. So there wouldn't be a
4 document like we had before --

5 CHAIR DREW: No.

6 L. YOUNG: -- in which the council members
7 either sign it or provide a statement?

8 CHAIR DREW: Thank you.

9 L. YOUNG: Okay. Thank you for that.

10 CHAIR DREW: Thank you for asking that. I
11 appreciate that.

12 Okay. Any other questions before I adjourn the
13 meeting?

14 (No response)

15 With that, I appreciate every one of you and your
16 perspectives and the work you've put into this discussion
17 and decision. Meeting is adjourned.

18 (Adjourned 3:48 p.m.)

19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF WASHINGTON) I, Ann Marie G. Allison, CCR,
) certified court reporter, State of
COUNTY OF PIERCE) Washington, do hereby certify:

That the foregoing Hearing was taken before me and completed on September 13, 2024, and thereafter transcribed by me;

That I am not a relative, employee, attorney or counsel of any party to this action, or relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my signature on the 27th day of September, 2024.

/s/Ann Marie G. Allison, CCR
Certified Court Reporter #3375