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WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
Richard Hemstad Building
1300 South Evergreen Park Drive Southwest, Conference Room 206
Olympia, Washington
Tuesday, March 19, 2013
1:30 P.M.

MONTHLY COUNCIL MEETING
Verbatim Transcript of Proceeding

REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028

Buell Realtime Reporting, LLC
1411 Fourth Avenue
Suite 820
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National

www.buellrealtime.com

A P P E A R A N C E S

Councilmembers Present:

Jim Luce, Chair
Dick Fryhling, Department of Commerce
Hedia Adelsman, Department of Ecology
Joe Stohr, Department of Fish and Wildlife
Andrew Hayes, Department of Natural Resources
Dennis Moss, Utilities and Transportation Commission

Staff in Attendance:

Stephen Posner, Compliance Manager
Jim La Spina, EFS Specialist
Tammy Talburt, Commerce Specialist
Kayce Michelle, Administrative Assistant 3

Guests in Attendance:

Richard Downen, Grays Harbor Energy Project
Mark Miller, PacifiCorp Energy
Al Wright, WUTC
Ann Rendahl, WUTC
Mike Davis, Emerson Process Management

Guests in Attendance Via Phone:

Ray Richards, A Better Way for BPA
Cheryl Brantley, A Better Way for BPA
Elizabeth Thomas, K&L Gates
Timothy L. McMahan, Stoel Rives
Brian Abram, A Concerned Citizen
Shannon Khounnala, Energy Northwest
Eric Melbardis, Kittitas Valley Wind Project

1 OLYMPIA, WASHINGTON, MARCH 19, 2013

2 1:30 P.M.

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5 P R O C E E D I N G S

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7 CHAIR LUCE: Good afternoon. This is the monthly
8 meeting of the Washington State Energy Facility Site Evaluation
9 Council. Today is March 19th. It is 1:30 p.m. Council is
10 hereby called to order.

11 Clerk will call the roll.

12 THE CLERK: Yes. Chair, is your microphone on?

13 CHAIR LUCE: It is now.

14 THE CLERK: Okay.

15 Department of Commerce?

16 MR. FRYHLING: Dick Fryhling is here.

17 THE CLERK: Department of Ecology?

18 MS. ADELSMAN: Hedia Adelsman is here.

19 THE CLERK: Fish and Wildlife?

20 MR. STOHR: Joe Stohr is here.

21 THE CLERK: Natural Resources?

22 MR. HAYES: Andy Hayes is here.

23 THE CLERK: Utilities and Transportation Commission?

24 MR. MOSS: Dennis Moss for the Commission.

25 THE CLERK: Chair?

1 CHAIR LUCE: Chair is present.

2 THE CLERK: There is a quorum.

3 CHAIR LUCE: Thank you. Have Councilmembers had a
4 chance to -- excuse me.

5 Will those on the phone please identify themselves.

6 MR. RICHARDS: Ray Richards, A Better Way for BPA.

7 CHAIR LUCE: All right, Ray.

8 MS. BRANTLEY: Cheryl Brantley, A Better Way for BPA.

9 CHAIR LUCE: Thank you.

10 MS. THOMAS: Liz Thomas, K&L Gates.

11 CHAIR LUCE: Hello, Liz.

12 MR. McMAHAN: Tim McMahan, with Stoel Rives. Nothing
13 to do with BPA.

14 MR. ABRAM: Brian Abram, just a concerned citizen.

15 CHAIR LUCE: All right.

16 MS. KHOUNNALA: Shannon Khounnala with Energy
17 Northwest.

18 CHAIR LUCE: Okay. Next?

19 Hearing no next -- well, maybe there is a next.

20 Who just beamed in?

21 MR. MELBARDIS: This is Eric Melbardis for Kittitas
22 Valley Wind Power Project.

23 CHAIR LUCE: Thank you.

24 Have Councilmembers had a chance to review the
25 proposed agenda?

1 MULTIPLE SPEAKERS: Yes.

2 CHAIR LUCE: I'm taking that's a "yes."

3 MR. FRYHLING: Yes.

4 CHAIR LUCE: Does the agenda have any additions,
5 corrections, deletions?

6 Hearing none, the agenda is approved as proposed.

7 Minutes of January 16th.

8 Have Councilmembers had a chance to review those?

9 MULTIPLE SPEAKERS: Yes.

10 CHAIR LUCE: All right. Do I have a motion to
11 approve the minutes?

12 MR. MOSS: I'll so move.

13 MR. FRYHLING: And I'll second it.

14 CHAIR LUCE: All right. We have a motion to second.
15 Do we have any discussion?

16 Hearing no discussion, we will call the question.

17 The question is called for: All in favor say "aye."

18 MULTIPLE SPEAKERS: Aye.

19 CHAIR LUCE: Let the record reflect the vote was
20 unanimous.

21 The first item on the agenda is the I-5 Corridor
22 Reinforcement Project.

23 Tammy, do you have a report?

24 MS. TALBURT: I do. Good afternoon, Chair Luce and
25 Councilmembers. Staff have been reviewing the agency comments

1 on the draft environmental impact statement and we'll be
2 forwarding those to BPA later this week. That's all I have.

3 CHAIR LUCE: Do you have anything else other than
4 that?

5 MS. TALBURT: There is a public comment letter from
6 A Better Way for BPA that has not been reviewed by Staff yet,
7 but will be.

8 CHAIR LUCE: All right. Stephen, do you have
9 anything?

10 MR. POSNER: Just one other thing. We did receive a
11 public records request, and we're in the process of processing
12 that now. And that's from the City of Castle Rock. They
13 requested copies of the comment letters we received from the
14 state agencies, as well as the copies of the contracts we have
15 with the state agencies.

16 CHAIR LUCE: Have we contacted them and told them
17 that they're available?

18 MR. POSNER: Yes, we have.

19 CHAIR LUCE: And when will they be available?

20 MR. POSNER: They are available as we speak. I
21 believe they could be sent out as early as today.

22 CHAIR LUCE: Okay.

23 MR. POSNER: The individual is out of the office
24 today. I left him a message to call because we have not
25 received the final comments from one of the state agencies. So

1 I just want to make sure if he wants to receive what we have now
2 or if he wants to wait another day or two to get them.

3 CHAIR LUCE: All right. Chair would request that you
4 send them right away, and then send the other comment when it
5 comes in.

6 MR. POSNER: Okay. We can do that.

7 CHAIR LUCE: Because the cutoff for comments is on
8 Monday.

9 MR. POSNER: We can take care of that.

10 CHAIR LUCE: Okay. Thank you.

11 MR. POSNER: It's ready to go pretty much now.

12 CHAIR LUCE: All right. We have --

13 MS. ADELSMAN: Mr. Chair?

14 CHAIR LUCE: Yes, Hedia.

15 MS. ADELSMAN: I have a question for Tammy.

16 Who from the agencies commented; do you know? State
17 agencies?

18 MS. TALBURT: We have received Fish and Wildlife and
19 Department -- or DAHP. And we have a draft letter -- a draft
20 from DNR. We anticipate Ecology's comments later this week and
21 the final DNR comments.

22 MS. ADELSMAN: Okay. Thank you.

23 CHAIR LUCE: I'm sorry, Hedia.

24 Any other questions?

25 We have representatives of A Better Way for BPA on

1 the phone. We have received your letter, and we'll be
2 responding.

3 Do you have any comments? We'll use this opportunity
4 as an opportunity for public comment, should you have some.

5 Cheryl?

6 MS. BRANTLEY: Jim, this Cheryl Brantley.

7 CHAIR LUCE: Yes.

8 MS. BRANTLEY: Yes. I just would ask the Board to
9 seriously consider our requests of asking the Corps of Engineers
10 to permit the West Alternative. They haven't done that, and we
11 believe they should. They cannot know all wetlands without --
12 if they haven't gone on the ground and studied those areas.

13 And I also wanted to point out the toxic sites that
14 are a big concern for landowners nearby where BPA threatens to
15 disturb buried PCB barrels.

16 CHAIR LUCE: Okay.

17 MS. BRANTLEY: We just want the Board to seriously
18 consider those issues and comment on them and help us with that,
19 those problems.

20 CHAIR LUCE: Thank you very much, and we'll be
21 responding to your letter shortly.

22 MS. BRANTLEY: Thank you.

23 CHAIR LUCE: Thank you.

24 Any other comments on BPA?

25 MR. RICHARDS: This is Ray Richards with A Better Way

1 for BPA.

2 CHAIR LUCE: Yes, Ray.

3 MR. RICHARDS: I would just like to add to what
4 Cheryl said about the wetlands. Studying the wetlands on the
5 West Alternative, which they really did not do apparently, and
6 apparently, the Corps of Engineers is concerned about wetlands
7 on the West Alternative and the lowlands.

8 Well, my point has been that BPA should be planning
9 for double circuit towers anytime they pass through wetlands
10 such as those and -- so they would not leave any bigger
11 footprint than they have now because everything would be on one
12 tower. They would not be adding towers, so there would be no
13 long-term loss of wetlands.

14 So I think that's something that BPA should look at,
15 and they didn't. They did not at all according to the drafts.

16 CHAIR LUCE: You'll be submitting comments to that
17 effect, right?

18 MR. RICHARDS: Yes.

19 CHAIR LUCE: All right. Thank you.

20 MR. RICHARDS: Thanks.

21 CHAIR LUCE: I'm going to assume that's all the
22 comments on the I-5 Corridor Reinforcement Project, unless I
23 hear otherwise.

24 I don't hear otherwise.

25 Kittitas Valley Wind Project.

1 Eric, you're on the line?

2 MR. MELBARDIS: Good afternoon, Chair Luce and EFSEC
3 Council. We have a project update for the month of February.

4 The project produced 23,707 megawatt-hours, with wind
5 speeds of 16.3 miles per hour, which gave us a capacity factor
6 of 35 percent. We have no safety incidents to report. The
7 project is in compliance as of March 15, 2013, without no sound
8 or shadow flicker complaints.

9 Our avian and bat fatality monitoring program and
10 surveys continue. We did move our raptors nest survey study up
11 one month this year just for better visibility of the nests, and
12 this was with TAC approval.

13 There's no stormwater discharge to report. The
14 project did file a notice of termination for our general
15 stormwater permit, as recommended by the Department of Ecology.

16 And a site visit with EFSEC, Ecology, and project
17 staff is to take place in May, and the burned areas of the
18 project show encouraging signs of new growth.

19 CHAIR LUCE: Great. Thank you.

20 Any Councilmember questions?

21 Hearing none, we'll move on to Grays Harbor.

22 MR. DOWNEN: Good afternoon, Chair Luce and Council.

23 For Grays Harbor Energy -- oh, and my name is Rich
24 Downen. I'm the plant manager at Grays Harbor.

25 For the month of February, no accidents or injuries.

1 Normal training and reporting of all of our environmental
2 reports. The only things of note are that we asked for and got
3 permission from EFSEC to defer our RATA test until the end of
4 Quarter 3 2013, so we've got our RATA scheduled for August.

5 We operated the plant for two months during the --
6 during the month of February. We received no complaints during
7 the month. And we also attended a meeting at the EPA office in
8 Seattle with many of your folks regarding Units 3 and 4. As of
9 this point, I don't think that we've made a decision on Units 3
10 and 4, and whether we're going to resubmit or what's going to
11 happen there, but...

12 So I think that you know as much as we do about that
13 at this point, and that's all that I have to report.

14 CHAIR LUCE: Councilmember questions?

15 That regards the requested extension for a PSD
16 permit?

17 MR. DOWNEN: Units 3 and 4; that's correct.

18 CHAIR LUCE: For Units 3 and 4, correct.

19 And that's work that's ongoing.

20 Stephen, do you have anything to add about that?

21 MR. POSNER: No, I don't.

22 CHAIR LUCE: All right. Thank you.

23 MR. DOWNEN: Thank you.

24 CHAIR LUCE: Chehalis?

25 MR. MILLER: Good afternoon, Chair Luce and Council.

1 My name is Mark Miller. I'm the Chehalis plant manager, and
2 I'll keep my report brief today.

3 Generation speaking, we generated five -- or 51,000
4 megawatt-hours last month for a capacity factor of 15 percent.

5 With the regulatory compliance, no exceedances or
6 emissions. We did submit our Community Right-to-Know, Tier II,
7 to EFSEC and the other emergency responders as required.

8 We're currently -- oh, we also had the inspection
9 that -- Mr. La Spina and the Southwest Clean Air Agency did a
10 site visit during the period.

11 We're also today, the last couple days and for the
12 next two days, conducting our Relative Accuracy Test Audit on
13 the continuous emission monitors or the RATA.

14 But of importance here is to note that we did receive
15 the annual report from the Farm Power Northwest lending project
16 on the verifiable emission reductions, the CO2 credits. And
17 they will begin to deliver this year and the first 200 credits
18 that are vintage 2012 to the project, so that process is now
19 moving forward. So they met their first 20,000 obligation to
20 another utility.

21 CHAIR LUCE: Great.

22 MR. MILLER: And I expect we've been taking a little
23 bit too much time and we're disappointed that the Chehalis Tribe
24 has continued to not want to move forward, so we're going to go
25 ahead and begin another RFP to commit the rest of the funds that

1 PacifiCorp was asked to commit during the certificate transfer.

2 CHAIR LUCE: That sounds reasonable.

3 And how long has it been that you've been working
4 with the Chehalis Tribe?

5 MR. MILLER: Over two years.

6 CHAIR LUCE: All right.

7 MR. MILLER: There are a number of viable projects
8 within the Chehalis Basin. They identified some of the
9 tribal-owned trust lands first, and then they've decided to not
10 commit those. And so the council, the tribal council, was
11 obviously involved in the Chehalis Basin flooding issues and
12 other what -- whatnot, so this hasn't been on the topic of...

13 (Phone beeps.)

14 CHAIR LUCE: Understood. Thank you.

15 MS. ADELSMAN: I have a question.

16 CHAIR LUCE: Yes.

17 MS. ADELSMAN: I'm sorry.

18 One of them you say the report is attached.

19 Did we get a copy of the report?

20 MR. LA SPINA: Yes, we did.

21 MR. MILLER: Yes, you did. It's the actual report.

22 MS. ADELSMAN: Could we get a copy, please?

23 MR. LA SPINA: Yes, I apologize for that.

24 MS. ADELSMAN: Yeah. And the second is would you
25 remind me how much is not committed yet moneywise?

1 MR. MILLER: I think this, the first contract,
2 commits up to about 700,000 of the 1.5 million. And we had
3 committed to spend 200,000 with the Chehalis Tribe as an
4 interim.

5 However, we still have that commitment with them if
6 they want to continue move forward, but in the interim, we need
7 to issue another RFP. We said we would issue a second RFP per
8 Kyle Davis's discussions earlier with Chair Luce when the
9 California market opened up so there would be more opportunities
10 for...

11 MS. ADELSMAN: So the 600,000, you have no commitment
12 yet?

13 MR. MILLER: Approximately; yes, correct.

14 MS. ADELSMAN: Okay. All right.

15 CHAIR LUCE: Thank you.

16 MR. MILLER: Okay.

17 CHAIR LUCE: Wild Horse? Is Jennifer --

18 MR. LA SPINA: Chair Luce?

19 CHAIR LUCE: Yeah?

20 MR. LA SPINA: None of the personnel, Wild Horse
21 staff, are available. However, you will find their report is
22 the blue sheet.

23 CHAIR LUCE: All right. That's good.

24 Councilmembers had a chance to look at the blue
25 sheet?

1 MS. ADELSMAN: Not yet.

2 CHAIR LUCE: Not yet. Me neither. There it is.

3 MS. ADELSMAN: So one other question that I have
4 maybe for the Staff.

5 The Spill Prevention Control and Countermeasure Plan,
6 does Ecology review it, or is it reviewed just by you guys?

7 MR. LA SPINA: The plan is reviewed by the Kittitas
8 County first responders and the fire district.

9 MS. ADELSMAN: Okay.

10 MR. LA SPINA: The SPCCP is kind of a strange plan in
11 that the company certifies it with the PE stamp that it meets
12 all state and federal regulations.

13 And previous plans have been reviewed by Ecology, and
14 there was never any problem, so...

15 MS. ADELSMAN: So this is changing the way we do
16 business?

17 MR. LA SPINA: No.

18 MS. ADELSMAN: So just the company's standard?

19 MR. LA SPINA: No. Actually --

20 MS. ADELSMAN: Okay.

21 MR. LA SPINA: -- it's basically the -- the way the
22 federal regulations are set up is the PE stamp certifies that
23 it's in compliance with all of them.

24 MS. ADELSMAN: Okay.

25 CHAIR LUCE: Any other Councilmember questions?

1 Columbia Generating?

2 MS. KHOUNNALA: Yes. This is Shannon Khounnala for
3 Energy Northwest. Good afternoon, Councilmembers.

4 The first report is for Columbia Generating Station.
5 Columbia is operating at 100 percent power today, generating a
6 1,100 megawatts, and we have been online for 294 days. Right
7 now we are 51 days from the start of our 2013 refueling outage
8 that's currently planned to begin on May 11th of this year.

9 This week -- well, as you may recall last -- about
10 last year, Energy Northwest briefed the Council that Columbia
11 had discovered an inappropriate change to our procedures, how we
12 calculate our dose and emergency action levels, and as part of
13 our process for discovering this, we also self-reported this
14 issue to the NRC. And last year, they had issued Columbia to
15 what they call "white finding," which places the Columbia plant
16 in what's called a "degraded cornerstone column." And as part
17 of that condition, that subjects Columbia to additional
18 oversight in inspection processes and procedures by the NRC.

19 So for the past year, Columbia has been working
20 diligently to fix these issues and address their causes, as well
21 as look very critically at similar shortfalls that may exist
22 elsewhere and fix all of those errors throughout all of our
23 programs.

24 In the culmination of this past year's work, we're
25 actually pleased to have the NRC on site this week to review the

1 work that we have put into this process over the past year with
2 the hopes that they find the corrective actions we've put into
3 place have been effective and fully restore the confidence of
4 the NRC back into our program.

5 So we're happy that they're on site, they'll be here
6 through the end of the week, and we hope to hear shortly
7 afterwards the outcome of their inspection.

8 Outside of the NRC inspection, we don't have any
9 other events or safety issues or other issues to report in
10 regards to Columbia.

11 Are there any questions regarding Columbia Generating
12 Station?

13 CHAIR LUCE: I'm not hearing any.

14 Let's move on to WNP 1/4.

15 MS. KHOUNNALA: Will do. And so as we briefed the
16 Council earlier this year, Energy Northwest received a formal
17 supplemental lease from the Department of Energy approximately
18 mid-January, which was not fully reflective of some of the
19 discussions we had had with DOE through the end of 2012. We
20 responded to that supplemental lease language, and in early
21 March this year, we received a subsequent proposed lease
22 language agreement for consideration.

23 And although many of the proposed changes that we
24 made and the comments we made into their January supplement has
25 been incorporated, there are now new requirements and lease

1 terms that were added into this proposal in March.

2 And, again, many of those conditions were outside of
3 previous discussions and were a little bit unexpected to us, so
4 based on some of the lack of progress we've had to date, we did
5 have an internal meeting this morning with technical staff, as
6 well as our senior management, and we will be working to set up
7 an additional face-to-face meeting with Department of Energy to
8 get this project back on track. We hope that meeting will take
9 place sometime early to mid-April.

10 CHAIR LUCE: Will that be, the meeting, held in the
11 Tri-Cities or in Washington, D.C.?

12 MS. KHOUNNALA: Oh, no. All of these meetings are
13 held here in the Tri-Cities. We're dealing directly with the
14 Richland Operations Office.

15 CHAIR LUCE: Who makes the decisions on the lease?

16 MS. KHOUNNALA: Essentially the Richland Operations
17 Office; the real estate office in conjunction with the senior
18 management at the Richland Operations Office.

19 CHAIR LUCE: So D.C. doesn't have any role in this?

20 MS. KHOUNNALA: That's correct.

21 CHAIR LUCE: Thank you.

22 MS. ADELSMAN: I do have a question quickly.

23 CHAIR LUCE: Yeah.

24 MS. ADELSMAN: The supplemental lease, is that in
25 lieu of having the Department of Energy sign the application on

1 the water right?

2 MS. KHOUNNALA: At this time, no. Part of the
3 agreement we had come to in 2012 was that they would sign the
4 application and we would -- and the Department of Energy would
5 submit the application for Energy Northwest.

6 However, they're not -- they will not submit that
7 application until we have a supplemental lease language --
8 supplemental lease in place for the WNP 1 and 4 site, and that's
9 what we're struggling to move on from now.

10 The lease application is actually ready to be
11 submitted, but we need to finish -- excuse me -- the water right
12 application is ready to be submitted, but we need to finish the
13 work on the lease prior to submitting the water right
14 application.

15 CHAIR LUCE: Great. Other questions?

16 Thank you.

17 MR. POSNER: Chair Luce?

18 CHAIR LUCE: Yes?

19 MR. POSNER: Before we move on to the next one, just
20 one quick update. Just to let the Council know, we did receive
21 a public records request on Columbia. We're processing that
22 now. It was a request for copies of all air monitoring reports
23 that the facility has submitted to EFSEC.

24 CHAIR LUCE: All?

25 MR. POSNER: All, for the years 2010 through 2012.

1 CHAIR LUCE: All right. Thank you.

2 Whistling Ridge?

3 MS. ADELSMAN: Hold on.

4 Can I ask from who?

5 CHAIR LUCE: Yeah.

6 MS. ADELSMAN: Who submitted?

7 MR. POSNER: It's from the Cascadia News. It's a
8 newspaper, I believe, from the Portland area.

9 MS. ADELSMAN: Okay. Thank you.

10 CHAIR LUCE: Whistling Ridge?

11 MR. POSNER: Yes. Good afternoon. A quick update on
12 Whistling Ridge. I'll just give you an update on the schedule,
13 where we're at.

14 The petitioners filed their brief on the 25th of
15 February, and the response brief from the State is due on April
16 12th. The petitioners have a reply brief that is due on May
17 13th, and then oral argument is scheduled for nine a.m. on June
18 27th.

19 That's all I have.

20 CHAIR LUCE: June 27th, nine a.m.?

21 MR. POSNER: That's correct.

22 CHAIR LUCE: All right. The next matter on the
23 agenda is a report on legislation. And I have asked the UTC
24 policy representative who's working on those legislative issues,
25 Al Wright, to come forward and give us a report -- or Ann, Ann

1 Rendahl. Maybe the both of you could give us a report; how
2 about that? We'd love to hear from both of you.

3 MS. RENDAHL: Good afternoon, Chair Luce and Members
4 of the Committee.

5 So this is now about the fourth or fifth version of
6 the bill that we have seen that passed the House, and Al has
7 done a lot of various analysis of different versions of the bill
8 as it's morphed in the fiscal note, which many of you have maybe
9 been involved in, the fiscal note development.

10 So it makes some changes to -- it keeps Counsel for
11 the Environment in, but makes that only necessary and payable by
12 the Attorney General's Office if there's a more contentious
13 application. It changes some of the definitions. In its
14 current form, it removes some of the sizes and capacity issues,
15 except for pipeline, where those are still -- still there.

16 And then it still retains the language that basically
17 makes all applications... It's not required.

18 CHAIR LUCE: Optional?

19 MS. RENDAHL: It's optional, it's opt-in, so you
20 don't have to go to EFSEC. It still changes the membership of
21 the Council significantly, so the UTC would no longer be a
22 member, nor would Ecology --

23 MS. ADELSMAN: No, Ecology is there.

24 MS. RENDAHL: -- or Department of Commerce.

25 Is it put back in? It's put back in later, so it

1 takes it out and puts it back later. Fish and Wildlife is in,
2 two members of the Growth Management Hearings Board, instead of
3 three, which was an earlier version, and if there's aspects
4 involving shorelines, et cetera, members of the Shoreline Board.

5 Then there's the standards development section. It
6 no longer requires EFSEC to establish certain standards but use
7 its current standards and to use the standards from Oregon rules
8 with the exception of a few standards. That's in Section 5 of
9 the bill.

10 So the Commission -- I mean, the Council is not --
11 it's in an awkward place because it's not really setting
12 standards. It's using Oregon standards and what's already been
13 adopted.

14 There is significant changes to how the process would
15 work, and I'll let Al speak to that more, because you're more
16 familiar with the current process here, before the Council.

17 MR. WRIGHT: Okay. In Section 5 and Section 9, there
18 are substantial changes in procedural aspects, many of which are
19 associated with your responsibilities under SEPA and how those
20 change -- including a change in the actual SEPA legislation or
21 the enabling statute -- which is provided here in this
22 particular bill.

23 Now, as Ann said, remember there -- if you go off to
24 searching the bill, there are four versions of the bill now that
25 are floating around: the original bill, the substitute bill,

1 the second substitute bill, and then the engrossed second
2 substitute bill. And if you're really clever and run across --
3 there is a fifth one that's in between those two that was some
4 kind of House floor bill that never really got engrossed.

5 So if you're looking through these, I'll just warn
6 you that there's that many different versions out there.

7 MS. ADELSMAN: Yeah, but the official version is the
8 engrossed second substitute?

9 CHAIR LUCE: Right.

10 MR. WRIGHT: The engrossed --

11 MS. ADELSMAN: And then the rest are all...

12 MR. WRIGHT: -- second substitute is what is now on
13 the Senate side and has passed the House.

14 MS. ADELSMAN: Yeah.

15 MR. WRIGHT: But I'm just pointing out that, you
16 know, you really have to read the titles carefully to make sure
17 you've got the correct bill.

18 The procedural changes, as I say, including a
19 proposed changed to SEPA -- or SEPA and the statute, basically
20 changes mainly the time frames in which you work under the State
21 Environmental Protection [sic] Act and the way you handle your
22 SEPA documents and response time and that type of issues.

23 Having gone through the SEPA process in Whistling
24 Ridge, I'm not clear at all how that would actually play out in
25 realtime, because the provisions in the SEPA Act are not just

1 the maximum time frame -- or the minimum time frames, but
2 they're also the maximum time frames.

3 So even though this Act tells you you can do things
4 in five days and ten days, the actual SEPA document allows for
5 the participants to have 60 days and 30 days in various
6 provisions. So how you can cut those short, I'm not at all
7 clear, and I think that that will take -- if it passes, it will
8 take a lot of sorting out.

9 The other provisions, as Ann's pointed out, the big
10 one as the real change is -- are the fact that you now have --
11 there are in the definitions no size constraints except for
12 pipelines, which have been put back in again, the 6 inches and a
13 minimum of 15 miles. And all of the size provisions are gone,
14 so you would have any combustion turbine size plant or any --
15 any other thermal plant or any renewable energy wind-farm-type
16 plant on one side. On the other, the opt-out provision in
17 Section 9 basically tells you that anybody, not restricted by
18 size anymore, can opt-out.

19 So anybody who decides not to come to EFSEC can
20 choose to go to local government and the other appropriate
21 permitting state agencies like Department of Ecology.

22 MS. ADELSMAN: Except for nuclear plants.

23 CHAIR LUCE: Except for?

24 MS. WRIGHT: So there's kind of a strange tradeoff
25 there with now, you know, everybody on one site's projects are

1 qualified, but on the other hand, everybody can opt-out if they
2 choose. So it is really simply a choice for the applicant.

3 And then besides the change in the makeup of the
4 Commission -- or the Council, the other big change is the siting
5 standards that are now with the engrossed bill required on you,
6 the Council, to -- and the Oregon statutes, the Oregon chapter
7 of the rules, Chapter 345, is now part of this legislation, so
8 you would not go through a normal rulemaking process to adopt
9 the standards. They're actually incorporated in as part of the
10 statute, and you are required to use all of them.

11 One of the provisions that -- it was taken out in the
12 engrossed bill, which is important to you, is you don't have the
13 ability to choose those standards that are appropriate to the
14 site specific application. You must consider all of the
15 standards in all of the applications. There was a provision in
16 there that allowed for you to make that decision, and that's
17 been removed. So that's kind of an interesting twist on the
18 responsibilities.

19 And those are really the large major provisions,
20 and -- oh. The one that I left off completely, which would be
21 important to you, is that the Governor is no longer -- in this
22 statute, the Governor is no longer participating in the
23 decision-making process as a decider; that, you, the Council,
24 once you reach a decision on the SCA, would actually adopt the
25 SCA. You would not be making a recommendation to the Governor,

1 and you would not be required to do it through the
2 Administrative Procedure Act, so you don't have to go through
3 formal adjudication as you have in the past. You would be
4 exempt from that.

5 And I think those are pretty much the major
6 provisions of the legislation.

7 CHAIR LUCE: Councilmember questions?

8 MS. ADELSMAN: I think there were a lot of changes to
9 local government.

10 MS. RENDAHL: Well, that's what I was going to add.
11 There were some changes --

12 MS. ADELSMAN: You were going to cover that?

13 MS. RENDAHL: -- in addition in Section 5.

14 MS. ADELSMAN: Yeah.

15 MS. RENDAHL: The version prior to this bill that
16 passed the House basically had the local governments following
17 the standards that applied to EFSEC. There was a great deal of
18 pushback from the cities and counties, and they managed to put
19 in some very complicated language that basically implies they
20 can do what they want. So they don't have to apply the same
21 standards that EFSEC is, so now it basically takes out the
22 purpose, which, I think Representative Morris had in the
23 beginning, which was to have some standard process and standards
24 across the board, whether you'd come to EFSEC, or whether you'd
25 go to the local governments, which means opt-in/opt-out is a

1 different matter. It's the same standards that apply. So now
2 that's not -- that's not the way the bill reads now.

3 So the current -- where this bill is, it's now been
4 assigned to the Senate Energy, Environment & Telecom Committee,
5 and I don't know whether or not it will get a hearing. I don't
6 know whether Chairman Ericksen from that committee is interested
7 at all, and so they have until April 3rd to move bills out of
8 the committee in the opposite House, so that's the next
9 deadline.

10 And I haven't heard anything from Representative
11 Morris on this bill. He's not convening any more sessions. And
12 I haven't heard from the staff from the House side or from the
13 Senate side, so I don't know what the status of the bill is
14 other than it's waiting to be heard in the next committee.

15 CHAIR LUCE: Councilmember questions?

16 MR. HAYES: Yeah, I have another question.

17 Al and Ann, what's your understanding? So my
18 understanding of the bill is that it directs EFSEC to continue
19 to follow the standards laid out in EFSEC's WAC?

20 MS. RENDAHL: Correct.

21 MS. HAYES: And then in areas where that doesn't
22 address issues, to use the Oregon administrative code?

23 MR. WRIGHT: Yes.

24 MR. HAYES: So presumably with all the changes to the
25 process, that would require EFSEC to go through rule changing to

1 change the...

2 No?

3 MR. WRIGHT: No. The original bill did. The
4 original bill was specific that you would address the Oregon
5 rules and you would go through a rulemaking and adopt your own
6 set of rules based on those -- you know, those that were
7 specified in the Act.

8 Later versions changed that because of, I think,
9 fiscal requirements, and basically said we'll just write into
10 the statute the Oregon Chapter 345 rules, and those are what you
11 will use to evaluate applications. So you're not given the
12 choice to enter rulemaking and modify the rules to fit whatever
13 would be the Washington conditions and the Washington statutes.
14 They are incorporated into the statute by reference.

15 MS. ADELSMAN: I think -- oh, go ahead.

16 MR. HAYES: I mean, it seems to me the existing
17 rules, however, have a number of factors which are changed by
18 this bill, so would not those have to be then changed?

19 MR. WRIGHT: The only specific change that's in the
20 Act that I'm aware of is it says wherever in the Oregon rules it
21 specifies that an Oregon state agency is responsible for
22 whatever, that you're to change the name to whatever the
23 appropriate Washington state agency is in the rule.

24 So that's pretty specific as far as you will -- you
25 know, you can go in and specify that the Washington Department

1 of Fish and Wildlife, as opposed to the Oregon Department of
2 Fish and Wildlife is an appropriate agency. But that's all it
3 says, the provisions that you have, to change those.

4 MS. ADELSMAN: So there will be, however, rule change
5 on the process?

6 MS. RENDAHL: I was going to say the process now --

7 MS. ADELSMAN: You know, mostly the process to make
8 sure, basically.

9 But, you know, their statute overrules, so that's
10 mostly a cleanup. It would be a cleanup of the rules more than
11 substantive rule changes.

12 MS. RENDAHL: Right. So we'd have to look. We
13 haven't been asked for a fiscal note on this version on the
14 engrossed bill, so that's something, given all the changes since
15 the last version to the engrossed version and the changes in the
16 process, we'd have to look carefully to see whether there would
17 be need to do a rulemaking to sync up the current rules in the
18 process with the new process.

19 I don't know if there are other -- the Council
20 applies its current standards for siting, construction and
21 operation and decommissioning of energy facilities, and then for
22 issues not addressed in the standards above, then it must apply
23 the Oregon standards, except for a few that are exempted out.

24 So there wouldn't be a rulemaking on the standards
25 per se, because you'd just follow what's in the statute under

1 this version of the bill. But process is probably another
2 question.

3 MS. ADELSMAN: I think --

4 MR. FRYHLING: Another -- oh, go ahead, Hedia.

5 MS. ADELSMAN: I'm so sorry. Go ahead. I didn't see
6 you.

7 MR. FRYHLING: Does the legislation actually say
8 Oregon?

9 CHAIR LUCE: Mm-hm.

10 MS. ADELSMAN: Oh, yeah.

11 MR. WRIGHT: Mm-hm.

12 MS. RENDAHL: Yes.

13 MR. WRIGHT: Yes.

14 MR. FRYHLING: It seems like a weird way to do
15 legislation from -- to reference something in another state to
16 me. It just seems -- it doesn't make good sense.

17 MS. ADELSMAN: Cuts the costs.

18 MR. FRYHLING: And one other thing is we're in a
19 process of an appeal to the State Supreme Court right now.

20 In this new process, would there still be a process
21 to appeal these things? Does it spell out in the legislation?

22 MR. WRIGHT: Do you want me to do that?

23 Without practicing law, without a license --

24 MR. FRYHLING: Well, we all do that.

25 MR. WRIGHT: -- I think that -- I think since the

1 decisions are all made and the appeals are all in, I would
2 assume that the statutes that are in existence now is what the
3 Court would rule on. Anything you decide from here on out, if
4 this was to pass, would be subject to this law, and I wouldn't
5 think anything you have already decided.

6 MR. FRYHLING: And that's where my question is.

7 CHAIR LUCE: Right.

8 MR. FRYHLING: What happens under this new law if we
9 make a decision and it's appealed? Where is it appealed to?
10 Does it go back to -- is it appealed to the State Supreme Court
11 like it is now, or is it going to go back to Superior Court on
12 up through the appeals court and so forth from EFSEC?

13 MR. WRIGHT: I did not -- that's something I probably
14 should have done. I didn't check the engrossed version, but I
15 don't believe those sections were ever changed.

16 MR. FRYHLING: Okay.

17 MR. WRIGHT: I know they weren't changed in the other
18 sections, so I think that the appeals process remains the same.

19 MS. ADELSMAN: That's correct.

20 MS. RENDAHL: And I think that's correct. The only
21 thing that's changed is it doesn't go to the Governor's
22 office --

23 CHAIR LUCE: Right.

24 MS. RENDAHL: -- for final approval, so the Council
25 makes the final decision.

1 From there, whether it goes to a court of appeals,
2 which would be the traditional process, or a superior court for
3 petition for review and then court of appeals and then supreme
4 court, or whether it goes directly to the supreme court, which
5 is the current model, we can get back to you on that.

6 CHAIR LUCE: Yeah. What will change is the
7 precedential value of any of the Supreme Court decisions that
8 we've had so far, because all the rules are going to change. So
9 we've had some pretty good case law so far, and now new rules.
10 So you can -- you know, it will be an interesting brief to be
11 written around the precedential value of what we have in the
12 bank so far.

13 MR. HAYES: Can I ask one last question?

14 If this does go to Senate committee, will EFSEC staff
15 or UTC be testifying to the effect of complications in
16 implementing the bill?

17 MS. RENDAHL: Yes. And I think Jim and I will work
18 that out as to who's going to testify about what.

19 CHAIR LUCE: I am going to testify, and I'm going to
20 testify that I have very serious concerns.

21 The Chinese once described one of their economic
22 plans as a great leap forward. This is a great leap backward.

23 The whole essence of this bill to begin with was
24 consistent standards applied across all political subdivisions
25 of the State. That was the *raison detre*. That was the heart of

1 it.

2 Now, as Ann has said, that's gone. Local political
3 subdivisions can exempt themselves by adopting whatever rules
4 they want -- it's couched in the terms of minimum, but minimum
5 is not defined -- by 2014.

6 There are a number of issues with this bill. The
7 opt-out provision. Previously, alternative energy resources
8 could opt-in, however you want to characterize it. Now it's
9 everything, except for the pipelines. And the last one is the
10 process issues. Public comment is much more restricted, and
11 SEPA time lines are at variance with the SEPA statute.

12 So I know that Representative Morris has good
13 intentions, but this bill falls far short in my opinion. And I
14 will be testifying on my own capacity, not on behalf of the
15 Governor, because the Governor hasn't taken that position, not
16 on behalf of the UTC, because I don't know of the UTC's
17 position, but I will be testifying based on 13 years of
18 experience as Chair, and 30 years of experience in
19 administrative law, that this is -- this bill to be -- I'll just
20 say I have very serious concerns.

21 MS. RENDAHL: And if the Council has particular
22 concerns with the bill, you can let Al and me know. And if it
23 gets a hearing, then we can convey those concerns.

24 MR. HAYES: Thank you.

25 MR. FRYHLING: Thank you.

1 CHAIR LUCE: That's it. Thank you.

2 All right. Councilmembers, we're going to not
3 adjourn. We're going to recess for an executive session. And
4 the executive session will be to discuss potential agency
5 litigation, and we will be meeting downstairs in our conference
6 room down there.

7 Thank you. Council will be in recess until a later
8 point in time.

9 (2:13 p.m. to 3:32 p.m. recess.)

10 CHAIR LUCE: We're now ending the executive session.
11 The time is 3:32, and we will return to the meeting which was in
12 recess upstairs.

13 (Discussion off the record.)

14 CHAIR LUCE: We'll return to the meeting that we had
15 recessed, and having returned, we adjourn.

16 (Whereupon, the meeting was adjourned at 3:32 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
and Notary Public in and for the State of Washington, do hereby
certify that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 29th day of March, 2013.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2013

Kittitas Valley Wind Power Project

Monthly Project Update

March 19, 2013

Project Status Update

February Production Summary:

MWh 23,707 MWh
Wind 7.3 m/s or 16.3 mph
CF 35%

Safety:

No incidents

Compliance:

Project is in compliance as of March 15, 2013.

Sound:

No complaints

Shadow Flicker:

No complaints

Environmental:

Avian & Bat Fatality monitoring continues.

With TAC approval, our annual raptor nest survey has been moved a month earlier this year for better visibility of nests.

No stormwater discharge. The project has filed a Notice of Termination (NOT) of our General Stormwater permit as recommended by the Department of Ecology. A site visit will take place sometime in May.

The burned areas of the project show encouraging signs of new growth.

February, 2013

EFSEC Monthly Operational Report

Safety:

- There were no accidents or injuries in the month of February.
- Conducted monthly safety training in February.

Environmental:

- Submitted the January DMR
- Received permission to defer RATA until the end of 2013 Q3
- Final Receiving Water Study Report submitted to EFSEC and Ecology
- Completed opacity monitor quarterly Calibration Error Check's

Operations & Maintenance:

- The unit operated 2 days during the month of February.
- The February capacity factor is 5.4%, and the YTD capacity factor is 2.5%.

Noise and/or Odor:

- Complaints:
 - No complaints were received during the month of February.

Site Visits:

- None

Other:

- A meeting was held at the EPA office in Seattle regarding the Grays Harbor Units 3&4 PSD permit extension application, and was attended by Grays Harbor Energy staff, Invenergy staff and agents, EFSEC, Ecology and EPA personnel.

**Chehalis Power----Monthly Plant Report to the Washington Energy Facility
Site Evaluation Council – February 2013**

1813 Bishop Road Chehalis, WA 98532
Phone (360) 748-1300, FAX (360) 740-1891

14 March 2013

Safety:

- There were no medical treatments or recordable incidents this reporting period and the plant staff has achieved 3784 days without a Lost Time Accident.

Environment:

- Storm water, waste water and air emissions monitoring results are in compliance with the permit limits for the month of February 2013.
- PacifiCorp received from The Climate Trust the CAR794 Verification report (attached) updating the Farm Power Lynden Anaerobic Digestion project. The first verification report noted that 17,155 metric tons of CO₂ equivalent emission reductions were achieved. This is 6,000 tons above the project anticipated delivery. The net of this outcome is that the Project will start generating credits early for PacifiCorp in the amount of 2500 to 3000 carbon credits of 2012 vintage to begin to meet the Chehalis Generation's CO₂ obligation. (see original schedule of CO₂ credit deliveries)
- Update of auxiliary boiler performance: The first 60 minutes of operation at 16 MW in order to draw a vacuum on the steam system have been eliminated as a result of the use of the auxiliary boiler. This equates to a reduction of 22 tons of CO₂ emissions per start of a combustion turbine.

Personnel:

- Authorized plant staffing level is currently 19 with 18 positions filled.
- The plant Environmental Analyst job posting for a replacement will be for an Environmental, Safety & Health (EHS) position is in process of reviewing applicants.

Operations and Maintenance Activities:

- February 2013: The Plant experienced two significant forced outage events during the month:

1. High energy steam piping was found to have welds with cracking in both units bypass systems. The P91 metallurgy required extraordinary repair methods, pre and post weld heat treatment and verification using radiography to evaluate the completed repair. The systems have been returned to safe operating conditions.
 2. The unit #2 boiler feed pump motor failed similarly to the unit #1 failure last year. However, due to the purchase of a critical capital spare motor the unit was only unavailable for 2 days. Normal repair can take 10 weeks and new replacement is 36 weeks.
- The Plant generated 51,764 mega-watt hours for a capacity factor of 15.2%.

Regulatory/Compliance:

- No spills or stormwater exceedances reported.
- No air emission exceedances reported.
- Submittal of the Community Right to Know Tier II report was completed to EFSEC and local emergency responders as required by law.
- EFSEC and the Southwest Clean Air Agency completed the annual 2013 site inspection noting no issues.
- PacifiCorp will be conducting the required Relative Accuracy Test Audit (RATA) on the continuous emission monitors during the third week in March 2013.

Other:

- Sound monitoring: No noise complaints to report.

Mark A. Miller
Manager, Gas Plant
PacifiCorp-Chehalis Power
1813 Bishop Road
Chehalis, WA 98532
360-748-1300 ext. 5

E-mail: mark_a.miller@pacificorp.com

Wild Horse February 2013 Report

Wind Production: February generation totaled 57,896 MWh for an average capacity factor of 31.60%.

Solar Production: The Solar Demonstration Project generated 53.6 MWh in February.

Safety: No lost-time accidents or safety incidents to report in February.

Compliance/Environmental:

In accordance with Article VI.A.2 of the SCA, updates to the Spill Prevention Control and Countermeasure Plan (SPCCP) were submitted to EFSEC staff for review on February 13th. Updates included the addition of a Mobile Fuel System (MFS). The MFS consists of transporting a portable gasoline tank by truck to refuel the Vestas service trucks on-site. This will help improve efficiencies and reduce safety risks associated with their current vehicle use. Vestas's mobile refueling vehicle will transport the portable tank in full compliance with DOT regulations (including operator training). The Department of Ecology and the Kittitas County Fire Marshall both reviewed the MFS and found it acceptable. EFSEC staff approved the SPCCP revision on March 5th.

**Energy Northwest
EFSEC Council Meeting
March 19, 2013**

I. Columbia Generating Station (CGS) Operational Status

Columbia is operating at 100% power, generating 1,110 megawatts and has been online for 294 days.

Columbia is 51 days from the start of our 2013 refueling outage.

NRC Inspection March 18th-21st

In 2011, CGS discovered an inappropriate change to the Emergency Action Levels and dose assessment procedures. CGS self-reported this issue to the NRC. The NRC issued two "white" findings to CGS which placed the plant within the Degraded Cornerstone Column of the NRC oversight process, thereby subjecting CGS to additional oversight and inspection procedures. This week, CGS is hosting the NRC for a supplemental inspection to review the actions taken to address the performance issues associated with the two white findings. CGS is eager to demonstrate to the NRC during this inspection that we have taken these shortfalls very seriously; we have fixed the issues and addressed their causes, and looked critically to ensure that if similar shortfalls existed elsewhere, they were found and fixed. During this inspection, our goals are for our actions to restore the full confidence of the NRC, not only in emergency preparedness at CGS, but in the health of our safety culture.

There are no events, safety incidents, or regulatory issues to report.

II. WNP 1/4 Water Rights

Energy Northwest received a formal supplemental lease language from the Department of Energy (DOE) in mid-January which was not fully reflective of our meetings/discussions conducted in 2012. In early March, EN received a subsequent proposed lease agreement for consideration. Many of ENs proposed changes were incorporated, however, new requirements and lease terms were added without prior discussion. Based on the lack of forward progress since late 2012, Energy Northwest has met internally (March 19th) and plans to meeting with DOE (in April) to discuss the new lease and get both parties "back on track".