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3 WASHINGTON STATE

4 ENERGY FACILITY SITE EVALUATION COUNCIL

5 Richard Hemstad Building

6 1300 South Evergreen Park Drive Southwest

7 Conference Room 206

8 Olympia, Washington

9 Tuesday, August 19, 2014
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13 MONTHLY COUNCIL MEETING

14 Verbatim Transcript of Proceedings
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1 A P P E A R A N C E S:

2 State Agency Members Present:

3 Bill Lynch, Chair
4 Liz Green-Taylor, Department of Commerce
5 Cullen Stephenson, Department of Ecology
6 Andrew Hayes, Department of Natural Resources

7 Local Government and Optional State Agency:

8 Via Telephone: Bryan Snodgrass, City of Vancouver
9 Jeff Swanson, Clark County

10 Christina Martinez, Department of Transportation
11 Larry Paulson, Port of Vancouver

12 Assistant Attorney General:

13 Ann Essko, Assistant Attorney General

14 Staff in Attendance:

15 Stephen Posner
16 Jim LaSpina
17 Tammy Talburt
18 Sonia Bumpus
19 Kali Wraspir
20 Joan Aitken

21 Guests in Attendance:

22 Jennifer Diaz, Puget Sound Energy
23 Eric Melbardis, Kittitas Valley Wind Power Project
24 Irina Makarov
25 Jay Derr
26 Matt Kurnutt
27 Cassandra Noble
28 Pete Valensky
29 Barb Craig

30 Guests in Attendance Via Telephone:

31 Shannon Khounnala, Energy Northwest
32 Kristin Boyles, Earth Justice

33 * * * * *

OLYMPIA, WASHINGTON AUGUST 18, 2014

1:30 p.m.

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P R O C E E D I N G S

CHAIR LYNCH: Good afternoon and welcome.
Today is August 19, 2014. It's 1:30 p.m. and it's the
regularly scheduled monthly meeting of the Energy Facilities
Site Evaluation Council.

And could we please have Staff call the roll.

MS. TALBURT: Department of Commerce.

MS. GREEN-TAYLOR: Liz Green-Taylor here.

MS. TALBURT: Department of Ecology.

MR. STEPHENSON: Cullen Stephenson here.

MS. TALBURT: Fish & Wildlife.

CHAIR LYNCH: Mr. Stohr is excused.

MS. TALBURT: Natural Resources.

MR. HAYES: Andy Hayes is here.

MS. TALBURT: Utilities and Transportation
Commission.

CHAIR LYNCH: Mr. Moss is excused.

MS. TALBURT: Local Governments and Optional
State Agencies: Department of Transportation.

MS. MARTINEZ: Christina Martinez here.

1 MS. TALBURT: City of Vancouver.

2 MR. SNODGRASS: Bryan Snodgrass here.

3 MS. TALBURT: Clark County.

4 MR. SWANSON: Jeff Swanson is here.

5 MS. TALBURT: And Port of Vancouver.

6 MR. PAULSON: Larry Paulson is here.

7 MS. TALBURT: Chair, there is a quorum.

8 CHAIR LYNCH: Thank you.

9 And is there anybody who has joined us on the
10 telephone who would like to identify themselves at this
11 point in time? You're not required to. But we just would
12 like to know if you're interested in identifying yourself.

13 MS. BOYLES: Chairman Lynch, Kristin Boyles
14 with Earthjustice in Seattle, Washington.

15 CHAIR LYNCH: Thank you.

16 Let's go ahead and proceed. Let's take a
17 look at the minutes for both the July 15 meeting --let's
18 deal with those first, and then we'll deal with the minutes
19 from the August 1 meeting.

20 I actually have two small corrections that
21 I'd like to mention for the July 15 meeting. And while
22 we're dealing with those, the Councilmembers can do another
23 quick read-through.

24 Page 39, line 25, the word "fax," F-A-X,
25 should be deleted and replaced with the word "fact,"

1 F-A-C-T.

2 And then on page 54, line 29, the word
3 "precedent" -- excuse me; "president" should be stricken and
4 replaced with the word "precedent." So it's board
5 "precedent" rather than the board "president."

6 So if people want to call me "El Presidente."

7 MS. GREEN-TAYLOR: Mr. Chair, I have a few
8 more corrections.

9 CHAIR LYNCH: Please.

10 MS. GREEN-TAYLOR: On page 3, I introduced
11 myself as Liz Green-Taylor, not Ms. Green-Taylor.

12 And then on page 7, there's the word
13 "headlights" is used in line 15. And I believe that should
14 either be "headlines" or "highlights," but probably not
15 "headlights."

16 CHAIR LYNCH: Would you repeat that please,
17 Ms. Green-Taylor?

18 MS. GREEN-TAYLOR: Page 7, line 15.

19 CHAIR LYNCH: I see. That might be
20 "highlights"?

21 MS. GREEN-TAYLOR: Yes. It might be
22 "highlights" or possibly "headlines," but "highlights" makes
23 more sense.

24 On page 31 there's two proofreading edits.
25 Line 3, "t-a-t" ought to be "that."

1 And there's a comma missing on line 11 that
2 changes the meaning of the sentence. So it should be
3 "EFSEC's consultant, WDFW."

4 And then there's, I think four or five --
5 five different incidents of the acronym "NPDS." The first
6 instance is -- two instances on page 37, one on page 39, one
7 on page 42, and there was one more. One on page 61. All of
8 those need to be corrected to "NPDES."

9 And "prima facie" -- and I'm probably not
10 pronouncing that correctly -- on page 50, line 17, should be
11 "F-A-C-I-E," and not "fascia."

12 And I think that covers it.

13 CHAIR LYNCH: Thank you for those catches,
14 Ms. Green-Taylor.

15 Does any other Councilmember have proposed
16 edits to this?

17 Having those edits in mind, could I have a
18 motion of approval of the July 15 minutes?

19 MR. STEPHENSON: I will so move, Chair.

20 CHAIR LYNCH: And do we have a second?

21 MR. HAYES: I'll second that.

22 CHAIR LYNCH: It's moved and seconded that
23 the July 15 minutes as edited be approved.

24 All those in favor say aye.

25 (Voice vote taken.)

1 CHAIR LYNCH: Motion carries.

2 Any suggested changes to the August 1
3 minutes? I didn't see any myself.

4 If there are no suggested edits, I would
5 entertain a motion for approval of those minutes.

6 MR. HAYES: Chair, I'll move to approve the
7 minutes from the August 1 meeting.

8 CHAIR LYNCH: Do we have a second?

9 MS. GREEN-TAYLOR: I'll second that.

10 CHAIR LYNCH: It's been moved and seconded
11 that the Council minutes from the August 1, 2014 meeting be
12 approved.

13 All those in favor say aye.

14 (Voice vote taken.)

15 CHAIR LYNCH: Motion carries.

16 And is there anybody who has joined us since
17 we convened the meeting on the phone who wishes to identify
18 themselves at this time? You're not required to.

19 Okay. Let's go ahead with the project
20 updates. And we'll start with Kittitas Valley Wind Project.

21 Good afternoon.

22 MR. MELBARDIS: Good afternoon, Chair Lynch,
23 EFSEC Council, EFSEC Staff. This is Eric Melbardis with the
24 Kittitas Valley Wind Power Project, EDP Renewables.

25 We had nothing nonroutine to report for the

1 month of June.

2 At the time that I wrote this report we did
3 have multiple fires in the area of the project. Those have
4 since started to taper off with some rains. But at the time
5 there was no immediate danger to the project, and we were
6 monitoring the air quality for working conditions and smoke.

7 CHAIR LYNCH: Any questions for
8 Mr. Melbardis?

9 No questions. Thank you very much.

10 And if we could have an update on the
11 Columbia Generating Station first before we have a staff
12 report, Ms. Khounnala.

13 MS. KHOUNNALA: Yes, good afternoon, Chair
14 Lynch and Councilmembers.

15 Since the preparation of the Council update
16 that appears in your packet, Columbia is reporting a change
17 in our current power level. Last Thursday we received an
18 abnormal rain event that resulted in more than an inch and a
19 half of rainfall in less than six hours. This resulted in
20 some flash flooding and some minor building damage and a
21 loss of power in some staff support buildings.

22 As a precaution, Columbia downpowered to 65
23 percent during the event. And in the wake of the downed
24 power, we've elected to use this opportunity to perform some
25 routine maintenance tasks that were scheduled for the outage

1 next spring. We're currently working on implementing these
2 maintenance tasks.

3 And we will -- this will also require us to
4 complete a further downpower to about 18 percent to complete
5 the task.

6 At this time, our power ascension back to 100
7 percent has not been finalized, but we will be in
8 discussions on the schedule with BPA later today.

9 So that's the current operational status for
10 Columbia.

11 In other nonroutine items to report, we did
12 receive our dangerous waste inspection report from the
13 Department of Ecology. They completed this information in
14 late July and issued the report to Energy Northwest. And we
15 were pleased that Ecology noted only one issue related to
16 some boxes of Universal Waste lamps that were not being
17 properly closed. They noted that this was immediately
18 addressed and no further actions were required.

19 I know many of the Councilmembers are new and
20 were not here during our 2007 inspection, but this
21 inspection is mild in part from the results of that 2007
22 inspection. And we were really pleased with the outcome of
23 this inspection.

24 Beyond that, there are no other events or
25 safety incidents to report.

1 Any questions regarding Columbia?

2 CHAIR LYNCH: Any questions for Ms. Khounnala
3 regarding her report?

4 So Ms. Khounnala, why don't you just go ahead
5 and update us on WNP 1/4 before we have the staff report.

6 MS. KHOUNNALA: Sure. In regards to WNP 1/4,
7 our water rights application is proceeding as expected and
8 is currently on schedule.

9 We completed the public notice and comment
10 period. That concluded in late July.

11 A site visit between the Department of
12 Ecology as well as the Department of Energy has been
13 scheduled, and they will be on site on September 3.

14 Following that, following the current
15 schedule, we expect that we would receive the water rights
16 permit sometime in the month of October.

17 Any questions?

18 CHAIR LYNCH: Were there any protests filed
19 during the comment period regarding the water rights?

20 MS. KHOUNNALA: No. We received word from
21 the Department of Ecology that no comments were provided.

22 CHAIR LYNCH: Okay. Thank you.

23 MS. KHOUNNALA: Thank you.

24 CHAIR LYNCH: Any questions for Ms.
25 Khounnala?

1 Thank you, Ms. Khounnala.

2 And Mr. LaSpina, you have a few things to
3 update us with regarding Columbia. And please go ahead.

4 MR. LASPINA: Yes. Thank you, Chair Lynch.

5 And I apologize for not getting these
6 bulletized on the agenda. We'll be more careful with that
7 in the future.

8 The first update is on the NPDES permit
9 issuance. I've just got a short little blurb here that
10 should be informative.

11 EFSEC staff and Ecology staff recently met
12 with EPA Region 10 staff to discuss revised permit language.
13 At this time EFSEC staff is finalizing the permit and
14 associated documents to present to the Council.

15 EFSEC staff and Ecology staff plan to present
16 the permit to the Council in a work session tentatively
17 scheduled for the September Council meeting. Relevant
18 permit documents will be provided to the Councilmembers for
19 its review beforehand.

20 Ecology and EFSEC staff will explain major
21 permit requirements to the Council, summarize public
22 comments, and answer Councilmembers' questions. Energy
23 Northwest staff will also attend and make remarks.

24 At this time, the date for the Council to
25 vote on issuing the permit has not yet been determined.

1 And I could answer any questions anybody has.

2 CHAIR LYNCH: Any questions for Mr. LaSpina
3 regarding the NPDES permit?

4 We'll be getting a lot more information on
5 this later.

6 Thank you. Please proceed.

7 MR. LASPINA: The next matter involves a
8 permit, an air emissions permit, that the Columbia
9 Generating Station has for its small air emissions. So I'll
10 just get right into it.

11 Air emissions at the Columbia Generating
12 Station are currently regulated by Order 672. Order 672 was
13 issued by the Council in 1996. The order regulates
14 emissions from various small emergency engines and
15 generators operated by Energy Northwest.

16 EFSEC's compliance contractor, the Department
17 of Ecology, recently completed a draft revision to address
18 new equipment purchases made by Energy Northwest and recent
19 changes to state and federal air quality regulations. Due
20 to significant revisions, the order will be reissued as
21 Order 868.

22 As the order functions as an air emissions
23 permit, a 30-day public comment period is required. The
24 public comment period will begin in the next few business
25 days, as soon as we can line up the public notice and in the

1 newspaper and that sort of thing.

2 After the conclusion of the public comment,
3 EFSEC staff will provide Councilmembers with the draft
4 order, a fact sheet, and a memo describing the proposed
5 permit and public comments received by EFSEC staff.

6 At this time, the Council's vote to issue the
7 permit has not been scheduled. So in other words, after the
8 public comment period you'll get all the documents, and
9 staff will make a recommendation to you to approve the
10 permit.

11 So if you have any concerns or questions, I'm
12 happy to address them now.

13 CHAIR LYNCH: Thank you, Mr. LaSpina.

14 I noticed that this particular order reduces
15 the annual usage of diesel fuel down from 780,000 gallons to
16 730,000 gallons. So that's a significant reduction in the
17 amount of diesel fuel that's allowed for annual usage.

18 And like you said, this is -- we're not
19 taking action today. This is more of a technical sort of
20 permit that is required, but we're just starting the public
21 comment period today.

22 MR. LASPINA: Yes, sir.

23 CHAIR LYNCH: So what I anticipate doing is
24 after the comment period has run like Mr. LaSpina mentioned,
25 I would be surprised if we got any comments at all. But

1 there's a chance that we could.

2 But I would like to just schedule a special
3 meeting of the Council once we have everything together so
4 that you don't have the facility having to wait another
5 month before they can get their new equipment online. So
6 that's my -- how I anticipate handling this, anyway.

7 So please let us know once you've got
8 information if you have any concerns.

9 Any questions for Mr. LaSpina?

10 And there's one other item?

11 MR. LASPINA: Yes. Thank you Chair Lynch.

12 This involves the -- a wastewater treatment
13 system that Energy Northwest recently constructed at the
14 Columbia Generating Station. About a year and a half ago,
15 Energy Northwest offered to build -- construct a rather
16 large evaporation pond system to evaporate stormwater and
17 process wastewater. These waste streams were previously
18 discharged to ground. So it was seen as a big environmental
19 plus to do that.

20 And EFSEC staff commends Energy Northwest for
21 taking the initiative on this issue.

22 Energy Northwest submitted an engineering
23 report last year, which was reviewed by both Department of
24 Ecology staff and Department of Health staff. Both sister
25 agencies did a technical review and recommended approval of

1 the engineering report, which EFSEC staff, the EFSEC manager
2 wrote -- signed an approval letter last September, which
3 would be September 2013.

4 Since then, the pond system has been
5 constructed.

6 The engineering report needed to be revised,
7 which Energy Northwest did.

8 And Energy Northwest was also required to
9 draft an operations and maintenance manual.

10 So the engineering report is primarily about
11 the design and loading capacities of the pond system, and
12 the operations and maintenance manual addresses more the
13 day-to-day operation of the treatment ponds.

14 The revised engineering report and the draft
15 O&M manual have been reviewed by the Department of Ecology
16 and the Department of Health. Both sister agencies have
17 done in-depth technical review and all the issues have been
18 resolved. And both agencies recommend approval of both
19 documents, the engineering report and the O&M manual.

20 So unless the council has some concerns,
21 EFSEC staff, and especially the EFSEC manager, will issue an
22 approval letter for both documents so that Energy Northwest
23 can start using the facility. They've been waiting very
24 patiently, so we'd like to get them a timely approval.

25 CHAIR LYNCH: And I'll just do a quick

1 follow-up to staff presentation. Historically these are the
2 sorts of documents, these technical documents, that the
3 EFSEC staff have dealt with without kicking them all the way
4 up to approval in front of the Council. So this is a
5 continuation of this practice where the staff informs the
6 Council of where they are in taking action on the facilities
7 that we oversee.

8 But this is not actually something that
9 Council has to see, study, review, make comments on and
10 approve.

11 So a Councilmember can always ask to see
12 something, but we're going to continue this past practice of
13 allowing those sorts of documents that are submitted after
14 review by sister agencies to be handled and approved by the
15 staff. And I hope to be developing a guidance document on
16 this a little bit later that kind of formalizes this
17 practice.

18 Any questions for Mr. LaSpina?

19 MR. STEPHENSON: Just a quick comment.

20 CHAIR LYNCH: Yes, Mr. Stephenson.

21 MR. STEPHENSON: Thank you Mr. Chair.

22 From Ecology's standpoint, I have seen the
23 folks that have been looking at these reviews and I'm
24 comfortable with that.

25 I think the practice that you are envisioning

1 is a good one. I think it's nice that we should ask Council
2 to do that, and yet trust EFSEC staff to do normal daily
3 chores and still be open on the process so that we know
4 what's going on. And I appreciate that.

5 CHAIR LYNCH: Thank you, Mr. Stephenson.

6 Anything else for Mr. LaSpina or anything
7 else on Columbia?

8 Very good. If we could have an update, then,
9 on the Chehalis Generation Facility?

10 MR. LASPINA: Chair Lynch, Mark Miller, the
11 plant manager, was not able to make it to the meeting. He
12 had an emergency inspection to deal with.

13 However, the facilities report is in your
14 binder. And I don't know where it is. Oh, the white page.

15 CHAIR LYNCH: And that report indicates
16 nothing out of the ordinary; is that correct?

17 MR. LASPINA: Yes, sir.

18 CHAIR LYNCH: So if there's no questions for
19 Mr. LaSpina, let's move on.

20 If we could have an update on the Grays
21 Harbor Energy Center?

22 MR. VALENSKY: Good afternoon Chair Lynch,
23 Councilmembers, EFSEC Staff. My name is Pete Valensky, here
24 on behalf of Rich Downen. I'm the plant engineer at Grays
25 Harbor Energy.

1 You have our monthly input in your folders,
2 and we have nothing additional to report for July.

3 I do want do mention however, that our annual
4 stack test is in progress at the facility this week.

5 That's all I have.

6 CHAIR LYNCH: And how much have you been --
7 you're up and running quite a bit more than you had
8 previously; is that correct?

9 MR. VALENSKY: Correct. In August we've run
10 every day but one.

11 CHAIR LYNCH: Very good.

12 Any questions for Mr. Valensky?

13 Thank you for coming today.

14 MR. VALENSKY: Thank you.

15 CHAIR LYNCH: And the Wild Horse Wind Power
16 project, we have Ms. Diaz and -- I'm sorry; Ms. Craig. Yes.

17 Ms. Craig, I confess to Googling you before
18 today's hearing.

19 MS. CRAIG: That was a younger version.

20 MR. STEPHENSON: That was all of us.

21 CHAIR LYNCH: And first of all I'd like to
22 thank you for not applying for my position when it came
23 open. It looks like you have quite a bit of experience,
24 particularly in this area, so we look forward to hearing
25 from you.

1 So I guess first we'll hear from Ms. Diaz.

2 MS. DIAZ: Good afternoon, Councilmembers.

3 For the record, I'm Jennifer Diaz. I'm the environmental
4 and communications manager for Puget Sound Energy at the
5 Wild Horse Wind Facility.

6 I'll be providing the routine operational
7 update, and then I'll be introducing Barb Craig, who will
8 provide information regarding our recent golden eagle
9 incident.

10 For the routine operational update, I have a
11 few nonroutine items.

12 Under Operations, a wildfire on the Yakima
13 Training Center damaged ten of PSE's 230 kV transmission
14 line structures located between the Wild Horse interconnect
15 substation near I-90 and Wanapum Dam. Damage to the
16 structures caused an eight-day unplanned outage at Wild
17 Horse while those repairs were completed.

18 Under Compliance and Environmental, under
19 contract with the Washington State Department of Health, the
20 Kittitas County Department of Public Health completed a
21 sanitary survey inspection of the Renewal Energy Center --
22 that's our visitors center -- of the water system. No
23 deficiencies were identified during the inspection.

24 Staff completed required annual training of
25 the following operational plans and programs: The

1 Operations Stormwater Pollution Prevention Plan, the Spill
2 Prevention Control and Countermeasures Plan, and the Waste
3 Management Program.

4 And the Wild Horse Technical Advisory
5 Committee met on July 17. PSE provided TAC members with
6 information regarding the golden eagle incident, including
7 specific details of the incident, agency notification
8 procedures, jurisdictional responsibilities, and next steps,
9 which includes the development of an Eagle Conservation Plan
10 in consultation with the U.S. Fish and Wildlife Service.
11 PSE will continue to inform the TAC as this case proceeds
12 with the United States Fish and Wildlife Service.

13 In your packets you do have draft minutes
14 from the TAC meeting on July 17.

15 Final minutes from the TAC will be issued to
16 the Councilmembers after final approval by TAC members,
17 which is at the end this month.

18 So before I introduce Barb, did you have any
19 questions regarding the operational update?

20 CHAIR LYNCH: Any questions for Ms. Diaz?

21 No questions.

22 MS. DIAZ: All right. Thank you.

23 So Barb Craig is a partner at Stoel Rives,
24 where she concentrates her practice in the area of federal
25 natural resource and energy law. She represents a variety

1 of public and private clients in federal permitting and
2 compliance matters, including the Endangered Species Act,
3 the Migratory Bird Treaty Act, and the Bald Eagle and Golden
4 Eagle Protection Act.

5 Currently she is working on 32 eagle
6 permitting projects spanning 15 states.

7 She is here today to describe the U.S. Fish
8 and Wildlife Service's regulatory program under the Eagle
9 Act and to answer any questions that you may have.

10 MS. CRAIG: Thank you, Chair Lynch and
11 Councilmembers and Staff.

12 And you'll have a hard copy PowerPoint
13 presentation in front of you. It has one slide just so you
14 can take some notes or jot down questions. I'm happy to
15 answer any questions.

16 Just for context, just to reiterate what
17 Jennifer indicated, TAC did meet. We are coordinating with
18 the Wild Horse TAC and we are consulting with the U.S. Fish
19 and Wildlife Service.

20 So I think what my charge was today -- and
21 I'm amenable to change if this isn't the charge -- but was
22 to, based on my background and practice, was to answer any
23 questions and to go through the federal process of obtaining
24 an eagle permit under the Bald Eagle and Eagle Act.

25 So that was my plan at a high level, was to

1 walk through that federal statute and permitting process and
2 answer any questions.

3 CHAIR LYNCH: That sounds good. Thank you.

4 MS. CRAIG: Okay. Thank you.

5 So there are three federal statutes that
6 pertain to avian species: The Endangered Species Act,
7 Migratory Bird Treaty Act, and Bald Eagle and Eagle
8 Protection Act.

9 This is not an Endangered Species Act issue
10 with respect to a golden eagle. It is a Bald and Golden
11 Eagle Protection Act issue. And the Bald and Golden Eagle
12 Act protects, as it sounds, both species, bald eagles and
13 golden eagles, from take.

14 And the reason you may not have heard very
15 much about the Bald and Golden Eagle Act until recently is
16 because we had a success story in terms of the bald eagle
17 being delisted. So when DDT was outlawed and the bald eagle
18 came on the rebound, there was -- and the species was
19 delisted, there was no longer a regulatory mechanism in
20 which Fish and Wildlife Service could issue a take
21 authorization.

22 And what historically happened, if you had a
23 federal consultation and you were working under the
24 Endangered Species Act to protect bald eagles, you had a
25 mechanism in which you could develop a plan to talk about

1 bald eagles as well as golden eagles, and so there was an
2 opportunity for that level of consultation. Now that the
3 bald eagle is delisted, that doesn't exist.

4 And so several years after the bald eagle was
5 delisted, U.S. Fish and Wildlife service decided for the
6 first time that they would go through rule making to issue
7 incidental take authorization to authorize take of bald and
8 golden eagles under the Bald and Golden Eagle Act.

9 So that's important history because people
10 get confused about whether it's ESA or Bald and Golden Eagle
11 Act. And it's not ESA.

12 The golden eagle was never listed under the
13 Endangered Species Act, to be extra clear.

14 So in 2009, U.S. Fish and Wildlife Service
15 promulgated a rule that authorized the issuance of a permit
16 to take bald or golden eagles. And the permit term was five
17 years.

18 There was a lot of discussion that the
19 five-year term wasn't long enough. It required compliance
20 with the National Environmental Policy Act, which is another
21 federal statute that evaluates the base line and
22 environmental impacts.

23 And in that process you were -- the federal
24 agency was required to evaluate the entire life of the
25 project. So they were looking at like a wind farm for 30

1 years, but only issuing a permit for five years.

2 And so that prompted Fish and Wildlife
3 Service to take another look and say, well, you know, maybe
4 we need to be looking at a longer term permit.

5 So last December, Fish and Wildlife service
6 did publish a final rule. And it extended the opportunity
7 for an eagle take permit to 30 years, but there are
8 important five-year mandatory consultation provisions.

9 It is still a federal action that requires
10 compliance with the National Environmental Policy Act, and
11 the Fish and Wildlife Service will issue the permit after
12 the NEPA compliance.

13 And the Fish and Wildlife Service views this
14 process as voluntary. So it's not like a construction
15 permit. It is a permit that from a business perspective you
16 can make an evaluation of risk based on your studies and
17 determine whether you think it's needed or not.

18 So that's the background of the federal
19 statutes.

20 PSE has had an avian protection program for a
21 very long time. It's nationally recognized. They've been
22 very proactive. I've been working with them for years.

23 And they've recently revised at the corporate
24 level their avian protection plan.

25 And then as it relates to their specific

1 projects, they have what's referenced as bird and bat
2 conservation strategies for their three wind facilities,
3 which describes the measures and the commitments and the
4 benefits to the species.

5 And these project specific bird and bat
6 conservation strategies were developed consistent with
7 Washington State Department of Fish and Wildlife and the
8 U.S. Fish and Wildlife Service wind power guidelines, as
9 well as wind energy guidelines.

10 And as Council knows, PSE has a technical
11 advisory committee for each of its facilities, including the
12 Wild Horse wind facility.

13 And PSE has been in consultation with the
14 state and federal agencies. They initiated it in 2003 and
15 continued throughout the development of the project.

16 It's important to note this is a pre-2009
17 project, which means there was no available federal eagle
18 permit at that time.

19 Wild Horse TAC was established in 2006. TAC
20 includes Fish and Wildlife Service, WDFW, DNR, PSE itself,
21 Kittitas Audubon, Kittitas County Field and Stream Club,
22 Washington State University Extension and other local
23 interest groups.

24 To date, my understanding is the TAC has been
25 meeting several times a year and has been operating in

1 consensus, even though that's not required.

2 The purpose of the Wild Horse TAC is to
3 insure that operational monitoring data is considered in a
4 neutral forum with independent and informed parties and
5 collaborate with PSE; makes advisory recommendation to EFSEC
6 as it deems necessary.

7 And as Jennifer indicated, they met last
8 month and were briefed about the incident with respect to
9 the golden eagle. And you have the minutes that are going
10 to be formalized by the end of the month.

11 So to summarize, PSE is consulting with Fish
12 and Wildlife Service. We're diligently working on an eagle
13 conservation plan in consultation with Fish and Wildlife
14 Service. And we are going to apply and pursue an eagle take
15 permit.

16 One note on that: Fish and Wildlife Service,
17 both in terms of its guidelines and in terms of how they
18 like to operate, is they like to collaborate and consult on
19 the development of an eagle conservation plan, which I
20 strongly recommend as well. And so it may be some time
21 before there's an actual formal application because the U.S.
22 Fish and Wildlife Service generally would rather, instead of
23 the applicants just putting together their proposal, they
24 like to collaborate on a proposal and then receive the
25 application and then start the formal process.

1 So that's typically how the process goes, is
2 working in informal consultation and then there's an actual
3 formal application.

4 And we will continue to work with the TAC and
5 update the TAC.

6 So I'm happy to answer questions.

7 It's a federal kind of a normal
8 administrative record procedure process where you look at
9 the science and evaluate measures.

10 The fact that it's a pre-existing project for
11 2009, we obviously won't be looking at the siting decisions.

12 We'll be looking at other issues as it
13 relates to the project.

14 So I'm happy to answer any questions.

15 CHAIR LYNCH: Thank you, Ms. Craig. I have a
16 few questions before I open it up to the rest of the
17 Council.

18 This eagle conservation plan, could you just
19 describe some of the elements that would constitute part of
20 this plan?

21 I assume there would be some monitoring.

22 MS. CRAIG: Sure.

23 CHAIR LYNCH: Could you please go through
24 what you anticipate would be part of that, even though we
25 know it's not finalized.

1 MS. CRAIG: Right. So typically it is a
2 document that incorporates, actually, probably a lot of
3 existing material, but put in one place.

4 So there will a project description, a
5 vicinity map, talk about the affected environment and
6 species in the vicinity. It will talk about the studies to
7 date.

8 And it will definitely have -- a key
9 component of any plan is the adaptive management program.
10 That's part of the Fish and Wildlife Service rationale for
11 extending the permit to -- the opportunity for a 30-year
12 permit is to have these mandatory five-year check-ins with
13 adaptive management.

14 So it will for a -- there's a distinction
15 between existing projects and new projects because there's
16 differences, obviously.

17 So for a project like this, it will be likely
18 a more streamlined and simpler documentation of the existing
19 conditions and talk about the adaptive management provisions
20 and to formulate into the protocol for monitoring.

21 CHAIR LYNCH: Do you anticipate any -- that
22 anything recommended under this plan would be more in the
23 form of compensatory mitigation as opposed to operational or
24 structural changes to the facility?

25 MS. CRAIG: I wouldn't expect either one.

1 For an existing 2009 project I would expect monitoring.

2 CHAIR LYNCH: Okay.

3 MS. CRAIG: And evaluation.

4 CHAIR LYNCH: And have they developed -- has
5 there been -- excuse me. I wrote this down and now I'm
6 looking for it on the page.

7 The regional take threshold, have they
8 established a regional take threshold for golden eagles in
9 the area?

10 MS. CRAIG: They're working on that.

11 CHAIR LYNCH: Okay.

12 MS. CRAIG: The Fish and Wildlife Service
13 developed this program. And Migratory Birds, which is a
14 section of Fish and Wildlife Service, is managing it, in
15 comparison to under the Endangered Species Act, Ecological
16 Services had been managing it.

17 So to be candid, this is new for the Fish and
18 Wildlife Service and Migratory Birds. And it's precedential
19 in their mind, and so they're being very conscientious and
20 diligent, and it's taking time.

21 We still actually don't have a permit. We
22 expect a permit; I mean the first ever issued under the Bald
23 and Golden Eagle Act for a wind facility. The Shiloh IV
24 project in California -- I went camping this weekend, so I
25 checked before I got here -- still hasn't been issued.

1 So it's working diligently, but it's a
2 process. And there's issues that the Fish and Wildlife
3 Service is still actually working through, and that's one of
4 them, is looking at the regional population and local
5 populations and what's the take threshold and how do you
6 evaluate cumulative impacts.

7 CHAIR LYNCH: One of the things I read was
8 that the factors that influence the vulnerability of eagles
9 to collision to wind turbines are poorly known. Would you
10 agree with that?

11 MS. CRAIG: I would say that it's species
12 dependent; and that with respect to golden eagles, I think
13 that's true. I think it's quite random.

14 With respect to bald eagles, I wouldn't say
15 that's true.

16 So I wouldn't make a general statement. I
17 would -- I work with all kind of species as it relates to
18 projects, and so I would be species specific. And golden
19 eagles are particularly difficult. I've worked with clients
20 who are doing lots of studies. And there's not clarity. It
21 feels like there's random events as opposed to some real
22 clear causal link.

23 CHAIR LYNCH: Which makes it harder to come
24 up with adaptive management?

25 MS. CRAIG: Yes.

1 CHAIR LYNCH: Very good. Thank you.

2 Any other questions for Ms. Craig from the
3 Council?

4 Thank you, Ms. Craig.

5 Oh, excuse me. Mr. LaSpina?

6 MR. LASPINA: I was wondering if you could
7 speak to your experiences, maybe illuminate the Council on
8 your experiences of previous take incidents, and, you know,
9 this sort of extended time line and that sort of thing. I
10 mean, it doesn't get resolved overnight.

11 MS. CRAIG: So in terms of the process of
12 looking forward for a new permit, or in terms of the --

13 MR. LASPINA: Resolving the incident that
14 just happened, for instance.

15 MS. CRAIG: So the Fish and Wildlife Service
16 makes a chronological decision because we don't have a
17 permit. They just -- in fact, the Service hasn't issued any
18 permits yet. But they will, even while you're in the
19 process of applying for a permit, they make a distinction.
20 So there's not coverage until it's a voluntary permit, but
21 you don't have coverage until you have a permit.

22 So anything that happens on the other side of
23 the ledger before you have a permit is handled by a
24 different division. And that's a -- given the good
25 relationship PSE has with Fish and Wildlife Service, which

1 is well-deserved, I would assume that from a prosecutorial
2 discretion perspective that it would be resolved amicably.
3 I don't think quickly, though. I don't think anything right
4 now is happening very quickly.

5 A backdrop to this is that the American Bird
6 Conservancy has filed a lawsuit in California against U.S.
7 Fish and Wildlife Service on this 30-year rule. So the
8 Fish and Wildlife Service is really trying to work on its
9 permitting program and trying to find a way to balance
10 renewable energy development and protection and conservation
11 of birds. And so they're working very diligently and very
12 methodically, but not quickly.

13 CHAIR LYNCH: Thank you.

14 Any other questions for Ms. Craig?

15 Thank you for coming here today.

16 MS. CRAIG: My pleasure. Thank you.

17 MS. DIAZ: Thank you.

18 CHAIR LYNCH: Thank you.

19 And now I think we are ready for our Tesoro
20 update. Ms. Bumpus?

21 MS. BUMPUS: Good afternoon, Chair Lynch and
22 Councilmembers. Thank you.

23 I'm going to give my update the same
24 structure that I did last month with the application review
25 first, the environmental review second, and then permits

1 third.

2 With regard to the application review, that's
3 ongoing. That's continuing. And we expect to get some
4 feedback to the applicant very soon with regard to a Cardno
5 ENTRIX review. But we're also working with other agencies
6 and anticipate comments from them as well.

7 For the SEPA environmental review, EFSEC
8 received Chapters 1 through 4 of the preliminary draft EIS
9 on August 1. And Cardno ENTRIX has done a preliminary
10 review of that and is preparing to do a more in-depth review
11 in the coming weeks.

12 Also, what we're hearing at this time is that
13 we should be receiving the remainder of the preliminary
14 draft EIS Chapters 5 through 7 by the end of this month, and
15 at that point we'll begin doing a review of the information
16 there as well.

17 For the permits, EFSEC recently sent a letter
18 after completing a review for the NPDES stormwater
19 construction and industrial permit applications. EFSEC
20 provided comments in the letter, and that went out August 1
21 to the applicant. So we'll be working with the applicant to
22 gather more information to continue a review of the permit
23 application.

24 For the air permit, the notice of
25 construction application was revised, and EFSEC received the

1 revised NOC application on August 11. So that review will
2 be commencing very shortly, and we'll be providing comments
3 to the applicant on that application as well.

4 Do Councilmembers have any questions?

5 CHAIR LYNCH: Any questions for Ms. Bumpus?

6 MS. MARTINEZ: Can you remind me when the
7 Council will receive Chapters 1 through 4 of the EIS?

8 MS. BUMPUS: What I think we're -- what we
9 anticipate is that we will work on Chapters 1 through 4. So
10 right now, we're beginning the in-depth review of that
11 information. It's difficult to say when, without having
12 done the in-depth review, when you'll have the opportunity
13 to look at it. But you will have the opportunity to look at
14 it once it's been reviewed by staff and finished.

15 CHAIR LYNCH: Any other questions?

16 And just I know that the Council staff had
17 received a lot of the information from the applicant's
18 consultants.

19 But there was some information that had not
20 been received, and that was part of the reason for not
21 getting -- for our consultants not being able to get all
22 their review done. I guess I'm not saying that very
23 artfully. But do you have everything you think you need?

24 MS. BUMPUS: At this time there is some
25 additional information that we will need to continue the

1 review. There are some -- there is some data that we'll
2 need to further evaluate the document. And we're working
3 with the applicant to get that data so that we can continue
4 the review as seamlessly as possible.

5 CHAIR LYNCH: Okay. Because as soon as -- we
6 can't start our review until you finish your review. So
7 we're hoping that all the information you need is
8 forthcoming.

9 MS. BUMPUS: That's correct.

10 CHAIR LYNCH: I wanted to introduce somebody
11 who is with us today. You might remember that Judge Torem,
12 who was the ALJ for EFSEC, left at the end last month.

13 And we were scratching our heads if we'll be
14 able to find somebody who has environmental law experience,
15 who's conducted environmental hearings, has dealt with very
16 tough cases.

17 And we were lucky enough to find a
18 replacement. So Cassandra Noble, will you please stand up
19 so that everyone can recognize you?

20 Cassandra was an attorney, one of the judges
21 at the Environmental Hearings Office. I had the pleasure of
22 working with her for a number of years. She was noted for
23 being able to control a courtroom of surly attorneys. So
24 those of you listening on the phone, take note. Do so at
25 your own peril. So she runs a very good hearing and is a

1 very good judge.

2 So Cassandra, we're very happy that you've
3 joined us here at EFSEC.

4 JUDGE NOBLE: Thank you, Chair Lynch. And
5 thank you for the kind remarks and your confidence in me.
6 And I hope to show you that it was well-deserved.

7 Hello, everyone. Hello, everyone on the
8 phone.

9 CHAIR LYNCH: Thank you.

10 And Ms. Bumpus, did you have anything else
11 before we turn to the -- to Mr. Posner?

12 MS. BUMPUS: No. That concludes my
13 presentation.

14 CHAIR LYNCH: Thank you.

15 Mr. Posner?

16 MR. POSNER: Thank you. Good afternoon,
17 Chair Lynch, Councilmembers.

18 As the item on the agenda indicates, we are
19 -- this item deals with the request from the applicant to
20 extend the application processing time.

21 As you know, we received this application
22 just about a year ago, at the end of August 2013. So we're
23 coming up on a one-year period. And the EFSEC statute makes
24 provisions for -- or there is a provision to extend that
25 time period. And basically that is the time period that the

1 applicant and the Council needs to mutually agree to.

2 So we have received a request for an
3 extension from the applicant. And I've asked Mr. Jay Derr,
4 who represents the applicant, to provide some opening
5 remarks or address the council concerning this matter.

6 And then if the Councilmembers have questions
7 of Mr. Derr or of me, we'd be happy to entertain your
8 questions.

9 CHAIR LYNCH: And this will be an action item
10 for the Council today?

11 MR. POSNER: Yes. This will be an action
12 item.

13 CHAIR LYNCH: Thank you.

14 Mr. Derr, welcome.

15 MR. DERR: Good afternoon Chair Lynch,
16 Council, EFSEC Staff.

17 Jay Derr, D-E-R-R, one of the attorneys for
18 the applicant; hopefully not one of the surly attorneys, at
19 least not yet.

20 So as Mr. Posner said, he wanted me to offer
21 a little perspective on the letter that we sent. And then
22 I'm mostly here to respond to questions that you might have.

23 As you know, and as Mr. Posner indicated, the
24 statute specifies a one-year process, and then specifies if
25 you're not going to make that time frame that the Council

1 and the applicant agree to such a later date.

2 So it's clear we're not going to finish by
3 August, as much as we might have hoped when we started. So
4 what we did in our proposal and the thought behind it
5 requesting a six-month extension is to base that request on
6 what we know today, which is where we are in the process,
7 what's left.

8 I guess I would highlight that the statute
9 provides that we just need to get to Council recommendation
10 within that time frame. It's not to govern our decision.
11 So we're really looking at from here forward the EIS, the
12 adjudication, and then the Council's work on a
13 recommendation. And that's the time frame we're looking at.

14 Based on the discussions we've had in the
15 past, including at Council meetings, we were sort of looking
16 at being ready for adjudication late this year or beginning
17 next year.

18 And so given that time frame, our request is
19 for six months, which takes this to the very end of
20 February, or I think the Monday is March 2 is why we
21 proposed that in the letter.

22 So that's our suggestion. That's our
23 request. And we offer that understanding probably none of
24 us right now know exactly when we'll be done with this
25 process, but that's based on the information that we know

1 today. And so we're asking that the Council agree to that
2 date, and if we get further into the process and discover we
3 need to have another conversation, that we do so at that
4 time.

5 So that's kind of what's behind our request.
6 And again, I'm happy to answer whatever questions you have
7 or respond to comments you might have.

8 CHAIR LYNCH: Thank you.

9 Any questions for Mr. Derr from
10 Councilmembers?

11 This is the only time this is going to
12 happen, Mr. Derr.

13 MR. DERR: Great.

14 CHAIR LYNCH: Thank you very much.

15 MR. DERR: Thank you.

16 CHAIR LYNCH: Does anybody have any other
17 comments before -- Mr. Posner, are we just then acting on
18 the motion at this point in time?

19 MR. POSNER: Yes, that's correct.

20 CHAIR LYNCH: So I would entertain a motion
21 to extend the statutory deadline for dealing with the Tesoro
22 Savage Vancouver Energy Terminal. The time to complete this
23 process would be March 2, 2015.

24 MR. HAYES: Chair, would you entertain
25 comments either before or after the motion?

1 CHAIR LYNCH: I'll entertain them now.

2 MR. HAYES: Great. I just want to say I'm
3 totally fine with supporting a six-month extension. I just
4 felt somebody needs to say that it seems very unlikely to me
5 that we will finish it in six months, given the current pace
6 and complexity of this project. But I'm willing to drink
7 the Kool-aid and say six more months, and we'll approach the
8 project length when we get there.

9 CHAIR LYNCH: Thank you, Mr. Hayes.

10 Anybody else wish to comment?

11 MR. STEPHENSON: Not after that.

12 CHAIR LYNCH: We recognize that there's a lot
13 involved with this project and that we're all working
14 diligently to have -- develop a recommendation to the
15 governor. And so this is the date that's being recommended
16 to us, and that's what we'll be voting on at this point in
17 time.

18 So could I have a motion in favor of this
19 extended time frame?

20 MR. HAYES: Chair, I would be pleased to move
21 that we extend the project review process for six months to
22 March 2, 2015.

23 CHAIR LYNCH: Thank you, Mr. Hayes.

24 Do we have a second?

25 MS. GREEN-TAYLOR: I'll second that.

1 CHAIR LYNCH: It's been moved and seconded
2 that we extend the statutory deadline for this proposal six
3 months. All those in favor say aye.

4 (Voice vote taken.)

5 CHAIR LYNCH: Motion carries.

6 And it's noted again that the Port of
7 Vancouver does not have a vote on these issues, but we
8 appreciate your input at any time. Thank you.

9 MR. PAULSON: A voice and not a vote.

10 CHAIR LYNCH: Thank you.

11 Any other issues before the Council today?

12 With that, we are adjourned. Thank you.

13 (Whereupon, the proceedings were
14 adjourned at 2:28 p.m.)

1 CERTIFICATE OF REPORTER)
2 STATE OF WASHINGTON)
3) ss
4 COUNTY OF KING)

5 I, Elizabeth Patterson Harvey, a Certified Court
6 Reporter and Registered Professional Reporter within and for
7 the State of Washington, do hereby certify that the
8 foregoing proceedings were taken by me to the best of my
9 ability and thereafter reduced to typewriting under my
10 direction; that I am neither counsel for, related to, nor
11 employed by any of the parties to the action in which this
12 deposition was taken, and further that I am not a relative
13 or employee of any attorney or counsel employed by the
14 parties thereto, nor financially or otherwise interested in
15 the outcome of the action.

16
17
18 _____
19 Certified Court Reporter in
20 The State of Washington

21 My license expires December 21, 2014
22
23
24
25

Kittitas Valley Wind Power Project

Monthly Project Update

August 19, 2014

Project Status Update

June Production Summary:

MWh 38,519 MWh
Wind 9.3 m/s or 20.8 mph
CF 51.4%

Safety:

No incidents

Compliance:

Project is in compliance as of August 11, 2014.

Sound:

No complaints

Shadow Flicker:

No complaints

Environmental:

Multiple Kittitas County fires are burning.
No immediate fire danger to the project.
Air is smoky and we're closely monitoring safe working conditions.

July, 2014

EFSEC Monthly Operational Report

1. Safety and Training:

- 1.1. There were no accidents or injuries to plant staff during the month of July.
- 1.2. Conducted monthly safety training.
- 1.3. Conducted monthly safety committee meeting.

2. Environmental:

- 2.1. Performed the annual inspection of the outfall diffuser in the Chehalis River. The diffuser and piping is in good condition with no deficiencies noted.
- 2.2. Submitted the Discharge Monitor Report for June 2014.
- 2.3. Submitted the Air Emissions Report for the second quarter of 2014.

3. Operations & Maintenance:

- 3.1. Grays Harbor operated 19 days during the month of July.
- 3.2. The capacity factor (CF) was 40.0% in July, and 14.1% YTD.
- 3.3. The availability factor (AF) was 95.2% in July, and 92.1% YTD.

4. Noise and/or Odor:

- 4.1. There were no complaints received during the month of July.

5. Site Visits:

- 5.1. There were no site visitors during the month of July.

6. Other:

- 6.1. Grays Harbor is fully staffed with 22 employees.

**Chehalis Generation Facility----Monthly Plant Report to the Washington Energy
Facility Site Evaluation Council – July 2014**

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

19 July 2014

Safety:

- There were no recordable incidents this reporting period and the plant staff has achieved 4272 days without a Lost Time Accident.

Environment:

- Waste water monitoring results are in compliance with the permit limits for the month of July 2014.

Personnel:

- Authorized plant staffing level is currently 19 with 18 positions filled. We have one Control Room Operator position open.

Operations and Maintenance Activities:

- The Plant generated 224,798 megawatt-hours at a capacity factor of 63.6% for the month of July and the year-to-date capacity factor is 50.7%.

Regulatory/Compliance:

- There were no air emissions deviations, waste-water or stormwater deviations or spills during the month of July 2014.
 - Sound monitoring: There were no noise complaints to report.
-

Carbon Offset:

- Engineering review and cost estimating continuing to put a package together for EFSEC review later this month.

Respectfully,

Mark A. Miller
Manager, Gas Plant
PacifiCorp-Chehalis Power
1813 Bishop Road
Chehalis, WA 98532
360-827-6462

Below is the monthly operational/compliance update for Wild Horse. Attached are the DRAFT minutes from the TAC meeting on July 17th. Please include copies of the DRAFT minutes in the Council packets. Thank you.

Wind Production: July generation totaled 31,049 MWh for an average capacity factor of 15.31%.

Solar Production: The Solar Demonstration Project generated 73 MWh in July.

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

Operations: A wildfire on the Yakima Training Center damaged ten of PSE's 230 kV transmission line structures located between the Wild Horse interconnect substation near I-90 and Wanapum Dam. Damage to the structures caused an eight day unplanned outage at Wild Horse while repairs were being completed.

Compliance/Environmental:

Under contract with the Washington State Department of Health, the Kittitas County Department of Public Health completed a Sanitary Survey Inspection of the Renewable Energy Center (visitor center) water system. No major or minor deficiencies were identified during the inspection.

Staff completed required annual training of the following operational plans/programs: Operations Stormwater Pollution Prevention Plan (SWPPP), Spill Prevention Control and Countermeasures Plan (SPCCP), Waste Management Program.

The Wild Horse Technical Advisory Committee (TAC) met on July 17th. PSE provided TAC members with information regarding the golden eagle incident, including specific details of the incident, agency notification procedures, jurisdictional responsibilities, and next steps, which includes the development of an Eagle Conservation Plan in consultation with USFWS. PSE will continue to inform the TAC as this case proceeds with USFWS. Final minutes from the TAC meeting will be issued to Council members after final approval from TAC members.

**Energy Northwest
EFSEC Council Meeting
August 19, 2014
(Shannon Khounnala)**

I. Columbia Generating Station Operational Status

Columbia is currently operating at 100% power, generating 1083 megawatts, and has been online for 415 days. This is a power generation record for continuous days online for the station.

Dangerous Waste Inspection

The Department of Ecology inspection of Columbia's Dangerous Waste Program officially concluded in late July with the issuance of a final inspection report. Energy Northwest was pleased that Ecology noted only one issue of boxes of Universal Waste lamps not being properly closed. They noted this was immediately addressed during the inspection and that no further actions were required.

The report summarized a number of significant improvements since the last 2007 Ecology inspection, including the clean closure of our Hazardous Waste Treatment Unit, the change to Medium Quantity Generator status, continued reduction in the generation of hazardous waste, used oil recycling, on-site treatment-by-generator, and our continued EMS registration to the ISO 14001 Standard.

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

II. WNP 1/4 Water Rights

The Department of Energy Water Right application for the WNP 1/4 property is advancing as expected. The public notice and comment period concluded in late July 2014. A site visit to include the Department of Energy and the Department of Ecology has been scheduled for September 3, 2014. Following the current schedule the Department of Ecology expects that a water rights permit would be issued in October 2014.

Wild Horse Wind Power Project
Technical Advisory Committee
Meeting Minutes
July 17, 2014, 10:00am

Attendance:

Jennifer Diaz*	PSE	Robert Kruse*	FWWP
Mel Walters	PSE	Eve Kruse	FWWP
Haley Edwards	PSE	Jim LaSpina	EFSEC
Melissa Woodworth	PSE	Janet Nelson*	Kittitas Audubon
Scott Heller	PSE	Brent Renfrow*	WDFW
Bill Essman*	KCF&SC	Justin Allegro	WDFW
Sherry Luke*	Luke Consulting	Chad Unland*	DNR
Marc Eylar*	KC Noxious Weeds	Stephen Lewis	USFWS

Regrets: Joe Meuchel*(Kittitas Audubon), Tip Hudson*(WSU Extension), Gregg Kurz*(USFWS), and Mike Ritter (WDFW)

*Denotes a voting member of the TAC.

1) Welcome and Introductions

- TAC members and guests introduced themselves and the organization they represent.
- A quorum of voting TAC members was present.

2) Golden Eagle Incident: Haley Edwards, PSE

- During wind turbine maintenance on June 18, Vestas technicians discovered the remains of a raptor near wind turbine F2 and reported the find to Jennifer Diaz.
- In accordance with the Wildlife Incident Reporting and Handling System, Jennifer responded immediately to the location where she collected data, took photos, and retrieved the raptor. Jennifer then contacted Haley Edwards and Mel Walters.
- On June 19th Haley and Mel confirmed that the bird was a juvenile golden eagle. While conducting a site visit at the location of the incident, a second juvenile golden eagle was discovered approximately 50 yards from where the first juvenile golden eagle was found. It appeared that the two incidents occurred at the same time. Additional data was collected and photos were taken.
- As part of PSE's notification process PSE immediately notified USFWS Office of Law Enforcement, Special Agent Corky Roberts. In accordance with the Wild Horse Site Certification Agreement, PSE also notified Mike Ritter and Justin Allegro WDFW Energy Policy Lead, Renewable Energy Section Manager, and Jim LaSpina (EFSEC). PSE also submitted data regarding this incident to the Regional Migratory Bird Permit Office within 48 hours of discovery in accordance with the Special Purpose Utility Permit.
- On June 23rd, PSE met with USFWS Special Agent Corky Roberts to discuss the incident, conduct a site visit at F2, and transferred the eagles. PSE provided Agent Roberts with the Baseline Wildlife Report for Wild Horse, which includes pre-construction raptor nest surveys, as well as post-construction monitoring reports. USFWS Law Enforcement is currently reviewing pre-construction survey protocol and results, raptor nest survey results, post construction monitoring protocol and results, and prior consultation as part of their investigation of this case.
- According to pre-construction raptor nest surveys and diurnal fixed-point avian use surveys, WEST determined that overall risk to golden eagles at this site is low, and predicted that a few individuals would collide with the turbines during the life of the project (Wild Horse Baseline Study Report 2003).
 - No active golden eagle nests were identified within the project area or one-mile buffer during baseline surveys. There are no known golden eagle nests within 2 miles of the project.
 - The nearby Quilomene nest was confirmed by WDFW to be inactive in the 2014 nesting season.
 - No golden eagles were observed in flight near the F turbine string during pre-construction fixed-point surveys.
- Post-construction monitoring background information:
 - F2 was included in a monitoring plot with F3 during 2007 monitoring.
 - No other birds have been identified at F2 incidentally or during post-construction monitoring.
 - Other birds found near F-string turbines included small birds at F3 and F4.

- This incident is under the jurisdiction of the US Fish and Wildlife Service Office of Law Enforcement, the agency responsible for enforcing federal wildlife laws, and is being addressed under the Bald and Golden Eagle Protection Act.
- PSE met with Special Agent Corky Roberts in February 2014, to discuss PSE's Avian Protection Plan, its overall avian program, and discussed developing an Eagle Conservation Plan.
- PSE intends to work cooperatively with USFWS and biologists from WDFW to resolve this incident, and to develop an Eagle Conservation Plan in consultation with USFWS. The DOJ and U.S. Attorney are requesting a meeting with PSE's attorneys to discuss options for resolving this case in order to move forward with the ECP.
- PSE will continue to inform the TAC as this case proceeds with USFWS and we learn more. This incident is consistent with predicted take based on pre-construction raptor nest and avian use surveys, and turbine F2 has had no previous recorded mortalities, and does not require any action from the TAC at this time.
- The location of the incident is near a deep canyon. There was no obvious attractant for the eagles in this area, although snakes have been observed at F2. PSE has a program for removing dead wildlife carcasses from the site so they don't attract large raptors. The eagles may have been displaying courtship behavior and not paying attention to where they were going. This is the first incident with eagles at Wild Horse.
- Justin Allegro (WDFW) asked about the process for this incident and the role of the TAC as it relates to the SCA. Specifically for the TAC to look at new/current information regarding the population status of golden eagles in the state to see if any conditions have changed. Haley Edwards explained that PSE coordinated with WDFW on 2 years of golden eagle nest surveys. Justin Allegro was going to see if the reports are public and can be shared with the TAC.
- The Eagle Conservation Plan (ECP) will cover both bald and golden eagles, however, the ECP Guidance document focuses on golden eagles due to gaps in population data/information and development across their range. The eagle take permit will likely be a 30 year permit with the requirement to re-evaluate every 5 years in consultation with USFWS. The goal of the ECP and take permit is to have no-net-loss for eagle populations and to implement Advanced Conservation Practices or mitigation measures to reduce the risk to eagles and achieve the goal of no-net-loss. There have been other golden eagle incidents at other wind farms in Washington State.

3) **Field Visit – Sage-Grouse Nesting & Brood-Rearing Restoration Area (The Pines)**

The TAC visited the sage-grouse nesting and brood-rearing restoration area in The Pines to observe recent restoration and monitoring activities. In accordance with the Sage-Grouse Nesting & Brood-Rearing Habitat Restoration and Management Plan approved by the TAC, PSE has implemented the following restoration activities; installation of visibility markers on permanent fencing surrounding the restoration area; native seeding, mulching, and installation of straw wattles and erosion control blankets along the cutbanks of the riparian channel; and invasive weed management. Two monitoring plots have been established in the restoration area following recommendations outlined in the Sage-Grouse Habitat Assessment Framework (BLM, August 2010); one in the upland area to measure breeding habitat, and one in the riparian area to measure summer habitat. PSE will monitor these areas for the next 5 years beginning in the spring of 2015. Monitoring reports and photos will be provided to TAC members on an annual basis.

U.S. Fish and Wildlife Service's Eagle Take Rule

Presented by
Barbara Craig



August 19, 2014

Three Federal Laws Protect Avian Species

- Endangered Species Act (ESA)
- Migratory Bird Treaty Act (MBTA)
- Bald and Golden Eagle Protection Act (Eagle Act)

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U.S. Fish and Wildlife Service's Eagle Take Rule
August 19, 2014

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Bald and Golden Eagle Protection Act

- Bald and golden eagles are protected under the Eagle Act.
- The Eagle Act prohibits the “take” of eagles, and their parts, nests, or eggs, unless allowed by permit.
 - “Take” must be done “knowingly, or with wanton disregard of consequences.”



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Bald eagle delisted under ESA



- In 2007, the FWS delisted the bald eagle under the ESA.
- As a result, in 2009 the FWS promulgated for the first time a rule to permit take under the Eagle Act.

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2009 Eagle Take Rule

- The FWS' eagle "take" authorization rule took effect November 10, 2009.
- The 2009 rule authorized:
 - Individual permits.
 - Programmatic permits for 5-year terms.
- Although the FWS has had an eagle take rule since 2009, the FWS did not issue its final Eagle Conservation Plan Guidance until April 2013.

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FWS Extended Eagle Take Rule Term

- On December 9, 2013, the FWS published a final rule that extended the maximum term of an eagle take permit to 30 years.
- Like the 2009 rule, the take permit is voluntary.
- The issuance of an eagle take permit is a federal action that requires compliance with NEPA.



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Puget Sound Energy Avian Program

- PSE has a proactive, nationally recognized, company-wide avian protection program.
- PSE has a corporate Avian Protection Plan which provides guidance and procedures for minimizing risk to avian species throughout the company and its' facilities.
- PSE recently revised Avian Protection Plan.

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PSE Project Specific BBCSs

- PSE has Bird and Bat Conservation Strategies (BBCSs) for each of its three wind facilities that describe many measures to protect and benefit birds.
- The project-specific BBCSs were developed consistent with Washington State Department of Fish and Wildlife Wind Power Guidelines and the FWS' Wind Energy Guidelines.
- PSE has a Technical Advisory Committee (TAC) for each of its wind facilities.

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Wild Horse Wind Facility

- Consultation with state and federal wildlife agencies was initiated in early 2003 and continued throughout the development of the project.
- The Wild Horse TAC was established in 2006.
- TAC includes FWS, WDFW, WDNR, PSE, Kittitas Audubon, Kittitas County Field & Stream Club, Washington State University Extension and other local interest groups.

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Wild Horse TAC

- The purpose of the TAC is to ensure that operational monitoring data is considered in a neutral forum in which independent and informed parties can collaborate with PSE.
- TAC may make advisory recommendation to EFSEC if the TAC deems additional studies or mitigation are warranted to address significant impacts that were not foreseen or exceeded impacts that were projected.
- TAC met on July 17, 2014 and PSE briefed the TAC on the golden eagle incident and PSE's coordination with the FWS.

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PSE consulting with FWS

- PSE is consulting with the FWS under the Eagle Act.
- PSE is developing an Eagle Conservation Plan in consultation with the FWS.
- PSE is pursuing an eagle take permit under the new 30 year rule.
- PSE will continue to update the TAC.

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Questions?



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August 6, 2014



Stephen Posner, Manager
Energy Facility Site Evaluation Council
Utilities & Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 43172
Olympia, WA 98504-3172

Re: Tesoro Savage Vancouver Energy Distribution Terminal Project No. 2013-01
Request to Extend Statutory Deadline for Tesoro/Savage Vancouver Energy Terminal

Dear Mr. Posner:

Tesoro Savage Petroleum Terminal LLC submitted its application for site certification for the above-reference petroleum terminal facility on August 29, 2013. State law provides that EFSEC "shall report to the Governor its recommendation as to the approval or rejection of an application for certification within twelve months of receipt by the council of such an application, or such later time as mutually agreed by the council and the applicant". RCW 80.50.100(1). As we have discussed previously, this one-year date is fast approaching.

In light of the current status of our application, and the expected additional time necessary to complete the environmental review, the adjudication and the site certificate, order and recommendation to the Governor, the applicant requests an additional six month extension for completion of this review process, to March 2, 2015. While we understand that a precise schedule to complete EFSEC Council review is difficult to predict, we are suggesting this 6-month extension as reasonable and appropriate, given the current status of project review.

We ask further that Council take action on this request at its regular meeting in August, prior to the one-year anniversary of the application.

If you have any questions, please contact me at 801-944-6600 or kellyf@savageservices.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly J. Flint".

Kelly J. Flint

cc: Jared Larrabee, Tesoro Savage Petroleum Terminal LLC
Jay Derr, Van Ness Feldman
Irina Makarow, BergerABAM



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