



**Energy Facility Siting Council
Minutes
December 9, 2011**

**Hood River Hotel, Landmark Meeting Room
Hood River, OR 97031**

The meeting was called to order at 9:45 am by Chair Wolfe.

Roll Call: Paul Sumner, Bob Shiprack, Trey Senn, Barry Beyeler, Chair Bryan Wolfe and John Mohlis were present. Vice Chair Lori Brogoitti was absent.

Oregon Department of Energy (ODOE) representatives present were Tom Stoops, John White, Todd Cornett, Mo Walker, Chris Green, Cliff Voliva and Tamara Reid.

Department of Justice (DOJ) representative Virginia Gustafson was also present.

Introduction: Chairman Wolfe introduced the newest Council Member, John Mohlis. Mr. Mohlis gave a brief account of his professional experience.

Announcements: Chair Wolfe announced that there are no projects closed to public comments and the audience would be able to provide comments to Council during the public comment portion of the meeting.

Governor's 10 Year Energy Plan Update: Mr. Stoops introduced Richard Whitman, Natural Resource Advisor to the Governor who was in the area attending a Land Conservation and Development Commission (LCDC) meeting in The Dalles and requested an audience of the Council. Mr. Whitman discussed the 10 Year Energy Plan and various agency's efforts for long term energy planning goals, integrated resource plans, legislative policy on reducing greenhouse gas emissions, renewable energy portfolio standards and transportation energy policies. He went on to discuss LCDC's rulemaking efforts in the last couple of years on wind and solar facilities and how those efforts included land use and wildlife issues. These are all issues that are being considered in the 10 Year Energy Plan.

A. Habitat Mitigation Amendments for Shepherd's Flat North, Central & South: Mr. White explained that all three Shepherd's Flat Projects have site certificates that include Habitat Mitigation Plans (HMP). The Certificate Holder has requested amendments to the three HMP's. It is a provision of the HMP's that Certificate Holder acquire legal right to maintain the habitat mitigation area, typically this is done by a conservation easement and it has to be in place before beginning construction of the wind facility. Construction of these three projects began in 2010 and prior to the start of construction the certificate holder found that the parcel that they identified for habitat

mitigation was no longer available. The certificate holders then located an alternate parcel which was reviewed by ODOE and ODFW and approved for this purpose. Mr. White explained the requested redline changes to the HMP's that Council received in their electronic packets, including a request to amend the size of the mitigation area and enhancement actions. Mr. White stated that the mitigation areas are all in one contiguous area and all in one plot.

Action: The motion by Councilor Sumner, seconded by Councilor Senn, to approve the amendments to Shepherd's Flat North Habitat Mitigation Plan, as requested. The motion passed.

Vote: Shiprack, yes; Beyeler, yes; Senn, yes; Mohlis, yes; Sumner, yes.

Action: The motion by Councilor Sumner, seconded by Councilor Senn, to approve the amendments to Shepherd's Flat Central Habitat Mitigation Plan, as requested. The motion passed.

Vote: Mohlis, yes; Beyeler, yes; Shiprack, yes; Senn, yes; Sumner, yes.

Action: The motion by Councilor Sumner, seconded by Councilor Senn, to approve the amendments to Shepherd's Flat South Habitat Mitigation Plan, as requested. The motion passed.

Vote: Beyeler, yes; Mohlis, yes; Shiprack, yes; Sumner, yes; Senn, yes.

- B. Rulemaking:** Mr. White reviewed highlights of the rulemaking discussion held during the October EFSC meeting. He went on to explain each of the recommended changes as indicated in the Matrix and answered Council questions. Councilor Beyeler volunteered to work with the workgroups on Council's behalf as much as possible and report back at the February meeting.

Action: The motion by Councilor Shiprack, seconded by Councilor Sumner, directing Staff to engage in workgroup meetings on the proposed rulemaking changes as presented, from Columns A and B, and report back to the Council at the February meeting. The motion passed.

Vote: Sumner, yes; Mohlis, yes; Senn, yes; Beyeler, yes; Shiprack, yes.

Mr. White stated that he wanted to bring to Council's attention that there are rules in Division 24 specifically for the Carbon Dioxide Emission Standard; for updating the standard and updating the monetary offset rate. The statute allows the Council to do both of these things. He also pointed out that in the Council's record, in both 2008 and 2009 there is a prior Council authorization for Staff to proceed with rulemaking on both of these issues. He recommends that we not go forward, at this time, for two reasons; first is that there are impacts related to HB 3538 and the second is that Staff feels this should be a standalone rulemaking so that the stakeholders that are particularly affected by the CO₂ standard could focus on that rather than being part of a larger rulemaking.

Action: The motion by Councilor Shiprack, seconded by Councilor Sumner, that Council rescinds prior Council action directing Staff to proceed with the CO₂ Standard or the monetary offset rate rulemaking which will be re-authorized at some future date. The motion passed.

Vote: Beyeler, yes; Senn, yes; Mohlis, yes; Sumner, yes; Shiprack, yes.

C. OPUC Presentation: Mr. Stoops introduced Maury Galbraith and Carla Bird, from the Oregon Public Utility Commission (OPUC), who were present to give an overview of the OPUC and their regulatory responsibilities. Ms. Bird described how the OPUC regulates investor or privately owned utilities. Maury Galbraith provided an overview of OPUC's four step process for development of Integrated Resource Plans. Ms. Bird continued the presentation describing how the OPUC audits the companies. She described the different funding methods for decommissioning facilities. Chair Wolfe asked if there are areas where EFSC's siting authority may overlap the OPUC process when Site Certificate Conditions require a letter of credit or bond. Ms. Bird responded that she thinks that it could happen, because the utilities are regulated and their activities are overseen by the Commission. She stated that one of the things she wanted Council to take away from this presentation is that it's good for each party to understand the other's authority and work cohesively in our respective regulatory processes. Mr. Stoops stated that Staff will have more information for Council review at the February or March meeting.

Public Comment: Michael Lang, the Conservation Director for Friends of the Columbia River Gorge (FCRG) gave public comment and delivered a letter to the Council from FCRG to Council expressing their concerns over cumulative effects of wind energy development. Irene Gilbert, a member of Friends of the Grande Ronde Valley (FORGV) gave public comment about the Antelope Ridge Wind Farm Project regarding the mediation agreement between Oregon Department of Fish and Wildlife (ODFW) and EDP Renewables. Mr. Stoops stated that he had received a public comment letter from Mayor William C. Lindsay from the City of Union expressing concerns about impacts the Antelope Ridge Wind Farm Project may create and how the Council might address these issues through rulemaking.

H. Community Restoration Network: Mr. Stoops introduced Charles Deister and Kate Cox from the Community Restoration Network to give a presentation on Mitigation Banking. Mr. Deister stated that they are a conservation and mitigation banking company. They negotiate long term leases with landowners for an environmentally sensitive property that would make good habitat for an impacted species. Ms. Cox stated that mitigation is under very specific requirements usually fulfilling a removal/fill permit whereas a conservation bank is species specific. Chair Wolfe asked if they had done any mitigation or conservation banking in Central or Eastern Oregon. Mr. Deister replied that they are still in the early stages of identifying property and not far enough along on any given project in Central or Eastern Oregon that they are to the point of contacting landowners. Councilor Shiprack asked what benefit would there be for a landowner to participate in this program. Ms. Cox stated that there is a financial benefit for the landowner. Councilor Shiprack asked if the money comes from government. Mr. Deister responded that the money is coming from businesses, public agencies and organizations that are required to perform mitigation. Councilor Senn asked if they work with ODOT at all and Mr. Deister responded that they could be a potential customer of any project depending upon where the project is located and the service area as determined by the permits and projects that they would have in the area. Councilor Shiprack asked if the landowners would be able to run livestock on it and Mr. Deister responded that, yes, if it is consistent with the plan. Chair Wolfe thanked them for bringing the concept before the Council.

D. Brush Canyon Wind Facility: Mr. Cornett explained that E. ON Climate Renewables North America, Inc. is the developer and it is a 500 MW wind project on 85,000 acres. The project is located in

Sherman and Wasco Counties. Councilor Beyeler asked if it encroaches into the John Day Fossil Beds and Mr. Cornett responded that it does not and pointed out on the map the Sherman County line and that the closest point is 3 miles away from the John Day Wild & Scenic River. He reported that they had held an information meeting on the NOI the previous evening in Shaniko with about 60 attendees where he had given an overview of the process and the applicant described the project.

- E. **Troutdale Energy Center:** Mr. Cornett stated that this project is a 653 megawatt thermal combustion facility located in Troutdale, at the old Reynolds aluminum facility. The developer has a proposal for a transmission line and an alternate that would interconnect into the City of Fairview. Mr. Cornett explained that there are two Special Advisory Groups, the City of Troutdale and the City of Fairview, based on the alternative.

Action: The motion by Councilor Senn, seconded by Councilor Mohlis, that Council appoint the Troutdale City Council and Fairview City Council as Special Advisory Groups to advise the Council in any site certificate or site certificate amendment proceedings for the Troutdale Energy Center Power Project. Motion passed.

Vote: Beyeler, yes; Shiprack, yes; Mohlis, yes; Sumner, yes, Senn, yes.

Action: The motion by Councilor Senn, seconded by Councilor Beyeler, to approve Golder Associates, Inc. and AMEC Earth and Environment, Inc. as its independent contractors for the purposes as necessary for the review of the Notice of Intent, the Application for Site Certificate and any subsequent amendments as warranted for the Troutdale Energy Center. Motion passed.

Vote: Mohlis, yes; Shiprack, yes; Sumner, yes; Beyeler, yes; Senn, yes.

- F. **Heppner Wind Energy Project:** Ms. Walker provided a brief overview of the project, noting that ODOE has received the Notice of Intent fee from Invenergy Wind North America, LLC. The developer has asked us to delay processing any assignments for Special Advisory Groups or Reviewing Contractor at this time.

- G. **Oregon Natural Desert Association:** Mr. Stoops stated that Liz Nysson of the Oregon Natural Desert Association (ONDA) was ill and will likely give her presentation at a later date.

- I. **Consent Calendar:**

Approval of Minutes: Chair Wolfe opened the floor for discussion on the minutes of the October 7, 2011 Council meeting.

Action: The motion by Councilor Shiprack, seconded by Councilor Sumner, to approve the minutes of the October 7, 2011 meeting as presented. The motion passed.

Vote: Senn, yes; Shiprack, yes; Beyeler, yes; Mohlis, yes; Sumner, yes.

Meeting Schedule:

The dates for future meetings are as follows: February 3rd, March 30th and May 11, 2012. Mr. Stoops noted that we don't have specific locations and if Council has any specific agenda items that they would like brought up to please let him know. At the next meeting we will be discussing rules and will touch base with OPUC about their financial assurances and as always we will have projects to talk about.

Other Project Updates: Councilor Shiprack asked for an update on Klamath Falls Bioenergy and Mr. Stoops stated that the Draft Proposed Order (DPO) is close to completion and we expect that in the very near future, we should have the DPO, have a summary of comments and have the Hearings Officer report.

Councilor Senn asked for an overview, sometime in the near future, with maps of all of the proposed transmission line projects in the region, including Oregon. Mr. Stoops stated that two of the five foundational projects are in Oregon.

Public Comment: There were no requests for public comment at this time.

The meeting was adjourned at 1:52 p.m.