

Agenda Minutes
Energy Facility Siting Council Meeting
Tamastlikt Cultural Institute
Pendleton, OR 97801
March 27, 2009

Energy Facility Siting Council

Bob Shiprack, Chair
Martha Dibblee, Vice Chair
Lori Brogoitti
Cheri Davis
Michael Haglund
Jake Polvi
Bryan Wolfe

Oregon Department of Energy:

Tom Stoops, Council Secretary
John White, Project Officer
Sue Oliver, Hermiston Project Officer
Diane Henkels, Hermiston Project Officer
Meiko Kristiansen

Oregon Department of Justice:

Jesse Ratcliffe, Assistant Attorney General
John Larson, Pacific Energy Systems

Others:

John Cameron, Counsel for the Stateline Wind Project
Cliff Graham, NextEra Energy (Stateline Wind Project)
Karl Kosciuch, Stateline Wind Project
Mike Pappalardo, Stateline Wind Project
Samantha Bates
James Carney
Ed Chestnut
Dennis D Doherty
Larry Givens
Karen Kronner
Chuck Little
Tamra Mabbott
Rod Osgood
Amanda Pugh
Mike Roberts
Rick Tetzloff
Bob Vandecar

Chair Bob Shiprack called the meeting to order at 9:34 am.

I. Consent Calendar:

A. Announcements.

Chair Shiprack delayed starting the agenda action items until a quorum was present of the Energy Facility Siting Council.

Dennis Doherty, Umatilla County Commissioner, introduced other County Commissioners, Larry Givens and Bill Hansell. Mr. Doherty discussed the future in energy development and their responsibility in working with the Energy Facility Siting Council and the Department of Energy.

Chair Shiprack noted there are also representatives from the local building trades present at the meeting. These projects have been family-waged jobs in this area and Mr. Shiprack expressed his appreciation for the work.

Tom Stoops introduced two new staff members for the Oregon Department of Energy (ODOE)– Sue Oliver, Siting Officer in the Hermiston office and Diane Henkels, who will be helping with siting and also help with outreach on the renewable programs.

Mr. Stoops also mentioned that Idaho Power has proposed a 500 kv transmission line. Oregon’s Public Utility Commission (PUC) is conducting a meeting and will be having more, with Adam Bless, Project Officer for ODOE attending those meetings because of the controversy that has emerged. Mr. Stoops also mentioned the need to travel more to the east to meet with people involved in this project.

Bob Shiprack also said the agenda has changed, which was discussed.

Council member Cherie Davis arrived. Meiko Kristiansen took roll:

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

II. Action Items:

A. Consideration of Proposed Order for Klamath Cogen Request for Amendment #4

Tom Stoops began the presentation on the Klamath Cogen Request for Amendment #4 in place of Adam Bless who is attending the Oregon PUC meeting concerning Idaho Power’s Project. Mr. John Larson, Pacific Energy Systems will answer any questions.

Mr. Stoops stated that when Klamath Cogen was originally sited a previous methodology was used to recalculate retirement. One request in the amendment is to update the calculation method following what has been in place now for several years. Another request is the elimination of the requirement that the facility use water pursuant to a water right permit held by the City of Klamath Falls but instead allow the use of water pursuant to an existing water right certificate.

Martha Dibblee moved to approve the Request for Amendment #4 for the Klamath Cogeneration Project; Cheri Davis seconded the motion and Council was polled:

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

B. Consideration of Proposed Order for Port Westward Request for Amendment #6

Tom Stoops stated he is filling in for Adam Bless on the Order for Port Westward Request for Amendment #6, along with John Larson's help. Port Westward was originally sited as two units. Portland General Electric (PGE) has decided they would like to proceed with Unit 2 and a future Amendment #7 will concern that. Amendment #6 is a request to extend the completion date for the construction.

Mr. Larson added another issue that must be addressed in the course of extending the construction completion date for Phase 2 is to adjust the CO2 emissions monetary path payment amount. The amount that applies to Phase 1 is 85¢ per ton a carbon dioxide emissions. The amount that would apply to Phase 2 is \$1.27 per ton in 2009 dollars. Bryan Wolfe asked what the construction date would be set out to now. The answer was May 8, 2011.

Martha Dibblee moved to approve the Request for Amendment #6 for the Port Westward Generating Project; Bryan Wolfe seconded the motion, Council was polled and motion passed:

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

C. Informational Hearing: Request for partial transfer of the Site Certificate for the Stateline Wind Project, Consideration of Proposed Order on Stateline Wind Project Request for Amendment #4.

John White introduced individuals present at the meeting that are involved in the Stateline Wind Project – Cliff Graham, John Cameron, Karl Kosciuch and Mike Pappalardo. Mr. White also said that FPL Energy LLC announced that it has changed its name to NextEra Energy Resources LLC.

Mr. White gave a brief procedural history on the Stateline Project. A Proposed Order on Amendment #4 was issued February 20, 2009. The public comment period ended on March 23 and there were no comments or requests for contested case received by that deadline; therefore the Amended Request is ready for Council decision at the EFSC meeting.

Mr. White said he would divide the discussion into four parts:

First, he stated the amendment includes a procedural informational hearing required since the Amendment includes a Request for Partial Transfer of the Site Certificate. After that is closed, a number of corrections to the Amendment will be discussed. The longest part of the discussion will be the highlights of the recommendations, standards, proposed findings, recommendations and site certificate revisions. Mr. White said the last issue regarding the scrap value offset recommendation will be discussed right before the decision.

Before the Information Hearing began, Mr. White discussed the Request for Partial Transfer of the Site Certificate. The current certificate holder is FPL Vansycle. Under Council rules (OAR 345-027-0100) a transfer of a site certificate is necessary when the person who will have the legal right to possession and control of the site or facility does not have authority under the site certificate to construct, operate or retire the facility. In this case, a “partial transfer” is requested so that FPL Vansycle would retain authority to operate and retire the currently operating part of the Stateline facility (Stateline 1&2) while FPL Stateline would have authority under the amended Site Certificate to construct, operate and retire the third phase of construction (Stateline 3). If the Council approves the amendment request, FPL Stateline would become a certificate holder and FPL Vansycle would continue to be a certificate holder. The obligations of the certificate holders as described in the terms and conditions of the site certificate would be divided between FPL Vansycle and FPL Stateline so that FPL Vansycle would be responsible for compliance with conditions relating Stateline 1 and 2 and FPL Stateline would be responsible for compliance with conditions relating to Stateline 3.

Procedural Informational Hearing

Chair Bob Shiprack opened the Informational Hearing and asked for testimony. No testimony was given; therefore Chair Shiprack closed the Hearing.

Corrections to Proposed Amendment

Mr. White referred to the memo sent March 11 with a table of corrections for the Proposed Order. In addition to those corrections, the following were added:

Page	Line	Corrected language
43	13	“...SWP and has proposed no new conditions for Stateline 23.”
127	7	“The proposed amendment would extend the construction beginning and completion dates for the Stateline 3 components of the SWP facility. The proposed amendment would authorize a reconfigured third phase of construction (Stateline 3) and would partially transfer the Site Certificate from the current certificate holder (FPL Vansycle) to FPL Stateline.”
127	12	[Insert new finding #1 along with 3 findings already listed] “The transferee, FPL Stateline, complies with the standards described in OAR 345-022-0010 and OAR 345-022-0050 and is lawfully entitled to possession or control of Stateline 3 as described in the site certificate as amended by this order.”
129	14	Insert “ORS” before 469.503(3).
164	26-28	““...height of 7061 feet and a minimum design ground clearance of 3025 feet to the lowest...” (Mr. White said this condition relates to a standard the Council has in their rules concerning electric fields. The applicants requested a lower minimum clearance. In reviewing the standard the applicant did a modeling analysis of the transmission line and one of the parameters of that analysis is the minimum clearance. In the modeling FPL demonstrated the facility would still comply with the Council’s electric field standard if the reduced clearance were allowed. This is consistent with other projects.

Mr. White asked if there were any questions. Lori Brogoitti asked if Stateline 3 is broken out will it become sub-jurisdictional. Mr. White said it would not because it would be part of the Stateline facility. Before the amendment request was submitted, there was discussion with the applicants about whether to apply for a new site certificate. The applicants chose the amendment process because it takes less time to complete.

Mr. White referred to the Stateline Map showing the entire Stateline area, Oregon and Washington. Bryan Wolfe asked about the number of turbines on the previous Stateline 3 project in comparison with the current proposed Stateline 3 project, and also the size of the project. Mr. White said there is a reduction in the turbines and in the total megawatts of generation. There was more discussion about the size of the turbines in comparison to the megawatts.

STANDARDS, PROPOSED FINDINGS, RECOMMENDATIONS AND SITE CERTIFICATE REVISIONS

Organizational Expertise

Mr. White referred to this to highlight the two entities and the fact they are both subsidiaries of NextEra Energy Resources, LLC.

Land Use

Mr. White briefly reviewed the land use standard, which applies Umatilla County’s applicable substantive criteria. Some years ago, Umatilla County adopted a special

ordinance section having to do with wind power generation facilities. Included within that ordinance section is a limitation on the size of a wind power generation facility. Wind power generation facilities cannot exceed 20 acres without an exception to Goal 3. The Stateline facility is larger than that. The Department recommends that the Council find that the proposed facility does not comply with the County ordinance. Mr. White said that the Council must therefore decide whether the project complies with statewide planning goals directly.

Mr. White said in the midst of reviewing this amendment, the Land Conservation and Development Commission (LCDC) amended OAR 660-033-0130 in January 2009. Legal counsel has reviewed this change to determine whether to use the old or new rules in reviewing this amendment request. Unfortunately, it is not entirely clear. The proposed order discusses both the old rules and the new rules.

Under the old rules, the implementing regulations for Goal 3 included an acreage limitation that is somewhat different from the county's limitation because it divides high value and non-high value farmland. The high value farmland limitation is set at 12 acres, and the limitation is 20 acres for non-high-value farmland. The Council has seen this issue before. Typically, wind projects cannot meet this restriction because including the infrastructure and the wind turbines, these projects occupy a larger footprint. The Council must decide whether a Goal 3 exception is warranted.

Under the new rules, the acreage restriction was eliminated for wind facilities, but put in its place is a new subsection that sets up requirements for wind facilities. Mr. White stated that this is discussed on pages 67 – 69 of the Proposed Order. The new rules replace the specific acreage limitation with a requirement for analysis of whether “reasonable” alternatives have been considered to show that siting a wind powered generation facility on high-value farmland soils is necessary for the facility to function properly. The rule does not contain factors to determine when a reasonable alternative exists.

The Department recommends that the Council find that for an amendment that enlarges the site of an existing facility, a “reasonable alternative” must be on non-high-value farmland where there is a substantially similar wind resource, and must be either contiguous with or sufficiently close to the existing facility to ensure that operation of the entire facility is practicable.

Further, Mr. White stated that if there is sufficient non-high-value farmland close to the existing facility that might serve as an alternate location for the expansion, then the applicants may demonstrate that the expansion must, nevertheless, be located on high-value farmland for reasons of: (i) technical and engineering feasibility; (ii) availability of existing rights of way; and (iii) the long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites.

For reasons discussed in the Proposed Order, Mr. White stated the Department recommends the Council find that the use of high-value-farmland is unavoidable in this case and that there is no reasonable alternative for locating components of the facility entirely or partially on high-value-farmland.

Two decisions need to be made by the Council; under the old rules, a Goal 3 exception would be needed, but under the new rules the exception would not be needed. Bryan Wolfe asked if this discussion will be coming up in other applications. Mr. White said that it would.

Standards to Protect Wildlife

The Washington ground squirrel (WGS) is a State-listed endangered species. In the Final Order on Amendment #2, the Council found that the old Stateline 3 configuration was consistent with the ODFW goals and standards except for the potential impacts on Category 1 habitat used by the WGS. The Council found that the old Stateline configuration did not comply with the Council's Fish and Wildlife Habitat Standard. The Council applied the "balancing analysis" under former OAR 345-022-0000(2). Using the balancing analysis the Council may issue or amend a site certificate for a facility that does not meet a siting standard by finding that the overall public benefits outweigh the damage to the resources protected by the standard. The new configuration of Stateline 3 would avoid impact on Category 1 WGS habitat, and so it will not be necessary to apply the balancing analysis.

Mr. White said the Proposed Order includes Attachment C, a Habitat Mitigation Plan, to address the habitat impacts of Stateline 3. The estimated size of the mitigation area, which is based primarily on the permanent footprint of the facility, is 11 acres. The actual mitigation area will be based on the final design of the facility. The applicant has proposed to increase the mitigation area to 50 acres even though they are not required to do so.

Noise Control Regulations

Based on the sound level modeling, Stateline 3 would comply with the maximum allowable test at all noise sensitive properties that would be affected by noise from Stateline 3; that is, the anticipated sound levels would not exceed the limit of 50 dBA at any residence.

In assessing the predicted noise levels relative to the ambient degradation test, the noise generated by the SWP could exceed the 10-dBA ambient degradation test at four noise sensitive properties depending on the turbine layout. The facility could comply with the noise control regulations if the certificate holders obtained noise waivers from the property owners of the affected properties. The Department recommends that the Council adopt Condition 133. This condition would require the certificate holders to provide information about the turbines selected and about the final design layout for Stateline 3 to the Department before beginning construction of Stateline 3 components. The condition requires the certificate holder to demonstrate to the satisfaction of the

Department that the facility, with the Stateline 3 components built according to the final design layout, would comply with the applicable noise control regulations.

The Department's Recommended Revisions

Mr. White said the Recommended Revisions of the site certificate begin on page 127 and include 90 revisions. Mr. White discussed the different types of revisions but did not discuss each revision in detail.

Mr. White then discussed the certificate holder's requirement to submit a bond or letter of credit. ORS 469.501 requires the Council to "adopt standards for the siting, construction, operation and retirement of facilities." The statute goes on to list subjects that the standards may address, while stating that the Council is not limited to the listed subjects. A financial assurance bond or letter of credit is not specifically listed, but the statute does list "protection of public health and safety." Assurance that there would be funds to restore the site to a useful, non-hazardous condition--if the certificate holder fails to do so at the end of a facility's useful life--might be considered a standard imposed to protect public health and safety.

Based on its authority to adopt standards for energy facilities, the Council has adopted OAR 345-022-0050, the Retirement and Financial Assurance Standard. This standard requires a finding that the applicant "has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition."

The Council has adopted a mandatory site certificate condition that requires the certificate holder to submit a bond or letter of credit (in a form and amount satisfactory to the Council) before beginning construction and to maintain that financial assurance in effect until the facility has been retired (OAR 345-027-0020(8)). The Council has adopted a mandatory condition (-0020(9)) that requires the certificate holder to restore the site at the time of retirement and to pay the actual cost (which might be more than the financial assurance requirement). Finally, the Council has adopted a mandatory condition (-0020(16)) that authorizes the use of the funds secured by the bond or letter of credit to restore the site if the certificate holder fails to do so. If the bond or letter of credit amount is insufficient to pay the actual costs, the condition obligates the certificate holder to pay any additional cost necessary.

In estimating the amount of money that would be necessary to restore the site of an energy facility, the Department has (since 2005) used a cost estimating guide based on standardized unit costs for demolition tasks. Applicants may use any approach to make their own estimates, but the Department will use the Cost Guide to assess the reasonableness of the estimate. The Cost Guide was not in place when the site restoration estimates were made for Stateline 1&2. Mr. White referred to the Proposed Order on page 18, Table 1, the Stateline 1&2 Site Restoration Cost Estimate. For Stateline 3, the site restoration estimate is shown in Table 3 on page 24. Mr. White said that the Department compared the financial assurance estimate developed in 2001 and 2002 for

Stateline 1&2 with the applicants' new estimate (included in the Amendment request) and the Department's updated estimate. This comparison is summarized in Table 2 on page 19. Based on this comparison, the current financial assurance in place for Stateline 1 and 2 is insufficient to cover the estimated cost of site restoration.

The current financial assurance amount is based on estimates in 2001 and 2002 that allowed an offset for salvage value of the wind turbines. In late 2006, the Department became concerned about the possibility that the scrap value of wind turbines--because that value is significant--might be subject to a third-party claim. The Department brought this concern to the attention of the Council. At a Council meeting in early 2007, industry representatives were invited to comment to the Council on this issue. Although no formal action was taken by the Council at that meeting, several members expressed the opinion that there should be no offset allowed for scrap value, due to the possible risk that a third-party could assert a claim successfully, thus depriving the State of the funds that would be generated by the sale of the scrap. In subsequent proceedings, accordingly, the Department has excluded a scrap-value offset in its estimates of site restoration costs.

The Department is recommending a limited scrap-value offset, as described in the Proposed Order. Mr. White said that the Department believes the offset is reasonable for two main reasons. First, even if there were a third party having a legal claim to the value of the scrap, the cost of removing the scrap from the site would be deducted from the value of the scrap when it is ultimately sold on the market. The Department proposes limiting the value of the offset to the estimated removal costs. Second, financial institutions have recently raised the cost of credit. Because the cost of site restoration increases with the size of the project, so too does the annual premium cost for a project. This creates an unintended incentive for developers to propose smaller, subjurisdictional wind facilities.

Mr. White referred to Condition 80, Alternative A and Alternative B discussed in Revision 49 of the Proposed Order and Condition 109, Alternative A and Alternative B, discussed in Revision 66. The Department recommends that the Council adopt Alternative A, in both instances, which would a limited offset for scrap value of approximately \$2.2 million for Stateline 1&2 and an offset of approximately \$1.9 million for Stateline 3.

Martha Dibblee asked for clarification if the financial assurance was not sufficient to return the site to the original condition, would the certificate holder still be responsible? Mr. White agreed they would be responsible.

Bryan Wolfe asked if this change would apply to other projects that would need to get amendments. Mr. White said that the Department anticipated that other developers of wind projects would request a modification of their financial assurance obligation if the Council approves the offset in this case. He stated that he believed the amendments would be relatively simple.

Martha Dibblee asked if the Department could be assured of being the first to get funds from the scrap value. Mr. White said legal advice would be sought, but that he did not believe that there was a way to ensure this in all cases.

Tom Stoops said this was a topic of considerable internal debate. There was discussion among Council and Staff about procedures in the site restoration.

(Short Break)

John Cameron, Project Attorney for Stateline Wind Project, introduced himself. He stated that the increase in the bond amount is very large. The consent from the lenders will not come unless the SWP agrees to pay all of the incremental costs associated with the bond. All of those increases in expense will be borne by FPL Stateline and Stateline 3. Mr. Cameron also stated that the bonds are written for the State to have first claim to the funds. He talked about the position of the third party.

Bryan Wolfe asked what the total premium cost of the bonds per year would be at today's rates if EFSC stayed with the old system, compared to the new system proposed with the offsets. Cliff Graham, NextEra Energy LLC, said their cost is \$50,000 - \$150,000 per year.

Mr. Wolfe also asked about the calculation of the offset. Mr. White stated the index factor is derived from the Producer Price Index (PPI), published by the US Department of Labor, Bureau of Labor Statistics. The index is figured on a routine basis for the type of metal, carbon steel scrap. Lori Brogoitti asked if this was on an annual basis; Mr. White said the PPI is calculated on a monthly basis, but the Department's figures are based on 12 months together to even out the fluctuations in the commodity market. Mr. Cameron said that when the scrap values decline the offset declines from one year to the next.

Ms. Brogoitti asked about the purpose of lowering the minimum clearance of aboveground transmission lines. Mr. Graham said that the reduction would save a significant amount of money in construction costs while still meeting safety requirements for farm equipment under the lines.

Ed Chestnut, resident of Milton-Freewater, commented on the issue of de-commissioning, bonds and possible default of the company and it not being there when the time comes. There is a growing concern among the public that the wind energy industry may be built on a house of cards, or is getting close to that. He stated that there should be a fund that the company makes deposits in up front so the money will be there.

Ms. Brogoitti asked why the original site certificate must be amended. Why not leave Stateline 1 and 2 as they were originally written. Mr. White stated the financial assurance that is currently in place is inadequate. Under Council rules, the Council must consider whether the financial assurance amount is adequate when the Council makes a decision on any site certificate amendments.

Chair Shiprack asked the Council for comments. Ms. Brogoitti stated she is concerned about proper restoration, and wants guarantees. Ms. Dibblee said this could be an example of what happened this last year with the price of gas; there was a huge fluctuation within that year. If the PPI is used for a year, by the time the scrap is valued and it has gone down, will Council be able to pay for the removal.

Mr. Wolfe said he thought it would be good for the State and the projects to update these figures more than once in a lifetime. He also expressed he would not like to reduce the amount of the bonds.

Cheri Davis stated she has confidence in the staff's work and research, but is concerned about the future projects that need to be considered.

Bryan Wolfe made a motion to approve the request by FPL Energy Vansycle, LLC and FPL Energy Stateline II Inc for Amendment #4 of the Site Certificate for the Stateline Wind Project, with the revisions recommended by the Department of Energy based on the findings in the Draft Final Order presented at the EFSC meeting on March 27, 2009 and including a limited offset for scrap value described in Condition 80 Alternative A and Condition 109 Alternative A. Cheri Davis seconded the motion, Council was polled and motion failed.

Lori Brogoitti	No	Cheri Davis	Yes
Martha Dibblee	No	Bob Shiprack	No
Bryan Wolfe	No		

Jesse Ratcliffe, Assistant Attorney General, discussed legal requirements in approving the amendment.

Martha Dibblee made a motion that the Council approve the request by FPL Energy Vansycle LLC and FPL Energy Stateline II Inc for Amendment #4 of the Site Certificate for the Stateline Wind Project, with the revisions recommended by the Department of Energy based on the findings in the Draft Final Order presented at the EFSC meeting on March 27, 2009 and excluding any offset for scrap value described in Condition 80 Alternative B and Condition 109 Alternative B. Lori Brogoitti seconded the motion and Council was polled and motion passed:

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

(Lunch Break)

Chair Shiprack reconvened the meeting and asked for comments from the public.

Larry Givens, Umatilla County Commissioner, questioned the lowering of standards, especially in agriculture areas.

Tom Stoops addressed the Council to talk about preliminary work for projects that will be delivered in the next few weeks. In the past there have been discussions about projects both on federal and private ground. Applicants have proposed to provide the fee in advance to submitting the Notice of Intent (NOI) so that the Oregon Department of Energy can begin participating in those coordination meetings with the federal agencies.

Mr. Stoops reviewed the three new projects:

Linton Mountain Wind Facility, in Umatilla County

The developer is Gaelectric Northwest from Clarkston, Washington. This will be a large wind facility, jurisdictional to the Council.

Antelope Ridge Wind Power Project

This project will be in Union County about 7 miles southeast of LaGrande. The developer is Verizon Energy. This will be several hundred megawatts and jurisdictional to the Council.

Pueblo Mountain Wind Facility

This facility will be just north of the Nevada border in Southern Harney County, and the developer is also Verizon Energy. There are some habitat issues on this project.

For each project there is an Order Assigning Work to the EFSC Independent Contractor and Order Assigning Work to the Local Government and an Order Appointing the Special Advisory Group.

There was a comment from a member of the public questioning why this was not on the agenda. There was discussion about the procedure used.

Bryan Wolfe moved to approve the Staff's Recommendation for the Linton Mountain Wind Facility Order to Assign Work to the EFSC Independent Contractor, the Order for Umatilla County Board of Commissioners as the Special Advisory Group and the Order for Umatilla County Board of Commissioners to be appointed as the local government to assist the Staff; Lori Brogoitti seconded the motion, Council was polled and motion passed:

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

Bryan Wolfe moved to approve the Staff's Recommendation for the Antelope Ridge Wind Project Order to Assign Work to the EFSC Independent Contractor, the Order for Union County Board of Commissioners as the Special Advisory Group and the Order for

Umatilla County Board of Commissioners to be appointed as the local government to assist the Staff; Martha Dibblee seconded the motion Council was polled and motion passed.

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

Martha Dibblee moved to approve the Staff's Recommendation for the Pueblo Mountain Wind Facility Order to Assign Work to the EFSC Independent Contractor, the Order for Harney County Board of Commissioners as the Special Advisory Group and the Order for Harney County Board of Commissioners to be appointed as the local government to assist the Staff; Lori Brogoitti seconded the motion Council was polled and motion passed.

Lori Brogoitti	Yes	Cheri Davis	Yes
Martha Dibblee	Yes	Bob Shiprack	Yes
Bryan Wolfe	Yes		

Tom Stoops stated there would need to be a teleconference held at a future date to decide the Hearing Officer for Golden Hills.

III. Information Items:

Jesse Ratcliffe, Assistant Attorney General, stated he would take some time to briefly review procedures for a contested case hearing on a Proposed Order for an application for a Site Certificate. Currently there is a Proposed Order on the Golden Hills Wind Facility. There is a possibility of a contested case here, as with any.

To review the situation, there is a deadline set for April 3, 2009, for Requested Party Status. If no one requests party status by that time the Council will make a decision. If there is a request for party status, the hearing officer is required to make a determination on whether that party status request is granted. It is dependent upon whether the person participated in the public hearing process and whether issues were raised were during public comments in the public hearing.

Assuming that one or more of those petitions is granted, and we move into a contested case process, the Hearing Officer would start off with a pre-hearing conference to establish issues and helps to set the outline. Under the Council's rules then the Hearing Officer issues an Order that states the issues that are to be addressed.

Mr. Ratcliffe continued to explain the procedures of a typical contested case process. The Hearing Officer is responsible for preparing the Proposed Order, which has to include findings of fact and issues within the scope of the Hearing. At that point, Council

is essentially at the same procedural point that you would have been. At that point the Council adopts, modifies or rejects the Proposed Order.

The major issue for Council members to be aware of is the ex parte communications. Procedures were reviewed for communication and how communications become a part of the record.

Chair Shiprack asked for explanation on the appeals process. Mr. Ratcliffe explained there are two processes.

Tom Stoops said there was a request from the Cascade Policy Institute about discussing a report they put together on the Oregon Climate Trust. He confirmed that the report was electronically mailed to each Council member, and also asked about this item being included on an agenda. Chair Shiprack confirmed this would be a good idea; Council members agreed.

Mr. Stoops gave an overview of upcoming transmission projects:

Southern Cross – There should be a Notice of Intent about midsummer. This is a 500 kv transmission line from the Boardman area into the North Willamette Valley. If it does go forth it will be crossing state lines, federal lands, Warm Springs Reservation, two National Forests and there will be a number of issues.

CNC – This project does not have a name yet; the CNC stands for California to Canada. This is a large transmission project to provide power to the Western grid. There have been discussions but no timeline yet.

NEO – This is concerning the Northeast Oregon hub. A hub is where the transmission lines come in, and this would be a several hundred acre parcel. This may come in as a part of the CNC.

Tamra Mabbott, Umatilla County Planning, said the CNC was in touch with their department and talked about how major the project will be for the area. The hub location has not been decided yet. This will be important to where the lines are coming together.

Bryan Wolfe asked about the hub area and the intensity of projects close by. Tom Stoops said aesthetics, habitat, retirement funds, etc will be major. Chair Shiprack asked about the BPA and involvement.

Larry Givens, Umatilla County Commissioner, commented on the hub discussion.

Tom Stoops talked about upcoming meetings, possibly one in Southern Oregon in May.

Tamra Mabbott commented about counties being skeptical that planning commissions are mainly urban, not rural. Counties are also opposed to House Bill 3445 and House Bill 2912. HB 2912 could have a serious impact on counties. This is a proposal to exempt

electric transmission lines from property taxation. This would be a tremendous disadvantage for counties.

Ed Chestnut, resident from Milton-Freewater, stated when projects are done in a rush mistakes are made. He said we are in a learning curve now in regards to wind turbine placement, shadows and noise.

Another issue Mr. Chestnut brought up was the question about the storage on intermittent power. Also, since the state is making significant strides in the “green” movement, the public needs to be able to locate this information in an easier way.

Chair Shiprack adjourned the meeting at 1:22 p.m.