



# ENERGY FACILITY SITING COUNCIL

■ Marcy Grail, Chair ■ Kent Howe, Vice-Chair ■ Cindy Condon ■ Jordan Truitt ■ Perry Chocktoot ■ Ann Beier ■ Richard Devlin

## Energy Facility Siting Council Meeting Minutes

Thursday, October 19, 2023 12:50 PM

Oregon Department of Energy  
550 Capitol St. NE Salem, OR 97301

- A. Consent Calendar (Action Item & Information Item)<sup>1</sup>
- B. Radioactive Material Enforcement Rulemaking (Public Hearing)<sup>2</sup>
- C. Public Comment Period (Information Item)<sup>3</sup>

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

**Call to Order:** Chair Grail called the meeting to order on October 19, 2023 at 12:50 p.m.

**Roll Call:** Vice-Chair Kent Howe and Council Members Ann Beier, Cynthia Condon, and Richard Devlin were present in person. Chair Grail was present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary Todd Cornett; Senior Policy Advisor Sarah Esterson; Rules Coordinator Tom Jackman, Administrative Assistant Nancy Hatch; Assistant Director for Nuclear Safety and Emergency Preparedness Maxwell Woods; and Hanford Hydrogeologist Tom Sicilia. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

**Agenda Modification:** There were no modifications to the agenda.

**A. Consent Calendar (Action Item & Information Item)<sup>4</sup>** – Council Secretary Report; and other routine Council business.

The approval of the September meeting minutes was moved to November 17, 2023 meeting.

<sup>1</sup> Audio/Video for Agenda Item A = 00:02:22 - 2023-10-19EFSC-Meeting-Audio/Video

<sup>2</sup> Audio/Video for Agenda Item B = 00:50:16- 2023-10-19-EFSC-Meeting-Audio/Video

<sup>3</sup> Audio/Video for Agenda Item C = 01:02:17 – 2023-10-19-EFSC-Meeting-Audio/Video

<sup>4</sup> Audio/Video for Agenda Item A = 00:02:22 - 2023-10-19EFSC-Meeting-Audio/Video

## Council Secretary Report

Secretary Cornett offered the following comments during his report to the Council:

### Staffing Update

The Department has begun recruitment for the Operations and Policy Analyst 2 position. It will be a 5-6 week process.

### Project Updates

- **Yellow Rosebush Energy Center**  
The Notice of Intent (NOI) for Yellow Rosebush was submitted on September 1, 2023. Yellow Rosebush Energy Center is a wholly owned subsidiary of Savion LLC. The Department has issued a public notice of the NOI. A Public Information Meeting is scheduled for November 2, 2023 in Maupin, Oregon at the Imperial River Company conference room. The Public Comment period closes on December 1, 2023.
- **Umatilla Morrow County Connector Project**  
The NOI was submitted for Umatilla Morrow County Connector on September 13, 2023 by Umatilla Electric Cooperative. The Department has issued a public notice of the NOI. A Public Information Meeting is scheduled for November 1, 2023 in Boardman at the Port of Morrow Riverfront Center. The Public Comment period for the Notice of Intent closes on December 1, 2023.

### Compliance Update

- **Pachwáywit Fields (FKA Montague Solar Facility)**  
On October 17, 2023 the Department received notice of a fire sparked by an MC4 electrical conductor, which is the connector point between cables. It was put out quickly and did not cause any damage. Another exact incident occurred in August. This facility currently has on site personnel as it is early in operation. As many solar facilities do not have onsite personnel in the long term, this could be concerning if this becomes a pattern.

*Vice Chair Howe asked are the connectors are located above or below ground on the solar panels.*

*Secretary Cornett stated, from the pictures he viewed, the connectors are a few feet above the ground.*

*Council Member Condon asked if the MC4 electrical connector is common for all solar panels.*

*Secretary Cornett confirmed to his knowledge it is common.*

*Council Member Condon questioned could a similar fire have occurred at an unattended facility without knowledge.*

*Secretary Cornett offered most facilities have a monitoring system to ensure everything runs smoothly which is monitored remotely. If an incident does occur, the monitoring system would alert someone quickly. The Department is looking into the timeframe for notification, and the process for when an alert happens. These are big facilities with a lot of components. The incident did not affect the operating status of the facility. The bigger problem would be if this becomes a pattern.*

- Trojan ISFSI Security Plan Update

On September 19, the Department received notice that Portland General Electric (PGE) had submitted Revision 9 of the ISFSI Security Plan to the Nuclear Regulatory Commission. Because it includes confidential safeguards information, we will need to have someone go to the site to inspect the plan itself. The documentation also states that PGE evaluated the modifications to the plan and determined that the modifications did not decrease the effectiveness of the plan, and as a result, did not require prior approval from the Nuclear Regulatory Commission (NRC). Because there are confidential safeguards information in the plan and someone from the Department needs to go to the site to review the modifications, Secretary Cornett requested that Council appoint Mark Reese, the Department's Radiological Emergency Planning Coordinator with the Nuclear Safety & Emergency Preparedness Division to inspect the plan at the ISFSI site in Columbia County and report back to the Council and the Director. There was also a recent incident regarding a drone incursion in the area. Council would also receive a report from Mr. Romay, the plant manager, regarding the incident and potential implications of such incidents.

*Council Member Beier asked if the NRC has agreed with the "no need for review" decision made by PGE or are they able to request a review at a later date.*

*Secretary Cornett stated NRC can review if they have any concerns.*

*Mr. Woods added there are three reasons PGE made changes to the plan. First, after an inspection in 2022, NRC recommended changes to the site and PGE has directed those changes be made as recommended. The second reason was administrative changes. The third reason was PGE's changes based on the dual authority of the site between federal and state governments. The NRC is in the process of reviewing the plan. PGE is allowed to make certain types of security changes. If PGE determines the changes do not decrease the effectiveness of the security plan, that is allowed by NRC rule. The NRC will trust but verify the report. The NRC level of review is commiserated with the risk profile considered for the site.*

*Council Member Condon questioned what the extent of the site review is and what if the Department disagrees with PGE's assessment.*

*Mr. Woods stated though there has not been that scenario yet, we would talk with NRC colleagues first. EFSC has authority to regulate the site for safety and security reasons as*

*does the NRC. The review would be looking at the changes from the previous iteration of the security plan verifying the rationale as to why those changes were made and what those changes would mean for safety and security at the site.*

*Council Member Devlin asked is there a life expectancy for the storage casks.*

*Mr. Woods stated the casks are made of concrete and steel. Though there is not a definitive lifespan, it would be a long life span. The expectation in the security plan is a regular physical inspection of the casks to look for any deterioration. Over the decades, perhaps it would be necessary to change or upgrade the physical casings of spent fuel. The National Council of State Legislators is slowly working towards locating a permanent repository facility for fuel storage which Oregon has a keen interest in as we have spent nuclear fuel still stored in our state from the former Trojan site.*

*Secretary Cornett added there was a deadline to move the spent nuclear material off site that was extended by Council and the NRC last year because there is no interim or permanent repository.*

Council Member Condon motioned the Council appoint Mark Reese, the Department's Radiological Emergency Planning Coordinator with the Nuclear Safety & Emergency Preparedness Division, to inspect the modifications to the security programs for the Independent Spent Fuel Storage Installation at the former site of the Trojan Nuclear Power Plant and report back to the Council and the Director.

Council Member Devlin seconded the motion.

The motion was carried unanimously.

- DEQ Solar Noise Rulemaking

In 2020, Governor Brown signed Executive Order 20-04, "Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions." As part of that executive order the Siting Division committed to looking at noise rules associated with energy projects. The primary noise rules that apply to EFSC jurisdictional facilities are from the Department of Environmental Quality which were adopted by the Environmental Quality Commission. The Department has been in coordination with DEQ staff and plans to initiate the rulemaking soon. Our proposal is to make the changes approved in 2004 for wind facilities applicable to solar PV facilities.

*Council Member Condon asked while this rulemaking is in reference to noise impacts on humans, where are the impacts to wildlife addressed.*

*Secretary Cornett stated the protected areas and recreational resources standards include noise elements. Those are not DEQ noise rules. If a management plan for a protected area or recreational area requires a quiet setting, Staff along with Oregon Fish and Wildlife would examine the potential impacts of noise from the facility.*

*Council Member Beier questioned if there is a mitigation allowance to address the noise issues with solar panel as there is with wind turbines.*

*Secretary Cornett responded that the mitigation allowance for the wind turbines is a component of the existing DEQ noise rules. If noise levels go more than 10 dBA above the ambient level, the landowners can negotiate for types of mitigations, such as new windows, insulation, or money.*

- Battery Energy Storage System Working Group

Representative Pam Marsh from Ashland has initiated a working group to evaluate statutory changes to the siting of standalone battery energy storage systems. The issue is that the statutes do not include standalone battery storage as an allowable use in the Exclusive Farm Use zone.

*Council Member Beier confirmed her understanding that the statutory changes would be to the land use statute.*

*Secretary cornett confirmed these would be LCDC statutes. There would be no standalone battery storage added to 469.300(11) which would create EFSC jurisdiction. However, an opt in to EFSC is being contemplated.*

- Council Future Meeting Dates

The 2024 Council meeting dates were presented to Council.

The November meeting has been scheduled for November 17, 2023 in Salem at the ODOE office in the Meitner Room beginning at 8:30 a.m.

**B. Radioactive Material Enforcement Rulemaking (Public Hearing)<sup>5</sup>** – Tom Jackman, Siting Policy Analyst & Rules Coordinator, Maxwell Woods, Assistant Director for Nuclear Safety and Emergency Preparedness and Tom Sicilia, Hanford Hydrogeologist. The Council conducted a rulemaking hearing to solicit testimony on proposed revisions to the Council's rules related to the disposal of materials containing naturally occurring radioactive materials and identify potential updates to OAR 345-050.

During the Public Hearing the following comments were provided:

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<sup>5</sup> Audio/Video for Agenda Item B = 00:50:16- 2023-10-19-EFSC-Meeting-Audio/Video

Andrea Fugue - Government Affairs Director of Oregon Refuse and Recycling Association (ORRA). Ms. Fugue noted Andy Lombardo a radioactive waste expert with Perma-Fix Environmental Services, Jennifer Stuber the general manager of Dry Creek Landfill and Trent Carpenter the General Manager of Southern Oregon Sanitation were also joining the meeting virtually supporting the proposed rule changes. ORRA is a statewide association whose members provide essential public services such as collecting refuse and recycling, providing processing for materials, material recovery facilities, landfills, and composting. Ms. Fugue noted her appreciation of the thoughtful and deliberative process for this rulemaking as it is the highest priority for ORRA members to protect the health and safety of Oregonians.

Trent Carpenter - General Manager of Southern Oregon Sanitation. Mr. Carpenter stated these rules are important, noting his support of the changes. In the past year, the sanitation facility has had to stop trailers because of an isotope that was used in a medical procedure. Current rules prevent the ability to landfill such materials for months. The rule changes are for the betterment of all of those concerned.

Secretary Cornett and Chair Grail noted their appreciation to the members of the Rulemaking Advisory Committee. When people engage and share their perspectives, there are good end results.

**C. Public Comment Period (Information Item)<sup>6</sup>** – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

There were no public comments. The public comment period was closed at 1:55 p.m.

**The October 2023 EFSC meeting was adjourned at 1:58 p.m.**

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<sup>6</sup> Audio/Video for Agenda Item C = 01:02:17 – 2023-10-19-EFSC-Meeting-Audio/Video