



**STATE OF WASHINGTON**  
**ENERGY FACILITY SITE EVALUATION COUNCIL**  
***PO Box 43172 • Olympia, Washington 98504-3172***

**February 9, 2010 Monthly Meeting Minutes**

**1. CALL TO ORDER**

Chair James Luce called the February 9, 2010 monthly meeting to order at 905 Plum Street S.E., Room 301, at 1:30 p.m.

**2. ROLL CALL**

**Council members present were:**

Jim Luce	Chair
Dick Fryhling	Department of Commerce
Jeff Tayer	Department of Fish and Wildlife
Dick Byers	Utilities and Transportation Commission
Hedia Adelsman	Department of Ecology
Mary McDonald	Department of Natural Resources
Judy Wilson	Skamania County Representative

**Staff in attendance were:**

Allen Fiksdal – EFSEC Manager, Stephen Posner – Compliance Manager, Jim La Spina – EFS Specialist, Mike Mills – EFS Specialist, Tammy Talburt – Commerce Specialist, Diane Burnett – Admin Assistant, and Kyle Crews - AAG.

**Guests in attendance were:**

Todd Gatewood – GHEC Satsop, Darrel Peeples – Attorney, and Brett Oakleaf – Invenergy and Karen McGaffey – Perkins Coie, Mark Anderson – Department of Commerce, Kevin Warner – GHEC Satsop, Bruce Marvin – Counsel for the Environment, Joel Rett – Grays Harbor Public Development Association, Joy Potter – Horizon Wind Energy, Liz Klumpp – Bonneville Power Administration, Tami Garrow – Grays Harbor Public Development Association, Mike Adams – GHEC Satsop, and Mark Hunter – Department of Fish and Wildlife.

**Guests in attendance via phone:**

Don Coody - Energy Northwest, Shannon Canola – Energy Northwest, Brad Barfus – Energy Northwest, Greg Cullen – Energy Northwest, Mark Miller – Chehalis, and Jennifer Diaz – Puget Sound Energy.

**3. ADOPTION OF PROPOSED AGENDA**

The agenda was presented to the Council for amendments or additions; the agenda was approved with an addition.

#### 4. MINUTES

The January 12, 2010 monthly meeting minutes were included in the Council packets for their review. The approval of the minutes was postponed until the next meeting.

#### 5. PROJECT UPDATES

##### Chehalis Generating Facility

<b><i>Project Update</i></b>	<b><i>Report Submitted</i></b>
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Mr. Mark Miller submitted the following report via email: There were no incidents this reporting period and the plant staff has achieved 2668 days (about 7 years) without a Lost Time Accident.

The Plant site continues to be maintained in excellent condition. Storm water and waste water discharge monitoring results are in compliance with the permit limits. Authorized plant staffing level is currently 18 with all 18 positions filled. January: The plant operated at capacity factor of 0.96 %. Generation for the month was 3610 megawatt-hours. Year to date the plant has generated 3610 megawatt-hours.

There were no NERC Critical Infrastructure Protection Standards (CIPS) violations or issues during this reporting period. Sound monitoring: There were no complaints noted during this operating period.

##### Kittitas Valley Wind Project

<b><i>Project Update</i></b>	<b><i>Joy Potter, Horizon Wind Energy</i></b>
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Ms. Joy Potter, Horizon Wind Energy submitted the following report: Horizon is working on the construction contracts and hopes to have them in place soon. Construction is still planned to begin in April 2010. A meeting with the entire Horizon construction team and EFSEC staff member Jim La Spina was very successful. The last sets of plans are under review and it is hoped that a plan approval letter will be issued soon.

##### Desert Claim Wind Power Project

<b><i>Project Update</i></b>	<b><i>Stephen Posner, EFSEC Staff</i></b>
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Mr. Posner reported to the Council that the Governor has approved the site certification agreement (SCA). The Governor signed the SCA on February 1, 2010. Council member Fryhling commented on the setbacks for the non-participating landowners, stating the Governor was pleased that EFSEC responded to the landowner's concerns by imposing conditions to maximize setbacks and minimize the number of turbines within 2500 feet of individual residences. The Governor also said she was satisfied that EFSEC has addressed the interests affected by the project, including the visual impacts, to the extent that it can through mitigation measures. Council member Byers concurred with Mr. Fryhling.

##### Wild Horse Wind Power Project

<b><i>Project Update</i></b>	<b><i>Jennifer Diaz, Wild Horse</i></b>
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Ms. Jennifer Diaz, Puget Sound Energy-Wild Horse, reported to the Council that January generation totaled 30,817 MWh for an average capacity factor of 15.2%. The Solar Demonstration Project generated 17,653 KWh in January. There were no lost-time accidents or safety incidents to report for January.

Two stormwater inspections were completed in the Expansion Area in accordance with the NPDES permit. All BMPs remained covered in snow throughout January and there was no water flow observed at any of the water quality sampling locations. The monthly Discharge Monitoring Report (DMR) for the Expansion Area was submitted to the Department of Ecology. This site remains in good condition and in compliance with the stormwater permit.

**Columbia Generating Station**

<i>Project Update</i>	<i>Don Coody, Energy Northwest</i>
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Mr. Don Coody, Columbia Generating Station (CGS), submitted a report to the Council that Columbia Generating Station is currently operating at 100 percent power, producing 1,169 megawatts gross. The plant has been on line for 88 days.

Columbia Operating License Renewal - An application for Columbia’s license renewal was submitted to the Nuclear Regulatory Commission (NRC) on January 19<sup>th</sup>. On February 3<sup>rd</sup>, the NRC issued a news release announcing the Columbia Generating Station license renewal application is available for public review.

The NRC staff is currently conducting an initial review of the application to determine whether it contains enough information for the required formal review. If the application has sufficient information, the NRC will formally “docket,” or file, the application and will announce an opportunity to request a public hearing.

Pend Oreille County Public Utility District (PUD) Joins Energy Northwest - On January 22<sup>nd</sup>, Energy Northwest’s Board of Directors voted unanimously to approve membership application from Pend Oreille County PUD. The new member brings the Energy Northwest membership to 28, the largest in the almost 53-year history of the organization.

Each member utility has a seat on the Energy Northwest Board of Directors. The Board meets quarterly and holds the authority to start and terminate major construction projects and approve membership applications. Member utilities also have the first right of refusal on electricity generated by Energy Northwest projects.

Chair Luce asked how many of the Board members have expertise in nuclear energy. Greg Cullen, Energy Northwest, stated that none of the Board members have expertise in nuclear power. They represent the member utilities, none of which own or operate nuclear power plants. There is an initiative underway to look at adding some experts to the Executive Board membership or the general Board membership along with creating a nuclear oversight committee. Energy Northwest under Nuclear Regulatory Commission (NRC) program has a Nuclear Safety Review Board that oversees Columbia’s activities and reports to the CEO. The Board meets 3 times a year to review Columbia’s performance and report back on the areas that need improvement. Chair Luce asked about budget decision making, Mr. Cullen reported that the Board makes decisions on the budget.

Chair Luce asked for Energy Northwest to create a presentation on the new nuclear projects and performance of Columbia. Mr. Cullen stated that he would work with the EFSEC staff to set up the presentation. Mr. Cullen wanted to emphasize that a many of the concerns Bonneville Power Administration expressed concerning CGS operations were economical and generation related. The NRC’s message is that Columbia has been operated safely. This includes nuclear safety and environmental safety. Decreases in generation capacity are directly due to a focus on making sure the plant was operating safely, before starting up after planned or unplanned outages.

**WNP-1/4**

Mr. Kyle Crews, Assistant Attorney General, reported to the Council that he had conducted a legal analysis of EFSEC’s authorization for issuing water withdrawal authorizations for WNP-1/4. EFSEC is only authorized under the statutory provisions of RCW 80.50 to amend an SCA for water withdrawals for current and ongoing energy facility projects. Industrial or commercial uses at the site that do not meet the definition of “energy facility,” “energy plant or “associated facilities” must obtain water withdrawal permits for groundwater through RCW 90.44 and Ecology.

Mr. Crews stated that EFSEC has only those powers granted to it by statute to recommend applications and regulations specified for energy facilities. RCW 80.50.040 and RCW 80.50.100

Mr. Stephen Posner, Compliance Manager, reported to the Council that Energy Northwest will be working with the Department of Ecology to determine the best option for obtaining water. EFSEC staff has asked Energy Northwest staff to keep EFSEC informed of the progress. EFSEC staff has offered to assist Energy Northwest in dealing with Ecology if they desire.

Council member Adelsman inquired if there would be a need for a small amount of water to continue the site restoration work on the site. Mr. Posner stated that staff would work with Energy Northwest to determine how much water would be required to achieve that task.

Council member Byers asked why the Council would have jurisdiction that would lead a requirement of an SCA, if this is not an energy facility. Notwithstanding the restoration agreement, this is either an energy facility or it’s not.

Mr. Allen Fiksdal, Council manager, stated that the Four-Party Agreement that was signed designated the Level 3D restoration plan. It states that essentially the Council would keep authority over the facility until the Level 3D restoration plan is complete. What the amendment is proposing to do, is to shrink the size of the area that the Council has jurisdiction over to just the buildings that need to be under EFSEC’s jurisdiction until the site restoration is complete. There is a large area that the Council had jurisdiction over, many different buildings, the amendment is shrinking it down so the Council doesn’t need to be concerned about the other parts of the site.

Council member Byers see’s the distinction. EFSEC staff hopes to have a resolution dealing with the request to amend the SCA ready for Council action at the March Council meeting.

### **Whistling Ridge Energy**

#### **Project Update**

**Jim La Spina, EFSEC staff**

Mr. Jim La Spina, EFS Specialist reported to the Council that it has received a revised land use consistency letter from Skamania County that addressed the removal of the roads within the National Scenic Area from the proposed project. All portions of the proposed project have been removed from the scenic area.

EFSEC staff is working with the applicant’s consultants to issue the Draft Environmental Impact Statement (DEIS) in the last week in March for public comments. Staff is also working with Bonneville Power Administration on the SEPA/NEPA process. This would push the public meeting to late April.

Council member Judy Wilson, Skamania County representative asked to be updated as soon as the DEIS is available. Mr. Crews, AAG, reported that he was

aware that the opponents to the project have filed an appeal to the Gorge Commission. Ms. Wilson asked if there was ever a decision on the last hearing in October, Mr. Crews said that the hearing was postponed.

Mr. McMahan, Stoel Rives, said that the Applicant did file a motion to consolidate both appeals together, to which the Commission gave a response on February 8, 2010. Along with a motion to dismiss from the Friends of the Gorge to the first appeal, they filed an additional motion with a remand back to the County, the allegation being that the County should have conducted a public hearing before issuing a land use consistency determination. That is all pending before the Gorge Commission now.

### **Satsop – Grays Harbor**

<b><i>Project Update</i></b>	<b><i>Todd Gatewood, Grays Harbor Energy</i></b>
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Mr. Todd Gatewood, Grays Harbor Energy reported to the Council that Grays Harbor Energy had no reportable accidents or injuries in January.

The facility had the following exceedances on Outfall 001- Process Wastewater: four – Chloride exceedances – These parameters are monitored on a weekly basis. The process cycles the chlorides up. The raw water has a higher level than anticipated and the permit limit is lower than the predicted level. The facility will be performing an engineering study of the ground water and process water as a requirement of the recently revised permit. There were Zero – Iron exceedances – This was at the discharge of the oil water separator. This collects all floor drains and is due to corrosion in the underground collection piping.

Grays Harbor Energy Northwest submitted the December Stormwater Report with no issues. Modifications to the NPDES Permit are in the draft stage. Two samples were taken in July for priority pollutants scans. The results of those samples were sent to EFSEC staff on Monday, October 12, 2009. The unit operated for 0 days in January, for a year to date capacity factor of 0%. The final noise report was submitted to EFSEC on January 17, 2010. In January there were no noise complaints.

Mr. Jim La Spina reported to the Council that he is modifying the NPDES permit incorporating the data that has been collected at the plant since operation commenced. The PSD permit for the existing plant is undergoing revision at Ecology. The PSD permit for the proposed expansion is currently under development by Ecology at this time. At the previous Council meeting the members inquired about mitigation measures that would be appropriate for the Grays Harbor Energy (GHE) to submit for the expansion. Mr. Fiksdal thanked Ms. Adelsman for her assistance in obtaining another set of expert eyes to review the permits.

Ms. Karen McGaffey, Perkins Coie, reported to the Council that the applicant met with the Department of Fish & Wildlife, Department of Ecology and Counsel for the Environment to discuss mitigation issues. As a result of that meeting the applicant would like to propose the following mitigation measures.

Noise – Mitigation proposed by the applicant

1. The SCA will require compliance with the maximum noise limits established as EFSEC standards for energy facilities in WAC 463-62-030. GHE will retain a qualified acoustical engineer to perform post-operation monitoring to verify compliance with noise limitations.
2. Project design features include absorptive silencers within air intake ductwork, acoustical enclosures and the existing noise wall.

3. Predicted noise levels at nearby residences are not expected to exceed EFSEC's standards for maximum noise level measurements during performance testing of Units 3 and 4 (prior to commercial operation.) These will be used to determine whether additional acoustical barriers need to be erected along the northern and southern property boundaries, if a noise easement with the PDA is needed for property to the east, or if other acoustical mitigation measures need be implemented.
4. GHE will implement an improved system of responding to noise-related complaints from neighbors, and will maintain a log of complaints received and GHE's responses.
5. GHE will retain a qualified acoustical engineer to perform a field study to identify reasonable, cost-effective measures that could be implemented with the construction of Units 3 and 4 to further reduce project noise below the maximum noise limits.

Mr. La Spina stated that he had researched the noise issues. EFSEC staff commends the applicant for submitting mitigation measure #5, and would like to see this implemented on Units 1 & 2. Mr. La Spina pointed out to the Council that the WAC for noise requires continuous noise monitoring. He said that in similar regulatory situations, the applicant and the permitting authority typically agree on a point of compliance, where the monitoring location is established. In this case, the point of compliance may be at the facility property boundary or at the receiving property, to reflect the requirements of Chapter 173-60 WAC. EFSEC staff has been working to obtain a noise consultant; the process is nearly completed and it is hoped that by the middle of March the noise consultant will be reviewing the reports submitted by the certificate holder.

Ms. McGaffey responded to Mr. La Spina's suggestion of implementation of mitigation #5 on Units 1 & 2, the proposal is to do the study and implement the reasonable, cost-effective measures after the construction of Units 3 & 4. That might involve some changes to the Units 1 & 2. Council member Tayer clarified that it would bring the entire plan into compliance at one time. Ms. McGaffey stated that the idea is to have the engineer go out there and look at the different options for going above and beyond the regulatory limits. There are some things that would be relatively inexpensive and some things would be hugely expensive to do. The idea is to identify the options, determine costs-benefits, and develop a comprehensive program to address noise.

Ms. McGaffey stated that the applicant is not proposing continuous monitoring; instead the applicant is proposing a post operation monitoring study. The applicant's noise engineers recommend a post-operation monitoring study because it is a much more accurate and better way to determine compliance than continuous monitoring.

Council member Tayer stated that it would be interesting to see a side-by-side comparison of another plant, such as Chehalis, and how the two compare and if there are differences and why. Mr. La Spina stated that the Chehalis is willing to share their experiences, but staff was waiting for the Council to determine the amendment request process. Council member Byers agreed with Mr. Tayer and asked that a comparison be prepared at this time, a brief matrix. Mr. Fiksdal said that staff could obtain a copy of the Chehalis process. Ms. McGaffey said that it would be beneficial to also compare the noise requirements the Council has imposed on similar facilities that are not up and running, such as BP.

Water Use – Grays Harbor Energy proposes to use 6.5 CFS more water than the current facility is authorized to use. The applicant had a discussion with the

staff members from Ecology and Fish and Wildlife about this and all the EFSEC staff is aware that the plan is for the certificate holder to obtain water from an entity that already has a senior water right that is not subject to the base flow limitations, either the Grays Harbor Public Development Authority (PDA) or the City of Aberdeen. After that discussion with the agencies everyone was comfortable as long as a senior water right was going to be used that isn't subject to low flow requirements. At the meeting between Grays Harbor Energy and the agencies there was no suggestion that any additional mitigation be required.

In the context of water rights, Council member Adelsman asked if the law treats the PDA like a municipality. Ms. McGaffey stated that she believed the PDA is a municipality. Ms. Adelsman inquired if the applicant is working with the city; Ms. McGaffey affirmed that the applicant was working with both the PDA and the city. Mr. Joel Rett, PDA, said the PDA is a public corporation; it has a municipal-like water right. The PDA has a 20 CFS, 1915 priority date water right. Ms. Adelsman mentioned that there is a Supreme Court case about the municipal water rights and the definition of that water right that should come out in June. Ms. Adelsman stated that the legislature passed a bill a couple of years ago that changed the relationship of public corporations like public utility districts to water rights. Ms. Adelsman suggested that Ms. McGaffey be aware that it might change the PDA water rights.

Council member Tayer asked for clarification about senior water rights that are currently being used as opposed to water rights that are held by the city for future use. Would GHE's withdrawals from the river result in net reductions in stream flow? Ms. Adelsman stated that the water rights are future, keep in mind that this big case in Supreme Court may or may not have an effect on these water rights. Mr. Tayer said that the reason he asked the question the way he did is because there are the legal consideration which may or may not have consequences, but it does sound like there will be biological consequences.

Ms. McGaffey said there is an analysis in the application, biologist have looked at the 6.5 cfs and determined that there are no real consequences. There is information in the memo summarizing some data from 2005 to 2009 although in each of those years there are between 13 and 44 days that the river goes below base flow it is usually not a low flow situation. The regulatory base flows are generally between 594 cfs and 3770 cfs and on the average day in which flow is below the regulatory minimums, the volume is actually above 2000 cfs. The biologists determined that when river flows are below 500 cfs, withdrawing 6.5 cfs will not create a significant impact.

Ms. Adelsman asked if Brad Caldwell and Hal Beecher were satisfied with the study. Ms. McGaffey said it was clear they hadn't looked at all the information provided by the study but that they seemed satisfied, and the applicant hadn't heard any further concerns after the meeting from WDFW or Ecology. Mr. La Spina pointed out that Ecology has decided not to update the mid-stream flow rule for the Chehalis River. Apparently it is not going to be a big issue.

Mr. Tayer asked about the consequences of the up-stream movement at the point of diversion. If they move the point of diversion to the Rainey wells what affect that would have on river flows and fish. Ms. McGaffey stated that there wasn't any discussion about that in part because the applicant is not sure that is even going to happen, as they are working on obtaining water from the PDA. This issue would certainly be part of the Department of Ecology assessment process if the City was going to move the transfer point. Ms. Adelsman asked if Ecology has

already approved the previous upstream transfer for the initial project, would Ecology be willing to do another.

**Waste Water Discharge** – Ms. McGaffey stated that with the operation of Units 3 & 4 there will be an increase in the waste water discharge similar in quality to the water discharged by the existing units. Waste water discharge is subject to the NPDES permit requirements which are designed to protect water quality and aquatic habitat. Ms. Adelsman asked if the discharge is upstream or downstream. Ms. McGaffey said that the discharge would occur upstream by adding water back into the river.

Mr. La Spina has done some analysis the company has a lot of work to do to come into compliance with water quality standards. The standards are achievable, but it's traditional to make an explicit commitment in the application/amendment request to comply with water quality standards. EFSEC staff would like to see that explicitly stated in the proposed mitigation measures.

**Habitat** – as originally proposed to expand the project site by ten acres. Mr. Mark Hunter, Washington Department of Fish & Wildlife biologist expressed some concerns about clearing the forested area on a recent site tour with the applicant. Mr. Hunter suggested that the PDA property on the north side of the access road (lots W-9, W-10 and W-11) would be a more suitable area for laydown and construction parking from a wildlife habitat perspective as that land is already cleared. If there is not adequate space on that property, he also suggested the use of land that was previously cleared for the meteorological tower for nuclear plant.

Ms. McGaffey stated that the applicant is proposing to follow the suggestion of Mr. Hunter and avoid the impacts of clearing the 5-acres of forested land. Instead use the already cleared lots W-9, W-10 and W-11.

**Air Quality** – Modeling analysis indicates that maximum ambient concentrations of criteria pollutants will be below "significant impacts levels" and concentrations of toxic pollutants will be below acceptable source impact levels. The operation of all four units will not cause ambient air quality standards to be exceeded. Mitigation for Units 3 and 4 will incorporate best available emission control technology (BACT), and the PSD permit will establish operational conditions and emission limitations.

Mr. La Spina stated that he could not find any modeling for noise or odor during an inversion event, in the application. There is modeling available for the PSD permit which doesn't address localized noise and odors. If it is in the application can it be pointed out? Noise and odors were specific complaints of the neighbors at the public hearing held in December.

Ms. McGaffey stated that modeling for noise and odors during inversion conditions were contained in the amendment request submitted to EFSEC, but were not explicitly called out in the document. Once the applicant brings in their noise expert to explain to the Council how the modeling is done it will be clearer.

**Greenhouse Gas Emissions** – Operation of Units 3 & 4 will result in the emission of CO<sub>2</sub>. Whether its operation results in a net increase in CO<sub>2</sub> emissions will depend upon whether its operation displaces other facilities that emit CO<sub>2</sub> at higher rates. Mitigation – Units 3 & 4 will comply with RCW 80.80's emission performance standard. Grays Harbor Energy will mitigate the CO<sub>2</sub> emissions associated with Units 3 and 4 in accordance with RCW 80.70's monetary path.

**Traffic** – Without mitigation, construction traffic could cause delays at the Highway 12 – Keys Road intersection. As with the previous construction, the applicant would develop and implement a Traffic Management Plan in consultation with the Grays Harbor County Department of Public Works. The plan would



encourage construction traffic to use the Wakefield/Lakefield corridor to avoid the Hwy 12- Keys Road intersection.

Lighting –The existing facility has outdoor lighting for the purpose of operator access and safety. Some additional lighting will be installed for Units 3 & 4. This outdoor lighting may be seen from nearby residences, and has the potential to affect viewing the night sky. Some members of the public have expressed concern about the amount of lighting. The applicant has already taken steps to reduce lighting at the existing facility. With the exception of minimal lighting on the top of each boiler and emission stack and stairway lighting for night-time access, existing lighting on high elevation platforms has been turned off and will only be turned on in the event that night-time access is required. Lighting installed for Units 3 & 4 will be directed downward and shielded to minimize off-site impacts.

In response to questions raised during the January Council meeting, Ms. McGaffey has given some thought to what the expedited process might look like. In the Council's packet is a description of the steps that might occur. This is just one possible approach, which is similar to the approach agreed upon by the Council when a similar proposal was considered in 2001. Also in the Council's packet is a time line comparing the expedited process to the Councils regular process (with EIS and adjudication). Different applications have moved through the process at different speeds, but this provides a rough comparison. The time line shows that expedited process is really several months shorter than the regular EFSEC adjudicative process.

Mr. Fiksdal reviewed with the Council the documents presented by Grays Harbor Energy. As the SEPA official Mr. Fiksdal stated that he is ready to issue a Mitigated Determination of Non-Significance (MDNS). The MDNS is not the last word in the mitigation, it is a starting point. Chair Luce stated that he doesn't have any problem with the MDNS being issued. However, the 14 day comment period is the statutory minimum. Chair Luce requested that the comment period be extended to 21 days. He also directed that EFSEC staff send a certified letter to members of the public that attended the public meeting held in December to document that these people have received a copy of the MDNS, along with a plain talk letter explaining the process. Council member Adelsman asked what will happen with the public comments received by EFSEC. Staff would copy all the comments and forward them to the Council for review. Mr. Fiksdal stated that, generally, comments are received from agencies, not the public, in such situations. EFSEC's responses will depend on the issues raised by the comments, whether they come from the public or the neighbors.

Ms. Adelsman stated that there wouldn't be a requirement to issue response to comments we could just say thank you very much, unlike the EIS where a response is required. There is a risk when the MDNS goes out to the public, that the public would expect a response. Ms. Adelsman asked the Council to be mindful of what its responses will be to the comments. Chair Luce is certain that the Council will respond to the comments, but maybe not at this point in time. The Council shouldn't raise the expectation that the council will do something with the comments at this time.

Mr. Fiksdal suggested that the MDNS be sent to the agencies with a 14 day comment period as required. Then basically send it out to the neighbors, saying the council has taken this action to issue this MDNS, which essentially states we are not issuing an Environmental Impact Statement (EIS). There will be future opportunity to comment as the Council considers the process it will use to assess the amendment request. Chair Luce asked whether requiring an EIS is still an

option. Mr. Fiksdal stated once the MDNS is issued there will not be an opportunity to do an EIS.

Council member Tayer said that there is an appeal process. Most often when agencies end up in a court room it is because someone has appealed a decision the agency is proposing. Wouldn't it be beneficial to describe the appeal process that the public can use if it disagrees with the MDNS decision to not issue an EIS? Mr. Tayer asked if the MDNS is issued today would it mandate expedited processing. If a group wanted to hire an attorney, would there be the intervenor status at a later time? Mr. Fiksdal said that the MDNS *is* the SEPA determination. It gives the Council the opportunity to get to an expedited process whether the Council chooses to do that or not.

Council member Mary McDonald stated that she understood that staff is in the process of hiring a consultant to analysis the noise report that has been submitted by the applicant. So if the MDNS is issued now it would be without the benefit of knowing the results from that analysis, correct? Mr. Fiksdal stated that was true. The rationale behind that decision is that the purpose behind hiring the noise consultants is to verify if the current project is exceeding the requirements or not. It is more of a regulatory issue, whereas the MDNS is saying that the applicant has proposed to offer mitigation for the noise. The exceedance is a different issue. Ms. McDonald want to know if the issuance of the MDNS may be setting the Council up, that the impacts are non-significant, that the standards need to be lowered?

Council member Byers stated that the MDNS is saying that the impacts can be mitigated. It is up to the Council to determine what that mitigation will be. Mr. Byers suggested that the letter inform the public that comments that are received on the MDNS would help determine what the Council's continuing process. What the issues are, the topics are and what kind of experts the Council would need to see.

Mr. Tayer suggested that if the council is presuming that they are in a mitigation conversation, then the Council is tracking towards the expedited process. What would be interesting to know is if the Council described all the process, is someone going to appeal the MDNS, and are we going to have people step up and say no, they want to be intervenors, why would the Council not put that out as a question?

Ms. Adelsman asked Mr. Crews for clarity on SEPA. The appeal has to be on the action taken, not the SEPA document is that correct, in other words people would have to appeal the SCA not the MDNS. Mr. Crews stated that EFSEC has its own rules, it is the final action. Ms. Adelsman said that she believed that it is the final action that gets appealed, not the MDNS.

Chair Luce stated that the SEPA official may retain, modify or withdraw (the MDNS?) based on the comments received. Sending out the MDNS as a draft document is as close as it comes. Mr. Fiksdal said that he and the chair would work on a letter to send around to the Council for approval.

#### **Bonneville Power Administration (BPA or Bonneville)**

<i>I-5 Work Plan</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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**Motion: Council member Fryhling moved that Chair Luce be approved to sign the Work Plan for the I-5 Transmission line. Council member Tayer seconded the motion. The Council approved the motion.**

#### **6. OTHER**

Mr. Fiksdal announced the retirement of Diane Burnett, Administrative Assistant 3 for EFSEC. Effective February 12, 2010 Ms. Burnett will be retiring after 30 years of service for the State.

Chair Luce reviewed the two bills affecting EFSEC in the legislative. Mr. Fiksdal reported that Bruce Marvin has been appointed as the Counsel for the Environment for the Grays Harbor Energy Project.

In recognition of Mr. Allen J. Fiksdal 32 years for State Service, Mr. Mike Mills read Council Resolution No. 329.

**MOTION: Council member Fryhling moved that the Council approve Resolution No. 329. Council member Byers seconded. The Resolution was unanimously approved.**

Chair Luce presented Mr. Fiksdal with a letter from the Governor Christine Gregoire recognizing his service to the state of Washington.

## **7. ADJOURN**

The meeting was adjourned at 3:15 p.m.