



ENERGY FACILITY SITING COUNCIL

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

Energy Facility Siting Council Meeting Minutes

Friday, January 26, 2024, 8:30 AM

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

- A. Consent Calendar (Action Item & Information Item)¹
- B. Consideration by Council of Permanent Amended Rules for Standby Generator Exemptions (Action Item)²
- C. 2024 Recommended Rulemaking Schedule (Action and Information Item)³
- D. Public Comment Period⁴
- E. The Climate Trust Annual Update⁵
- F. Annual Compliance Update (Information Item)⁶
- G. Council Review/Decision on Amended Mitigation Plans (Action and Information Item)⁷

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 January 26, 2024, at 8:30 a.m.

Roll Call: Chair Marcy Grail, Vice-Chair Kent Howe and Council Members Ann Beier, Cynthia Condon, Jordan Truitt were present in person. Council Member Perry Chocktoot 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

¹ Audio/Video for Agenda Item A = 00:02:28 - 2024-01-26-EFSC-Meeting-Audio/Video

² Audio/Video for Agenda Item B = 00:32:28- 2024-01-26-EFSC-Meeting-Audio/Video

³ Audio/Video for Agenda Item C = 00:36:45 – 2024-01-26-EFSC-Meeting-Audio/Video

⁴ Audio/Video for Agenda Item D = 01:53:10- 2024-01-26-EFSC-Meeting-Audio/Video

⁵ Audio/Video for Agenda Item E = 01:55:43- 2024-01-26-EFSC-Meeting-Audio/Video

⁶ Audio/Video for Agenda Item F = 02:18:31- 2024-01-26-EFSC-Meeting-Audio/Video

⁷ Audio/Video for Agenda Item G = 03:34:34- 2024-01-26-EFSC-Meeting-Audio/Video

Tom Jackman; Siting Compliance Officer Duane Kilsdonk; Operations and Policy Analyst Amrit Kaur and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

Agenda Modification: There were no agenda modifications.

A. Consent Calendar (Action Item & Information Item)⁸ – Approval of November 2023 meeting minutes; Council Secretary Report; and other routine Council business.

Vice Chair Howe motioned the Council approve the November 2023 meeting minutes as presented with the change noting Council Condon abstained from the vote of the October meeting minutes.

Council Member Condon seconded the motion.

Council Member Beier abstained from the vote for the approval of the November meeting minutes.

Council approved the motion.

Council Secretary Report

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

Staff Updates

- **Katie Imes**
The Governor has appointed Katie Imes from Lexington to replace Council Member Truitt. Ms. Imes currently serves as a Council Member for the Town of Lexington and was previously the Morrow County Transit Manager. Her appointment would give the Council important geographic representation in the Columbia Plateau, where many EFSC jurisdictional projects are located. Senate Rules Committee meets in early February to review and recommend the appointees. The full Senate will vote shortly after that. If Ms. Imes is confirmed, she will attend the February EFSC meeting.
- **Jordan Truitt**
If the Senate approves Ms. Imes for the Council, this will be Council Member Truitt's last EFSC meeting. His work for the State of Oregon and EFSC is greatly appreciated.

⁸ Audio/Video for Agenda Item A = 00:02:28 – 2024-01-26-EFSC-Meeting-Audio/Video

- Amrit Kaur
Amrit is the new Operations and Policy Analyst. Amrit comes from the private sector and most recently was an operations project manager where she did extensive project management and business process improvement.

Project Updates

- Muddy Creek Energy Park
The Muddy Creek Energy project is currently in the Notice of Intent phase. The applicant has not submitted their application although it will be coming very soon. There is no current open public comment period. Council Members Condon and Truitt received emails expressing opposition to the project from members of the public who searched out Council members emails. Council Members Condon and Truitt promptly sent the emails to Council Secretary Cornett. As there is no open public comment period, the comments create a potential issue with the record. Council members are obligated to rely only upon the information in the record to evaluate and issue a decision. Any information received outside of those comment timeframes must be disclosed on the record. Staff has provided the emails to all Council Members and to the applicant and has added them to the documents associated with the project.

Secretary Cornett recommended Council members do not respond if additional emails are received or if contacted by other measures, and to notify Staff immediately. Members of the public are encouraged to reach out to department staff for questions or information regarding any EFSC projects.

Council Member Condon questioned if the comments received during a non-comment period but are added to the record could provide an advantage.

Council Member Beier asked if comments received during the non-comment period have the same appeal rights for a contested case as comments offered during the public comment period.

Secretary Cornett stated that public comments made outside of the public comment periods do not register commentors as having commented, which would allow them to request participation in a contested case. He advised Council to send any such comments to himself or the project lead if the comments continue to be received.

Mr. Rowe added, in response to Council Member Condon's question, the comments should be acknowledged as being received but should be excluded from Council consideration and any decision making.

Chair Grail commented even though misguided on when they could comment, it does show that members of the public are paying attention to projects. The work that has been done to provide communication resources for the public is being utilized.

Council Member Condon asked what Council needs to do in order to acknowledge and specifically exclude the comments that were received outside of the comment period as Mr. Rowe had stated.

Mr. Rowe noted he will need to do research as to whether this situation has arisen in another context and how it was resolved. He will provide Council information at a future meeting.

- Wagon Trail Solar Project

There was a public information meeting held on January 7th. It was scheduled to be held in person in Lexington, but due to the weather conditions staff was unable to attend in person. The meeting was held virtually, but with an in person portion hosted by the Lexington Town Council at the town hall.

Council Member Beier extended her appreciation for the presentation. She noted that Mr. McVeigh-Walker's direction to specific exhibits to aid the public in locating additional information regarding their questions and comments was especially helpful. She suggested possibly having a video information meeting prior to a public hearing to direct the public to where information is located and how to access and focus on it, to simplify it and help the public better direct their comments.

Secretary Cornett reviewed the schedule for public meetings which occur at the Notice of Intent stage and the Complete Application stage of the application process. The Department believes there is value in meetings at both stages. In addition, the comment portal is designed to have members of the public orient their questions and comments towards the standard and exhibits. He added it is always good to reevaluate our processes to ensure the process is having the intended effect.

Upcoming Meeting Dates

- February 23,2024- to be held in Salem and virtually.

Litigation Updates Provided by Mr. Rowe

- Nolin Hills Wind Power Project

The EFSC decision on the Nolin Hills Wind Power project was appealed by Umatilla County. Oral argument was presented to the Supreme Court and is available on the Supreme Court's website. The Supreme Court is considering many of the same arguments presented to Council last July.

- Boardman to Hemingway Project

Council decision to deny requests for contested case in the matter of Amendment 1 of Boardman to Hemingway has been appealed by Ms. Irene Gilbert. Ms. Gilbert filed the appeal in circuit court and DOJ has filed a motion to have it transferred to the Supreme Court. The motion is pending.

B. Consideration by Council of Permanent Amended Rules for Standby Generator Exemptions (Action Item)⁹ – Thomas Jackman, Rules Coordinator, presented for consideration by Council permanent amended rules regarding exemptions from Council jurisdiction for would-be standby generator operators.

Vice Chair Howe motioned the Council to adopt the proposed standby generator exemption rules as presented in the Notice of Proposed Rulemaking.

Council Member Beier seconded the motion.

The motion was carried unanimously.

C. 2024 Recommended Rulemaking Schedule (Action and Information Item)¹⁰ – Thomas Jackman, Rules Coordinator presented the proposed 2024 Rulemaking Schedule which included the following for each proposed rulemaking: a summary; recommendations for how to obtain public input; and a draft schedule.

Chair Grail noted the Council's approval of the opportunity to hear from the public.

In reference to the Oregon Department of Environmental Quality (DEQ) Solar Noise Rulemaking, Council Member Beier stated that during the Wagon Trail Public Information meeting, one of the comments received was regarding the drone from the storage batteries for solar projects. She noted it is important to have some sort of measurement or noise analysis for storage batteries associated with solar projects.

Mr. Jackman stated that the DEQ wind energy noise rules do not negate the need for analysis for wind turbines nor will it negate the need for noise analysis for solar projects in the proposed DEQ solar noise rulemaking.

⁹ Audio/Video for Agenda Item B = 00:32:28- 2024-01-26-EFSC-Meeting-Audio/Video

¹⁰ Audio/Video for Agenda Item C = 00:36:45- 2024-01-26-EFSC-Meeting-Audio/Video

Secretary Cornett added there are two thresholds related to noise for any industrial facility in a new area. The first is noise level cannot exceed 10 dBA above the baseline. The second is a table that represents a maximum not to exceed threshold because of public health and safety impacts. Changes in the DEQ Wind Noise Rulemaking allowed the applicant to use an assumed baseline in a desktop analysis rather than having to establish a baseline at the beginning of the application process through onsite monitoring. There still must be actual modeling later in the process. If the noise level is over 10 DBA above the baseline, the applicant would have to get a waiver from the landowner who is going to be impacted. Staff's proposal is to make the same elements for the DEQ Wind Noise Rulemaking applicable to Solar through the proposed DEQ rulemaking. Solar panels do not create noise, but the inverters, transformers, electrical lines, and battery storage make noise, although in most circumstances, don't exceed the maximum threshold at surrounding noise sensitive properties.

Council Member Beier confirmed her understanding, adding that these DEQ noise rules are the standards Council applies to transmission lines.

Secretary Cornett stated it is the same overall standards that apply to any facility.

Council Member Condon asked if there is an analysis done for the impact on wildlife.

Secretary Cornett stated that this standard is for either new industrial uses on existing industrial locations or non-current industrial locations. It is primarily oriented towards operations and the impacts on people. Noise is also evaluated in the protected areas and recreation standards. Noise would also be part of the evaluation for the fish and wildlife habitat standard implicitly as an impact to the habitat.

Vice Chair Howe questioned if Noise Mitigation is a DEQ rule or an EFSC rule.

Secretary Cornett answered it is a DEQ noise rule. It requires either the Director or the Environmental Quality Commission to make changes. EFSC has been implementing DEQ rules as its own noise standard for a long time. Staff examined creating EFSC's own noise rules. That would result in a lot of complexities and problems as the DEQ noise rules are directive in statute.

Mr. Jackman noted while he has been working with DEQ on the rulemaking, it will be DEQ approving the rules.

In reference to the Radioactive Material Transport Fees rulemaking, Council Member Condon asked why fees aren't reviewed every year.

Mr. Jackman stated it is dependent on how the fee was initially set up and created in statute. In some fee situations, like this one, there are not automatic evaluations for changes. However, if a fee is set to track with inflation or a specific need, failure to update that fee will result in a mismatch between the fees received and funds needed.

Council Member Condon stated while it is understandable that a decision is made not to change the fee, it is concerning that there is no opportunity to evaluate the fee.

Mr. Jackman stated with respect to the Radioactive Material Transport Fees, the fees were not being spent and were accumulating so there was no urgency to update. The Department is now using the fees and the mismatch between the collection and the output is apparent.

Secretary Cornett stated this agenda item is not intended for the substance of the rulemaking itself. One of the things that Council could do is to obligate evaluations or reviews of fees by rule. Council can determine the frequency with which they would like to review fees.

Council Member Condon and Mr. Jackman agreed with Secretary Cornett.

Vice Chair Howe asked if the Radioactive Materials Transport Fees rulemaking includes rail transport or only highway transport.

Mr. Jackman responded that he would need to gather that information and report it back to Council.

In reference to Financial Assurance and Organizational Expertise Rulemaking, Council Member Beier stated Council has done a lot of work on the financial assurance standard. She expressed her desire to focus on the organizational expertise standard and the applicant's ability to develop, construct, operate and monitor a site.

Secretary Cornett offered Staff is working on Phase 2 of the rulemaking process which is to align the application requirements to the Standards. Phase 3 will be a series of rulemakings examining the Standards and trying to group them together if possible. These 2 standards are grouped together as they both deal with Limited Liability Corporations (LLC). The independent power producers rely on the parent company (often an LLC) for the organization expertise and the financial assurance. Council can separate it or discuss it further when Staff

returns to initiate the rulemaking. He recommended Council keep the items together on the schedule as is.

Council Member Condon stated regardless of the structure of the company, the organizational expertise should be evaluated in order to have projects completed. It is appropriate for any organization that applies for a site certificate. The documents for the organizational expertise may be documents that are reviewed once and filed but that doesn't make them less important.

Mr. Jackman acknowledged the comments received from Council. Staff will use the issues that have been raised when analyzing Organizational Expertise Standard in Phase 3 of the Rulemaking.

In reference to the Carbon Offset Rulemaking, Council Member Condon asked as renewable energy increases and natural gas decreases, how do the changes in carbon offset impact EFSC work in the future.

Secretary Cornett stated in House bill 2021, EFSC was precluded from approving gas fired power plants unless they have full carbon sequestration. It is important to keep up to date and current on the Carbon Offset Rules if or when there are new legislative directions. Additionally, there are non-generating facilities that produce carbon which need to be evaluated. Those offset rates need to be changed.

Council Member Beier questioned if there were other agency rulemakings that would require Staff's time.

Mr. Jackman answered other than DEQ rulemaking, nothing in which Staff is actively involved.

Chair Grail and Vice Chair Howe expressed their appreciation of the aggressive 2024 rulemaking schedule and the well thought out presentation.

In reference to the Communication with Federal Agencies item on the proposed list for 2025, Chair Grail inquired if this was a current problem or is it a request from the Department of Defense (DOD).

Secretary Cornett stated this is a request from the DOD. They are particularly interested in renewable energy projects and their potential impact on physical military assets, or training grounds, on the ground or in the air. There was an issue in the Saddle Butte project which

was a wind turbine facility proposed in military training routes around the Boardman bombing range. It was late when DOD became involved which resulted in significant impact to the project. Since then, the Department and Staff, recognizing the purpose and value, has become very proactive in its communication with DOD. The idea is to put it in Rule to ensure the communication continues.

C.1. The Council allowed members of the public an opportunity to provide oral comments related to rulemaking priorities for 2024.¹¹

Mr. Randy Bentz, a master planner for installations representing the Oregon Military Department (OMD) provided comments to the Council. Mr. Bentz noted his comments are early in the process for rulemaking regarding Communication with Federal Agencies. In 2019 House Bill 2329 included notification to the DOD for energy projects, permitted at the county level. It is necessary, but it isn't self-sufficient. OMD believes notification by itself will not ensure early collaboration, nor are there any assurances of addressing any potential adverse impacts to national security. Currently there is not a rule or viable process to ensure early notification of the DOD for projects that are located in and around critical training and testing operational areas. The lack of notification has in the past resulted in additional time for contested cases, and outright removal of a project. A compatible renewable energy development is critical to preserve military operational capabilities, safeguard military missions and protect the overall health safety and welfare of the public living near military installations, or training and operational areas. The DOD looks forward to continued coordination with ODOE and is in support of including the Communication with Federal Agencies rulemaking item in the 2025 rulemaking schedule.

Council Member Condon asked how the DOD works with Counties versus the state in gathering information regarding projects.

Mr. Bentz stated DOD works with the Counties on a case by case basis. When information is received regarding future projects, DOD will meet with the County Commissioners with concerns or support. Though DOD hasn't had a lot of activity in this regard, the Department is currently working with Morrow and Wheeler counties, largely on wind turbine projects that might infringe on air routes on the training route.

Council Member Beier acknowledged that DOD has been very supportive of the statewide mapping efforts. She noted her understanding that there are some new grants to local governments to help better understand where those military assets are without divulging national security issues so decision makers can be better informed of potential impacts.

¹¹ Audio/Video for Agenda Item C.1. = 01:32:53 – 2024-01-26-EFSC-Meeting-Audio/Video

Chair Grail expressed her hope that developers hear the conversation and recognize they have the ability to reach out and be mindful as well.

Secretary Cornett added the primary purpose of the ORESA mapping tool is to map DOD resources and provide information about those assets. There's the ability to view assets and identify them. There is also the ability to perform an analysis of a project area. If there is a military asset in the area, a popup screen will give the contact information for the asset. He added the Department has taken responsibility to maintain its connection with DOD. Staff is in support of the rulemaking as it essentially reflects what we already do from a non-regulatory standpoint but makes it a rule requirement.

Ms. Irene Gilbert stated EFSC's role is to protect the citizens and the natural resources of the state. The rulemaking should reflect that and part of that should be considering the cost to Oregon citizens. Rules should be clear and provide the same treatment for all developers. If developers are not paying their fair share for mitigation, it will fall on the electricity users, citizens, and agencies in the state. Mitigation plans are never going to leave citizens or resources whole. The rules should be concise; this is what the rules are for all developers with no exceptions.

Vice Chair Howe motioned the Council approve the 2024-2026 EFSC Rulemaking Project Schedule as presented and recommended by staff.

Council member Beier seconded the motion.

The motion carried unanimously.

D. Public Comment Period (Information Item)¹² – 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 provided.

The public comment period was closed at 10:25 a.m.

E. The Climate Trust Annual Update (Information Item)¹³ – Todd Cornett, ODOE Assistant Director for Siting/Council Secretary provided an overview of the 2023 Financial Audit and

¹² Audio/Video for Agenda Item D = 01:53:10 – 2024-01-26-EFSC-Meeting-Audio/Video

¹³ Audio/Video for Agenda Item E = 01:55:43- 2024-01-26-EFSC-Meeting-Audio/Video

Kyler Sherry, The Climate Trust Program Manager, provided an annual update of The Climate Trust.

Council Member Condon inquired about the recent questioning of effectiveness of the carbon offset.

Ms. Sherry responded it is related to the integrity of the market. There's been a lot of growth in the voluntary market and a lot of new developers, buyers, and investors in these projects. It's important to differentiate between what makes a high quality carbon offset and what would not be considered a high quality carbon offset. The American Carbon Registry, and the Climate Action Reserve are developing stringent protocols for how you quantify the emission reduction from a project. The other governing body would be those new standards that are being developed, like, core carbon principles, which will be overarching of all carbon offset projects. A lot of the offsets that are being examined are not registered under one of those governing bodies or standards. Regarding the major corporations who are purchasing carbon offsets, the carbon offsets are tiny part of their climate action plan. The notion is that some companies are out there buying offsets to offset 100% of their emissions. It wasn't found in any of the reviews of these corporations' action plans.

F. Annual Compliance Overview (Information Item)¹⁴ – Duane Kilsdonk ODOE Compliance Officer and Sarah Esterson ODOE Senior Policy Advisor provided Council with an update on compliance program activities.

Council member Condon asked how does a member of the public request a site compliance inspection.

Ms. Esterson provided the location for requests for compliance site inspections: [State of Oregon: Facilities - Site Inspection Request](#)

Secretary Cornett added the public can also contact Staff for assistance if needed.

Council Member Condon inquired how long has the public request for inspections been available?

Secretary Cornett recalled the ability for the public to request inspections has always been there or has been there for a long time in Rule. The department created the link on the website and created a form for people to fill out approximately 6 years ago.

Council Member Beier asked how does Staff track amendments to a site?

¹⁴ Audio/Video for Agenda Item F = 02:18:31- 2024-01-26-EFSC-Meeting-Audio/Video

Mr. Kilsdonk stated prior to our first assessment of a site, Staff determines the major conditions or materials to inspect. If something changes in site conditions or an amendment is approved, Staff begins the process again from that stage.

Secretary Cornett added an amendment can add a significant amount of complexity to a project in terms of the conditions and how the amendment conditions get integrated with the construction and operation conditions.

Secretary Cornett reminded Council that EFSC does not have jurisdiction over standalone battery storage. The battery storage components being discussed are associated with a facility that is within the jurisdiction of the Council.

Council Member Condon questioned who has jurisdiction over standalone battery storage.

Secretary Cornett answered if a battery storage component is part of an EFSC jurisdictional facility, Council would have jurisdiction. If a battery storage facility is a standalone facility, the location in a rural or urban zone will determine the jurisdiction. Legislative updates are proposed and needed to clearly articulate where and how standalone battery storage is allowed.

Council Member Beier, noting some of EFSC conditions are government requirements, asked if the Department or DEQ perform inspections for stormwater management.

Ms. Esterson stated the Department views adopting that condition as a site certificate requirement to be different than what federal permit requirements are covering. The Council adopts that permit in compliance as protection of erosion and soil, agriculturally sensitive soils, and DEQ is looking at it from a water quality perspective. While the Department's look at it is for different things, the issues can be evaluated in the same way.

Council Member Condon suggested staggering the annual reports' due date throughout the year may be helpful.

Ms. Esterson noted the April 30th due date is defined in Division 26 rule. While Staff does have to stagger a review of them, they are prioritized based on age of the facility.

Secretary Cornett further explained the three competing time frames that make it challenging to timely review the reports, and to evaluate and address the issues.

Mr. Kilsdonk added there are facilities that don't have an April 30th due date. He noted Springfield Utility had an issue getting the required information by the due date and requested the Department move the date. The Department agreed to make a change of date. The research reactors have their own due dates as well.

Council Member Condon expressed her understanding that the date can be changed at the request of the certificate holder, but the calendar date cannot be changed without a rule change.

Secretary Cornett reminded Council the compliance rulemaking will be initiated in 2024.

Council Member Beier thanked Staff for reminding Council the importance of the conditions in a site certificate and how the conditions are implemented.

Secretary Cornett added that lessons learned can be difficult. When a new condition is created, though it is fully thought through and evaluated, that condition may not be implemented for the better part of a decade. If the condition becomes problematic, it may be 9-10 years before that is known and it could have been repeated in many other site certificates. He reiterated it is incredibly important that Council and Staff are as thoughtful as possible with all of our conditions to make sure that they are clear, concise, implementable, and needed.

Chair Grail thanked Staff for their hard work. She stated it is important for Council to be mindful of all conditions it is considering.

Secretary Cornett stated in the siting program, a lot of the focus is on applications and amendments, which have more staff resources. Functionally there are three parts to the program, applications and amendments is one part, rulemaking is another and compliance is the third part. Unless all of them are being worked on with the right amount of effort and the right number of resources, the system doesn't work. More resources are needed to verify conditions are being met correctly through all phases of a site, preconstruction through retirement.

Council Member Condon asked if certificate holders are aware of upcoming site visits and are aware of compliance requirements, what are the reasons for noncompliance.

Mr. Kilsdonk suggested, in the case of weed mitigation, it is usually timing as there is an optimal time to spray weeds.

G. Council Review/Decision on Amended Mitigation Plans (Action Item)¹⁵ Sarah Esterson, Senior Policy Advisor, presented Council with the issues and proposed resolutions for mitigation plans required under Site Certificates of Wheatridge Renewable Energy Facility,

¹⁵ Audio/Video for Agenda Item G = 03:34:34- 2024-01-26-EFSC-Meeting-Audio/Video

Wheatridge Renewable Energy Facility II, Shepherds Flat Central and Biglow Canyon Wind Farm.

Chair Grail asked if the monitoring of noxious weeds has changed with the proposed changes.

Ms. Esterson stated the monitoring requirements are increased. The monitoring plan proposed is more monitoring with a focus on timing.

Council Member Condon questioned how the monetary increase from \$1,000 to \$2,000 funding to the raptor rehabilitation center for Shepherd's flat North, Central and South is equivalent to the habitat mitigation requirement.

Ms. Esterson stated Staff started with the threshold of concern exceedance to be able to evaluate the significance of what is appropriate mitigation. Certificate holders have invested a substantial amount to try to get the juniper trees to work to date. There is value in investing in facilities which actually return injured birds successfully to their habitat. Staff believes the mitigation is a good option.

Council Member Beier asked if there is a continuing requirement to monitor raptor impacts with these facilities.

Ms. Esterson noted that the facilities have been repowered, which allows Staff an additional year to review how the plan is functioning.

Vice Chair Howe asked if the planting of the junipers are meant to lure the raptors away from the turbines.

Ms. Esterson stated the junipers are planted as habitat for the raptors.

Council Member Condon asked if the number of fatalities aligns with the number of rehabilitated raptors.

Ms. Esterson stated Staff does not currently have the ability to quantify the mitigation that way. She added ODFW felt strongly that the juniper trees that were planted continue to be monitored because they believe that there is a possibility that some could survive, and the habitat benefit could be achieved.

Council Member Condon confirmed her understanding that there is no alternative to juniper.

Ms. Esterson confirmed there is no alternative plant.

Chair Grail stated as facilities change owners, it is important to note the contracts and language are very clear. You are responsible for what you have purchased. It's an excuse to say that they've had a lot of changes. That is not acceptable. They own a business that has an obligation to the public. Staff can relay that the Council is concerned about certificate holders not doing their part.

Vice Chair Howe expressed his agreement.

Secretary Cornett added the Department has developed our own system to try to encourage people to get to compliance, rather than go through the exercise of just a notice a violation. He stated it is important to evaluate what systems should we have in place through compliance rulemaking.

Chair Grail stated in corporate America, it's cheaper to pay your lawyers to mitigate a fine and find a way to address it, as opposed to actually making the corrections. She suggested developers may need to hire another person to manage this part of their business, in order to ensure compliance.

- **Wheatridge Renewable Energy Facility**

Council Member Beier motioned the Council approve the proposed changes to the Wheatridge Renewable Energy Facility mitigation plan as presented and recommended by staff.

Council Member Condon seconded the motion.

The motion carried unanimously.

- **Wheatridge Renewable Energy Facility II**

Vice Chair Howe motioned the Council approve the proposed changes to the Wheatridge Renewable Energy Facility II mitigation plan as presented and recommended by staff.

Council Member Condon seconded the motion.

The motion carried unanimously.

- **Shepherds Flat Central**

Council Member Truitt motioned the Council deny the proposed changes to the Shepherds Flat Central mitigation plan as presented and recommended by staff for the following reasons:

1. More evaluation is needed to determine if there is specific habitat mitigation, such as the installation of Juniper Trees.
2. There is lack of evidence that the amount proposed to be provided to the raptor center, \$2,000, is equal to the impact.
3. Council would like to hear if ODFW has other mitigation recommendations.

Council Member Beier seconded the motion.

The motion carried unanimously.

- **Biglow Canyon Wind Farm**

Council Member Beier motioned the Council approve the proposed changes to the Biglow Canyon Wind Farm mitigation plan as presented and recommended by staff.

Vice Chair Howe seconded the motion.

The motion was carried unanimously.

Council Member Condon requested having a Bonneville Power Administration (BPA) presentation regarding the availability of BPA transmission and how it can delay EFSC projects.

Secretary Cornett stated Staff will look into arranging a presentation at an upcoming meeting.

Council Member Beier added the Council is perceived as a barrier to development of renewable energy, but there are other barriers to be examined.

Secretary Cornett stated the department is currently, by direction from the legislature, working on an energy strategy. He suggested having a presentation when the strategy is partially completed as there will be valuable information included.

Council Member Chocktoot stated there's been a lot of concern regarding the 11% raising of power rates by Pacific Corp in Southern Oregon when a lot of the power generated is being sent to California. He would like to see the issue addressed at a future meeting.

Adjournment

The meeting was adjourned at 1:11 p.m.

FINAL