

W.6.a.

## **SUPPLEMENTAL MEMO**

**DATE OF MEMO:** November 30, 2004  
**TO:** Board of County Commissioners  
**FROM:** Kent Howe/Land Management Division

**RE:** In the Matter of Recommending Applicable Substantive County Land Use Criteria to the Oregon Energy Facility Siting Council for the Proposed West Cascade Energy Facility near Coburg.

**Scheduled board date for deliberation and action is December 8, 2004.**

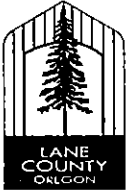
The Department of Energy extended the time to December 15, 2004, for the Board to provide the Energy Facility Siting Council (EFSC) with the local land use ordinances and criteria that the EFSC should apply to the proposed West Cascade Energy Facility near Coburg. As the appointed Special Advisory Group (SAG), the Lane County Board of Commissioners expressed a desire to involve affected citizens in developing the list of applicable substantive criteria. The Board held a public hearing for that purpose on November 22, 2004, at which time 28 persons testified, and submitted 14 letters in opposition (attached). The record was also left open for additional submittals. Any additional submittals will be forwarded to the Board under supplemental memo(s). This memo presents for the Board's review, a draft letter listing the county's substantive ordinances and criteria, for forwarding to the Department of Energy for use by the EFSC.

The Board may choose to adopt the letter as written, add or delete criteria/comments, or take no action, and let the EFSC determine the applicable substantive criteria and apply the statutory provisions when a SAG does not recommend applicable substantive criteria.

Please contact me at x3734 if you have any questions or comments.

### **Attachments:**

1. Draft letter to DOE containing the substantive criteria list.--2pp (without code enclosures).
2. Email in opposition, L. Kaye--4pp.
3. Letter in opposition, Full Circle Community Farm (K. Jones/K. Pesle)--2pp.
4. Letter in opposition, Oregon Toxics Alliance (L. Arkin)--2pp.
5. Letter in opposition, C. Kinnar--1p.
6. Letter in opposition, J. Wislon/Attorney for Save Our Valley!--3pp.
7. Letter in opposition, M. Smith--2pp.
8. Letter in opposition, D. Smith--1p.
9. Letter in opposition, D. Mordhorst--1p.
10. Letter in opposition, M. Gray--1p.
11. Letter in opposition, K. Lawrence--1p.
12. Letter in opposition, J. Sundquist--1p.
13. Letter in opposition, Lane County Farm Bureau (R. Henderson)--1p.
14. Letter in opposition, League of Women Voters (J. Calvert)--1p.
15. Letter in opposition, J. Broughton--1p.



# Lane County Board of Commissioners

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Bill Dwyer  
Bobby Green, Sr.  
Don Hampton  
Anna Morrison  
Peter Sorenson

December 8, 2004

Michael W. Grainey, Director  
Oregon Department of Energy  
625 Marion St. NE  
Salem, Or. 97301-3737

Re: Lane County substantive criteria for the West Cascade Energy Facility

Dear Mr. Grainey:

Thank you for your letter of August 19, 2004. We appreciate your clarification of the role of Lane County in the state siting process for the proposed West Cascade Energy Facility near Coburg. In response to your letter, enclosed is a list of the substantive criteria that the county considers applicable to the siting of the West Cascade Energy Facility near Coburg. Copies of the cited Lane Code ordinances are enclosed. Should you receive any additional information on the proposed facility, the list could change and we would expect an opportunity to provide additional input to those changes. In addition, we expect to be able to provide further assistance to the Energy Facility Siting Council in determining how the proposed facility complies with the applicable substantive land use criteria.

- a. **Lane Code 16.212(4)(j-i). Criteria for commercial utility facility in the EFU zone.**  
The main facility is located on land zoned for Exclusive Farm Use and will require a Special Use Permit. Because the land is considered High Value Farmland and the proposal is for a commercial utility facility that exceeds 12 acres, an exception pursuant to OAR Chapter 660, Division 4 is required and must be adopted as part of the Lane County Rural Comprehensive Plan pursuant to LC 16.400.
- b. **Lane Code 16.212(4)(f). Criteria for transmission lines and towers through EFU zone.**  
The two transmission lines through EFU zoned land will need Special Use Permit approval under this provision.
- c. **Lane Code 16.244(7)(a). Criteria for structures within flood hazard zone.**  
The proposed housing for the existing pump intake structure is within the FEMA regulated 100 year flood hazard area. A Flood Hazard Special Use permit will be required.
- d. **Lane Code 16.255. Criteria for Temporary Use Permit.**  
The temporary "laydown area" east of the proposed plant will require approval of a Temporary Use permit.
- e. **Lane Code 16.212(10)(c) and (d); 16.253. Criteria applicable to riparian areas.**  
Changes to structures located in the riparian area may require review and approval under these provisions, depending on the nature of the changes. The current proposal may not require any review or approval under these provisions but they are included in case

modifications to the proposed facilities are made that would require review or approval under these provisions.

**f. Lane Code 16.212(3)(f). For creation of wetlands**

Inventoried wetlands are present at the main plant site, and are proposed to be preserved/restored, or enhanced. This action would be a permitted use, provided it is determined that the proposal fits within this code classification.

**g. Lane Code 16.212(3)(u). For changes to the existing Muddy Creek Irrigation District canals and/or water line installation.**

As part of their agreement with the irrigation district, the plant operator may have to make improvements or changes to the irrigation canals. This provision would also be employed should the facility choose to bypass the canals and install water pipelines along public roads (originally proposed, but since withdrawn). These actions would be a permitted use, provided it is determined that the proposals fit within this code classification.

**h. Lane Code 16.212(3)(i). For development within public roads.**

This provision would apply if the applicant chooses to install water pipelines within the right-of-way of public roads (originally proposed, but since withdrawn). This action would be a permitted use, provided it is determined that the proposal fits within this code classification.

**i. Lane Code 16.212(4)(k-k). For cooling ponds and water discharge.**

Cooling of plant water in proposed ponds and its eventual discharge into the irrigation canals or the river will require a Special Use Permit under this provision.

**j. Lane Code 16.250(2) & (3). For parking/loading space.**

These provisions specify the amount of parking and loading areas required for industrial uses.

Since Lane County considers the project application submitted to us to be currently incomplete, we reserve the right to recommend additional substantive standards upon review of a complete application. We also continue to request any assistance you can give to providing funding for the Lane County review effort and getting the applicant to provide complete and clear information to address the applicable substantive criteria identified above.

Thank you for your consideration in this matter.

Sincerely,

Bobby Green, Sr., Chair  
Lane County Board of Commissioners

Enclosures: LC 16.212  
LC 16.244  
LC 16.250  
LC 16.253  
LC 16.255

(These and all other county ordinances are available at the county's website: <http://www.lanecounty.org/>)

**KENDALL Jerry**

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**From:** HOWE Kent  
**Sent:** Tuesday, November 23, 2004 12:41 PM  
**To:** KENDALL Jerry  
**Subject:** FW: Testimony Against West Cascades Power Plant

For the record.

-----Original Message-----

**From:** flashdog@att.net [mailto:flashdog@att.net]  
**Sent:** Tuesday, November 23, 2004 12:37 PM  
**To:** HOWE Kent; GREEN Bobby; HAMPTON Don E; SORENSON Peter; MORRISON Anna M; DWYER Bill J  
**Subject:** Testimony Against West Cascades Power Plant

November 22, 2004

Good evening Lane County Commissioners:

My name is Lisa Kaye and I am the owner of Red Dog Ranch. My address is P.O. Box 8155, Coburg, OR 97408. We raise sheep for handspinners wool and grass-fed lamb sales as well as raising produce and vegetables for our Community Support Agriculture subscription customer families in Lane County. Thank you for giving the opportunity for public input on the West Cascades Power Plant land use issues. I feel it's extremely important to allow the citizens where the plant will be situated a chance to be heard.

We are rapidly loosing high value farmland across the state and the area where this power plant is proposed and the area that will be impacted by the proposed land use changes is some of the highest quality of all. Changing land use from exclusive farm use to an industrial use impacts small farms whose economic viability is often dependent on agri-tourism as well as their purely agricultural products.

My farm is a member of the Oregon Wool Growers Association, a cooperative of small family farms across Oregon and, while I speak tonight as an individual, many small farms from Springfield, Eugene, Lorane, Junction City on up the valley to Brownsville, Albany, Dayton are also concerned about the effects of this plant for three main reasons.

First, for those adjacent to the Muddy Creek Irrigation District channels they are worried about toxic run-off directly onto their pastures and crops. The plant is proposed in the middle of a 100-year flood plain area with a fairly regular incidence of minor flooding. Our property had over 15 inches of water covering all our pastures and fouling our well just this past year. Immediately after this flooding in December we lost one of our prized purebred breeding ewes. Flooding is a fact in this valley. It is a natural component of why our valley is so fertile. Putting a major source of heavy metals and toxic pollutants in settling ponds in the middle of a flood plain that is also the richest agricultural land in the state does not make sense.

Second, small farms are very concerned about the depletion of the aquifer upon which the farms in the Southern Willamette Valley rely for our water, often from very shallow wells of around 25 feet. A dry well means a bankrupt farm. When this concern was brought up to Gary Marcus he sent a letter to Coburg area residents promising to pay to dig a new well for anyone who's well was affected by the drain on the aquifer by the power plant's high water use. He knew there was a valid concern about this

and he was quick to promise anything to anyone to side step objections to the plant. The fact that he didn't have any authority to approve these wells is beside the point. The point is that the draw down on the aquifer is a real and significant concern for the ongoing economic health of the valley.

Third, agri-tourism is a significant component of the marketing plan for many small farms in this area. Open Barns, Shearing Days, Lamb Days various workshops, are all geared towards inviting city folk to come enjoy a day in the country. Even work days for members of Community Supported Agriculture/Subscription Farms where subscribers come out and help weed the garden or plant a fresh plot in the spring are a type of agri-tourism. The draw for this type of income-producing activity is to allow folks to step back in time to a simpler way of life and experience a reconnection with our American rural roots. The fact we live in an area where this is possible just 15 minutes from downtown is a gem we should protect. And with the existing protections of the land use laws it IS protected. Don't throw it away. What is a tourist draw for the entire economy of Lane County will go up in smoke, or should I say smog, if we open the door to industrializing our rich, green, farm valley.

Fourth, a key issue for farmers in the Southern Willamette Valley is the fog that will increase because of the enormous moisture that will be created by the steam turbines of the power plant. And that's not even addressing the harmful particulates that will be in those clouds. As small farmers, many of us raise our livestock (whether certified organic or not) using intensive rotational grazing to maximize the growing season so we can keep our flocks and herds on healthy fresh grass practically year round. Management Intensive Grazing takes a lot more work but the benefits are worth it in healthier flocks needing less deworming, healthier pastures needing less herbicides (if any at all) and less fertilizer because the livestock provide that service naturally. Grass-fed beef and lamb is healthier for people to eat too and can earn a premium price in the marketplace. Many small farmers depend upon that little bit of extra price margin to stay in the black.

The problem is that with more fog and less sun the growing season will be shortened. With every day the grass doesn't grow it costs me because I must purchase hay from elsewhere to supplement what I should be able to be growing on my own farm. Raising sheep is a very, very narrow profit margin business. There are no corners to cut. I cannot afford to have to buy hay to feed my flock for weeks on end only to have them fetch a lower price at market.

These are some of the thoughts going through the sheep and cattle ranchers I speak with. A familiar tag line for several of our Oregon Wool Growers Association is "HARVESTING SUNLIGHT" because that is what we do.... We turn sunlight into grass and grass into wool and into meat, which we then harvest. Take away the sun for a significant time and the 'factory' just doesn't work. The loss of sunlight will impact the larger ranches and farms as much as the smaller ones.

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Beyond these points which I made at the hearing last night as a small farm owner, I'd like to add a few other comments as a resident of the area on Noise & Light Pollution, Air Traffic Impacts at Mahlon Field, the Truck Route for Toxic Chemical Deliveries, Diesel Emissions, Decommissioning Problems Twenty Years From Now, and finally Who Does it Benefit:

#### NOISE & LIGHT POLLUTION

I am very worried about the noise and light pollution from the plant. I live about 2 miles north of Willamette industries plant just north of where the West Cascades Power Plant would be located. While Gary Marcus said that the noise from his plant would not be heard more than a 1/4 of a mile away, I can hear the various thuds and bumps, beeping bells and other noises from the W.I. plant fairly regularly at night.... especially when there is an inversion layer. The noise from the six turbine engines will most

certainly be audible several miles away if not even in the South Hills and Coburg Hills due to the 'bowl' nature of the boot of the valley. The light pollution likewise will be doubly reflected in the low-lying clouds of the greater inversions. Right now from two miles away the glow looks like Autzen Stadium. The West Cascades Power Plant will be larger, taller and brighter. I think I will miss seeing the stars.

#### AIR TRAFFIC IMPACTS AT MAHLON FIELD

I'm also concerned about the effects the additional fog will have, not only on traffic problems on the I-5, but on air traffic at the Eugene airport. Recently I was on a flight from LAX to Medford to Eugene but when arriving in Eugene, though the city was clear, as soon as we flew over the McKenzie River and the I-5 the valley was socked in. We attempted landing twice but had to abort the landing approach both times due to visibility limitations. During our extended flight back to Medford another passenger said this used to happen all the time when the 'wigwam burners' put all their steam in the air. Is that what we will be looking at again? A twenty minute flight from Medford turned into 5 1/5 hours as we were rerouted, had to wait two hours at the airport before getting on a 3 hour bus ride back to Eugene. What are the economic impacts of diverted flights on a regular basis?

#### TRUCK ROUTE FOR TOXIC CHEMICAL DELIVERIES

The toxic chemicals and diesel fuel that will have to be transported along rural Lane and Linn County roads are of great concern to me. The West Cascades Power Plant proposed location is on North Coburg Road that is a narrow two lane rural road. The initial proposed route for the chemical tankers was to go through the Historic Town of Coburg and past the city's elementary school before heading north. After complaints were made about the safety of this route, Gary Marcus proposed that the trucks would take the northern way to the plant and head south down North Coburg Road from Diamond Hill. While this does take 90% of their route out of Lane County, there are three major "S" curves along this northern route, at least one of which has at least one or two major accidents a year in the middle of a residential section.

#### DIESEL BACKUP...

What happens when natural gas as the power source becomes too expensive? The plant is designed to be retrofitted to burn diesel fuel. Will the plant have to go through rigorous environmental studies to be allowed to switch over to diesel use? How much of the time will it be allowed to burn diesel? All of the numbers I've seen have been projected on natural gas. Isn't diesel a much dirtier, more toxic fuel? Why haven't we seen any emissions projections for the plant when it's burning the diesel fuel?

#### TWENTY YEARS FROM NOW...

I do not trust that once the plant had outlived it's profitability (which Marcus estimated to be about 30 years) that the owner at that time will truly decommission it in a way that does not leave Lane County with either a toxic mess and/or an industrial eyesore. If we thought the railroad left a problem, or that Baxter has created a toxicity problem, just wait.

#### WHO DOES IT BENEFIT?

The bottom line is 'why'. We don't need the power. We certainly don't need the pollution. It won't bring in lots of jobs to the economy. Why break our own land use rules for something that won't benefit the County residents or Oregon residents. We need to have you as the Lane County Commissioners take a strong stand to protect our natural resources, our scenic and historic areas and our open spaces and ultimately, our citizens.

For these and the many other concerns brought up by others including the dire health and toxicity issues, please send the strongest message possible to the EFSC that the West Cascades Power Plant does not belong in the Willamette Valley.

Thank you,

Lisa Kaye  
P.O. Box 8155  
Coburg, OR 97408

Full Circle Community Farm  
4740 Wendover St.  
Eugene, OR 97404

To the Commissioners:

Thank you for taking time to hear from us. We run Full Circle Community Farm, a well-known organic farm on the Urban Growth Boundary of Eugene. We grow vegetables, fruits, herbs and flowers, keep dairy cows and chickens and sell milk and eggs. All this has fed thousands of people during our ten-year history. We also teach on-farm education through the 4J school district and independently. The impact of such a big power plant just a few miles directly North of us is going to be large. Emissions from the plant coupled with steady summer wind from the North and our valley's winter air entrapment will significantly impact our farming practices, our outdoor lives, our educational programs, and the sole economic basis from which we derive our income. 900 megawatts is a lot of power generation, and nothing big comes without a big impact!

We use electricity and understand the need for it. We breathe air and we understand the need for clean air. For me, living in a valley known for air/smog containment, there is no question whether or not this is the correct way for us to generate electricity. When I consider its water usage, the toxic chemicals used and released it's clear there are safer ways to meet our own and our nation's power needs. If the applicant is set on this form of power generation, I believe they should look to places with abundant water and a smaller air pollution risk.

We have these specific concerns:

- Emissions-as they relate to ourselves, our livestock and our crops. Based on emissions data showing 1,200 tons annually of nitrogen oxides, sulfur dioxide, heavy metals, and carbon monoxide (360 tons of which are 10 microns and smaller)

As you may know, standards for organic farming are rigorous and require a high degree of soil and plant health measured by plant tissue and soil testing. I do not believe that when laws were written governing the siting of energy facilities on farmland they were addressing the threat to organic farmers. Organic farming relies on balanced ecosystems to provide for optimal plant and animal health. Without the aid of pesticides, herbicides and commercial fertilizers, a fully functioning ecosystem is essential to our organic operation. The proposed site is due North of us. Summer weather brings a steady North wind that would carry emissions and particulate from the site directly to us all summer long as the food is developing in the fields. This is made evident by rye grass burning to our North where smoke plumes rise hundreds of feet before engulfing us in smoke and particulate. The pasture and hay grasses that nourish the grass fed cows all year long are consumed in great quantities. Body fat, a sponge for many toxic chemicals, is considered an especially sensitive indicator of exposure to persistent environmental contaminants. Jersey cows milk, at 6% fat (twice that of human milk) carries high concentrations of fat-soluble contaminants. These pollutants are carried by the blood through the body to the mammary glands and exhibit themselves in the milk. What



studies has the applicant provided to guarantee the health of these animals and the central economic role they assume in our farming practices? The complete loss of our annual produce and milk income would total \$30,000.

A slight change in soil chemistry can drastically affect what variety of plant life thrives in a particular area. Given that 1,200 tons of emissions will be emitted annually to fall back to Earth without regard to borders drawn on paper I believe we can not reasonably expect that there will be no negative impacts on the surrounding area. The costs of repeated soil amending and testing to accurately assess the level of particulate polluting our farm is prohibitive( \$5,000).

In addition to our farming, we conduct extensive on-farm educational programs. Everything from classes for students weekly the entire school year to field trips to young farmer internships are conducted out of doors. We have numerous students hampered by asthma and respiratory conditions. They depend on the clean air they breathe while schooling with us. Should these students find that they could not participate in our programs, our operation would suffer serious economic effects (\$10,000)

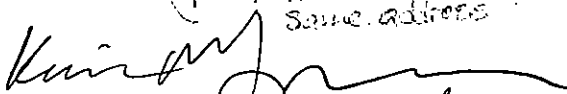
Our neighborhood supports many roadside produce stands that depend upon the nature of our farming community to help sell the products. 195-ft. smokestacks belching out emissions could reasonably be expected to diminish a customer's confidence in the food products offered and correspondingly diminish on-farm sales (\$5,000)

- Water usage

Our farm and most of the agricultural operations in our area irrigate from ground water. Although this plant is planning on using surface water for its operations, we are concerned that the local hydrology will be dramatically affected by the considerable amounts of water they will be drawing from local waterways. Ground water and surface water are intricately connected. Changes in surface water levels can affect the flow of underground aquifers, causing them to drain and fill the void left by the change. Should the water table change in our neighborhood, we and all our neighbors would suffer extreme economic hardship. Our 20 ft deep well has never run dry in even the driest of years making obvious its river source origins. A dry well represents one year's lost annual crops (\$25,000) and perennial crop damage (\$10,000) as well as animal related losses (\$10,000) and the cost of digging a new well (\$25,000).

The losses to our farm would lead to our inability to continue farming. Our income is small which makes our economic balance easily disturbed. We are one of many small organic farms in our area. National market trends show that organic foods are the fastest growing sector of our agricultural economy. Now is the time to stop the conversion of farmland to non-farm uses. This rich resource should not be squandered for the short-term gain of a few. It is an invaluable and irreplaceable resource that needs and deserves our protection so that we can be fed generations from now.

Kevin Jones

(for Kari Perle also)  
Same address  
  
1740 Wendover St  
Eugene 97404

P.S. Please consider review of  
Lane Code 16.2124 j-j  
and 10 f + g

I believe they are applicable  
to this proposal and our  
farm's impact. Thank You

Date: 11/22/04

To: Lane County Board of Commissioners and Lane County Planning Staff

From: Lisa Arkin, Oregon Toxics Alliance

Re: Substantive Applicable Criteria in the Land Use Application of West Cascade Energy Facility

The Commissioners should interpret the Land Use Code for the following criteria:

**Lane Code 16.212 (4) k-k**

*Allows for the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed by LC 16.212.*

WCEF will discharge industrial processed water that is mineralized and contains chemicals that are not compatible with agricultural use on EFU land. According to the application in Exhibit O-3, this water will be stored in holding ponds and then discharged to the Muddy Creek Irrigation Canal. As much as 347 gallons per minute of water could be discharged to Muddy Creek. This chemically-treated water will thus enter the agricultural irrigation system where it will mix with water intended for agricultural use. Some discharge water will also be used to water plantings.

I ask the Board of Commissioners to determine if 16.212 (4) k-k will apply to the land use application because industrial discharge water will be applied to agricultural lands through retention ponds, plant watering, and large amounts of discharge to Muddy Creek. Irrigation water from Muddy Creek would then constitute a land application of reclaimed water.

**Lane Code 16.212 (4) j-j**

The major two thrusts of **Lane Code 16.212(4) j-j** are that any exception to Lane County's land use code must be compatible with adjoining farm existing uses. The approved land use must:

- i. Not cause a Significant change in the farm practices
- ii. Not cause a Significant change in cost of farm practices

I ask that the Board of Commissioners specifically interpret the code to cover organic farming practices. Organic farming is a burgeoning industry in Lane County and the sale of organic produce contributes to our economic base. The rigorous standards of organic farming are legitimate farming practices. A gas-fired power plant may cause a significant change in organic farming practices because chemical fall-out may cause organic certifying agencies to disqualify a farm. This situation could result in a loss of organic certification. The County must point out to EFSC that land use criteria must encompass these stringent farm practices that apply to organic farms in the vicinity of the proposed site.

NOV 22 2004

- 2/18

A second criteria under EFU is **Soil Protection**. The Commissioners must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

Not only should the County provide a list of significant applicable land use code; it also has the authority to give the EFSC its interpretation of those criteria. Interpretations of code must include consideration of how a large power generating facility on EFU land may significantly disrupt conventional and organic farm practices and business practices and cause adverse economic impacts that relate to the unique character of rural historic Coburg and its surrounds.

Walter Kinnear  
91717 N. Coburn Rd  
Eugene, OR. 97405

I have concerns and questions -  
I live within a mile of the proposed site  
across the road from the raising. They will be impacted!  
I have ~~questions~~ questions about my property value.  
I have six varieties of apples, 2 varieties of cherries,  
2 varieties of plums, 2 varieties of pears & 1 fruit tree  
4 varieties of berries, apricot, grapes, & 2 vegetable  
gardens. I eat from them & so does my family &  
friends, ~~then~~ I will lose my property if  
the Power Plant is sited. It will have no value?  
How am I impacted with Measure 37?

Walter Kinnear  
Nov 22, 04

? goals

**Jan Wilson**  
*Attorney at Law*  
*Environmental & Land Use*

1260 President St.  
Eugene, OR 97401

(541) 341-1380  
jswilson@efn.org

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To: Lane County Board of County Commissioners  
Regarding: Land Use Criteria for West Cascades Energy facility proposal  
Date: November 22, 2004

Thank you for this opportunity to comment on the identification of local land use criteria. My client, Save Our Valley!, is a group of area residents, farmers, and business people who are concerned about and most likely to be impacted by the proposal currently pending before the Energy Facility Siting Council (EFSC).

We are concerned that the incomplete nature of the application, as county staff and EFSC have already identified, limits our ability to evaluate which local land use criteria would be applicable. However, at this time, we offer this list, with the caveat that, should the proposal change in any appreciable way, the criteria for the land use decisions could also likely change. We hope the county will include the same caveat in its comments to EFSC. Some (in fact, most) of these criteria have already been identified by county staff in previous staff reports, but we include them here for completeness sake.

Special Use permits for uses in EFU zones:

LC 16.212(4)(j-j) for main facility; LC 16.212(4)(f) for transmission towers. Both provisions also reference the requirements of LC 16.212(10)(f) and (g).

LC 16.212(4)(j-j) requires a "reasons exception" for statewide land use goal 3 (for high value farmland), which invokes state statutes and regulations (i.e., OAR 660, Division 4; ORS 469.504, which, in turn, invokes all the statewide land use goals). As a "major amendment" to the rural comprehensive plan (as defined by LC 16.400(8)(a)(ii)), the exception again invokes all of the statewide land use goals. (Note also that, under ORS 469.503(4) and OAR 345-022-0030(1), EFSC is independently obligated to make findings of compliance with all the statewide land use goals.)

LC 16.212(10)(f) and (g) invoke previous interpretations of those provisions, especially those involved in Lane County's analysis of the Eugene Sand & Gravel application a couple of years ago (see 44 Or LUBA 50 and 189 Or App 21). EFSC should understand that neighboring farm uses near the proposed facility site include the growing and processing of especially sensitive crops, dairy and other livestock operations, and the bottling of water (permitted as a special use under LC 16.212(4)(n)).

LC 16.212(4)(i) and 16.212(4)(o) for some public utility uses that are not within the permitted use definitions (see below). These invoke the additional requirements of LC 16.212(10)(f), (g), and (j).

LC 16.212(4)(k-k) for any land application of industrial process water.

Permitted Uses in EFU zones:

LC 16.212(3)(f) for creation, restoration and enhancement of wetlands; LC 16.212(3)(i) for placement of utility lines in public road right-of-ways; LC 16.212(3)(u) for irrigation canals; LC 16.212(3)(v) for some types of utility service lines. However, to the extent that the proposal encompasses uses outside these narrow definitions, other provisions of the Lane Code may apply – for example, LC 16.212(4)(i) requires a special use permit for utility facilities necessary for public service, including wetland waste treatment systems, LC 16.212(4)(o) requires a special use permit for some roadside pipelines, and LC 16.212(4)(k-k) requires a special use permit for land application of process water.

Facility Permits:

LC 15.205 – 15.210 for any development or activities in the right-of-way of a County Road. The applicant previously applied for four facility permits for water lines; however, those permit applications have since been withdrawn, and it is not clear if or where water lines are planned. In fact, much about the water delivery plans remains unspecified in the applications, and this is one area in which the caveat regarding the potential for identification of additional criteria upon submittal of a more complete application is especially warranted.

In addition, if it turns out that the water or electric transmission line locations fall within the jurisdiction of the City of Coburg rather than the county, additional or different city criteria may apply, and EFSC should be advised to consult with Coburg as well as the county to obtain a complete list of potentially applicable local land use criteria.

Development requirements:

LC 16.212(10) for setback, sign, and vegetation requirements for development in EFU zones. To the extent that the application proposes uses for land zoned other than EFU, different development requirements may apply.

LC 16.250 for parking area requirements.

Flood zone permits and riparian requirements:

LC 16.244 for the pump intake structure within the FEMA 100-year flood hazard area; LC 16.253 for riparian modifications; LC 16.212(10)(c) and (d) for riparian setbacks and vegetation requirements within the EFU zone.

Temporary Use permits:

LC 16.255 for temporary (during construction) uses.

Site review procedures:

LC 16.257 for uses not already reviewed as a “special use.”

Measure 37 implications:

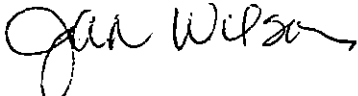
ORS 197.646 requires local jurisdictions to amend their comprehensive plans to implement "new or amended . . . land use statutes." Until jurisdictions do so, the new or amended law is directly applied to land use applications, under ORS 197.646(3).

Ballot Measure 37 has not yet been incorporated into Lane County's rural comprehensive plan, so it must operate as an independent land use criteria. In fact, ORS 469.504(b)(A) makes "any land use statutes directly applicable to the facility under ORS 197.646(3)" a specific criterion.

It's not clear how Measure 37 could impact this application. The landowner is not the applicant – the applicant merely holds an "option" to the proposed site – so it would seem that the landowner would have no claim for compensation or waiver of any regulations that have been put into effect during the substantial period of time the current landowner has held the property. However, the county should make an inquiry into the potential for claims and document its interpretation for EFSC or, at the very least, apprise EFSC of the possibility of and potential for a claim.

Again, we thank the Board and the county staff for their diligent work so far. We look forward to offering further testimony on the impacts of the proposed development in the future.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jan Wilson".

Jan Wilson, for Save Our Valley!

11/22/04

Dear Commissioners

We own 5 acres on Stallings Lane - about 1½ miles from the proposed site. (Black Hills)  
The number of small acre parcels in the County is limited and they should be preserved and protected.

The assertion that Black Hills would be adding "wetlands" doesn't alter the fact that they would be adding tons of pollutions to the air we all breathe.

- A power plant is not a good fit with surrounding uses. It will ~~to~~ consume far more water than any other use in the area. Many landowners, including my family have a shallow well. If the proposed use is granted our water table could be adversely affected.

In 1977 my husband + I purchased the "ultimate fixer-upper." People asked if we were going to burn down the house + put a mobile home on the land. Instead over many



years and much money we rebuilt and remodeled the farmhouse, constructed a pottery studio, planted a filbert orchard (350 trees) as well as 100's of native trees, shrubs and several gardens. This "place" is our nest egg which surely would suffer in value if a huge power plant were erected nearby.

Coburg should not have the potential to become the next "love canal" because an "outside interest" wants to take advantage of the areas resources (water). Developing the site for such a high impact use that benefits residents of other states and for the profit of Black Hills is inconsistent with land uses in the surrounding area. I urge you to vote no to this proposal.

Sincerely,  
MaruAnne Smith

To: Lane County Commissioners.  
Re: Coburg Power Plant.

This is a letter from the very heart of a man and family who have tried their best to become all that they could be in life. With the help of Lane County back in the mid 1970's we purchased a property just north of the City of Coburg, not just any property but the ultimate fixer-upper, no foundation or plumbing to speak of. In fact the asset evaluation of our property was less then \$29,000 at the time. I want all the commissioners to know that WE THE PEOPLE supported the planning and vision of Lane County through the years. It was the Planning of a Community that supported small cities, adjacent to small 5 and 10 acre parcels, adjacent to large farm and forest land. So WE THE PEOPLE of north lane county, the ones that have put all of their energy into changing, and developing along the guide lines set by Lane County, and who are now paying property taxes 10 times the value, are about to be betrayed by our commissioners, if they allow someone from another state to take our resources and leave us with the 1000's. tons of air population.

If my memory is correct the largest air polluter in Lane County is the Springfield Weyhauser Plant, if this plant goes through it will be the second largest polluter in Lane County. I hope that the commissioners are aware that not 100 Yards from this proposed site for Coburg Power is another Weyhauser plant. What would the commissioners do if they asked to increase their level of population and expand in the future?

We do not need this power. Just because our federal government does not support changing our source of energy does not mean that it cannot happen. Wind Power is coming, Plug Power is now alavable in the form of small neighborhood generators which use much less power and is generated locally. Why would you who stand for us WE THE PEOPLE turn your back on us, and allow some other state to take our natural resources in the form of water, (5,000,000 million gallons a day) land 170 plus acres of prime agricultural land, and millions of cubic feet of natural gas every day. Only to leave us with over 1000 tons of air population...this use needs to be denied because it is not proposed in a suitable location, it is a waste of prime land and the pollutions would have far reaching negative impacts.

Sincerely,  
Dan Smith  
91508 Stallings Lane  
Eugene, Oregon 97408  
Nov. 22, 2004

## NATURAL GAS CRISIS

Dean Mordhorst

11/22/04

This crisis could make the establishment of a natural gas fired generator in our area a mistake of immense proportion. A. A waste of land and investment. B. A burden on the community instead of a mitigation of our energy resources. C. A delay in moving in the direction of renewable energy sources.

1977 Jimmy Carter puts voltaic cell panels on the White House. Reagan tore them down saying "This is morning in America." Carter had said. "The energy crisis has not yet overwhelmed us but it will if we do not act quickly."

2003 Alan Greenspan , "Natural gas shortages in coming years could undermine the US economy".

Beginning in 2001 the USA used more natural gas than was discovered. This continues.

2003 the US came within days of blackouts ( 60% of electric generation is currently from natural gas) and heating shutdowns. Only a mild winter saved us.

Matt Simons, energy banker, and Andrew Weissman said , "the system is heading for disaster."

Nuclear power and coal fired generation alone will condemn our planet to more global warming.

A modest sized gas fired generating station of 500 megawatts uses 80 million cubic of natural gas per day. If we want home heating this is the wrong direction to go .

We cannot depend on Liquid Natural Gas freighters , although a port is being planned in the Coos Bay area. It will be shipped from Arabia or Indonesia after being cooled to 150 degrees below zero. Such cooling costs bucks. Delivered to USA and somehow downloaded. But who can afford it?

The county should abhor any use of land which is wasteful and work actively for "no house without voltaic panels". It should encourage farmers and exurbanites to erect small windmills to water stock or supply home water tanks for gravity feed water supplies. Et cetera Et cetera

NOV 22 2004

November 22, 2004

Lane County Commissioners

Re: Public Hearing 11-22-04

The West Cascade Energy Natural Gas-fired Power Plant  
Black Hills Corp. South Dakota

I respect my County Commissioners and I expect  
them to reject the revised Land Use Application  
of Coburn's Power Plant on our Natural Resource  
Farm Land, and Water Supply -  
This is very Important To Reserve Farm Land  
for Lane County and not destroy our McKenzie River  
Water Supply -  
Sincerely,

Marie Gray  
353 Knop Lane  
Eugene, OR - 97404  
688-5365 -

November 22, 2004

Dear County Commissioners,

I live in Eugene and am a consumer of fresh produce that is grown in the local area, especially in the River Road area. I am very concerned about the potential impact of the natural gas-powered energy plant that is being considered for the Coburg area.

I strongly urge you to carefully consider the impact such a plant may have on air quality, especially south of the potential plant. The winds in this area run due south, so we in the River Road area would be particularly affected.

I believe that there is a strong potential for the quality of the home-grown and farm produce in the Eugene area to be affected by the effluents from the power plant. This could have an effect on the health of people who eat out of their own gardens or buy their produce from local farms, and will eventually affect the livelihood of many farmers.

I raise wonderful raspberries for my family in my own backyard, (and would be happy to give you a sample). The quality of life in Eugene is still quite high, and one of its measures is the ability to have wonderful gardens and purchase a wide variety of high quality locally grown food. This is a matter of concern for many people who live in this city. Please do not consider it a small matter.

Sincerely,

A handwritten signature in cursive script that reads "Karen".

Karen Lawrence  
4752 Wendover  
Eugene, OR 97404  
607-0782

John Sundquist  
31139 Lanes Turn Rd.  
Coburg, OR 97408  
Nov. 22, 2004

TO: Lane County Board of Commissioners

RE: Incompatibility of proposed Coburg power plant with surrounding uses.

My family owns and operates a 33-acre farm located less than 3 miles west of the proposed Coburg power plant site. We have been organic since 1983. My concerns about siting the plant on EFU zoned land relate mainly to LC 16.212(4)(j-j), and specifically to the included requirements of LC 212(10) (f) through (g).

16.

These are: (f) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use.

And (g) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

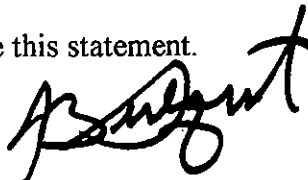
Our farm has several sources of farm income, including a retail farm stand; u-pick fruit, vegetables, and ornamentals; a bamboo nursery; vegetable and flower seed production; and fresh-market sales of fruits and vegetables. We also rent out garden space to gardeners who grow for market and personal consumption. Numerous school tours visit our farm throughout the year, and also other groups and individuals interested in sustainable agriculture. I think all these income sources will be adversely affected by the proposed plant.

Our farm sales involve customers who are interested in organic produce, but non-organic farmers in the area feel the same as I do. We don't want or need a noisy, smelly, polluting power plant in our area.

All local farm practices will be affected by pollution from the proposed plant. The fogging from the plant will reduce the amount of sunshine reaching our crops, increasing the amount of time to maturity for many varieties. The noise and smell of the plant, the ugliness of its stacks and plume, and the effect of the fogging and winter ice pellets on highway safety will all have an effect on the willingness of customers to visit the area and stop at our farm.

All these effects of the proposed plant will force significant changes in our farm practices and will significantly increase our costs. The southern Willamette Valley is the wrong place for a plant like this.

Thank you for the opportunity to make this statement.



Lane County Board of Commissioners  
November 22, 2004

#### LANE COUNTY FARM BUREAU OPPOSES COBURG POWER PLANT

The Executive Board of the Lane County Farm Bureau has voted to oppose the proposed Coburg power generation facility. The continuing erosion of the agricultural land base is a threat to the long term sustainability of the agricultural industry in Lane County. The lack of local input into the decision making process by circumventing the County Commissioners in favor of the Oregon Energy Facility Siting Council is also very troubling.

Of further concern to the agricultural community are the competition for available water and the competition for the air quality with the proposed power plant. It would seem prudent to accommodate existing and established industries that directly benefit the local labor force and economy. For one company to utilize such large quantities of water and add such a large burden on the air quality for the addition of only about thirty jobs does not seem justified. With continued growth, constraints will most certainly be required of existing industries simply to maintain acceptable levels of resource consumption.

It is our contention that Statewide Planning Goal 3 and 5 would be violated if this siting were to take place. Incompatibilities with agricultural practices occur when non-agricultural land uses occur adjacent to farms. Agriculture contributed nearly 3.5 billion dollars into the State economy and Lane County's portion of this was in excess of 106 million dollars.

Protect this sustainable economic engine by maintaining an agricultural land base.

A handwritten signature in cursive script, reading "Randy Henderson". The signature is written in black ink and is positioned above the printed name and title.

Randy Henderson  
President, Lane County Farm Bureau



**LEAGUE of WOMEN VOTERS® of LANE COUNTY**

81 E. 14th Avenue, Eugene, OR 97401

541.343.7917 Fax 541.343.7917 e-mail [league@lwvlc.org](mailto:league@lwvlc.org)

November 22, 2004

TO: Lane County Commissioners

FROM: League of Women Voters of Lane County  
Janet Calvert, President  
1062 Woodside Drive  
Eugene, OR 97401

Thank you for providing the public the opportunity to comment on the important land use issues that are created by construction of a 900 megawatt natural gas fired plant that is proposed by the Black Hills Corporation. We regret that the scope of today's public comment is limited to land use. There are the many impacts that a power plant of this size may have on the most populated areas of Lane County.

The proposed site has been zoned as Exclusive Farm Use for many years and has been actively farmed long before land use regulations. It is historic and high value farm land. We feel that enacting exceptions to Lane County Rural Comprehensive Plan should be done judiciously in order to prevent future inroads into agricultural land, especially high value agricultural land. Such farm land cannot be created when a shortage occurs.

The intrusion of twin 195 foot towers and six 90 foot towers, other additional large buildings and construction of additional powers lines is contrary to State Goal 5. This goal addresses natural resources, open space, scenic and historic areas. The proposed plant would detract from the scenic and open space vistas that are becoming more important as the urban area grows and becomes more dense.

We question the need for this very large an energy generation plant when balanced against the removal of productive high value farm land. Should an exception to Lane County's land use laws and the State Land Use Goals be granted for construction and operation of a energy producing facility with no firm or identified users?

We also question if Muddy Creek Irrigation District's ditches and canals are the appropriate mechanism to carry a continuous flow of water from the McKenzie River to the plant and then the discharge of warmer water from the plant into the Willamette River. During the rainy season will this water flow increase flooding of the farm land?

We appreciate your willingness to address these difficult issues surrounding your limited role in advising the State Energy Facilities Siting Council.



## Land Use Mtg.

Lane Commissioners:

To a farmer or gardener, "land use" encompasses a lot more than the soil he or she is working. For his endeavors to be successful, he must apply proper amounts of lime, fertilizer, and irrigation for his plants to grow and produce, and he must apply these at the proper times for maximum yield and efficiency.

He or she relies on adequate sunlight, rain and weather to enhance this growth.

Now, if they live within the 1 ½ mile radius of the proposed plant, when it's operating, they will be subject to "deposition" or better known as dry rain fallout from the plant, greatly acidifying the soil, roots plants and trees, plus any streams or bodies of water within that area. Well, we have both the Willamette river and muddy creek irrigation canals and stream within that radius, affecting locals as well as those farmers and water users further downstream!

Now imagine you have a nice orchard in Lane, Linn or even Benton counties, depending on wind conditions and directions, and in a "worst case scenario" per West Cascade application, prepared by CH2M Hill, ...ACID RAIN could occur, (this occurs when plant pollutants combine sulphur dioxide and nitrogen with atmospheric moisture to create sulphuric, nitric and carbonic acids. This combination could ruin your apple crop, or your berry crop, it even could do major damage to hazelnuts !! If you lose your crop, and can't pay your debts, you are forced to sell...NOW WHAT IS YOUR LAND WORTH ??

This plant goes to the heart of "liveability" as well as productivity for a large part of this valley. It will adversely affect land values and crop values for almost all of us in this end of Lane county.

I don't think Coburg, and Coburg area agriculture can afford or condone such an operation as West Cascade to locate here.

Thank you for your time and consideration.

C.W.(Jim) Broughton

32782 E. MILL

Coburg, Or. 97408