

# Energy Department and council under fire for cutting out public

By TED SICKINGER

The Oregonian/OregonLive

The state panel responsible for siting large energy facilities is under fire for adopting rules that conservation groups and others say will limit transparency and cut the public out of decisions.

A group comprising nine conservation organizations is petitioning the Oregon Supreme Court to overturn rules the Energy Facility Siting Council and the Oregon Department of Energy adopted in October.

The groups contend those rules, which govern amendments to site certificates, block citizens from challenging new and expanded power plant expansions by unlawfully allowing Energy Department staff to decide which applications get public hearings and which can be formally contested by the public. They also say the rules illegally modify judicial review procedures, prescribing who can seek a court review of agency decisions and how.

The Department of Energy staffs the council, writes the rules and administers them. Todd Cornett, who oversees that staff, said the new regulations were adopted to enhance public participation and rein in review time. He said amendment requests received by the council are getting more and more complex, and reconciling those two goals was a constant balancing act.

But critics contend the council and Energy Department ignored all their suggestions in drafting the rule revisions. The results are so out of whack, they say, that they'd prefer to scrap them altogether and go back to those in place before October.



Photo contributed by Sara Quinn.

**Willa Wallace, a tribal activist from Pendleton, testified in May during a special hearing before the Oregon Public Utility Commission in Portland, speaking out against expanding the natural gas-fired Carty Generating Station.**

"The rules were bad then, and they got worse from there," said Nathan Baker, senior staff attorney for Friends of the Columbia Gorge. "They went 180 degrees in the opposite direction from where they started."

In the end, critics say it's another example of the dysfunctional Energy Department ignoring the public interest, interpreting rules and statutes unlawfully, and cozying up to the industry that pays its bills.

Their complaints have caught lawmakers' ears. A bipartisan committee that met last year to consider restructuring or dissolving the Energy Department contemplated a variety of changes to improve transparency and public input in the siting process. But the committee was dissolved before reaching a consensus on recommendations.

Sen. Alan Olsen, R-Canby,

is now chairing a workgroup to address those concerns.

"We all know the DOE is a mess, and it has been for years," he said. "We want to go over the entire process of the Energy Facility Siting Council, and hopefully come up with some legislation for 2019 that will make the dang thing work for everyone involved."

The siting process has been controversial for years. For one, conservation groups say the council and the Department of Energy have consistently allowed developers and utilities to expedite regulatory reviews by categorizing major new facilities as amendments to existing site certificates.

The council and Energy Department staffers have allowed developers to build big wind farms and a pipeline as amendments to existing site certificates. Likewise, Portland General Electric applied to build

two new gas-fired power plants in Boardman as an amendment to its existing site certificate there rather than applying for a new one.

A new site certificate requires more information, a more exhaustive analysis, and automatically affords anyone who comments on the application the opportunity to contest the council's decision before a hearings officer, albeit one hired by the Energy Department.

Moreover, critics say, the council and Energy Department routinely deny public requests to contest the council's amendment decisions.

Irene Gilbert, a La Grande resident and researcher for the Friends of the Grande Ronde Valley, has opposed numerous wind farms in Eastern Oregon based on their impacts on wildlife, wetlands, noise levels, and their visibility from towns or areas designated as wild and scenic.

She says the council, at the recommendation of the Energy Department, has denied every one of her requests for a contested case. By her count, the council has rejected more than 80 requests for contested cases and not granted a single one.

The new rules are almost a complete rewrite of the previous ones and provide for three types of reviews, without standard criteria for determining which one applies.

The first is for complex projects, and grants an automatic public hearing. But it eliminates an early public comment period before Energy Department staff issues a draft proposed order. Critics say that removes the opportunity to identify and resolve problems early in the process, and would potentially result in one-sided proposed orders that only consider the applicant's

positions and not the public's.

The first process allows the public to request a contested case, the groups say, but limits who can make those requests and how.

The second is for less complicated amendments and eliminates public hearings or the opportunity for the public to contest the council's decision altogether. The groups worry that applicants will use that process for streamlined reviews of their projects, and that Energy Department staff has the discretion to determine which process applies.

The third process is for "emergency" situations, and allows the council to issue a temporarily amended site certificate, allowing the developer to move forward, then go back and start the standard or expedited process. Public involvement, in this instance, only comes after the fact.

Cornett said none of the conservation groups has expressed concerns based on real experience. The council has only received one amendment request since adopting the new rules and it was under the standard process.

"Is it working for the public or for the site certificate holder?" he asked. "We'll have that information in a year or two, whether these new rules are working or not."

The conservation groups and others say they already know the answer.

"We think this is a huge step backward, otherwise we would not be challenging it," said Dan Serres, conservation director for Columbia Riverkeeper. "I know there's a new leader at DOE. Maybe this is an opportunity for the department and the council to dig a little deeper into the siting process. That's certainly what we're hoping for."

## Report: Increase of wolves not hurting deer, elk numbers

By DON JENKINS

EO Media Group

Wolves are not noticeably reducing the number of deer and elk in northeast Washington, according to an assessment by the state Department of Fish and Wildlife.

The study, which was completed a year ago but only released Dec. 8, found that hunter success suggests herd populations are stable, even where there are many wolfpacks.

"This is not a conclusive statement that there are no impacts, but from the harvest data, we're not seeing an indication," WDFW wolf policy coordinator Donny Martorello said Thursday.

Wolves are a state-protected species, but WDFW's wolf recovery plan allows the department to cull packs if wolves reduce deer and elk herds or harvests by 25 percent.

WDFW authorized the assessment in its current game management plan, partly because of public interest in whether wolves are reducing the prey base, a question of keen interest to livestock producers and wolf advocates, as well as hunters. Martorello said that he only recently learned of the study and wanted to make it available to the public.

WDFW Game Division Manager Anis Aoude said that the study was an internal report and not publishing it earlier was an oversight. He said he believes the findings are still current.

The assessment looked at deer and elk herds throughout the state, as well as moose and bighorn sheep.

WDFW researchers largely relied on hunting trends through 2015. "Using the data at our disposal, none of the ungulate populations in this assessment appear to show clear signs of depredation," according to the report.

Hunters Heritage Council President Mark Pidgeon, a member of WDFW's wolf advisory group, said the report conflicts with hunter anecdotes.

"They're telling me the opposite," he said. "They're tell me horror stories about northeast Washington."

Some 17 of the state's 20 wolfpacks are in four north-east counties. The state's

**"The two (wolves and ungulates) have lived together for millennia."**

— **Tim Coleman,**  
Kettle Range  
Conservation Group

wolf population grew by 32 percent in 2015 and 28 percent in 2016, according to WDFW. State officials say they expect the growth to continue at that pace.

Cattle Producers of Washington President Scott Nielsen, a northeast Washington rancher, questioned whether the assessment reflects the current state of the prey base for wolves.

"There are going to be damn few people around here who believe it," he said. "We've had a 30 percent increase for the last two years."

"When their native prey base gets difficult to get, that's when they move to cows," he said.

According to the WDFW assessment, population estimates of white-tailed deer in the rugged northeast corner of the state are not practical. But ground surveys provide a rough estimate of population trends. Along with harvest data, the surveys indicate the deer population is increasing, even though the area had nine wolfpacks when the report was written.

"It doesn't surprise me because of what I see on the ground," said Tim Coleman, executive director of the Kettle Range Conservation Group.

Coleman, also a member of WDFW's wolf advisory group, lives in northeast Washington and said he spent a lot of time camping in the region this summer.

"I'm not seeing much of a change in the ungulate population," Coleman said. "The two (wolves and ungulates) have lived together for millennia."

WDFW started a long-range study last winter to take a deeper look at how wolves are affecting deer and elk in northeast Washington. The study includes putting radio collars on deer and elk where wolves roam and see happens to them.

"This is an ongoing thing for us," Martorello said. "Looking at harvest data is just one indicator and likely not the best indicator."

## Plans for Snake River salmon, steelhead released

By KEITH RIDLER

Associated Press

BOISE, Idaho — Authorities have released recovery plans for federally protected Snake River chinook salmon and steelhead intended to make sure each species is self-sustaining in the wild.

The final plans released Tuesday by National Oceanic and Atmospheric Administration Fisheries include spring and summer chinook, fall chinook and steelhead. Authorities listed the three runs as threatened in the 1990s.

On a larger scale, the documents will be used by NOAA Fisheries to develop a biological opinion in late 2018 that will direct how federal agencies operate 14 federal dams in the Columbia River Basin to protect salmon and steelhead.

The documents will also be used in creating an environmental impact statement, or EIS, by other federal agencies and ordered by a federal judge in 2016 concerning the 14 dams. The court ruled that the U.S. government hasn't done enough to improve Northwest salmon runs and ordered the environmental review that's due out in 2021, urging officials to consider removing four big dams on the Snake River.

NOAA Fisheries in the documents released Tuesday evaluates dam breaching but doesn't take an official position. In general, the documents say removing the dams could improve runs but by how much varies based on complex factors.

The salmon and steelhead that are the focus of the documents are part of a commercial and sport fishery, and are also important to tribes in the region that hold treaty rights.

In general, federal officials said during a conference call Tuesday, fall chinook are doing better than spring and summer chinook and steelhead.

"We are really on track to recover (fall chinook)," said Ken Troyer, Snake River Branch chief for NOAA. "The challenges are greatest for spring and summer chinook and steelhead."

The 366-page fall chinook plan identifies three main strategies, and



Pete Zimowsky/Idaho Statesman via AP, File

**In this 2013 file photo, a wild Idaho Salmon River steelhead is netted and quickly released in the Salmon River north of Riggins, Idaho. Authorities have released recovery plans for federally protected Snake River chinook salmon and steelhead with the goal of making sure each species is self-sustaining in the wild.**

chooses to implement the third one that's intended to boost the number of naturally reproducing spawning fish in the Snake River below Idaho Power's Hells Canyon Complex of hydroelectric dams.

The plan says that young fish released in specific areas will return to those same areas to spawn as adults. That, officials say, will help boost the numbers of naturally reproducing fish and eventually lead to a self-sustaining population needed to achieve recovery.

That plan "is the most likely and timely path to recovery," said Rosemary Furfey, Snake River Recovery Coordinator for NOAA.

The Hells Canyon Complex cut off upstream spawning habitat and in the document is listed as a reason for the decline of the fish. Problems confronting fisheries managers in returning salmon above the dams is that the area is heavily used for agriculture and is too environmentally degraded to support salmon.

"At this time, we recognize that the habitat is not conducive to fish populations and having fish survive," said Ritchie Graves, Columbia Basin Hydropower Branch chief for NOAA.

Also, Idaho lawmakers previously approved a law preventing the return

of listed species to Idaho without the state's approval. Idaho Gov. C.L. "Butch" Otter has said he doesn't want listed fish above the dams, which could force expensive habitat restoration.

The 284-page recovery plan for spring and summer chinook and steelhead mainly looks at protecting existing tributary habitat and restoring degraded habitat. Those species travel into the Clearwater River and its tributaries in northern Idaho and the Salmon River and its tributaries in central Idaho. Fish also go into the Grande Ronde River in Oregon.

Troyer said that Idaho has habitat that's in great shape, but "we see a lot of potential for habitat improvement and fish survival. We don't know exactly what that is. But I do feel there is a lot left to be done in Idaho."

The plans released Tuesday are the final two recovery plans from NOAA Fisheries for the Columbia River Basin's 13 endangered and threatened salmon and steelhead runs.

David Wilson, spokesman for Bonneville Power Administration, said the agency will include the most recent plans in the environmental impact statement and will continue to coordinate with NOAA to recover listed species.

### BRIEFLY

#### Reward for information on slain wolves grows to \$20K

SPOKANE, Wash. — The reward for information regarding the killing of two wolves in northeastern Washington state has grown to \$20,000, two conservation groups said Monday.

The Center for Biological Diversity and Cascadia Wildlands doubled a previously announced \$10,000 reward by Conservation Northwest for information leading to conviction in the killing of the wolves.

Over the weekend, officials for the state Department of Fish and Wildlife announced that two wolves that were being monitored had been found shot to death.

The animals were members of the Smackout and Dirty Shirt packs.

"Poaching wolves or other wildlife is a deplorable crime," said Noah Greenwald, of the Center for Biological Diversity. "We need people to come forward and help put a stop to the killing of these endangered animals."

Wolves are a protected species across the state of Washington. Poachers can face fines and jail time.

#### Feds to slow harvest of skates as quota nears

The federal government is cutting down on the harvest of skate wings because fishermen are nearing their quota for the seafood item.

Skate wings are the meat of skates, which are fished commercially on both coasts. The National Oceanic and Atmospheric Administration is reducing the commercial skate wing possession limit from 4,100 pounds per trip to 500 pounds per trip.

The new rules are in place through April 30. NOAA says skate wing harvest is at 85 percent of its quota.

Fishermen caught more than 40 million pounds of skates last year. The fishery is most active in Alaska, Massachusetts, and Rhode Island.

### SKI REPORT

**Spout Springs**  
Tollgate, Ore.  
**CLOSED FOR SEASON**

**Anthony Lakes**  
North Powder, Ore.  
**CLOSED**

**Ski Bluewood**  
Dayton, Wash.  
**CLOSED**

**Ski Fergi**  
Joseph, Ore.  
**CLOSED**

**Mt. Hood Meadows**  
Government Camp, Ore.  
**New snow: None**  
**Base depth: 21"**  
**Conditions: Hardpack groom with some softer spots. Early season conditions exist.**