

EIP Tax Credit Extension Request for the Harney Community Energy Project

- The Harney Community Energy (HCE) project will establish a district energy system that will use local renewable biomass fuel to provide affordable heat to critical community institutions in Burns Oregon, including:
 - Slater Elementary School
 - The Harney County Courthouse
 - The Harney County Sheriff's Office
 - Symmetry Care, a non-profit mental health clinic
 - St. Andrew's Church
- The project received a preliminary tax credit certification from ODOE June 2013. Construction financing was secured May 2015 through a unique and innovative investment by Meyer Memorial Trust, supported by the US Endowment for Forestry and Communities. Project construction began June 2015, which included installing a new backup boiler, steam piping, and digital HVAC controls for Slater Elementary.
- In October 2015 access to additional funds allowed the project to expand to a district energy system, enabling the connection of additional community facilities to a central biomass boiler system, creating an innovative community energy system.
- In December 2015 preparations for construction of the district energy pipeline were on-schedule. However, the 41-day armed occupation of the Malheur National Wildlife Refuge caused the project to be put on hold and ultimately delayed by two months due to:
 - Non-availability of Harney County, City of Burns and School District officials who were wholly pre-occupied with the armed occupation, massive law enforcement presence, and divisive atmosphere in the community;
 - A cancelled key City Council meeting, delaying a right-of-way use agreement with the City of Burns, and;
 - Delayed surveying due to road barricades that prevented public access to significant portions of the piping route.
- Project success relies on receiving an ODOE EIP tax credit Final Certification by the tax credit deadline. Given the extraordinary circumstances that took place during January and February in Harney County, the current deadline of June 28 2016 will be difficult to meet, and loss of the tax credit revenue will undermine project financing and risk the success of this important project.
- **We request that a new Final Certification deadline for the EIP tax credit be set for August 28, 2016 for the HCE project, application number CT 2, to address the extraordinary events that have resulted in delays to the project.**

February 23, 2016

EIP Tax Credit Extension Request for the Harney Community Energy Project

The Harney Community Energy (HCE) project will establish a district energy system in Burns, Oregon that will utilize renewable biomass sourced from local public and private lands to provide heat to multiple community buildings, including Slater Elementary School, the County Courthouse, Sheriff's office, and jail, the non-profit mental health facility Symmetry Care, and St. Andrews Church. The project will be completed Summer 2016, and in 2017 it will be transferred to the recently formed High Desert Biomass Cooperative (HDBC) for long-term operations under local ownership. Meyer Memorial Trust is providing project financing as an innovative investment in rural Oregon, partnering with the US Endowment for Forestry and Communities. A project timeline is included as Attachment 1.

The HCE project has been awarded a preliminary certificate (application number CT 2) for a tax credit through the Oregon Department of Energy's Energy Incentive Program (EIP). Project success depends on a final application to receive the tax credit, which currently has a deadline of June 28, 2016. While the project has been on track to meet the EIP deadline, the armed occupation in Harney County has led to a two-month delay that threatens to push project completion beyond that date. Delays have involved the total preoccupation of County, City, and School District officials and project partners due to the armed occupation, massive police presence, and divisive atmosphere in the community; the cancellation of a key City Council meeting which delayed a right-of-way agreement between the project developer and the City, and; delayed surveying due to road barricades that prevented access on portions of the pipeline. These delays are described in more detail and with supporting material in Attachment 2. Missing the tax credit application deadline would seriously hinder project financing, thereby risking project failure.

The EIP normally has no option to extend tax credit application deadlines. However, given these extreme and highly unusual circumstances, and the vital role that the HCE project will play in unifying the community, we are requesting a modest 60-day extension. **We request that a new tax credit final application deadline be set for August 28, 2016 for the HCE project, application number CT 2.**

As a project that literally knits key community institutions together in cooperation for the benefit of the greater good, the HCE project is more important than ever to help Harney County find resolution and reconciliation after the highly unusual and divisive events related to the armed occupation of the Malheur Wildlife Refuge. We strongly urge the Oregon Legislature to approve this request in light of recent events in Harney County, and in an effort to demonstrate the State's support as the community begins to heal.

Attachment 2: Project Delays and Supporting Materials

Key activities related to HCE project development have been delayed due to the armed occupation in Harney County. These delays threaten to push project completion beyond the ODOE Energy Incentive Program tax credit final application deadline of June 28, 2016. Missing the tax credit application deadline would seriously hinder project financing and risk project failure.

The most important project delays have been related to the extremely limited capacity of the two primary project partners in the community – Judge Steve Grasty and School Board President Lori Cheek –to engage with the HCE project for important decisions and negotiations. Specific delays are listed below:

1. Judge Steve Grasty was a central figure dealing with the armed occupation on behalf of the County. As a consequence, Judge Grasty was entirely unavailable for needed consultations and input during the occupation.
2. School Board President Lori Cheek, who is also employed at the County Courthouse, was heavily involved with the occupation's impacts on the community. She was available for the project to only a very limited extent.
3. Burns City staff was unable to focus on Franchise Agreement negotiations, resulting in delayed agreement revisions.
4. A key Burns City Council meeting was cancelled, and others dominated by issues related to the occupation, such that a vote approving the required Franchise Agreement was delayed by 5 weeks.
5. Barricades surrounding the Courthouse excluded public access, delaying the necessary survey work that is required prior to ordering piping and initiating trenching.

The following supporting materials include email correspondences between project developer staff (Wisewood, Inc through its subsidiary Harney Community Energy, LLC) and key community partners, a map of the HCE piping route, and a map and photos showing barricades on public streets. Email text that illustrates delays in project activities and/or the diverted attention of community partners is highlighted in yellow.

Conference Call Instructions for Biomass call 1/15/16 10:00 am

Participants: nicole@bljlawyers.com, meagan@wisewood.us, andrew@wisewood.us, hansen@bljlawyers.com, nerissa@wisewood.us, steve.grasty@co.harney.or.us, cheeklori169@yahoo.com, dwensenk@ci.burns.or.us, green@bljlawyers.com, lori.cheek@co.harney.or.us

Nicole Precone

Thu, Jan 14, 2016 at 3:02 PM

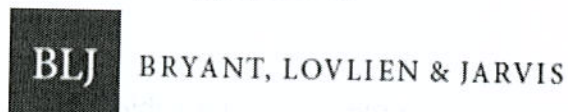
Good afternoon,

Due to security concerns, we may need to postpone the conference call scheduled for tomorrow at 10:00 a.m. Jeremy will follow up with everyone in the morning once we know the situation. If Burns City Hall is open, we will be able to hold the call as scheduled.

Regards,
Nicole

Nicole Precone *Legal Assistant to Jeremy M. Green and Heather J. Hansen*

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Meagan Nuss

Thu, Jan 14, 2016 at 4:29 PM

old oil tank removal and wall engineering

Participants: meagan@wisewood.us, mcbridem@harneyesd.k12.or.us, cheeklori169@yahoo.com, lori.cheek@co.harney.or.us, andrew@wisewood.us, nerissa@wisewood.us, peasleyw@harneyesd.k12.or.us

Meagan Nuss

Tue, Jan 19, 2016 at 3:18 PM

Hi Marilyn,

I hope you had an enjoyable holiday, despite the challenging ongoing situation in Harney County.

We are picking things back up after a lull in construction activities. In our memo sent to you on December 4th 2015, we mentioned that we will be engaging structural engineers to coordinate the removal of the old oil tank adjacent to the Unit 2 boiler room, and replacing the wall with a single roll-up door (no man-door). This is outside the scope of the project, so we will submit an invoice upon completion.

We've received a proposal from SMG Engineering to perform the structural work for \$2,700, attached for your review. We need two things from you to move forward:

1. Please confirm that you would like HCE to coordinate the removal of the old oil tank and structural engineering of the new wall;
2. Let us know if you would like the roll-up door to be any particular dimensions - for example, if you plan to store larger machinery in the building.

Please let us know by next Friday, 01/29.

Thanks very much Marilyn,

Meagan

--

Wisewood, Inc.
2409 N. Kerby Ave.
Portland, OR 97227
c. (503) 545-8685
f. (503) 715-0483
meagan@wisewood.us

Marilyn McBride

Thu, Jan 21, 2016 at 9:22 AM

Hi Meagan,

door and a larger door is preferred later. For that reason we'd recommend a larger door, however the choice is up to you.

In your text you had indicated we should go with a larger door - what are your thoughts on that now?

Thanks again Marilyn.

--

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Marilyn McBride

Fri, Jan 22, 2016 at 4:11 PM

Thanks so much for your response. The larger door design please.

Meagan Nuss

Fri, Jan 22, 2016 at 4:44 PM

Ok will do - thanks Marilyn.

--

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Marilyn McBride

Fri, Jan 22, 2016 at 5:25 PM

Thank you for all of your help and understanding!

Dr. Marilyn L. McBride
Superintendent

Sent from my iPhone

surveying DH1 pipe route during Malheur standoff

Participants: nerissa@wisewood.us, andrew@wisewood.us, meagan@wisewood.us

Nerissa Zahora

Mon, Jan 25, 2016 at 11:48 AM

I spoke with Kenny Delano at Ferguson and Micah Rushing at Advanced Underground Utility Locating on 1/22.

Micah said that the snow is a big factor right now - he can do the GPR with up to ~6" on the ground. Ideally, there would be none. His schedule is usually pretty flexible, and can go out with just a few days' notice. However, the barricades along the piping route would prevent him from performing a full survey, so we will have to balance getting a full survey done with having some of it done soon.

Kenny said that they've already begun their work, but that the field measurements have yet to be done. They will only do this if the snow is cleared enough. They will take a look this weekend and decide whether or not they can do the work. Kenny thinks that his position as surveyor for the County may allow him access behind barriers, but he can't be sure of that. If the barricades are too extensive, or he is not allowed to work behind them, then we will not have a complete survey.

Nerissa Zahora

Wed, Feb 3, 2016 at 9:52 AM

Spoke with Kenny from Ferguson:

Events this past week with the standoff made it impossible to complete survey yet. Can work on it when things are quieter, can't be sure when. Maybe next week?

Snow is still a gamble - right now looks pretty good. Depends on what it's like when they are able to get through. Should be melted in the next few days, so if the standoff allows them to get through, should be able to wrap up next week. Close to the courthouse is the toughest right now.

Would be ideal to come in behind utility locate and GPR so it's easier to find things and all maps can include as much as possible.

Spoke to Micah at Advanced Underground:

We are on their schedule for next Wednesday or Thursday. I will resend Micah the latest maps. We need to call 811 to have the utility locate done (they will do within 48 hours of our call) and provide as much description as possible - width of survey, depth, map, etc.

We should also get the route "white lined" before the 811 locate takes place - white marks every 50' or so, mark corners, indicate width of trench, provide arrows as necessary. Micah can do this, but would be 5 hrs drive each way, so we should identify somebody in Burns who can provide this service

Thermal Energy System Franchise Agreement - City of Burns

Participants: green@bljlawyers.com, meagan@wisewood.us, andrew@wisewood.us, dwensenk@ci.burns.or.us, nicole@bljlawyers.com

Jeremy Green

Wed, Jan 27, 2016 at 8:20 AM

Good morning, Meagan. Due to yesterday evening's events with the militia standoff and safety concerns, the City may be closed today (and the council meeting cancelled). Therefore, we may need to reschedule our conference call for this morning. I will let you know as soon as possible. Thank you for your understanding.

Jeremy M. Green *Attorney & Shareholder*

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BRYANT, LOVLIE & JARVIS

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From: Meagan Nuss [<mailto:meagan@wisewood.us>]

Sent: Tuesday, January 26, 2016 5:36 PM

Meagan Nuss

Wed, Jan 27, 2016 at 8:24 AM

Jeremy, of course we understand. Keep us posted.

Best,
Meagan

--
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f. (503) 715-0483

Fw: HCE district heating project

Participants: cheeklori169@yahoo.com, meagan@wisewood.us

Lori Cheek

Fri, Jan 29, 2016 at 4:44 PM

----- Forwarded Message -----

From: Lori Cheek <cheeklori169@yahoo.com>

To:

Cc: Steve Grasty <steve.grasty@co.harney.or.us>

Sent: Friday, January 29, 2016 3:04 PM

Subject: HCE district heating project

Good Afternoon Meagan,

I just want to share with you the frustration and problems that this county has been facing due to the rather extreme weather this winter. We have had over 28" of snow and ice and then a week of below zero temperature. The ice has been incredible! We are very happy with the moisture but this is having an affect upon trying to set up the routing of the District Heating pipe in the citie's right of ways. Nearly all of the right of ways have 30" or more of snow and ice upon them.

I am certain you are aware of the larger issue in Harney County and Burns created by the militia occupation and the takeover of a federal complex, the Malhuer Bird Refuge. What perhaps is not so clear, is the affect upon the County Court, Sheriff's office, the city of Burns and all of this community.

I can tell you the harrasment and constant protests, through the aggressive presence of these outsiders, including the news media, is exhausting and prevents many of us from even attempting to do our daily work. This has definately had adverse affects upon the District Heating Project.

You will see in the pictures that sent in an earlier email, that a good portion of the pipeline route is barricaded off as well as the entire rear of the courthouse and all of the Sheriff's office and jail. North Court is blocked off from West Washington Street

Air Quality Task Force Meeting March

Participants: CALKINS.Larry@deq.state.or.us, administrator@ci.hines.or.us, andrew@wisewood.us, director@harneycounty.com, dwensenk@ci.burns.or.us, hchdvista@co.harney.or.us, hcscwx@centurytel.net, isaac.w.dalke@gmail.com, j1rose@blm.gov, jason.fenton@burnspaiute-n.gov, jriggle@eou.edu, meagan@wisewood.us, randy.jones@state.or.us, steve.grasty@co.harney.or.us, victoria@kbnh.am, Ashley@kbnh.am, c1oconno@blm.gov, loren.emang@co.harney.or.us

CALKINS Larry

Tue, Feb 9, 2016 at 11:55 AM

Greetings,

I'm sorry about the upheaval in Harney County this January and February. We at DEQ have been keeping you in our hearts, thoughts and prayers. We decided not to have a Task Force meeting in January after talking to some of you. We didn't want to further aggravate issues in your community as you were focused on a peaceful resolution to issues at hand. We hope your lives are beginning to return to a normal state of affairs even though the problems aren't completely resolved.

Still, we hope things have calmed down enough we can begin to think about revisiting this last winters heating season and talk about air quality once again. We suggest a meeting on:

March 3rd at 10 AM at the Hines City Hall

I have attached a draft agenda for the meeting. I'm anticipating providing you some good news and let you know what progress we have made on your behalf. We are also interested in listening to your stories and learning about your observations of air quality. We hope to see you there.



TRUSTEE BENJAMIN E
KIMBLE, ROSALEE - CLEMENTS, EIT AL PAUL LESTER

MERTZ, BRYCE
DAMIES, STACY & ELAINE

CARSON, TREVOR & TONI

MOSLEY, JANET'S
BACA, RODRICK K

HAMILTON, NANCY & BRUCE
BACA, RODRICK K & SUSAN A

West B

Barricaded

SCS COOL DIS #3

HASBROUCK, BLAKE A
RUNNELS, RICHARD B
WILKE, JERRY D & REBECCA D
WILKE, JERRY D & REBECCA D
FULTS, DENNIS LEE
YORK, INC

ROBERTSON, FRED L & DEBRA J
JOHNSON, KEVIN'S
MC ALLISTER, LOLA A TRUSTEE
PRYSE, KEVIN

West A

West A

N Alvord

N Diamond

HODNETT, TRAVIS
YORK, BRENT L & LEANN M
BERKLAND, WALTER P (DECEASED)
BAUER, JOHN L & CAROLYN S

SANT ANDREWS CHURCH
HARNEY COUNTY
WAGNER, STEVEN & SHARON
RUGGLES, KENNETH L & THERESA I

HARNEY COUNTY

LAMBORN, JOHN B
LAMBORN, JOHN B
MC DONALD-FROY, COLLEEN ANNE

West Washington

Barricaded

CARLSON, CURTIS GUY TRUSTEE



Rocker David

From: Kaplan, Mike <mike.kaplan@state.or.us>
Sent: Friday, February 19, 2016 2:28 PM
To: Rep Bentz
Subject: Harney County Energy Project

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Leg. Director, Rep. Bentz

Representative Bentz,

Thank you for offering me the opportunity to discuss the Harney County Energy, LLC project. Given the special circumstances created by the recent occupation of the Malheur National Wildlife Refuge, the Oregon Department of Energy will offer any resources we can to support Harney County Energy's application continuing through our agency's energy incentive program.

The project has been described as installing two new wood chip steam boilers and an underground heating loop distribution system. One boiler will be connected to the Harney County Courthouse, Sheriff's Office/Jail, Lincoln School and Symmetry Care buildings. The second boiler will serve Slater Elementary School. The boilers will displace 93 percent of the fuel oil used by five existing boilers, which currently consume an estimated 47,000 gallons annually of fuel oil. The current qualifying cost is \$1,982,941, and the preliminary certified tax credit amount is \$694,029. The preliminary certificate for this project has an expiration date of June 28, 2016.

The Department of Energy is currently reviewing a pending amendment to the preliminary certificate. Information in the amendment indicates project developers are considering including additional church facilities and delaying Lincoln School entering the project. The amendment could impact both the amount of qualifying cost and the amount of the certified tax credit.

ORS 469B.288 (Submissions for preliminary certification; alteration, conditions, suspension or denial of preliminary certification) gives the director of the Department of Energy, in accordance with ORS chapter 183 (Administrative Rules, Legislative Review of Rules, Civil Penalties), the ability to issue an order altering, conditioning, suspending or denying preliminary certification under certain conditions. These orders are issued through the contested cases process and directed at projects that have been found to be out of compliance with the provisions listed in ORS 469B.288 (3). To our knowledge, this area of statute has not been considered or used for the purpose of extending a deadline for a preliminary certificate. Alternately, statute is explicit under ORS 469B.285 (6) about the length of validity for a preliminary certification, and that is three calendar years.

Given the continued and widespread concerns the Legislature has expressed about tax credit administration, we believe it is prudent to ensure we act only with explicit legislative direction and do so within the scope defined by the Legislature. The Legislature is currently considering SB 1507, which we believe would offer an opportunity to narrowly amend statute to create the specific relief being requested by Harney County Energy LLC. We suggest an amendment to this bill could create an exemption or extension of the preliminary certificate expiration defined in ORS 469B.285 (6). We request that the authority be as narrow as possible and, if possible, only apply to the Harney County Energy LLC project.

We look forward to continuing to work together to ensure that Harney County Energy LLC receives the opportunity to earn its pre-certified tax credit and that the Department of Energy meets the Legislature's expectations.