

ATTACHMENT 6

STIPULATED AGREEMENTS WITH
WASHINGTON DEPARTMENT OF FISH AND WILDLIFE
AND DEPARTMENT OF ECOLOGY

ENERGY FACILITY SITE
EVALUATION COUNCIL

Docket No.

CGF Am. # 1

SETTLEMENT AGREEMENT

BETWEEN WASHINGTON DEPARTMENT OF FISH & WILDLIFE MAY 19 2000
AND CHEHALIS POWER

Received 5/22/00 REGARDING NATURAL RESOURCE IMPACTS

Rejected

Exhibit No.

2

A. Chehalis Power Generating Limited Partnership ("Chehalis Power") seeks an amendment to its Site Certification Agreement ("SCA") from the Energy Facility Site Evaluation Council ("EFSEC" or "Council"). Chehalis Power, Inc. is the general partner of Chehalis Power.

B. The Washington State Department of Fish & Wildlife ("Fish & Wildlife") has a mandate to protect and manage fisheries and wildlife resources in the State of Washington. Fish & Wildlife is a party to the EFSEC adjudicative proceeding that addresses Chehalis Power's requested SCA amendment.

II. Purpose and Intent

Chehalis Power and Fish & Wildlife (collectively, the "Parties") have been involved in discussions and negotiations regarding the potential impacts of the proposed SCA amendments upon natural resources at the Chehalis Generation Facility ("CGF") plant site, and potential impacts resulting from the City of Chehalis' development of water and wastewater pipelines necessary to serve the CGF. Through this Settlement Agreement, the Parties set forth certain obligations and restrictions that the Parties intend to have incorporated into the SCA as conditions for the CGF, should EFSEC recommend that Chehalis Power's amendment application be granted. In exchange for Chehalis Power's consent to these conditions in its amended SCA and Chehalis Power's compliance with the conditions, Fish & Wildlife agrees to withdraw the issues identified below from the adjudicative proceeding, to refrain from offering evidence on these issues, and to refrain from expressing opposition to or disapproval of the amendment application on grounds relating to natural resource impacts at the CGF plant site or impacts resulting from the City's development of water or wastewater pipelines. Fish & Wildlife reserves the right to provide testimony at the adjudication regarding potential natural resource impacts of the CGF on the Chehalis River.

III. Agreement

In exchange for the mutual promises set forth below, the Parties stipulate as follows:

Part 1: Stipulated Language for SCA

The Parties agree that Article IV Section E (Water Supply System) of the SCA shall be revised to read as follows (blacklining reflects changes from the current SCA):

The CGF will use an air cooled condenser for cooling of the power generation cycle and to promote water conservation through the reduction of water needs by at least 90% as compared to an evaporative (water) cooled system. Chehalis municipal supply water will be used for process make-up and potable water needs. The CGF will use two sources of water supply: (1) reclaimed water from the City of Chehalis Wastewater Treatment Plan, comprised of effluent from the City of Chehalis that has been treated to approved standards for re-use and normally is discharged to the Chehalis River; and (2) from November through April only municipal water from the City of Chehalis, Chehalis River Water Pumping Station. Both sources of The municipal water supply water will be obtained from the City of Chehalis pursuant to the City's existing water rights. Priority will be given to the use of reclaimed water. Raw municipal water will only be used from November through April if sufficient reclaimed water is unavailable and will not be used from May through October. Potable water and will be supplied through the City's municipal water supply system.

Chehalis Power shall notify the Washington State Department of Fish & Wildlife of the anticipated location and routing for any municipal water line(s) intended to actually serve the CGF, after the City of Chehalis has established such location and routing and provided Chehalis Power with notice of its determination. Upon the completion of the preliminary design (including sizing) for each of such municipal water line(s), Chehalis Power will provide Fish & Wildlife with copies of such preliminary design information.

Similarly, the Parties agree that Article IV, Section F (Water Discharge System) of the proposed amendment to the SCA shall be revised to read as follows:

Sanitary sewer water from CGF will be discharged to the City's municipal sewage collection system in the Industrial Park and will be treated at the Chehalis Wastewater Treatment Plant.

All process wastewater from the CGF will also be discharged to the existing City of Chehalis' municipal sewage collection system. ~~Wastewater Treatment Plan discharge line below the treatment plan. At this location, the CGF wastewater will join the City's wastewater for discharge to the Chehalis River through the City's existing outfall. The CGF will convey its wastewater discharge to the City's discharge line via a pipeline running parallel to the reclaimed water line that routes water to the CGF for supply purposes.~~ Storm water will be collected, treated if necessary, and directed to either an existing storm water tributary or to the municipal sanitary sewer system.

Chehalis Power shall notify the Washington State Department of Fish & Wildlife of the anticipated location and routing for any wastewater line(s) intended to actually connect the CGF with the City of Chehalis' municipal sewerage collection system, after the City of Chehalis has established such location and routing and provided Chehalis Power with notice of its determination. Upon the

completion of the preliminary design (including sizing) of each of such wastewater line(s), Chehalis Power will provide Fish & Wildlife with copies of such preliminary design information.

Part 2: Fish & Wildlife Withdrawal of Issues

Fish & Wildlife shall withdraw the following issues from the list of issues to be addressed at the adjudicative hearing on Chehalis Power's amendment application. The issue numbers correlate to Consolidated Issue List No. 1.

Issue 7 (natural resource impacts at the CGF plant site)

Issue 8 (natural resource impacts from additional construction in the project area)

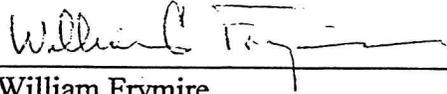
Issue 9 (deletion of the requirement for certain "Management Plans")

Part 3: Support for Settlement

Fish & Wildlife shall support this settlement in EFSEC's adjudicative proceeding on Chehalis Power's proposed SCA amendment and shall withdraw the issues identified above by motion or other pleading prior to the start of the adjudicative proceeding.

DATED this 17th day of May, 2000.


Elizabeth Thomas & Thomas Eli Backer
Preston Gates & Ellis LLP
Attorneys for Chehalis Power


William Frymire
Assistant Attorney General
Attorneys for Fish & Wildlife

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SETTLEMENT AGREEMENT
AMONG WASHINGTON DEPARTMENT OF ECOLOGY,
WASHINGTON DEPARTMENT OF FISH AND WILDLIFE
AND CHEHALIS POWER

I. Parties

- A. Chehalis Power Generating Limited Partnership ("Chehalis Power") seeks an amendment to its Site Certification Agreement ("SCA") from the Energy Facility Site Evaluation Council ("EFSEC" or "Council"). Chehalis Power, Inc. is the general partner of Chehalis Power.
- B. The Washington State Department of Ecology ("Ecology") has a mandate to protect and manage air, water, and other resources in the State of Washington. Ecology is a party to the EFSEC adjudicative proceeding that addresses Chehalis Power's requested SCA amendment.
- C. The Washington Department of Fish and Wildlife ("WDFW") has a mandate to protect and manage fishery resources in the State of Washington. WDFW is a party to the EFSEC adjudicative proceeding that addresses Chehalis Power's requested SCA amendment.

II. Purpose and Intent

Chehalis Power, Ecology, and WDFW (collectively, the "Parties") have been involved in discussions and negotiations regarding the potential impacts of the proposed SCA amendments upon water availability, reclamation of wastewater from the City of Chehalis' wastewater treatment plant, wastewater treatment capacity, water use minimization and air quality issues. Through this Settlement Agreement, the Parties set forth certain obligations and restrictions that the Parties intend to have incorporated into the SCA as conditions for the Chehalis Generation Facility ("CGF"), should EFSEC recommend that Chehalis Power's amendment application be granted. In exchange for Chehalis Power's consent to these conditions in its SCA and Chehalis Power's compliance with the conditions, the Parties agree to withdraw the issues identified below, to refrain from offering evidence on these issues, to refrain from expressing opposition to or disapproval of the amendment application, and to support this Agreement before the Council.

EFSEC	
CGF Amend No. 1	
App # _____	Name _____
Exhibit No. <u>3</u>	
<input checked="" type="checkbox"/> Admitted	<input type="checkbox"/> Denied
ID: 5/24/00 Adm: 5/25/00	

RECEIVED

JUN 12 2000

ENERGY FACILITY SITE
EVALUATION COUNCIL

III. Agreement

In exchange for the mutual promises set forth below, the Parties stipulate as follows:

Part 1: Stipulated Language for SCA

The Parties agree that Article VI Section A (Project Operation – Water Use) shall be revised to read as follows (blacklining reflects changes from the current SCA):

1. EFSEC hereby recognizes the City of Chehalis' surface water withdrawal permit No. 11303 to divert 15 cubic feet per second (cfs) from the Chehalis River. The City's Chehalis River water withdrawal permit does not allow withdrawal of water if the instream flow is below 50 cfs. No withdrawal rights from the Chehalis River or any other state surface water or ground waters are granted by this agreement. ~~The CGF's use of reclaimed water shall not exceed 4.6 cfs.~~
2. Chehalis Power shall use ~~reclaimed~~ municipal supply water from the City of Chehalis to meet its needs for process makeup and cooling potable water. ~~Chehalis Power shall purchase untreated municipal water from the City of Chehalis to meet its needs for process and cooling water only from November through April and only when reclaimed water from the City of Chehalis is insufficient to meet such needs or when operational conditions at the CGF temporarily preclude the use of reclaimed water. Chehalis Power shall take all practicable steps to minimize its use of untreated municipal supply water. Chehalis Power shall meet all applicable Water Reclamation and Reuse Standards developed by the state of Washington. Chehalis Power shall treat all effluent generated by the City from May through October, regardless of whether the facility is generating power.~~
3. To protect against potential impacts on the Chehalis River from the use of municipal supply water during low flow periods (defined as flow below 165 cfs, as measured at Grand Mound), prior to commencement of commercial operation of the CGF Chehalis Power shall do the following:
 - a. Prior to commencement of commercial operation of the CGF first unit, Chehalis Power shall use its best efforts to acquire surface and/or ground of surface water rights of 50-80 acre feet at the rate of up to \$2,000 per acre foot. Chehalis Power shall report to Ecology and the Council quarterly on its efforts to acquire these rights, until such time as 80 acre feet are acquired, or until December 31, 2001.
 - b. ~~As additional mitigation for operation of the first unit, Chehalis Power shall acquire up to 103 acre feet of additional surface water rights to meet its expected use of municipal water during low flow periods within the first year of operation.~~

- ~~c. As additional mitigation for operation of the second unit, Chehalis Power shall acquire up to 374 acre feet of surface water rights to meet its expected use of municipal water during low flow periods within the first year of operation.~~
- b. In the event that Chehalis Power is unable to acquire, despite its best efforts, the 80 acre feet of surface and/or ground water rights as described herein by December 31, 2001, Chehalis Power shall deliver on a one-time basis a sum equal to the product of \$4,000 and the number of acre feet of water below 80 acre feet that could not be acquired by Chehalis Power. Such sum shall be delivered in trust to the Chehalis Basin Partnership, or to some other organization agreed upon by Chehalis Power, Ecology and the Council for purposes of improving instream flows or flow-related conditions in the Centralia Reach. The organization conducting this work shall report semi-annually to Chehalis Power, Ecology and the Council on the status of its activities, until all the funds contributed by Chehalis Power are expended.
4. ~~Water rights to be acquired by Chehalis Power pursuant to subparagraph 3. a shall: (a) be dedicated to the Chehalis River by retirement or other mechanism mutually agreed upon (after notice to Ecology) by Chehalis Power and the Council Ecology; (b) to the extent practicable be upstream from the point of the City of Chehalis' Chehalis River pump station; (c) be in beneficial use; and (d) have priority dates earlier than April 9, 1976. Chehalis Power shall submit to Ecology and the Council information proof indicating that all water rights proposed to be acquired are in beneficial use. The Council will promptly review and determine if water rights proposed to be acquired pursuant to subparagraph 3. a by Chehalis Power are consistent with the requirements of this subparagraph 45. Chehalis Power shall submit information on its proposed water rights acquisitions to Ecology and EFSEC at least 30 calendar days prior to the date requested for EFSEC action. Failure of Ecology to respond within this period constitutes waiver of any potential objection. Chehalis Power shall not commence commercial operation of the CGF until EFSEC determines that Chehalis Power has satisfied the obligations imposed by this subparagraph or subparagraph 3. b. The Parties contemplate, however, that subsequent to EFSEC's determination, Chehalis Power and/or the holder(s) of the water rights to be acquired shall submit an application to Ecology for transfer of the rights to the water right trust program or for approval of a transaction with a similar objective. Ecology shall have sole authority to process such applications. [sic] Chehalis Power shall consult with the City of Chehalis, Ecology, U.S. Geological Survey, and Council staff in order to determine the means by which the portion of the Chehalis River known as the Chehalis [sic] Reach can best be gauged to measure and record flow rates. The Applicant shall report to the Council the result of the consultation within six months after the execution of the Site Certification Agreement. The Council may then take whatever action it deems~~

~~appropriate to require Chehalis Power to provide funds for the construction and operation of a flow gauge.~~

~~5. [No paragraph 5 in original]~~

~~6. Chehalis Power shall explore mitigation measures including the use of additional sources of reclaimed water and water use minimization technologies. The Council will revisit the water supply situation three years from the date of Certification, or nine months prior to commencement of plant construction which ever comes first.~~

5. Chehalis Power shall pay Ecology \$16,000 to cover Ecology's costs of performing its obligations under this Agreement. Such payment shall be made on or before the date that Chehalis Power submits its first request for a determination by EFSEC pursuant to subparagraph 4.

6. To minimize the impact of the CGF on the Chehalis River:

(a) During low flow periods (as defined in subparagraph 3) Chehalis Power shall not purchase municipal supply water from the City unless and to the same extent that Chehalis Power makes municipal supply water available through funding conservation on the City's municipal water supply system, with 15 days advance notice to Ecology and approval by the Council.

(b) Chehalis Power shall not purchase municipal supply water from the City in an amount to exceed 70 million gallons per year.

(c) From May 1 to October 31 annually, Chehalis Power shall not purchase municipal supply water from the City at a rate in excess of 850,000 gallons per day for any period of more than seven consecutive days.

(d) From May 1 to October 31 annually, Chehalis Power shall not use fuel oil for firing unless such use is conducted in a manner that draws no more than 110,000 gallons per day of municipal water from the City, or unless then available supplies of natural gas to the CGF are interrupted due to a declaration of force majeure by one or more of the gas suppliers and/or gas pipeline companies serving the CGF.

7. Chehalis Power may construct water storage facilities of sufficient capacity to meet its need for water during low flow periods. Chehalis Power shall submit its plans for these water storage facilities to the Council for its review as part of the design documents required pursuant to Article V, B-1 (Plans and Specifications).

The Parties agree that Article VI Section B (Project Operation – Water Discharge) shall be revised to read as follows (blacklining reflects changes from the current SCA):

1. All discharges by Chehalis Power to state waters shall be subject to the terms and conditions of this Agreement and, including the NPDES State Waste Discharge Permit (Attachment 43), and the interim effluent limitations and compliance schedule issued by the Council ~~the pretreatment discharge requirements to be imposed by EPA.~~
2. ~~Chehalis Power shall properly operate and maintain in good working order, all water handling facilities under its control, including the cooling towers, the circulating water, and process water facilities.~~
3. Chehalis Power and its contractors shall dispose of sanitary waste in accordance with applicable local and state requirements.
3. Any use of chemicals such as ~~biocides, anti-corrosion inhibitors, or any such additives to the cooling water system, or any other system of~~ by the CGF which may result in any waste water discharge, shall be in conformance with applicable regulatory standard ~~consistent with the NPDES Permit and the interim effluent limitations and compliance schedule issued by the Council.~~
4. Ecology agrees to use its best efforts to work with Chehalis Power and EPA on the prompt review, processing and decisionmaking by EPA of the pretreatment discharge permit application for the CGF.

The Parties agree that portions of the PSD permit (No. EFSEC/95-02 Amendment 1 Notice of Construction and Prevention of Significant Deterioration Draft Approval) shall be revised as shown on the attachment to this Agreement.

The Parties agree that Chehalis Power shall provide \$5,000 to the non-profit organization to be agreed upon by Chehalis Power and Ecology for purposes of addressing issues relating to CO₂ and/or global warming.

Part 2: Withdrawal of Issues

The Parties shall withdraw the following issues from the list of issues to be addressed at the evidentiary hearing on Chehalis Power's amendment application. The issue numbers correlate to Consolidated Issue List No. 1, and they include all subparts.

Issue No. 11 (mitigation relating to air and water cooling) (Ecology)

Issue No. 12 (water use mitigation requirements) (Ecology)

Issue No. 13 (construction of wastewater treatment facility) (Ecology)

Issue No. 14 (pretreatment discharge permit) (Ecology)

Issue No. 15 (PSD permit revisions) (Ecology)

Issue No. 10 (impact of the project on the Chehalis River) (WDFW)

Part 3: Support for Settlement

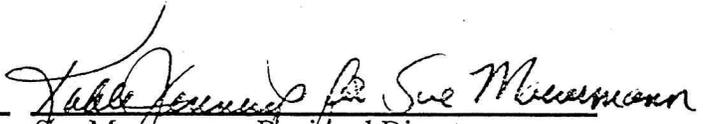
The Parties shall offer testimony in support of this settlement in EFSEC's adjudicative proceeding on Chehalis Power's proposed SCA amendment. The Parties shall use their best efforts to assist Chehalis Power in convincing the Council that the SCA language set forth above should be adopted as a resolution of all issues raised by the Parties in this proceeding.

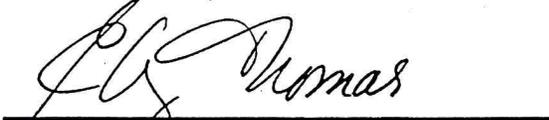
Part 4: Severability

If the Governor remands any portion or element of the SCA amendment after recommendation by the Council for approval, those portions of the SCA amendment that have not been remanded shall survive. The Parties agree to negotiate promptly, diligently and in good faith to replace such remanded portions or elements with language that supports, to the maximum extent possible, the purposes and intent of this Agreement as a whole.

DATED this 24 day of May, 2000.


Paul J. Margaritis, Vice President
Chehalis Power, Inc.


Sue Manermann, Regional Director
Washington State Department of Ecology


Elizabeth Thomas and Thomas Eli Backer
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Contracts Officer

Washington Department of Fish & Wildlife



William C. Frymire
Assistant Attorney General
Attorneys for WDFW

[PROPOSED] REVISIONS TO PSD PERMIT

(changes blacklined)

Approval Conditions

2. NO_x emissions from each HRSG exhaust stack shall not exceed 9.9 parts per million on a volumetric basis (ppmv) over a one hour average when corrected to 15.0 percent oxygen when burning natural gas. Chehalis Power agrees that it will not seek any revision of this 9.9 ppmv limit. NO_x emissions from each HRSG exhaust stack shall not exceed 751 kilograms (1,656 pounds) per day when burning natural gas.

NO_x emissions from each boiler shall not exceed 30.2 ppmdv over a one hour average corrected to 3.0 percent oxygen or 4.72 kilograms (10.4 pounds) per hour when burning natural gas.

NO_x emissions from each HRSG exhaust stack shall not exceed 42.0 ppmv over a one hour average, corrected to 15.0 percent oxygen, when burning oil. NO_x emission from each combustion turbine exhaust shall not exceed 4,068 kilograms (8,969 pounds) per day when burning oil.

NO_x emissions from each boiler shall not exceed 70.0 ppmdv over a one hour average, corrected to 3.0 percent oxygen or 11.4 kilograms (25 pounds) per hour when burning oil.

The total annual NO_x emissions of all combustion turbines and boilers shall not exceed 795 tons on a 12-month rolling summation, calculated once per month.

Initial compliance for each turbine shall be determined in accordance with Title 40 CFR Subpart GG and EPA Reference Method 20, except that the instrument span shall be 100 ppm or less. Initial compliance for each boiler shall be determined in accordance with Title 40 CFR Subpart Db and EPA Reference Method 7.

NO_x, O₂ emissions and exhaust gas flow rate or velocity from each exhaust stack shall be measured and recorded by a continuous emission monitoring system (CEMS) which meets the requirements of Condition 13.2. Such CEMS shall be used to determine compliance with this Condition.

9. All conditions apply except during unit startup and shutdowns. The duration of startup or shutdown periods are limited to 3 hours per occurrence, with a maximum of two startups per 24 hour period, and 200 startups per year, per turbine or boiler. CO emissions during startup and shutdown shall not exceed 120 kilograms (263 pounds) per hour when burning gas, or 190 kilograms (417 pounds) per hour when burning oil, averaged over the occurrence. NOx emissions during startup and shutdown shall not exceed * kilograms (* pounds) per hour when burning gas, or * kilograms (* pounds) per hour when burning oil, averaged over the occurrence. Also, at least one turbine must be down when both boilers are operating under load conditions.

*Short-term mass emission limits for Nox will be set based on modeled emissions data provided by Chehalis Power to EFSEC's permit writer.

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