



Rob McKenna  
**ATTORNEY GENERAL OF WASHINGTON**

Ecology Division  
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September 13, 2007

Energy Facility Site Evaluation Council  
c/o Allen Fiskdal, Manager  
905 Plum Street SE, Building 3, 3<sup>rd</sup> Floor  
P.O. Box 43172  
Olympia, WA 98504-3172

RE: **Pacific Mountain Energy Center  
Project No. 2006-01**

Dear Council:

Enclosed for filing in the above-referenced matter are an original and 15 copies of Department of Ecology's Notice of Intervention and Preliminary List of Issues and a Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

TANYA M. ROSE  
Legal Assistant for  
LAURA J. WATSON  
Assistant Attorney General  
(360) 586-6747

LJW:tmr

cc: Elizabeth Thomas, Counsel for Energy Northwest  
Brett VandenHeuvel, Counsel for Columbia Riverkeepers  
Michael Tribble, AAG, Counsel for the Environment  
Jan Hasselman, Counsel for NW Energy Coalition  
Stephen D. Mashuda, Counsel for NW Energy Coalition  
Joshua Osborne-Klein, Counsel for NW Energy Coalition  
Alice Bladu, AAG, Counsel for CTED

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**ENERGY FACILITY SITE EVALUATION COUNCIL  
STATE OF WASHINGTON**

In the Matter of Application  
No. 2006-01:  
  
ENERGY NORTHWEST  
  
PACIFIC MOUNTAIN ENERGY  
CENTER

Application No. 2006-01  
  
DEPARTMENT OF ECOLOGY'S  
NOTICE OF INTERVENTION AND  
PRELIMINARY LIST OF ISSUES

The Washington State Department of Ecology (Ecology) by and through its attorney, Laura J. Watson, Assistant Attorney General, hereby notifies the Energy Facility Site Evaluation Council (EFSEC or Council) of its intent to participate in the above-entitled matter. Ecology intends to present evidence, call witnesses, cross-examine witnesses called by other parties, and to participate in all phases of this proceeding.

**I. STATEMENT OF INTEREST**

Under RCW 43.21A.020, the Legislature established a single state agency with the authority to manage and develop the air and water resources of the state in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To that end, Ecology was created to undertake, in an integrated manner, comprehensive regulation of water, air, and land resources. Ecology intervenes because Ecology has determined that the Pacific Mountain Energy Center (PMEC or Project) presents the possibility of directly or indirectly impacting the air, land, and water resources within Ecology's jurisdiction.



1 under 40 C.F.R. 61; New Source Performance Standards (NSPS) under 40 C.F.R. 60;  
2 Prevention of Significant Deterioration (PSD) under 40 CFR 52; Acid Rain Program  
3 regulations 40 C.F.R. Parts 72-78 and all applicable local requirements?

4 2. How will Energy Northwest prevent or control construction, operation, and  
5 maintenance impacts to avoid exceedances of ambient air quality standards? What  
6 monitoring will Energy Northwest do to ensure compliance with air quality standards?

7 3. Will the project be consistent with the federally approved Washington State  
8 Implementation Plan (SIP) for air quality?

9 4. Will Energy Northwest employ Best Available Control Technology (BACT)  
10 for new sources of air contaminants and new sources of toxic air pollutants (including  
11 Mercury) as required by RCW 70.94.152(10), Chapter 173-460 WAC, Chapter 463-78 WAC,  
12 and 40 C.F.R. 52.21? Will BACT control be required of all point source discharges of criteria  
13 and toxic air pollutants?

14 5. For compliance with Chapter 173-460 WAC, will Energy Northwest be  
15 required to use acceptable emissions factors to produce complete and reliable emission rate  
16 estimates of toxic and hazardous air pollutants? If emission estimates exceed small quantity  
17 emissions rates or acceptable source impact levels, how will Energy Northwest demonstrate  
18 that emissions are sufficiently low to protect human health and safety from potential  
19 carcinogenic and/or other toxic effects in nearby communities?

20 6. Has Energy Northwest utilized federally approved dispersion modeling  
21 methods and criteria in evaluating the emissions from the PMEC facility for compliance with  
22 the National Ambient Air Quality Standards (NAAQS) and Class I area increment and Air  
23 Quality Related Value (AQRV) impacts? If federally approved techniques have not been  
24 used, have those alternate techniques been explicitly approved for use by EFSEC, its air  
25 quality permitting contractor or EPA? Have the correct emission inventories been used in  
26 evaluating NAAQS compliance and for PSD increment consumption modeling?

1           7.     Will Energy Northwest be required to implement Best Management Practices  
2 (BMPs) to minimize fugitive emissions, including, but not necessarily limited to, emissions as  
3 a result of ship, barge and rail unloading of fuel; unloading of activated carbon and other  
4 emission control chemicals from trucks, rail or barges; loading of trucks, rail cars, barges,  
5 with spent air pollution chemicals; spent activated carbon; gasifier slag; elemental sulfur or  
6 sulfuric acid from sulfur recovery; fugitive dust from vehicles on the plant site; and emissions  
7 from ship engines, rail locomotives, and trucks while loading and unloading at the facility or  
8 the dock?

9           8.     Will the Project cause any changes to transportation-related air quality within  
10 the State?

11           9.     Does the Greenhouse Gas Reduction plan submitted by Energy Northwest  
12 meet the requirements of Chapter 307, Laws of 2007 (ESSB 6001)?

13           10.    If the Greenhouse Gas Reduction Plan does not meet the requirements of ESSB  
14 6001, will Energy Northwest be required to submit for EFSEC approval a plan to sequester  
15 greenhouse gases (carbon dioxide) in accordance with this law?

16           11.    Will the site compliance agreement require Energy Northwest to make a good  
17 faith effort to implement the approved plan as required by ESSB 6001, prior to any  
18 consideration of an alternative compliance method as allowed in this law?

19           12.    Will the PMEC meet the performance standard required by ESSB 6001, which  
20 is the *lower* of 1,100 pounds of greenhouse gases per megawatt hour, or the average available  
21 greenhouse gases emissions output as determined by CTED under the law?

22           13.    Does ESSB 6001 excuse Energy Northwest from submitting a carbon  
23 sequestration plan prior to site certification approval based on its conclusion that sequestration  
24 is not economically or technically feasible at this time?

25           14.    Does ESSB 6001 allow Energy Northwest to postpone greenhouse gas (GHG)  
26 reduction measures until five years after plant operation commences?

1 15. Does ESSB 6001 allow Energy Northwest to exceed the performance standard  
2 within the first five years of plant operation?

3 16. Is P MEC exempt from meeting the performance standard during the period of  
4 time that it operates exclusively on natural gas?

5 17. If P MEC combines biomass with other fuel sources as a feedstock, are GHG  
6 emissions associated with the biomass exempt from P MEC's GHG emission rate calculation?

7 18. Do GHG reductions achieved through efficiency improvements meet the  
8 requirements of ESSB 6001, Section 5(13)?

9 19. Does development of new renewable generation resources satisfy GHG  
10 reduction requirements under ESSB 6001?

11 20. Will Energy Northwest be required to submit the Carbon Dioxide Mitigation  
12 Plan required by Chapter 80.70 RCW?

13 21. Will Energy Northwest be required to calculate the quantity of carbon dioxide  
14 required to be mitigated per Chapter 80.70 RCW and to mitigate that quantity of emissions  
15 through one of the three methods allowed for in that law?

16 22. If Energy Northwest's mitigation plan proposes to use a self directed  
17 mitigation process, what criteria will EFSEC use to approve that mitigation plan?

18 23. Does compliance with ESSB 6001 constitute compliance with Chapter 80.70  
19 RCW, or do these laws set out separate requirements that both need to be met before a project  
20 can be certified?

21 **B. Water Quality**

22 1. How will the Project comply with applicable water quality laws and  
23 regulations including the federal Water Pollution Control Act (Clean Water Act), 33 U.S.C.  
24 §§1251-1387, and implementing regulations; Washington Water Pollution Control Act  
25 (ch. 90.48 RCW); Surface Water Quality Standards (ch. 173-201A WAC); Ground Water  
26 Quality Standards (ch. 173-200 WAC); Sediment Management Standards (ch. 173-204

1 WAC); State Waste Discharge Permit Program (ch. 173-216 WAC); Underground Injection  
2 Control Program (ch. 173-218 WAC); National Pollutant Discharge Elimination System  
3 (NPDES) Permit Program (ch. 173-220 WAC); and Regulations for compliance with NPDES  
4 permit program (ch. 463-76 WAC)?

5 2. How many NPDES and/or State Waste Discharge permits will the Project have  
6 and for which discharges?

7 3. What BMPs and stabilization and erosion control measures will Energy  
8 Northwest employ to avoid, minimize, and mitigate for water quality impacts due to sediment  
9 increases from construction, operation, and/or maintenance of the Project?

10 4. How will Energy Northwest meet the requirement to demonstrate all known,  
11 available, and reasonable methods of prevention, and treatment (AKART) for all pollutants in  
12 the discharge, including thermal pollutants?

13 5. How will Energy Northwest comply with the requirement under 40 C.F.R.  
14 §122.4(i) that new sources not cause or contribute to the violation of water quality standards  
15 in 303(d) listed water bodies?

16 6. How will Energy Northwest meet the federal effluent guidelines for steam  
17 electric power generation, 40 C.F.R. 423?

18 7. If Energy Northwest submits a carbon dioxide sequestration plan that  
19 contemplates on-site sequestration, will Energy Northwest be required to conduct a site  
20 characterization to determine that on-site deep geologic sequestration is feasible and will be  
21 protective of groundwater?

22 **C. Solid Waste**

23 1. Does the slag that will be created as a waste product of energy production meet  
24 the criteria to be designated as “inert waste” under WAC 173-350-990?

25 2. Is the slag exempt from solid waste handling and permitting requirements?  
26

1 **D. Hazardous Waste**

2 1. Will any waste stream (such as slag and activated carbon) designate as  
3 dangerous waste and, if so, how will Energy Northwest manage the waste?

4 **E. SEPA**

5 1. Will the Project procedurally and substantively comply with the State  
6 Environmental Policy Act (SEPA) (ch. 43.21C RCW) and its implementing regulations  
7 (ch. 197-11 WAC)?

8 2. Will the SEPA analysis be able to be fully integrated and considered in the  
9 decision-making process?

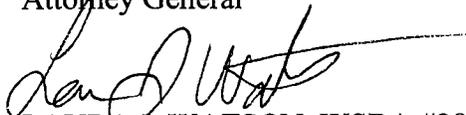
10 3. How and when will Energy Northwest complete its SEPA analysis, including  
11 analysis of the requirements of Senate Bill 6001?

12 4. Will the Environmental Impact Statement detail all alternatives to the proposed  
13 P MEC project and provide a full analysis of impacts of each alternative?

14 The Council should take precautions to reserve its ability to recommend rejection of  
15 the application based on insufficiency of the application or, if warranted, based on significant,  
16 unmitigatable, adverse environmental impacts.

17 DATED this 12 day of September, 2007.

18 ROBERT M. McKENNA  
19 Attorney General

20   
21 LAURA J. WATSON, WSBA #28452  
22 Assistant Attorney General  
23 Attorneys for Intervener  
24 Washington Department of Ecology  
25 (360) 586-4614  
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In the Matter of Application  
No. 2006-01:  
  
ENERGY NORTHWEST  
  
PACIFIC MOUNTAIN ENERGY  
CENTER

Application No. 2006-01  
  
CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, I certify that on the 13th day of September, 2007, I caused to be served Department of Ecology's Notice of Intervention and Preliminary List of Issues in the above-captioned matter upon the parties herein as indicated below:

Mr. Allen J. Fiksdal (**original and 15 copies**)  
EFSEC Manager  
Energy Facility Site Evaluation Council  
905 Plum Street SE, Building 3, 3<sup>rd</sup> Floor  
PO Box 43172  
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15 the foregoing being the last known address.

16 I certify under penalty of perjury under the laws of the state of Washington that the  
17 foregoing is true and correct.

18 DATED this 13th day of September, 2007, in Olympia, Washington.

19   
20 TANYA M. ROSE, Legal Assistant