SATSOP COMBUSTION TURBINE PROJECT
NPDES PERMIT NO. WA-002496-1

RESPONSE TO COMMENTS

The Energy Facility Site Evaluation Council received comments on the draft permit from three public agencies and one concerned citizen, Ms. Sherry Rudrud. The public agencies were:

- Washington Department of Archaeology & Historic Preservation.
- Washington Department of Fish and Wildlife.
- Grays Harbor County Department of Public Services.

Comments are summarized and responded to in the following paragraphs. The original comment letters are posted on EFSEC's website at: http://efsec.wa.gov/satsop.shtml

Department of Archaeology & Historic Preservation (DAHP)

In its letter the DAHP concurred with EFSEC's determination that no historic properties were affected by reissuance of the permit.

Response: Comment acknowledged.

Department of Fish and Wildlife

WDFW commented on the absence of a temperature effluent limit in Special Condition 1.B.1 of the draft permit.

Response: The temperature effluent limit was inadvertantly omitted from the draft permit. The final permit contains an effluent limit of 16°C, which is consistent with the existing permit and the Site Certification Agreement (SCA). The temperature effluent limit was established in section IV of the Memorandum of Understanding (MOU) between EFSEC, WDFW, Department of Ecology, and the project's previous Certificate Holders, Energy Northwest and Duke Energy Grays Harbor, LLC. The MOU clarifies the water authorization and use provisions of the SCA and is dated February 12, 2004. The MOU is incorporated into the SCA through Council Resolution 309.

The final permit specifies the 16°C effluent limit and requires continuous monitoring of temperature in the discharge to the river.

Ms Sherry Rudrud

During the April 16, 2008 public hearing Ms. Rudrud offered two verbal comments to the draft permit:

Comment 1. Ms. Rudrud expressed specific concerns that the schedule of compliance in the draft permit allows too much time between each of the milestones, and that the three years allowed by the schedule of compliance is excessive. Ms. Rudrud would like to see the permit require full compliance within one year of issuance.

Comment 2. Ms. Rudrud expressed concern that the monetary penalty of up to $10,000 per day for violating permit conditions, specified in General Condition G14, is too lenient and is an insufficient incentive to ensure compliance. She would like the penalty to be $100,000 per day.

Response: Comment 1: Schedule of Compliance

The rationale for the schedule of compliance timeline is as follows:

Scope of Work – The draft permit requires an approvable scope of work be submitted to EFSEC by December 1, 2008. EFSEC's rationale for this due date is based on uncertainty of the permit issuance date, the time needed for the permittee to identify and contract with qualified consultants, and the possible need for the permittee to submit several iterations of the scope of work before it is approvable. In addition, time must be allowed for EFSEC to have each submittal reviewed by its contractor, because EFSEC does not have an on-staff engineer.

Draft Engineering Report – The permit requires the draft engineering report to be submitted to EFSEC by December 1, 2009. The one year period between the scope of work and draft engineering report submittal dates is when most of the field work will occur. For an engineering analysis that requires verification of compliance with water quality standards, regulatory agencies typically require concurrent sampling of the discharge and the receiving water *over a 12-month period* to verify compliance during all four seasons. This requirement is especially important when temperature in the discharge is a concern. In addition to assessing compliance with the aquatic life water quality criteria, the permit requires that at least an initial whole effluent toxicity (WET) test be conducted before the draft engineering report is submitted. The WET test will assess the aggregate toxicity of the discharge by exposing the permittee's effluent to sensitive animal larvae specified by the Environmental Protection Agency.

Twelve months was allowed for this milestone primarily due to operational constraints. The permittee estimates the facility will typically be operational only 40 percent of a 12-month period, due to the economics of the power market. The permit requires that sampling be conducted during normal power generating operations so that the effluent characterization is representative of a typical discharge.

During this 12-month period the permittee will also be conducting an analysis to determine compliance with the state's stringent requirement to apply "all known, available, and reasonable methods of prevention, control, and treatment" (AKART) to the facility's process wastewater

and stormwater discharges. The permittee must prevent, control, and treat each pollutant identified in the discharge to the extent it can reasonably afford.

The draft engineering report must propose treatment for each discharge pollutant whose concentration exceeds the water quality standards, after application of prevention and control measures. Full application of AKART to the permittee's discharge is required *before* EFSEC can authorize mixing zones on an ongoing basis.

Final Engineering Report - The permit requires the final engineering report to be submitted to EFSEC by June 1, 2010. The rationale for allowing six months to comply with this milestone is that EFSEC's contractor must review the draft engineering report, develop comments, and provides the permittee sufficient time to finalize the engineering report for approval by the Council. The approval process may require additional iterations of the engineering report and several meetings, depending on the magnitude of the improvements necessary to achieve full compliance.

Compliance with AKART – By July 1, 2011, any methods of prevention, control, and treatment proposed in the approved engineering report must be implemented and fully functional, and the permittee's discharges must be in full compliance with AKART and all applicable water quality standards. The permit allows a year to comply with this milestone to provide sufficient time for the permittee to allocate funds for improvements, hire contractors, implement improvements, and verify that the measures are effective. EFSEC feels a one year timeframe to implement improvements is reasonable, because the facility will not be operational for weeks or months at a time, which will delay opportunities to verify that the newly-implemented pollution control measures are effective.

Response: Comment 2: Monetary Penalty for Noncompliance

The maximum civil monetary penalty of up to $10,000 per day per violation is specified in state statute. (See Chapter 90.48 Revised Code of Washington (RCW), specifically RCW 90.48.140 and 90.48.144.) An increase in the maximum civil penalty would require action by the state legislature.