

1 Declaration of Mailing

2 I, Sydney Hopkins-Koss, certify under penalty of
3 perjury under the laws of the State of
4 Washington, that on the below date, true and
5 correct copies of this document were sent via
6 U.S. mail to all parties of record as specified by
7 the Council's Service List dated 5/28/02 at the
8 addresses provided therein. Dated this 7th day
9 of June, 2002, at Bellingham, Washington.

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BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the matter of:

NO. 99-01

APPLICATION NO. 99-1

JOINT MOTION FOR
RECONSIDERATION OF AIR
OFFSET RECOMMENDATION

SUMAS ENERGY 2 GENERATION
FACILITY

COMES NOW Whatcom County, the City of Abbotsford and the Council for the
Environment, pursuant to WAC 463-30-335, and moves EFSEC to reconsider Order No. 768.

While the parties hereto remain steadfast in their belief that this permit should not be
recommended, this motion is brought forth to allow the Council an opportunity to correct what
is seemingly a material error in its recommendation before it is transmitted to the Governor
pursuant to RCW 80.50.100.

As alluded to by Council member McShane, the Council's decision regarding the
acquisition of offsets to mitigate the project's impacts upon the airshed is fundamentally
flawed. It should be revisited. Contrary to the Council's decision, the evidence produced
overwhelmingly shows that a 1.5 million dollar monetary path mitigation alternative is in fact
absolutely insufficient to obtain full mitigation. It is a matter of simple mathematics.

1 According to the application and the Final PSD, the annual NOx emissions will be
2 144.5 tons per year. Additionally, there will be approximately 209 tons per year of PM10
3 emitted by the plant. See, Table 2.11-3 of Second Application, Exhibit #181.3, and PSD/NOC
4 attachment 4 to Draft SCA at 3. The record also reveals that within the region to be impacted,
5 it typically costs at least \$1,500 CAD, or \$975 US, per ton to procure offsets for such
6 pollutants over a project's operational life span. See, Exhibit 264 at 19 (Canton). The
7 operational life of SE2 is estimated to be 30 years. See, Exhibit 181.3 at I-1. Applying a bit of
8 mathematics, the record thus reveals that over the operational life span of the plant, the
9 minimum monetary path requirements for obtaining meaningful offsets should be at least
10 \$10,339,875 in US funds (assuming a \$0.65 exchange rate). Order No. 768 at pages 4 and 34
11 indicates the commitment to be made is for 100% mitigation of NOx and PM10. However, the
12 Council's finding that in lieu of an agreement on a plan to mitigate 100% of these pollutants, a
13 \$1.5 M monetary contribution is supposedly adequate. This conclusion is off by nearly a
14 factor of 10! This is an error which must be reconsidered.

17 The Council in Order No.768 at page 35 indicates that it is unconvinced by the
18 evidence of other parties that \$1.5 M is inadequate to offset the emissions. The order suggests
19 that the prospect of \$1.5M being available if no plan is agreed to should be "motivational."
20 This threat alone presents the Council's tacit acknowledgement that finding adequate offsets
21 may indeed be difficult.

23 Granted, if the Council meant to say that \$1.5M is better than nothing by way of
24 mitigation, and perceives this monetary mitigation alternative as simply the cost of progress,
25 then perhaps it would be beneficial to all for the Council to more clearly state that intent.

1 However, if the Council means that the applicant needs to offset 100% of its NOx and PM10
2 emissions given the sensitivity of the airshed and the needs to balance public health against
3 increased energy supply, then the monetary path alternative needs to reflect the real economics
4 that the mitigation will require.

5 Additionally, the Council does not indicate why it was not convinced by the evidence
6 offered contradicting the applicant's perspective on the economics of acquiring mitigation
7 offsets. This state of affairs is indeed odd since the Council elsewhere in its decision
8 acknowledged that for this application 100% offset of NOx and PM10 is necessary, not that it
9 was a nice gesture for the applicant to make. Lets briefly review some of the testimony on this
10 issue. No offsets were identified during the hearings on the U.S. side of the border. Dr.Canton
11 testified that most major Whatcom County emission sources were far from Sumas and offered
12 no hope of offsetting the project's local air impacts. He based this conclusion on his review of
13 the 1999 Whatcom County inventory of 14 major sources. *See*, Exhibit 264 at 15:19-25. This
14 reality was not rebutted by the applicant or anyone else.

15 On the Canadian side of the border the applicant discussed two possibilities during the
16 2000 proceedings, the debris burning and the boiler project. However, the reality is that these
17 projects are already underway and SE2 is not a player. Debris burning is being phased out
18 and Mr. Martin conceded that replacing the diesel burners would cost more than 3 million
19 dollars. *See*, TR (2001) 61-62; 65:17 through 67:4; 67:3-4, and 124 (Martin). Mr. Martin
20 explained that the applicant's efforts were not successful before, but he thought the debris
21 project could have been funded within the \$1.5M, and that in light of the two examples, the
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1 offer was substantial and generous (Exhibit 180 at 9-10).¹ Mr. Martin also discussed the
2 arrangements made by an SE2 affiliate, Goldendale, where BPA suggested a rate of \$1000 per
3 ton in mitigation of NOx and PM10. *See*, Exhibit 180 at 11:36-41 (Martin). Absent from this
4 discussion is any corollary as to how such available offsets are comparable between the Fraser
5 Valley and the Columbia River Gorge.
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7 What is clear however is the fact that both the applicant and Dr. Canton agree that a
8 price of \$975-\$1000 in U.S. funds per ton is about right for a minimal monetary path
9 alternative. Given this evidence from the applicant and a party, it is inconceivable how the
10 Council can transform the need to offset up to 144.5 tons of NOx and 209 tons of PM10 per
11 year at \$975-\$100 per ton for an operational life of 30 years for a mere \$1.5M. Granted,
12 during the proceedings it was clear that there were no math wizards in the room, but this math
13 is simple. An error has been made.
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15 Thus, in spite of Mr. Martin's feelings to the contrary, a 1.5 million dollar offer is
16 clearly insufficient. The figure represents only 15% of the funds minimally needed to procure
17 full offsets. The Council's current order fails to guarantee the impacts to air quality will be
18 offset. If, as suggested, the Council's goal is to obtain actual offsets for air pollutants before
19 the plant may operate, this component of the order must be revisited, and in turn the draft SCA
20 is similarly flawed.
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22 As pointed out by Council member McShane, both America and Canada have market
23 economies. None of the parties to this permitting action have the power to unilaterally produce
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¹ During the 2000 proceedings Mr. Martin explained that the \$750,000 price tag was based on Canadian dollars. A conversion to U.S. funds is currently approximately \$487,500 (TR (2000) 3201:1-16).

1 a mitigation source for use in this instance. All the cooperation in the world will not, in and of
2 itself, produce a mitigation source for SE2. Given the relatively small monetary path
3 alternative currently provided, the Council's order effectively shifts the burden to produce a
4 source away from the applicant. Financially, there is no incentive for the applicant to procure
5 an actual offset within the air shed under the terms of the present order. It is far more cost
6 effective for the applicant to provide the \$1.5 M.
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8 In conclusion, if the Council wishes to fulfill its intended goals for offering protection
9 to people and the environment, the burden for finding a mitigation source must be placed on
10 the applicant, not on other parties. The monetary path alternative should be adjusted to reflect
11 the real world costs for full mitigation, at a minimum \$10,339,875. If offsets cannot be found,
12 or if the monetary mitigation alternative is not adequately funded, the plant should not be
13 allowed to open.
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15 DATED this 7th day of June, 2002.
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Mayor George F. Ferguson
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