BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of Application No. 2002-01

APPLICATION NO. 2002-01

BP WEST COAST PRODUCTS, LLC

BP CHERRY POINT

COGENERATION PROJECT

CONSOLIDATED STATEMENT OF
ISSUES BY COUNSEL FOR THE
ENVIRONMENT

COMES NOW the Counsel for the Environment, by and through its attorney, Michael G. Lufkin, Assistant Attorney General, and files this consolidated statement of issues in response to the Council’s Order 773 entered in this matter on December 16, 2002.

1)  **Air Quality Impacts:**

**Counsel for the Environment**

**Whatcom County**

**Province of British Columbia**

The parties have a direct and substantial interest in the project’s impact on the local and regional air shed. The parties seek to ensure that the air impacts have been properly assessed and modeled by the applicant. The parties also seek to minimize the impacts of pollutants that would potentially be emitted by the project, through appropriate mitigation measures. Specific impacts/issues include but are not limited to:

a)  **Particulate Matter Emissions:** Particulate Matter emissions have been linked to respiratory and circulatory diseases in humans. The parties seek to ensure that the applicant has correctly modeled particulate matter emissions from the project. This includes whether the applicant has utilized the appropriate modeling methodology. The parties also seek to minimize the project’s particulate matter, and secondary particulate matter precursor emissions on the regional air shed.

b)  **Ammonia Emissions (NH3):** Ammonia is a precursor for secondary particulates and is toxic to humans. The parties seek to ensure that the impacts...
of ammonia emissions have been adequately assessed and that appropriate mitigation measures are adopted.

c) Secondary Particulate Matter Precursors. The parties seek to ensure that the impacts of secondary particulate matter precursors (spmp) have been adequately assessed and that the particulate matter modeling and assessment include and properly account for spmp.

d) The parties seek to ensure that impacts on regional visibility have been properly assessed and modeled and that appropriate mitigation measures are adopted;

e) Impacts of start-up and shut-down practices: Emissions under cold start-up are more concentrated then during normal operations and may adversely impact short term ambient concentrations. The parties seek to ensure that the air quality impacts of start-up and shut-down practices have been adequately assessed and modeled, and that practices are adopted that minimize air quality impacts.

f) Whether the applicant has provided sufficient information to assess the air impacts/public health and safety impacts of all pollutants emitted by the project. This includes whether adequate and appropriate assessments and modeling methodology have been utilized. It also includes whether adequate and appropriate mitigation measures have been adopted. For example, BP has indicated that the construction of the project would result in on-site offsets to criteria pollutants, through the replacement of current boilers at the site. To date, BP has not provided guarantees on the exact nature and level of offsets that would occur on site. Without this information it is impossible to adequately assess the air quality impacts of the project.

g) The parties seek to ensure that the applicant has adequately modeled and assessed the cumulative air quality impacts of the project on the regional air shed.

h) In addition to the specific impacts identified above, the parties have a general interest in the issuance of the PSD permit, and the conditions contained in the PSD permit, including but not limited to identification of Best Available Control Technology (BACT).

2) Impacts of Wastewater and Surface Water Discharge on Salmonid and Herring Populations.

Counsel for the Environment
Province of British Columbia
Whatcom County

The issue of wastewater and surface water discharge impacts on aquatic species, including salmonid and herring populations has not been properly addressed. The parties seek to ensure that this concern is properly assessed and if necessary mitigated. Waste and surface discharges must be managed to avoid adverse impacts to the straight of Georgia and watersheds in the vicinity of the project. More generally, the application lacked specific information necessary to assess the trans-boundary pollution impacts on marine life.
In addition to the specific impacts identified above, the parties have a related and general interest in the issuance of any water quality related permits issued to the project, including state waste discharge permits, or an NPDES permit issued under the federal clean water act, and the conditions contained in those permits.

3) **Greenhouse Gas Emissions and Mitigation.**

Counsel for the Environment
Whatcom County

The proposed project will emit a significant quantity of greenhouse gases (GHG), primarily carbon dioxide. It is well established that GHG emissions contribute to global warming. The parties seek to minimize the detrimental impacts of the projects GHG emissions through mitigation offsets.

4) **Wetland Impacts and Mitigation.**

Counsel for the Environment
Whatcom County

As proposed the project will impact approximately 36 acres of wetlands, including the loss of approximately 30.58 acres of wetland. The parties seek to ensure that wetland impacts have been adequately assessed and that adequate wetland mitigation has been provided by the applicant.

5) **Water Quantity/Use.**

Counsel for the Environment
Whatcom County

In April 2003, BP revised the project to use water rather than air for cooling. The project is proposing to use recycled industrial water, purchased from the Whatcom County PUD as its prime industrial water source. The Whatcom County PUD obtains its water from the Nooksack River. The parties are concerned about the potential impacts on the Nooksack River, as well as other potential impacts to local water resources. The parties seek to ensure that the water quantity/use impacts have been adequately assessed by the applicant. The parties seek to minimize fresh water usage for the project.

As the project is located within the Terrell Creek watershed the parties are concerned that the project may impact the hydraulic regime and water quality of the watershed. Impacts to this watershed as well as to other watersheds and water course should be avoided.

6) **Surface water runoff and erosion control.**

Counsel for the Environment
Whatcom County

Construction and operation practices, including but not limited to storm water management and erosion controls should be conducted in accordance with appropriate regulatory schemes and mitigation requirements. The parties have a general interest in the issuance of any permits or the approval of any plans, or mitigation obligations, related to storm water management and erosion control.
7) **Noise Impact Assessment and Mitigation.**

Counsel for the Environment  
Whatcom County  

The construction and operation of the facility will increase existing noise levels for those living and working in the vicinity of the plant. Existing within the probable zone of impact are residential and community uses. Additional residential and community uses are currently in the planning phase. As a result construction and operational noise mitigation must be designed and implemented to minimize detectable noise levels and sound frequencies not only to adjacent properties, but for people and wildlife within the area which may also be impacted by noise/sounds emanating from the site. It is important to the parties that the project not have any significant adverse noise impacts to persons and wildlife nearby.

8) **Natural Gas Supply Adequacy.**

Counsel for the Environment  
Whatcom County  

The flow of natural gas into Washington State is not an infinite resource. Both the State and County already have many consumers of natural gas, both for residential and commercial uses. Some of these consumers are required to switch to alternative fuels at times of natural gas shortages. The availability of natural gas impacts its price for all consumers. Therefore, the impact of any diversion of existing natural gas resources to fuel the cogeneration plant is of concern and its impact on pricing and availability to local consumers, both existing and future is of concern to the parties. Related to this concern is adequacy of existing pipeline capacity. Limited pipeline capacity could affect the availability of gas for other consumers and is therefore an issue for the parties.

9) **Aesthetic and Visual Impacts.**

Counsel for the Environment  
Whatcom County  

Although the project will be built within an industrial zone, the project will not be without both visual and lighting impacts to the surrounding area. As suggested by the Applicant, the project should be constructed and operated in a manner to minimize its visual and lighting impacts. "Spillover lighting" must be avoided.

10) **Decommissioning and site restoration.**

Counsel for the Environment  
Whatcom County  

The project must be appropriately prepared for decommissioning and site restoration in the event of financial disaster, natural disaster, and/or at the conclusion of the project’s life cycle. The parties desire to ensure that site restoration will be planned in accordance with regulatory requirements and that the option(s) presented will offer the least risk to the public, best restore the site, and best fit within the land use and planning efforts of the County.
11) Whether the project properly balances the need for energy with the environmental impacts associated with the project.

Counsel for the Environment

Whether the project properly balances the need for energy with the environmental impacts associated with the project.

12) Conformance and compliance with local land use plans and zoning ordinances.

Whatcom County

The project must be constructed in conformance or compliance with all existing land use plans and zoning ordinances, including WCC 20.88.100 which governs all major development projects and Chapter 16.16 WCC which regulates land uses which impact critical areas as wetlands. At present the application is insufficient to determine conformity with such local zoning and land use regulatory schemes that would be applicable to the project but for the existence of EFSEC jurisdiction.

13) Future Pipeline Modifications.

Whatcom County

The project will require modifications to the existing natural gas pipeline which serves the site to accommodate the additional needs of the facility. The manner in which the service will be upgraded at the site and whether upstream modifications within the county may be required is of concern.

14) Transmission Line Corridor.

Whatcom County

As presently described the transmission line corridor impacts are acceptable. Any departure from the proposal may be of concern. It is the County's position that the connection to the existing transmission corridor must be done in a manner to minimize its impacts within the vicinity of the line and its connection.

15) Seismic Assessment and Impacts.

Whatcom County

The geology of the site and vicinity is of concern insofar as the general seismicity should be defined utilizing all available data in a separate seismic assessment report. The seismic assessment report should include at a minimum, but not limited to: existing water well log data, petroleum exploration well and geophysical data, geotechnical data, known and postulated fault structures that may project through the vicinity, and all other relevant published and electronically available geological and geophysical information within a ten mile radius. Following site evaluation approval, a site-specific probabilistic seismic hazard assessment (PSHA) should be a requirement of construction permits (a copy of which should be included in the County building permit application). The project should be designed consistent with the findings thereof. To ensure continued public safety and to alleviate
concern, the approval should include an ongoing monitoring and public reporting program adopting accepted industry monitoring standards that measure structural and geotechnical performance in response to observed seismic activity.

16) Traffic Impacts.

Whatcom County

The construction and operation of the plant will have impacts on the flow of traffic on and perhaps the surfaces of county roadways in the area of the site. As recognized by the applicant, both the short term impacts from construction and the long term impacts of operation must be considered. If significant impacts are found, appropriate mitigation must be provided.

17) Assessment of Impacts on Local Infrastructure and/or Services.

Whatcom County

As mentioned in the application, given the nature of the facility, the risks of fire, explosion, spills of hazardous or toxic material as well as the management and handling of the same must be considered in view of their potential impacts on existing fire, police and emergency services within the county. Emergency management plans should be coordinated and consistent with Whatcom County's Comprehensive Emergency Management Plan (February, 2002).

This issue list was compiled prior to the completion and distribution of the draft environmental impact statement (DEIS). The Parties reserve the right to supplement this issue list to the extent that new information and/or impacts are identified in the DEIS.

DATED this 7th day of July, 2003.

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