

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

**In the Matter of
Application No. 2002-01**

BP WEST COAST PRODUCTS, L.L.C.

**BP CHERRY POINT
COGENERATION PROJECT**

**NOTICE OF OPPORTUNITY TO FILE
LATE PETITIONS FOR
INTERVENTION AND
TO ADD NEW ISSUES BASED ON
ISSUANCE OF THE DEIS –
SEPTEMBER 26, 2003**

The Application

On June 10, 2002, BP West Coast Products, L.L.C. (BP) submitted an application to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the BP Cherry Point Cogeneration Project (Project), a 720-megawatt natural gas-fired combustion turbine electrical cogeneration facility. Associated with the Project will be a 1,400-foot natural gas pipeline and an approximately one mile electrical transmission line. To integrate the new power generation into the transmission grid, Bonneville Power Administration (Bonneville) may need to re-build 4.7 miles of an existing 230-kV transmission line. The proposed BP Cherry Point Cogeneration Project will be located within Whatcom County, near the community of Birch Bay.

EFSEC and Bonneville are conducting an environmental review of the project and have issued a draft Environmental Impact Statement (DEIS) for public comment under the Washington State Environmental Policy Act (SEPA), and the National Environmental Policy Act (NEPA) on September 5, 2003. The comment period for the DEIS ends on October 27, 2003. A public comment hearing on the DEIS has been scheduled for October 1, 2003 in Blaine, WA.

More specific information about the project is available from EFSEC's office or from reviewing the application at public libraries in Whatcom County, and in Surrey and White Rock, British Columbia, Canada. Information regarding the project is also on EFSEC's Internet site at: www.efsec.wa.gov.

Procedural History

The Council is reviewing Application No. 2002-01 under the procedures set forth in Chapter 80.50 of the Revised Code of Washington (RCW) and Title 463 of the Washington Administrative Code (WAC) for reviewing applications for new major energy facilities. The statute requires the Council to hold an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedure Act. On September 18, 2002, EFSEC noticed its intention to hold

adjudicative hearings relating to Application No. 2002-01 in accordance with the procedural rules found in Chapter 463-30 WAC.

The statutory parties to an adjudicative proceeding are the applicant, BP West Coast Products, L.L.C., and the Counsel for the Environment (as defined in RCW 80.50.020(12)), Assistant Attorney General, Michael Lufkin. On September 18, 2002, EFSEC also noticed the Opportunity to File Petitions for Intervention under the requirements of RCW 34.05.443, RCW 80.50.090, and WAC 463-30-400. EFSEC received and considered such petitions at a pre-hearing conference on November 5, 2002. On December 16, 2002, EFSEC issued Council Order No. 773, granting intervention to several petitioners as follows: the Washington Utilities and Transportation Commission, Whatcom County, and the Province of British Columbia.

Notice of Deadline for Submitting Late Petitions for Intervention based on Issuance of the Draft Environmental Impact Statement– September 26, 2003

In the Council's September 18, 2002, Notice of Opportunity to File Petitions for Intervention, the Council indicated that upon issuance of a draft Environmental Impact Statement (DEIS) for public comment, parties who have been granted intervenor status may petition the Council to permit them to add new issues based on new information or issues that have been identified in the DEIS. Other persons may also petition the Council to intervene for the first time if they can establish that new information identified in the DEIS, not previously known or reasonably discoverable, demonstrates that an interest of theirs could be impaired or impeded by the proposed project.

The joint SEPA/NEPA Draft Environmental Impact Statement was issued for public comment on September 5, 2003.

An "intervenor," as defined in RCW 80.50.020(3), may be an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized. Any such "person" who wishes to participate in this proceeding may petition for intervention. The nature of intervenor status and a discussion of factors that the Council has used in deciding whether to grant petitions for intervention are set out later in this notice.

Each person admitted to an adjudicative proceeding as an intervenor is a party to the proceedings only for the purposes and subject to any limitations and conditions specified in the EFSEC order granting their intervention.

In this case, the deadline for submitting requests for late Intervention based on issuance of the DEIS is September 26, 2003.

The Council will consider the requests for late Intervention based on issuance of the DEIS and determine whether or not to grant intervention. The Council will consider requests for late intervention according to the requirements of WAC 463-30-400 and the specificity requirements of this notice.

How to Submit a Petition for Late Intervention based on Issuance of the DEIS

To be considered timely, Petitions for late Intervention based on the issuance of the DEIS in Application No. 2002-01 must be received in the offices of the Council no later than the close of business (5 p.m.) on September 26, 2003. Petitions for Intervention must be filed with:

Washington State Energy Facility Site Evaluation Council
Attn: Allen J. Fiksdal, EFSEC Manager
P.O. Box 43172
925 Plum Street SE
Olympia, WA 98504-3172

A copy of each petition must be served on West Coast Products L.L.C., on the Counsel for the Environment, and on all other parties and their official representatives as specified in the official service list (see Attachment A) at the same time they are filed with the Council.

Persons wishing to intervene should consider relevant provisions of Chapter 463-30 WAC. In particular, WAC 463-30-400 establishes the following requirements for Petitions for Intervention:

All petitions to intervene shall be verified under oath by the petitioner, shall adequately identify the petitioner, and shall establish with particularity an interest in the subject matter and that the ability to protect such interest may be otherwise impaired or impeded.

All late petitioners must indicate with specificity the new information identified in the DEIS, not previously known or reasonably discoverable, and must demonstrate that an interest of theirs could be impaired or impeded by the proposed project as a result of this new information. The identification of such issues must be specific enough for the Council and other parties to identify the specific problem that could cause harm to the petitioner or agency and the nature of that harm.

All existing parties to this case who intend to petition the Council to add additional issues based on new information that has been discovered as a result of issuance of the DEIS shall submit petitions on or before the deadline for late intervention based on issuance of the DEIS.

In considering whether to file a petition to become an intervenor, potential parties should recognize that persons who are granted intervenor status assume responsibilities they must meet in order for the adjudicative process to be an effective means for all participants to resolve the significant issues that are raised. Intervenors are expected to appear in the proceeding, either on their own behalf or by an attorney. Intervenors must study other parties' cases so they can participate knowledgeably. They must decide whether to cross-examine other parties' witnesses, and determine the nature and scope of the cross-examination. Intervenors also have the responsibility either to attend the entire proceeding, including prehearing conferences, or to monitor it to learn when their interests will be at issue -- otherwise they may be bound by matters that are resolved in their absence. Intervenors have the responsibility to become familiar with the Council's procedural rules and guidelines to enable them to participate knowledgeably and to

advance their interests effectively. Because of potential delay to the proceeding that could interfere with rights of the parties involved, and because simply appearing to give advice to one party could give the appearance of impropriety or could adversely affect the rights of others, the Council has a limited ability to instruct participants on procedural matters. Intervention is not a step to be approached casually. Becoming an intervenor in a Council adjudicative proceeding may require a significant commitment of time and financial resources.

To see examples of petitions for intervention that have been filed in previous EFSEC cases, you may contact the EFSEC office at (360) 956-2047.

The designation of issue(s) may be a factor in determining whether to grant intervention and will be used to organize and to manage the hearing. Parties may add additional issues later in the proceeding on the same bases on which the Council may grant late-filed petitions for intervention.

Other Opportunities for Public Participation

Besides formal intervention, public participation in the EFSEC process is accommodated in several additional ways. First, under RCW 80.50.080, the Counsel for the Environment represents “the public and its interest in protecting the quality of the environment”; second, RCW 80.50.090(3) affords an opportunity for members of the public to present testimony in the hearing without having to intervene formally. Third, the public has the opportunity to participate in the environmental review portion of the Council’s process through comments on the draft environmental impact statement.

When evidentiary hearings begin, the Council plans to schedule specially-designated sessions for the purpose of receiving the testimony of members of the public, at one or more times and places to be set by later notice of hearing. The Council will maintain a copy of current records of the hearing at its offices in Olympia for the use of persons who may wish to review them. Mr. Michael Lufkin has been designated as Counsel for the Environment by the Attorney General under RCW 80.50.080 to represent the public and its interest in protecting the quality of the environment. Persons wishing to contact the Counsel for the Environment may use the address or telephone number listed in Attachment A.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this _____ 5th day of September, 2003.

/s/
Allen J. Fiksdal, EFSEC Manager

Attachment A: BP Cherry Point Cogeneration Project - Application No. 2002-01, Service List

EFSEC:		
Allen Fiksdal, EFSEC Manager Energy Facility Site Evaluation Council 925 Plum Street SE, Building 4 PO Box 43172 Olympia, WA 98504-3172 Ph: (360) 956-2152 Fax (360) 956-2158 allenf@ep.cted.wa.gov	Ann Essko, Assistant Attorney General 905 Plum Street, Building 3 P.O. Box 40108 Olympia, WA 98504-0108. Ph: (360) 664-2510 Fax: (360)586-3593 anne@atg.wa.gov	Julian Dewell, Law Judge Office of Administrative Hearings 609 Maulsby Lane Everett, WA 98201 Ph.: (425) 259-6269 Fax: (425) 258-3345 jdewell@earthlink.net
BP West Coast Products LLC - Applicant:		
Mike Torpey BP West Coast Products, LLC. 4519 Grandview Road Blaine, WA 98230 Ph: (360) 371-1757 Fax: (360) 371-1402 Torpeym1@bp.com	Karen McGaffey Elizabeth McDougall Perkins Coie LLP 1201 Third Avenue, Suite 4800 Seattle, WA 98101 Ph: (206) 264-6368 Fax: (206) 583-8500 KMcGaffey@perkinscoie.com EMcDougall@perkinscoie.com	
Counsel for the Environment:		
Mr. Michael Lufkin Assistant Attorney General Office of the Attorney General 1125 Washington St. SE PO Box 40100 Olympia, WA 98504-0100 Ph: (360) 586-3649 Fax: (360) 664-0229 MichaelL@atg.wa.gov		
Washington State Utilities and Transportation Commission:		
Sondra Walsh WUTC 1300 S Evergreen Park Drive SW PO Box 47250 Olympia, WA 98504-7250 Ph.: (360) 664-1286 Fax: (360) 586-1172 swalsh@wutc.wa.gov	Sally G. Johnston, Senior Assistant Attorney General 1400 S Evergreen Park Drive SW PO Box 40128 Olympia, WA 98504-0128 Ph.: (360) 664-1193 Fax: (360) 586-5522 sjohnsto@wutc.wa.gov	
Whatcom County:		
David M. Grant Whatcom County Prosecutor's Office Courthouse 311 Grand Avenue Bellingham, WA 98225 Ph.: (360) 676-6784 Fax: (360) 738-2532 dgrant@co.whatcom.wa.us		
Province of British Columbia:		
Paul Jarman Ministry of Attorney General 4th floor 1001 Douglas St Victoria, B.C. Canada V8W 9J7 Ph.: (250) 356-8899 Fax: (250) 356-0064 paul.jarman@gems7.gov.bc.ca	David A. Bricklin/Ryan Vancil Bricklin Newman Dold, LLP Suite 1015 Fourth & Pike Building 1424 Fourth Avenue Seattle, WA 98101 Ph.: (206) 621-8868 Fax: (206) 621-0512 bricklin@winstarmail.com rvancil@seanet.com	