

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2001-02

STARBUCK POWER COMPANY, LLC.

STARBUCK POWER PROJECT

NOTICE OF INTENT TO HOLD
ADJUDICATIVE PROCEEDING;

NOTICE OF OPPORTUNITY TO FILE
PETITIONS FOR INTERVENTION -
JANUARY 31, 2002;

NOTICE OF INTENT TO HOLD
PREHEARING CONFERENCE
(Date and location to be announced later).

The Application

On August 27, 2001, Starbuck Power Company, L.L.C., submitted Application No. 2001-02 to the Washington State Energy Facility Site Evaluation Council (EFSEC) to construct and operate the Starbuck Power Project, a 1,200-megawatt natural gas-fired combustion turbine electrical generation facility. The proposed Starbuck Power Project will be located within Columbia County, approximately six miles northwest of the Town of Starbuck. EFSEC has taken lead agency status under WAC 173-11-938 [State Environmental Policy Act (SEPA) Rules] for the environmental review of the combustion turbine facility.

Associated with the project will be approximately 16-miles of new electrical transmission line and a 1,200-foot natural gas pipeline. The siting of this transmission line and natural gas pipeline are under the jurisdiction of the Bonneville Power Administration (BPA) and the Federal Energy Regulatory Commission respectively.

More specific information about the project is available from EFSEC's office or from reviewing the application at public libraries in the town Starbuck, the City of Dayton, in Columbia County. Information regarding the project is on EFSEC's Internet site at: <http://www.efsec.wa.gov>.

EFSEC and BPA are conducting an environmental review of the project and will soon be issuing a draft Environmental Impact Statement for public comment under the Washington State Environmental Policy Act (SEPA), and the National Environmental Policy Act (NEPA). EFSEC will also conduct an examination of the project through a formal adjudicative proceeding.

Notice of Intention to Conduct an Adjudicative Proceeding

The Council is reviewing Application No. 2001-02 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. EFSEC intends to hold adjudicative hearings relating to Application No. 2001-02 in accordance with the procedural rules found in Chapter 463-30 WAC.

Notice of Deadline for Submitting Petitions for Intervention – January 31, 2002

The statutory parties to an adjudicative proceeding are the applicant, Starbuck Power Company, LLC, and the Counsel for the Environment (as defined in RCW 80.50.020(12)), Assistant Attorneys General, Ronald Lavigne and Michael Dunning. According to WAC 463-30-050, any state agency that is a member of EFSEC, or has opted to appoint a Council member for this proposal, may participate as a party. Any other person may petition to intervene as a party in this adjudicative proceeding under RCW 34.05.443, RCW 80.50.090, and WAC 463-30-400. The Council will consider the requests for intervention and determine whether or not to grant intervention.

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 intervention.

In this case, the deadline for submitting requests for intervention is January 31, 2002.

The Council will consider requests for late intervention according to the requirements of WAC 463-30-400. See the discussion below for further information.

How to Intervene

To be considered timely, Petitions for Intervention in Application No. 2001-02 must be received in the offices of the Council no later than the close of business (5 p.m.) on January 31, 2002. Petitions for Intervention will not be considered after that date except for good cause as discussed above. A copy of each petition must be served on Starbuck Power Company LLC and the Counsel for the Environment at the time they are filed with the Council.

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

An electronic version of the Petition for Intervention in either MS Word or WordPerfect shall accompany any submission. Electronic versions may be submitted on disk with the paper copy or by Email to: allenf@ep.cted.wa.gov.

The names and mailing addresses of the Council, all known parties, and their representatives appear in Attachment A.

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.

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.

The Council requests that all member agencies who intend to participate as intervenors submit notice of that intention on or before the deadline for intervention.

Each petitioner for intervention and each agency appearing as a party must identify the particular issue(s) or concern(s) that the petitioner or agency intends to address as an intervening party. The identification of 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. 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.

Late intervention for good cause shown

Upon issuance of a draft Environmental Impact Statement (DEIS) for public comment (at a date to be announced later), 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. Persons may seek late intervention or to expand the issues they may address as parties at other times but must also demonstrate that their petition to do so is based upon new information, not previously known to them or reasonably discoverable by them, and that their petition is made within a reasonable period after discovering that information.

Notice of Intention to Conduct a Prehearing Conference

Shortly after the deadline for petitions for intervention, the Council intends to hold a prehearing conference to consider the petitions and other scheduling matters. The Council will provide notice of the time and date for this conference at a later date to all parties, all petitioners for intervention, and all persons who ask to receive such notices.

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. Ronald Lavigne and Mr. Michael Dunning have 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 Counsel for the Environment may use the EFSEC address, or may contact them directly at the address or telephone number listed on the following page.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this _____ 27th day of December, 2001

Allen J. Fiksdal, EFSEC Manager

Addresses of the Council and representatives of known parties
Starbuck Power Project Application No. 2001-02

Note: Parties petitioning to intervene must serve petitions to all of the addresses below.

Energy Facility Site Evaluation Council

Allen J. Fiksdal, EFSEC Manager
Energy Facility Site Evaluation Council
925 Plum Street SE, Building 4
PO Box 43172
Olympia, WA 98504-3172

E-mail: allenf@ep.cted.wa.gov

Phone: (360) 956-2152

Fax: (360) 956-2158

Robert Fallis, Assistant Attorney General
Government Operations Division
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Phone: (360) 664-0459

Fax: (360) 586-3593

Starbuck Power Company LLC. Applicant:

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Seattle, WA 98104-7078

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Phone: (206) 623-7580

Fax: (206) 623-7022

Secondary Contact: (Do not serve a copy of the petition on Ms. Jackson)

Claire Jackson
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Counsel for the Environment

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*(Do not serve a copy of the petition on Mr.
Dunning)*

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