



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

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Memorandum

To: Sonia E. Bumpus, Energy Facility Site Evaluation Council (EFSEC) Manager, (360) 664-1363

From: Ami Kidder, EFSEC Siting and Compliance Manager, (360) 664-1305

Date: November 17, 2020

RE: Environmental Review and Staff Recommendation for State Environmental Policy Act (SEPA) Review for Grays Harbor Energy Center Request to Amend the Site Certification Agreement to Extend the Construction Deadline for Units 3 and 4

PROPOSAL: Gray's Harbor Energy LLC (GHE) a subsidiary of Invenergy LLC (the Certificate Holder) requests the Council amend the SCA to extend to 2028 the deadline for commencing construction of Units 3 and 4, which the Council and the Governor authorized by SCA Amendment 5.

CASE NUMBER: EFSEC SCA Amendment No. 06
Docket No: 180305

CERTIFICATE HOLDER: Grays Harbor Energy LLC

LOCATION: 401 Keys Road, Elma, WA

OTHER PERMITS: None identified

REQUIRED SUBMITTALS: No submittals identified

A. ENVIRONMENTAL RECORD and EXHIBITS

The environmental review conducted by EFSEC included analysis based on the following documents which are included in the environmental record. The documents listed are available for review on EFSEC's website at: <https://www.efsec.wa.gov/energy-facilities/grays-harbor-energy-center/grays-harbor-energy-center-sca>

State Environmental Policy Act (SEPA) documents

| Acronym | Description | Date | Relevant Sections/Information |
|----------------|--|-----------|-------------------------------|
| 2020 Checklist | SEPA Environmental Checklist for 1) Installation of General Electric's Advanced Gas path package in Units 1 and 2; and 2) Extension to 2028 the deadline for commencing construction of Units 3 and 4. | 8/17/2020 | All |
| 2010 MDNS | SEPA MDNS to add two combustion generators: Units 3 and 4 | 2/12/2010 | All |

Other Environmental Information

| Acronym | Description | Date | Relevant sections/information |
|-----------------------|--|------------|-------------------------------|
| GHE Amendment Request | Grays Harbor Energy LLC Request to amend the Site Certification Agreement | 8/17/2020 | All |
| 2010 SCA | Site Certification Agreement (Up to and including Amendment No.5) for Grays Harbor Energy Center | 12/21/2010 | All |
| DR1 | Data Request 1 – GHE Response | 10/16/2020 | DR1-1,2,7,8 |
| DR2 | Data Request 2 – GHE Response | 10/21/2020 | DR2-2 |

B. STAFF REVIEW OF THE ENVIRONMENTAL INFORMATION

EFSEC staff and the Council visited the site on 06/18/2019.

The following sections correspond with elements of the environment listed in WAC 197-11-444 and with the sections in the environmental checklist WAC 197-11-960, and were used to organize and document EFSEC's environmental review for the GHE request for a SCA amendment. Additional information (listed in Part A above) was provided by the Certificate Holder, existing SEPA documents, and by Washington regulatory technical experts as contracted to EFSEC and used as part of the environmental review.

1. EARTH

- Mitigation measures for earth were identified in the 2010 MDNS
- No new concerns related to environmental impacts to earth identified.

Mitigation: No additional mitigation measures for earth recommended.

2. AIR

Air Quality

- Mitigation measures for air quality were identified in the 2010 MDNS.

- An amended Notice of Construction and Prevention of Significant Deterioration permit and amended Title V Air Operating permit would be required and would address any potential air issues.
- No new concerns related to environmental impacts to air quality

Mitigation: No additional mitigation measures for air quality recommended.

Greenhouse Gas

- SCA Amendment No. 5 requires Grays Harbor Energy to mitigate carbon dioxide emissions in accordance with RCW 80.70 (Carbon Dioxide Mitigation) and WAC 463-80 (Carbon Dioxide Mitigation Program for Thermal Electric Generating Units). The law requires fossil-fuel thermal electric generation facilities that received site certification after 2004 (when the statute was enacted) to provide mitigation for twenty percent of the total carbon dioxide emissions produced by the facility. RCW 80.70.020(4); WAC 463-80-050(4).
- Governor Inslee directed Ecology (Governor's Directive 19-18) to develop rules that would apply to major industrial and fossil fuel projects. Ecology has been directed to develop rules that ensure a comprehensive assessment and quantification of direct and indirect GHG emissions resulting from the project. The rules would also include "Methods, procedures, protocols, criteria or standards for mitigation of greenhouse gas emissions, as necessary to achieve a goal of no net increase in greenhouse gas emissions attributable to the project." (emphasis added). Ecology is directed by the governor to have the rules adopted by September 2021. The effort is underway.
- If an extension is granted as requested, it is not entirely clear whether EFSEC will be able to revisit its earlier SEPA review of Units 3 and 4 (and the question of adequate greenhouse gas mitigation) when Grays Harbor Energy submits a request to commence construction of Units 3 and 4 under SCA Amendment No. 5, Art. II.B.2. Therefore, if the Council grants the extension request, it should consider reserving the right to update its SEPA analysis, including potentially requiring Grays Harbor Energy to provide the same greenhouse gas mitigation requirements that would apply to a new facility for which site certification is being sought at that time.

Mitigation: No additional mitigation related to GHG emissions.

3. WATER

- Mitigation measures for water withdrawals from the Chehalis River were identified in the 2010 MDNS.
- As noted in the 2010 MDNS, wastewater discharges from Units 3 and 4 would be subject to the requirements of the National Pollutant Discharge Elimination System (NPDES) permit.
- No new concerns related to environmental impacts to water quality identified.

Mitigation: No additional mitigation measures related to water quality.

4. PLANTS

- Project location was previously adjusted to avoid a forested area and to use other Public Development Authority land in the 2010 MDNS.
- No new concerns related to environmental impacts to plants identified.

Mitigation: No additional mitigation measures related to plants.

5. ANIMALS

- Mitigation measures for animals were identified in the 2010 MDNS.
- No new concerns related to environmental impacts to animals identified.

Mitigation: No additional mitigation measures related to animals.

6. ENERGY AND NATURAL RESOURCES

- No new concerns related to environmental impacts to energy and natural resources identified.

Mitigation: No mitigation measures related to energy and natural resources.

7. ENVIRONMENTAL HEALTH

- No new concerns related to environmental impacts from toxic or hazardous chemicals identified.

Mitigation: No mitigation measures related to environmental health.

8. NOISE

- Mitigation measures for noise were identified in the 2010 MDNS.
- No new concerns related to environmental impacts to noise identified.

Mitigation: No additional mitigation measures related to noise.

9. LAND AND SHORELINE USE

- No new concerns related to environmental impacts to land and shoreline use identified.

Mitigation: No mitigation measures related to land and shoreline use.

10. HOUSING

- No new concerns related to environmental impacts to housing.

Mitigation: No mitigation measures related to housing.

11. VISUAL AND AESTHETICS

- No new concerns related to environmental impacts to visual and aesthetics identified.

Mitigation: No mitigation measures related to visual and aesthetics.

12. LIGHT AND GLARE

- Mitigation measures for light and glare were identified in the 2010 MDNS.
- No new concerns related to environmental impacts to visual and aesthetics identified.

Mitigation: No additional mitigation measures related to environmental health.

13. RECREATION

- No new concerns related to environmental impacts to visual and aesthetics identified.

Mitigation: No mitigation measures related to recreation.

14. HISTORIC AND CULTURAL PRESERVATION

- No new concerns related to historic and cultural preservation identified.

Mitigation: No mitigation measures related to historic and cultural preservation.

15. TRANSPORTATION

- Mitigation measures for transportation, including a Traffic Management Plan developed in consultation the County Dept of Public works, were identified in the 2010 MDNS. The plan would encourage construction traffic to use the on and off-ramps and the Wakefield/Lakefield corridor to avoid the Hwy 12-Keys Road intersection.
- No new concerns related to transportation identified.

Mitigation: No additional mitigation measures related to transportation.

16. PUBLIC SERVICES

- No new concerns related to public services identified.

Mitigation: No mitigation measures related to public services.

17. UTILITIES

- No new concerns related to utilities identified.

Mitigation: No mitigation measures related to utilities.

Cumulative Effects of adding a Gas Path Package to Units 1 and 2 and commencing construction of Units 3 and 4 by 2028. EFSEC considered the potential cumulative adverse environmental effects from the Certificate Holder's request to add a new gas path package to Units 1 and 2 in combination with this request. Construction of the two activities occur at different times. Both the upgrades to Units 1 and 2 and the construction of Units 3 and 4 affect water use out of the Chehalis River, and air emissions during operation. However, the operational water and air effects of the upgrade to Units 1 and 2 are very small, both activities have mitigation applied, and/or are within existing permit requirements. Additionally, Units 3 and 4 will have to adhere to existing regulations at the time of construction.

C. APPLICABLE SEPA RULES

EFSEC previously conducted an environmental analysis related to Grays Harbor Energy's proposal to construct and operate Units 3 and 4 (MDNS 2/12/2010)

Separating SEPA review for extending the deadline to 2028 for commencing construction of Units 3 and 4

Per WAC 197-11-060 Content of environmental review, part (3)

(b) Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection (5).) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

- (i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or

- (ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

EFSEC reviewed the two proposed changes to the Site Certification Agreement: 1) upgrading Units 1 and 2; and 2) extending to 2028 the deadline for commencing construction of Units 3 and 4.

EFSEC determined that the two changes/activities do not meet subsections (i) and (ii) above and therefore are not closely related.

- They are not interdependent parts of a larger proposal.
- The facility is already operating, it is not a larger “proposal” as mentioned in WAC 197-11-060
- The two activities can, and are proposed to, proceed independently of each other.

Splitting the two proposed activities does not conflict with the requirements of 197-11-060 (3)(b). Therefore, they are not required to be discussed in the same environmental document.

One of the main reasons for the existence of WAC 197-11-060 (3)(b) is to ensure cumulative effects are considered. Because the upgrade to units 1 & 2 could be considered very minor, there is not a real risk of avoiding a consideration of cumulative impacts from both proposals. However, to avoid that risk, the two separate SEPA documents can still acknowledge the existence of both proposed activities.

There is value in splitting the two proposed activities. One is an energy efficiency upgrade to an existing facility that can happen under a different timeline and is proposed to receive a SEPA Addendum for minor new information. The other is a different decision related to extending the timeline for approximately doubling the size and output of the facility which may require more time to review. It would be beneficial for the decision makers to be able to consider each one separately.

Addendum

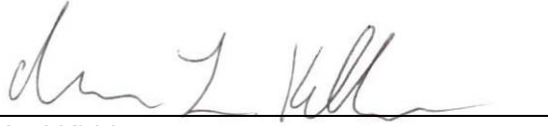
Per WAC 197-11-600(3), for DNSs and EISs, preparation of a new threshold determination or supplemental EIS is required if there are:

- (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a Determination of Significance (DS) is being withdrawn); or
- (ii) New information indicating a proposal’s probable significant adverse environmental impacts (This includes discovery of misrepresentation or lack of material disclosure). A new threshold determination or Supplemental EIS (SEIS) is not required if probably significant adverse environmental impacts are covered by the range of alternatives and impacts analysis in the existing environmental documents.

If EFSEC determines the new information and analysis does not substantially change the analysis of significant impacts and alternatives in the existing environmental document (WAC 197-11-600 (4)(c), an addendum is appropriate for documenting this review under SEPA.

Nothing in this environmental review or the associated SEPA Addendum shall preclude further review or conditioning of future development proposals for the subject property.

I have reviewed and considered the referenced material in Part A and have identified no substantial changes to the proposal nor new information indicating the proposal's probable significant adverse impacts to the environment. I hereby recommend an Addendum to the 1972 SEPA EIS prepared by the Washington State Thermal Power Plant Site Evaluation Council.



Ami Kidder,
EFSEC Siting and Compliance Manager

Date 11/17/2020