

STARBUCK POWER COMPANY, L.L.C.

10500 NE 8th Street, Suite 2026

Bellevue, WA 98004

Phone (425) 454 5664 ; Fax (425) 455-3977

August 27, 2001

HAND-DELIVERED

Mr. Allen J. Fiksdal
Manager
Energy Facility Site Evaluation Council
925 Plum Street SE, Bldg. 4
P.O. Box 43172
Olympia, WA 98504-3172

Dear Mr. Fiksdal:

Subject: Enclosed Starbuck Power Project Application for Site Certification

Starbuck Power Company, L.L.C. (SPC), hereby submits to the Energy Facility Site Evaluation Council (EFSEC) an Application for Site Certification (ASC) to authorize construction and operation of the Starbuck Power Project (SPP). An original and eighty four (84) hard copies are enclosed, together with one digital copy in Word 2000 format and one digital copy in PDF format. Also enclosed is a cashier's check in the amount of \$25,000.00 as a deposit toward the costs of processing the ASC.

Proposed sequencing of DEIS and Adjudicative Procedures. SPC respectfully requests that EFSEC adopt a procedural approach that would use the environmental impact statement process to identify issues for the adjudication and would encourage resolution of issues prior to the evidentiary hearing. This approach borrows from the Oregon Energy Facility Siting Council process, which provides for identification of issues through a single public hearing prior to adjudication. *See* ORS § 469.370. As implemented in this case, this approach would involve integration of the State Environmental Policy Act and adjudicative processes as follows:

- The deadline for intervention would be prior to issuance of the draft environmental impact statement (DEIS).
- All parties to the adjudicative proceeding would be required to identify all issues through their comments to the DEIS. Any issue not raised through comments to the DEIS would be excluded from the evidentiary hearing.
- EFSEC would authorize and encourage the EFSEC staff to exercise its authority under Section 5 of EHB 2247 to assist SPC in identifying issues, to recommend resolutions to disputed issues that would allow site approval, and to make recommendations to EFSEC on conditions that would allow site approval.

Under this approach, SPC proposes the following schedule: The first prehearing conference would be conducted on or around October 22, 2001, concurrent with notice of DEIS scoping meetings. The first prehearing conference would result in issuance of an order on petitions to intervene on or around November 19, 2001. Notice of DEIS issuance and the DEIS comment period would follow, starting on or around December 17, 2001. Parties who wished to raise issues in the adjudication would be required to comment during the DEIS comment period, and, as described above, the failure of any party to raise an issue in person or in writing prior to the close of the DEIS comment period would preclude consideration of the issue in the adjudication. EFSEC would notify the public of the deadlines for intervention and comment in its Notice of DEIS Scoping, initial Notice of Prehearing Conference, and Notice of DEIS Issuance.

In this manner, EFSEC, SPC, and any intervenors may use efficiently the prehearing conference process for its intended purpose—to *narrow and simplify* issues to be addressed in adjudication. See WAC 463-30-270(1). EFSEC's procedural rules are consistent with this approach and support integration of the two processes. See WAC 463-47-060(3) (EFSEC may initiate adjudication proceeding prior to completion of DEIS); WAC 463-47-100 (whenever possible, EFSEC shall integrate the public notice required for DEIS with notice procedures for EFSEC's review of application). This approach would fully comply with EFSEC's statutory obligations to provide public hearings, as any interested or affected party would have ample opportunity to raise issues to be heard in adjudication. See RCW 80.50.080.

The approach described here would promote the public interest. It addresses Governor Locke's expressed desire to facilitate the energy facility siting process.¹ It would utilize the new procedural tools that the legislature chose to provide to EFSEC. By shortening the overall time required for the SEPA and adjudication processes, this approach would also help alleviate the energy supply problems that the Governor has repeatedly recognized through issuance of a series of Proclamations declaring a state of Energy Supply Alert.²

SPC has worked hard to accommodate EFSEC's preferences in preparing the enclosed ASC. At EFSEC's suggestion, SPC used the optional procedure for a potential site study, which required several months. Again at EFSEC's suggestion, SPC sought pre-submittal review of application material by EFSEC's consultant. This step also consumed a number of months. By following the procedures requested by EFSEC, far more time than is typical has been consumed in the pre-application phase, allowing SPC to address a number of issues already identified by EFSEC and its consultant. SPC understood that EFSEC requested these pre-filing procedures in order to streamline the process after the ASC was filed. SPC believes that EFSEC can best achieve this desired streamlining by adopting the approach described above.

Designated agent. I am SPC's designated agent pursuant to WAC 463-42-025. My contact information is as follows:

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Land use plans and ordinances. Pursuant to the EFSEC staff's direction, copies of adopted land use plans and zoning ordinances within a 25-mile radius of the Starbuck generation plant site, as required by WAC 463-42-362, will be supplied under separate cover. These plans and ordinances also cover all land within a 2-mile-wide corridor centered on the proposed alignment of the Bonneville Power

¹ See Governor's Press Release regarding signing of EHB 2247, May 8, 2001.

² See Governor's Proclamation of Energy Supply Alert, January 22, 2001; Governor's Proclamations Extending Energy Supply Alert, April 26 and June 22, 2001.

Administration transmission line route from the Starbuck generation plant switchyard to the Lower Monumental Dam switchyard.

Request for waiver. SPC requests that EFSEC waive WAC 463-42-435—NPDES Application because it is not applicable to the SPP. A waiver of this section is justified because the SPP will not discharge any wastewater or stormwater to surface water. An NPDES permit applies only in the case of a discharge to surface water. *See* 33 U.S.C. § 1342(a) and (b); 40 C.F.R. § 122.2.

Disclosure and certification. To the best of SPC's knowledge, the enclosed ASC includes all information known to us at this time that has a bearing on site certification. I certify that we have reviewed all EFSEC application requirements, that qualified professional personnel have prepared the enclosed data, and that the application is substantially complete.

We look forward to working with EFSEC and EFSEC staff.

Sincerely,

Starbuck Power Company, L.L.C.



Donald W. Fields
Vice President

Enclosure

c with enclosure: Clark Posey, Columbia County (two copies)
Diane Lusk, Mayor, Town of Starbuck (two copies)
Donald Gene Turner, Manager, Port of Columbia
Bill Staeger, Jones & Stokes
Mike Raschio, BPA
Mike Elmer, Starbuck Power Company
Marlena Guhlke, CH2M HILL
Liz Thomas, Preston Gates & Ellis