

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

In re Application No. 94-2

Chehalis Power Generating,
Limited Partnership
Chehalis Generation Facility

COUNCIL ORDER NO. 702

COUNCIL ORDER DENYING
MOTIONS FOR RECONSIDERATION

On June 10, 1996 the Energy Facility Site Evaluation Council (Council or EFSEC) entered Order No. 698 Granting Site Certification, On Condition, recommending that the Governor of Washington State approve siting the Chehalis Generation Facility and sign the proposed Site Certification Agreement. The Council received three requests for reconsideration of Order No. 698. This Order denies those requests.

The Council received requests for reconsideration from Counsel for the Environment (CFE) and the Critical Issues Council (CIC). The Chehalis Power Company (Chehalis Power) filed a letter dated July 1, 1996 requesting "technical" amendments to the Site Certification Agreement (SCA)¹. Chehalis Power answered the CFE and CIC's motions. CFE and CIC replied to the answer. CFE, CIC, and the Department of Ecology responded to Chehalis Power's letter.

The Council has considered the requests for reconsideration. Most of the matters raised on reconsideration were raised prior to the hearing and discussed during the hearing. After reviewing carefully the requests and responses, the Council believes that they are adequately addressed in its final order No. 698.

The Council wishes to address three matters that were raised: 1) Inconsistency between the draft SCA and Attachment 4, the National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit regarding discharge volumes and effluent limitations; 2) Chehalis Power's commitment to use reclaimed water; and 3) the Council's issuance of a Compliance Schedule modifying the NPDES Permit. .

1. Inconsistency between the draft SCA and NPDES Permit regarding Discharge Volumes and Effluent Limitations.

Chehalis Power raises this question. Is Article VI, A.1 of the draft SCA authorizing the Chehalis Generation Facility use of reclaimed water not to exceed 4.6 cubic feet per second (or approximately 3 million gallons per day) inconsistent with the effluent limitations in Attachment 4 to the draft SCA (NPDES Permit), Section S.1 Special Conditions,

¹The Council considers Chehalis Power's requested "technical" corrections as a request for reconsideration.

Subsection A. Process Wastewater Discharges, limiting discharges (in pounds per day) to 2 million gallons per day?

When preparing the NPDES permit and effluent limitations, the Council based the calculations for effluent limitations on a rate of flow that approximates the City's maximum discharge rate (approximately 2 million gallons per day) and not the maximum design capacity of the Chehalis Generation Facility of 3 million gallons per day. Because the City's Waste Treatment Plant is permitted to discharge less than 2 million gallons per day, the Council finds it is appropriate to use that volume when determining the NPDES permit effluent limitations for the Chehalis Generation Facility. The Council also finds it appropriate that the total allowable discharge for purposes of the site certification agreement be the design discharge volume for the Chehalis Generation Facility of 3 million gallons per day. If and when the City's rate of discharge is permitted to increase, Chehalis Power may request a modification of the NPDES Permit without having to amend the SCA.

The Council finds it appropriate to require the effluent limitations in the NPDES permit for the Chehalis Generation Facility to reflect the allowable discharge from the City's Wastewater Treatment Plant. The Council also finds it appropriate and not inconsistent to provide in the SCA for a potential discharge of 3 million gallons per day by the Chehalis Generation Facility.

2. Chehalis Power's Commitment to Use Reclaimed Water.

The CIC contends that the Council improperly addressed Chehalis Power's commitment to use reclaimed water, a matter that was not discussed during the adjudicative hearings. Chehalis Power's commitment to use reclaimed water was presented to the Council at a public hearing on April 10, 1996.

In deciding not to require Chehalis Power to use reclaimed water, the Council determined that the Chehalis Generation Facility should not be required to solve the City's effluent problems. Chehalis Power's commitment to use reclaimed water will benefit the City and the region, but the Council should not mandate that the City rely solely on the Chehalis Generation Facility. The Council determines that presentations in the public hearings and the discussion by the Council in its order were appropriate and sufficient, and that no changes to Order No. 698, the SCA, nor the NPDES Permit are necessary to deal with this concern.

3. Issuance of a Compliance Schedule Modifying the NPDES Permit.

The Council issued a Compliance Schedule (Attachment 9 to the SCA) for the Chehalis Generation Facility, allowing discharge of ammonia and BOD. After reviewing the arguments of CFE and Chehalis Power, the Council continues to consider the Compliance Schedule a reasonable and practical means to deal with environmental concerns, consistent with a long-term regional solution to Chehalis River water quality problems. The Council

observes that, while this would not justify an improper approach, it is uncertain whether the facility will be built during the compliance schedule period and the discharges allowed in the schedule may never occur.

The Council finds no modification of its compliance schedule is appropriate at this time. Further, Council Order No. 698 provides that consideration shall be given to environmental conditions and that changes may be made to reflect changes to the project, regulatory circumstances, or environmental conditions.

ORDER

The Council enters the following Order:

1. The requests for reconsideration are denied.
2. Order No. 698 with the Site Certification Agreement and the Attachments together with this order, shall be forwarded to the Governor forthwith.

DATED at Olympia, Washington and effective this ____ day of _____, 1996.

Energy Facility Site Evaluation Council

Frederick S. Adair, Chair

Note to Parties: No further administrative review is available. Judicial review may be requested under pertinent provisions of the Administrative Procedure Act, Chapter 34.05 RCW.