

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In re Matter of
Application No. 99-1
of
SUMAS ENERGY 2, INC.

POST-HEARING ORDER No. 2
COUNCIL ORDER NO. 751

Post-hearing order answering Request for
Clarification and/or Objection to Post-
Hearing Order No. 1

SUMAS ENERGY 2 GENERATION
FACILITY

Nature of the Proceeding: This matter involves an application to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) for certification to construct and operate the Sumas Energy 2 Generation Facility (SE2), a natural gas-fired electrical generation facility located in Sumas, Washington.

Procedural Setting: Post-Hearing Order No. 1 (Council Order No. 750) was served on all parties on August 28, 2000. On September 7, 2000, the Applicant filed a "Request for Clarification and/or Objection to Post-Hearing Order No. 1" in which the Applicant sought clarification of the following language:

The record was also held open for the submission of further evidence regarding the Canadian governments' positions on environmental issues not subject to the PSD permitting process. The Council anticipates that the Applicant or other parties may wish to provide further evidence on the Canadian position. The Council will permit representatives from Canadian governmental entities to appear before the Council as witnesses for any party (within the scope of the party's intervention) to address the issue of the status of the Canadian government's position regarding air quality impacts in Canada. Witnesses and evidence to be presented by any party on additional Canadian environmental issues should be identified by September 13.

In its motion for clarification, the Applicant stated that it has interpreted this language in the Order to allow the parties to present evidence regarding the status of the Canadian governmental entities' position either through witnesses who are representatives from Canadian governmental entities or through other lay or expert witnesses who are not

governmental representatives but can establish a proper foundation for their testimony. The Applicant sought clarification that this interpretation of the Order was correct.

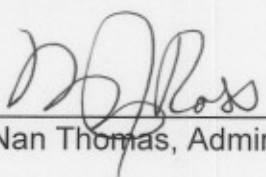
Responses to this request for clarification were received from Mary Barrett, the Counsel for the Environment and David Bricklin representing the City of Abbotsford.

Clarification: On the last day of the scheduled adjudicative hearing on August 4, 2000, a letter was received from the British Columbia Minister of Environment, Lands and Parks concerning the province's position on the proposed facility (Exhibit 157.1). The Council expressed uncertainty as to the meaning of some of the language in the letter. Because of the late presentation of this evidence, and these ambiguities, the Council left the record open to receive any further evidence clarifying the positions of any Canadian governmental entities. In the interest of fairness, due process, and a full understanding of the positions taken by the parties and governmental entities, the Council will allow the parties to present evidence regarding the status of the Canadian governments' positions either through witnesses who are representatives from Canadian governmental entities or through other witnesses who are not governmental representatives, but who can establish a proper foundation for their testimony.

Notice to Participants: Any objection to the provisions of this order must be filed within ten days after the date of service of this order, pursuant to WAC 463-30-270(3). Unless modified, this order will control the future course of the proceedings.

DATED and effective at Olympia, Washington, the 12 day of September, 2000.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

for 
Nan Thomas, Administrative Law Judge