

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2002-01

BP WEST COAST PRODUCTS, LLC.

BP CHERRY POINT COGENERATION  
PROJECT

PREHEARING ORDER NO. 5  
COUNCIL ORDER NO. 785

FOURTH PREHEARING CONFERENCE  
ORDER REGARDING WITHDRAWAL  
OF THE PROVINCE OF BRITISH  
COLUMBIA AND ADJUDICATIVE  
PROCEEDINGS SCHEDULE

**Nature of the Proceedings**

On June 10, 2002, BP West Coast Products, LLC (herein "BP" or the "Applicant"), submitted application No. 2002-01 to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the BP Cherry Point Cogeneration Project (Project), a 720-megawatt natural gas-fired combustion turbine electrical cogeneration facility. The proposed Project is to be located within Whatcom County, adjacent to the BP oil refinery and near the community of Birch Bay.

Associated with the Project will be an approximately one-mile electrical transmission line and a 1,400-foot natural gas pipeline. The siting of the transmission line is under the jurisdiction of the Bonneville Power Administration (Bonneville).

EFSEC and Bonneville issued a draft Environmental Impact Statement (DEIS) for public comment under the Washington State Environmental Policy Act (SEPA), and the National Environmental Policy Act (NEPA) on September 5, 2003. The public comment period on the DEIS ended on November 3, 2003. Notice has been given that EFSEC will conduct an examination of the project through a formal adjudicative proceeding, which is scheduled for December 8 through 11, 2003, at Fox Hall, Bellingham, Washington. A Public Hearing Session is scheduled to be held on December 9, 2003, starting at 7:00 p.m. in Blaine, Washington.

**Procedural Setting:**

The Council convened the fourth prehearing conference in the formal adjudication process for this matter on December 8, 2003, starting at 9:00 a.m., at Fox Hall in Bellingham, Washington, pursuant to due and proper notice to all parties. The Conference was held before Council Chair Jim Luce, and Councilmembers Richard Fryhling (Department of Community, Trade &

Economic Development), Hedia Adelsman (Department of Ecology), Tony Ifie (Department of Natural Resources), Tim Sweeney (Utilities and Transportation Commission), Chris Towne (Department of Fish and Wildlife), Dan McShane (Whatcom County) and Julian C. Dewell, Administrative Law Judge.

### **Participants:**

The following persons participated in the fourth prehearing conference:

Applicant: **BP West Coast Products, LLC**, by Karen M. McGaffey, and Elizabeth McDougall, Attorneys at Law, Seattle.

Counsel for the Environment: **Mary Barrett**, Assistant Attorney General (AAG), Olympia.

Intervenors: **Whatcom County**, by David M. Grant, Deputy Prosecuting Attorney, Bellingham.

### **1. Notice of Withdrawal of the Province of British Columbia:**

On December 3, 2003, the Council received the Withdrawal of Intervention from the Province of British Columbia. Pursuant to the requirements of Section 34.05.437 (1) of the Revised Code of Washington, the Council provided the opportunity to all parties to this matter to respond orally to this filing at the fourth prehearing conference. No responses or objections were raised by any of the parties present. The Council acknowledged withdrawal of the Province of British Columbia in these proceedings.

### **2. Adjudicative Hearings Witness Schedule:**

The witness order and schedule for the adjudicative hearings commencing on December 8, 2003, was distributed to all parties. No changes were proposed by counsel present. The schedule (Attachment 1) was adopted for the course of the adjudicative hearings.

### **3. Councilmember Ex-Parte Communications:**

Judge Dewell presented Councilmember Hedia Adelsman, appointed as an alternate to Councilmember Charles Carelli to represent the department of Ecology on EFSEC.

Councilmembers were asked by Judge Dewell if they had any ex-parte communications to disclose. None of the Councilmembers present had any ex-parte communications to disclose.

**4. Land-Use Hearing Exhibits:**

Counsel for the Applicant, requested that the Council consider all of the evidence presented during the course of the adjudicative hearings in the land use consistency determination required by Chapter 463-26 of the Washington Administrative Code. Ms. McGaffey indicated that such consideration would avoid duplication of exhibits, testimony, and cross examination of witnesses during the land use hearing scheduled for Tuesday December 9, 2003.

Hearing no objections from other parties present, the Council approved the request.

**7. Other Matters Before the Council:**

There being no further business to come before the Council, the fourth prehearing conference was concluded.

**8. Notice to parties:**

Any objection to the provisions of this order must be filed within ten days after the date of mailing of this order, pursuant to WAC 463-30-270(3). Unless modified, this prehearing conference order shall control further proceedings in this matter.

DATED at Olympia, Washington and effective this \_\_\_\_ day of December, 2003.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL.

By

\_\_\_\_\_  
James O. Luce  
EFSEC Chair

<b>Monday 12/8</b>	<b>Tuesday 12/9</b>	<b>Wednesday 12/10</b>	<b>Thursday 12/11</b>	<b>Friday 12/12</b>
<p><b>9:00 – 12:00</b></p> <p><u>Prehearing Conference</u></p> <p><u>Stipulation Hearing</u> Mark Moore (BP) David Sjoding (CFE)</p> <p><u>Project Design</u> Mark Moore (BP)</p>	<p><b>9:00 – 12:00</b></p> <p><u>Heron &amp; Wildlife</u> Kate Stenberg (WC) Ann Eissinger (BP)</p> <p><u>Wetlands</u> David Every (BP)</p> <p><u>401 Certification</u> David Every (BP)</p>	<p><b>9:30 – 12:00</b></p> <p><u>Noise</u> David Hessler (BP) Paul Wierzba (WC)</p> <p><u>GHG Mitigation</u> D. Montgomery(BP)</p> <p><u>Power Demand/Market</u> J. Litchfield (BP)</p>	<p><b>9:00 – 12:00</b></p> <p><u>Water</u> Tom Anderson (BP) Bill Martin (BP) Michael Kyte (BP)</p> <p><u>Traffic</u> R. Vandersypen (WC) D. Enger (BP)</p>	<p><b>9:00 – 12:00</b></p>
<p><b>1:00 – 5:00</b></p> <p><u>Project Design (cont.)</u> Mike Torpey (BP)</p> <p><u>Air Quality</u> Brian Phillips (BP) Jane Koenig (WC) Don Davies (BP)</p>	<p><b>1:00 – 5:00</b></p> <p><u>Land Use Consistency Hearing</u> Mike Torpey (BP) Ann Eissinger (BP) Hal Hart (WC) Roland Middleton or Petur Sim (WC) Kate Stenberg (WC) Paul Wierzba (WC)</p> <p><u>Site Restoration</u> Hal Hart (WC)</p>	<p><b>1:00 – 5:00</b></p> <p><u>Siesmic</u> D. Goldthorp (WC) S. Malushte (BP)</p> <p><u>Pipeline</u> Kraig Olason (WC) Dennis Bays (BP)</p> <p><u>Public Services</u> Bill Elfo (WC) Neil Clement (WC)</p>	<p><b>1:00 – 5:00</b></p>	<p><b>1:00 – 5:00</b></p>
	<p><b>7:00 – 9:00</b></p> <p>Public Hearing</p>			