

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of:

Grays Harbor Energy LLC

Satsop Combustion Turbine Project – Grays  
Harbor Energy Center Units 3 and 4

COUNCIL ORDER NO. 845

ORDER ON CONSISTENCY WITH GRAYS  
HARBOR COUNTY LAND USE PLANS  
AND ZONING ORDINANCES

**Nature of Proceeding:** This matter involves an application by Grays Harbor Energy LLC ("Certificate Holder") to amend the Site Certification Agreement ("SCA") for the Satsop Combustion Turbine Project (also known as "Grays Harbor Energy Center") to authorize construction and operation of two additional combustion turbine units, a steam generator and associated facilities (collectively "Units 3 and 4").

**Background and Procedural Matters:** On October 30, 2009, the Certificate Holder submitted an application for amendment to the Washington Energy Facility Site Evaluation Council ("EFSEC" or "Council") to construct and operate Units 3 and 4. The existing project and the proposed expansion are located within the Satsop Development Park, in Grays Harbor County, near Elma, Washington.

On November 20, 2009, the Council issued a *Notice of Initial Public Meeting, Notice of Land Use Consistency Hearing, and Opportunity for Public Comment*. On December 15, 2009, at 7:15 p.m., pursuant to RCW 80.50.090 and Chapter 463-26 WAC, the Council convened a land use hearing at 310 W. Spruce Avenue, Montesano, Washington. The purpose of the hearing was to determine if the proposed addition of Units 3 and 4 is consistent with local and regional land use plans and zoning ordinances. The Council again met to discuss this matter on March 9, 2010 in Olympia, Washington.

**Hearing Procedure:**

December 15, 2009

On December 15, 2009, at 7:15 p.m., the Council convened a Land Use Hearing in Montesano, Washington. The following EFSEC members were present: Chair Jim Luce, Jeff Tayer (Department of Fish and Wildlife), Richard Fryhling (Department of Commerce), and Richard Byers (Utilities and Transportation Commission).

Participants in the hearing included:

Certificate Holder: Grays Harbor Energy LLC  
By Brett Oakleaf, Katy Chaney and Karen McGaffey  
Grays Harbor Energy Center  
P.O. Box 26  
Satsop, WA 98583

County: Grays Harbor County  
By Brian Shea, Director of Planning and Building  
100 W Broadway, Suite 31  
Montesano, Washington 98563

At the hearing, Katy Chaney testified on behalf of the Certificate Holder. Ms. Chaney stated that Grays Harbor County had submitted a Certificate of Land Use Consistency, in the form of a letter from Brian Shea, Grays Harbor County Director of Planning and Building, dated November 25, 2009.

Brian Shea, representing Grays Harbor County, appeared and offered the Certificate of Land Use Consistency, which is incorporated by reference as an exhibit to the proceedings. Mr. Shea testified that the proposed Units 3 and 4 expansion is in conformance with the land use regulations applicable to the site in unincorporated Grays Harbor County. He testified that the project is consistent with the Grays Harbor County Comprehensive Plan. He also testified that the project is located within the Satsop Development Park Zoning District and conforms with the relevant provisions of the Grays Harbor County Zoning Code, which designate energy generation facilities as a permitted use within that district.

David Lindford, a member of the public, also testified at the December 15, 2009 hearing. Mr. Lindford expressed concerns about noise, visual impacts and the proposed doubling in size of the facility, but Mr. Lindford did not testify concerning zoning ordinances or land use plans.

#### March 9, 2010

The Council met on March 9, 2010 at 1:30 p.m., in Olympia, Washington. Council members James Luce, Jeff Tayer, Richard Fryhling, Richard Byers, Hedia Adelman and Mary McDonald were present.

The Certificate Holder was represented by Brett Oakleaf and Karen McGaffey. The Counsel for the Environment, Assistant Attorney General Bruce Marvin, was present.

## FINDINGS OF FACT

Based upon the oral and written evidence presented in this proceeding, the Council makes and enters the following findings of fact:

1. On October 30, 2009, the Certificate Holder submitted an application to amend the existing SCA for the Grays Harbor Energy Center to the Council. The requested amendment would authorize the construction and operation of two additional combustion turbine units, a steam generator and associated facilities, collectively known as Units 3 and 4.

2. The existing Grays Harbor Energy Center and the proposed expansion are located within the Satsop Development Park, in unincorporated Grays Harbor County near Elma, Washington. The project site is located within the "SD Satsop Development District" identified in Grays Harbor County Code chapter 17.57. Grays Harbor County Code section 17.57.020 includes energy generation facilities among the permitted uses in the SD Satsop Development District.

3. The Council convened a public land use hearing pursuant to due and proper notice on December 15, 2009, in Montesano, Washington.

4. The Council received a letter from Grays Harbor County certifying that the proposed project expansion is consistent with local land use requirements. A representative of Grays Harbor County testified at the Land Use Hearing that the proposed expansion is in conformance with the Grays Harbor County Zoning Code, the Grays Harbor County Comprehensive Plan, and applicable land use regulations. No evidence was offered to the contrary.

5. The Council met again on March 9, 2010. No additional testimony or evidence was presented.

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Council makes and enters the following Conclusions of Law:

1. The Council has jurisdiction over the subject matter of this proceeding and the parties to it pursuant to RCW 80.50.090 and Chapter 463-26 WAC.

2. In accordance with WAC 463-26-090, the testimony and certificate offered by Grays Harbor County attesting to the fact that the proposed project is consistent and in compliance with county or regional land use plans and zoning ordinances, are regarded as *prima facie* proof of consistency and compliance with such land use plans and zoning ordinances. No testimony or evidence was offered to the contrary.

3. Pursuant to WAC 463-26-110, the Council concludes that the proposed project is consistent and in compliance with applicable Grays Harbor County land use plans and zoning ordinances.

**DETERMINATION AND ORDER**

Based upon these Findings of Fact and Conclusions of Law, the Council determines and hereby **ORDERS** that the Certificate Holder's proposed expansion is consistent and in compliance with the regional land use plans and zoning ordinances of Grays Harbor County.

Dated at Olympia, Washington this 9th day of March 2010.

Washington State Energy Facility Site  
Evaluation Council

By: \_\_\_\_\_/s/  
Jim Luce  
EFSEC Chair

Attest:

By: \_\_\_\_\_/s/  
Stephen Posner  
Acting EFSEC Manager