

**WASHINGTON STATE  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**RESOLUTION NO. 285**

WHEREAS, The Site Certification Agreement (SCA) issued for KVA Power, LLC, and CSW Energy, Inc.'s (KVA) Northwest Regional Power Facility (NRPF), sets forth the terms and conditions for the construction and operation of the NRPF combustion turbine project in Creston, Washington; and

WHEREAS, SCA Condition VI.D.2 specifies that, "The Certificate Holder will submit a land management plan for the NRPF site at the beginning of the fourth year after the effective date of this Agreement. The Council directs the Certificate Holder to work with interested state and local agencies to develop this plan;" and

WHEREAS, Governor Mike Lowry, in his September 20, 1996 letter approving the NRPF project, encouraged the Council to work with KVA to develop a management plan that protects the environment and assures that undeveloped land at the site is appropriately used; and that the plan is acceptable to Fish and Wildlife; and

WHEREAS, By letter dated January 13, 1997, KVA requested the Council's assistance and direction in the development of a land management plan that would involve all of the interested entities and result in the satisfactory resolution of a number of issues associated with grazing, wildlife mitigation and habitat areas and wetlands, that the parties had been unable to resolve during the Council's and Governor's review of the NRPF project; and

WHEREAS, The Council initiated a process for the parties to discuss the development of a plan for the NRPF site and possible mitigation options associated with the key elements of the land management plan, that included a meeting in Davenport, Washington, on March 11, 1997, attended by all the interested parties; and a special meeting held in Creston August 6, 1997, where the Council received comments from the parties and toured the NRPF site; and

WHEREAS, The Council was advised by KVA (via a July 1, 1997 letter) that they had been unable to come to agreement with the state Department of Fish and Wildlife on the impact that the project will have on wildlife habitat; that any impact has been offset by enhancements that the company is proposing; and that they were withdrawing an offer to provide \$100,000 for environmental enhancement in Lincoln County; and that they had provided the Council with all the information available; and requested that the Council make a decision based upon the information before it; and

WHEREAS, Fish and Wildlife subsequently advised the Council, by letter dated August 27, 1997, that they are recommending an acre-for-acre replacement of the 75 acres of wildlife impacts anticipated from the project; and they offered wildlife mitigation options that included both on-site components and an off-site component; and

WHEREAS, The Council has reviewed Order No. 697 that recommended conditions for site certification to the Governor; the SCA conditions applicable to managing the NRPF site; the Governor's letter that accompanied the approved SCA; the Land Management Plan proposed by KVA; the analysis of the site and habitat and mitigation options offered by Fish and Wildlife; and conducted an on-site evaluation of the NRPF site; and

WHEREAS, Based on its evaluation of the requirements and the intent of the SCA to allow grazing to continue at the site in conjunction with appropriate measures to protect wetlands and sensitive habitat areas, the Council finds that KVA has an obligation to manage the NRPF site in a manner that provides an opportunity for the continued use of the rangeland for grazing by the Angstrom's cattle business, while ensuring that an appropriate level of mitigation activities are implemented to mitigate the impacts of the project and to protect wetlands and sensitive habitat areas;

NOW, THEREFORE, BE IT RESOLVED, That the Energy Facility Site Evaluation Council hereby directs KVA to revise its proposed Land Management Plan to incorporate the following conditions into the elements of the plan:

- 1. Grazing:** Grazing is allowed on the NRPF site consistent with the present use as described in the attached "Management Plan for Angstrom Farms." If, based on the results of observations made during an inspection program, that will later be established by the Council, further degradation to the site is documented, the Council, in cooperation with the interested parties, will reevaluate the stocking rate and make changes as appropriate. Any lease agreement entered into by KVA and Angstrom Farms will set forth the land management practices that will be followed for the continued use of the site for cattle grazing, consistent with the conditions of the approved Land Management Plan.
- 2. Wetlands:** Activity at the site shall be conducted in a manner that protects existing wetland and associated riparian areas to the maximum extent possible, given the uses allowed by the Site Certification Agreement (SCA) and the Land Management Plan. These areas will be included in the scope of the inspection program that is set out by the Council.
- 3. Cultural Resources Site:** KVA will fence off forty (40) acres in the north central portion of the site, to include the area referred to as site 45-LI-138, that was identified as a cultural resources site.
- 4. Evaporation Ponds:** The two (2) evaporation ponds used by NRPF during operations will be designed to support the wildlife and habitat protection objectives stated in the SCA. Design considerations shall include: year-round water; shallow water with gradual slopes and irregular contour around the edge of the pond; an island or islands or comparable structures within the pond; vegetation and plantings; and water quality monitoring. If the ponds are

cleaned, any wetland or riparian vegetation that is impacted shall be replaced. The Council will work with KVA regarding plant operations or water availability considerations that will need to be addressed in developing the design and operation of the ponds.

**5. Landscaping/Vegetation/Plantings:** All plantings and vegetation will be accomplished in a manner that meets the objectives stated in the SCA for landscape design and wildlife habitat. KVA shall consult with Fish and Wildlife and other interested parties in determining the species that are most appropriate for the NRPF site.

**6. Off-Site Mitigation:** KVA shall include an off-site mitigation element in the Land Management Plan that is based on twenty-three (23) acres of off-site mitigation. KVA is directed to work with the Council and Fish and Wildlife to develop an agreement that will provide funding for the twenty-three (23) acres of off-site mitigation. Funding will be keyed to; an initial payment due when KVA decides to proceed; and a second payment that will be made at the start of construction. The cost for the twenty-three (23) acres of off-site mitigation is estimated to be \$96,800; the actual payments will be indexed to the Consumer Price Index to account for inflation.

**7. Inspection Program:** The Council, in cooperation with the interested parties, will develop an inspection program and schedule to monitor the effects of the management plan on the NRPF site.

**8. Implementation Schedule:** The Council recognizes that implementation of certain elements of the Land Management Plan are subject to a decision by KVA to proceed with the project.

BE IT FURTHER RESOLVED, That the Land Management Plan submitted to the Council, will be reviewed by the Executive Committee for compliance with the SCA and the conditions specified herein, and the Council Chair is authorized to transmit written acknowledgment of a satisfactory plan to the Certificate Holder.

Dated this 8th day of September 1997.

Washington State Energy Facility Site Evaluation Council

By:

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C. Robert Wallis, Acting EFSEC Chair

Attest:

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Jason J. Zeller, EFSEC Manager