

**WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL (EFSEC)**

RESOLUTION NO. 301

**CHEHALIS POWER GENERATING, L.P.
CHEHALIS GENERATION FACILITY
WATER USE MITIGATION**

BACKGROUND. On March 6, 2001, Governor Locke signed Amendment No. 1 to the Site Certification Agreement (SCA) authorizing Chehalis Power Generating, L.P. to construct and operate the Chehalis Generation Facility (CGF), a combustion turbine project near Chehalis, Washington. SCA Article VI.A requires Chehalis Power to use its best efforts to acquire 102 acre feet of water rights prior to commencement of commercial operation of the CGF. Article VI.A.3 provides for the acquired water rights to be dedicated to the Chehalis River to protect against potential impacts to the river from the use of municipal supply water during low flow periods.

Article VI.A.4 of the SCA requires that water rights dedicated to the river be in beneficial use; to the extent practicable be upstream from the City of Chehalis' water pump station; and have priority dates earlier than April 9, 1976. Chehalis Power is required to submit to the Department of Ecology (Ecology) and the Council information that all water rights proposed for acquisition are in beneficial use. Chehalis Power is required to submit that information at least 30 days before the date requested for EFSEC action.

At its September 9, 2002 meeting, the Council approved a Stipulation between Chehalis Power and Ecology Regarding Water Mitigation Procedures. The Stipulation establishes a process to facilitate evaluation and approval of proposed water rights and identifies the manner of dedicating water rights to the river. Under the Stipulation, when Chehalis Power identifies a water right for acquisition and dedication to the river, Chehalis Power and Ecology attempt to reach agreement on beneficial use status and the acre-foot quantity to be credited toward the 102 acre feet mitigation goal set forth in Articles VI.A.3 and .4 of the SCA (Acre Foot Credit). In calculating the Acre Foot Credit, Article VI.A.3 provides for a deduction of the amount that could be taken from exempt wells allowed by applicable zoning. Chehalis Power then submits a water right proposal to the Council for action. In the event that the Council approves a water right proposal, Chehalis Power and Ecology then take the necessary steps to transfer the water right to the State trust water rights program under Ecology's water right transfer process.

On October 2, 2002, Chehalis Power submitted to the Council a proposal to acquire and dedicate to the Chehalis River Water Right Certificate No. 4088A. Chehalis Power requested that the Council confirm an Acre Foot Credit in the amount of 52.46 acre feet. Chehalis Power has secured an option to acquire the water right under an agreement with the owner in effect until May 2003.

The proposal included a detailed report (Use Analysis of Water Right Certificate No. 4088A) documenting the beneficial use history, diversion and consumptive use quantities, exempt well usage allowed by applicable zoning, and other technical analysis and information to support the 52.46 Acre Foot Credit. Water Right Certificate No. 4088A has a priority date of July 27, 1960

and has been beneficially used for sand and gravel washing and dust control. Water was withdrawn from infiltration trenches located approximately 1,300 feet from the Newaukum River. After use, water was discharged to the Newaukum River or seeped into the shallow aquifer through a series of settling ponds.

Chehalis Power requested a credit for the consumptive use portion of the water right, net of the exempt well usage. The consumptive water use quantity is less than half of the total quantity diverted under the right. By crediting only the consumptive use portion of the right, the Council would credit Chehalis Power only for the proposed water right's net value to the river system. No credit would be allowed for the quantity historically returned to the river system after use or for the allowable exempt well usage amount. Chehalis Power expects additional unquantified benefits from the transfer, such as an increase in flows for the reach of the Newaukum River between the infiltration trenches and the downstream point where return flows entered the river.

Consistent with the Stipulation, Chehalis Power submitted this information and proposal to Ecology for review prior to submitting it to EFSEC. After review, Ecology concluded that the proposed water right meets the requirements of SCA Articles VI.A.3 and .4 and is suitable for dedication to the river. By letter dated October 17, 2002, Ecology concurred with the proposed 52.46 Acre Foot Credit.

RESOLUTION. Having considered Chehalis Power's proposal, all supporting documentation, comments of Ecology and others, and the recommendation of EFSEC staff, the Council hereby takes the following action:

1. Finds that Water Right Certificate No. 4088A meets the criteria for dedication to the Chehalis River consistent with Article VI.A.4 of the CGF SCA;
2. Approves Chehalis Power's proposal to acquire and dedicate Water Right Certificate No. 4088A to the Chehalis River; and
3. Determines that Chehalis Power receives an Acre Foot Credit in the amount of 52.46 acre feet for dedication of said water right.

Dated and effective this 12th day of November, 2002.

Washington State Energy Facility Site Evaluation Council

By: _____
Jim Luce, EFSEC Chair

Attest: _____
Allen J. Fiksdal, EFSEC Manager