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November 21, 2006

Allen Fisksdal, Manager
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, Washington 98504

Re: Cherry Point Cogeneration Project - Request for SCA Amendment

Dear Allen:

We are writing on behalf of BP West Coast Products, LLC (BP) to request a change in the areas to be used for laydown during construction of the Cherry Point Cogeneration Project. Although the text of the Site Certification Agreement (SCA) does not itself identify the laydown areas, it incorporates the Application for Site Certification by reference, and the Application specified the areas that would be used for construction laydown. We are, therefore, requesting an amendment in the SCA to allow a change in the construction laydown areas.

The following sections provide a brief description of the amendment requested, address the SCA amendment process, explain why BP's request satisfies the requirements set forth in the Council's regulations, and address compliance with the State Environmental Policy Act (SEPA) and National Pollution Discharge Elimination System (NPDES) permitting requirements. BP's request is also supported by the enclosed SEPA Environmental Checklist.

Amendment Requested

BP requests a change in the areas used for laydown during construction of the Cogeneration Project. As explained below, rather than use Laydown Area 2, the Cogeneration Project now proposes to use previously-developed land that is available at the Refinery.

In the April 2003 Revised Application for Site Certification, BP identified four areas that would be used for equipment and materials storage, laydown and assembly during construction of the Cogeneration Project: Laydown Area 1 (located south of Grandview Road and west of Blaine Road); Laydown Area 2 (located between Laydown Area 1 and Grandview Road); Laydown

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Area 3 (located between Laydown Area 1 and Blaine Road), and Laydown Area 4 (located south of Grandview Road, and west of Blaine Road). These areas are shown on the enclosed Figure.

As described in the Application and approved in the SCA, BP will fill these areas, cover them with a gravel surface, and use them for construction laydown.¹ After the completion of construction, Laydown Areas 1, 2 and 3 were to remain developed and be turned over to the Refinery for further use. Laydown Area 4 was to be restored.

BP does not now intend to use Laydown Area 2 for the Cogeneration Project. Instead, the Refinery would like to proceed to develop that area and use it for Refinery facilities.² In exchange for being able to make immediate use of this area, the Refinery will make existing developed areas south of the Cogeneration Project site available to the Cogeneration Project for use during construction. The Cogeneration Project will comply with the Refinery's existing permit conditions in using those areas.

Under the laydown configuration now proposed, the Cogeneration Project will develop and implement a Stormwater Pollution Prevention Plan (SWPPP) to cover Laydown Areas 1, 3 and 4. Stormwater from Laydown Areas 1 and 3 will be directed to Detention Pond 2, shown on the enclosed Figure, and stormwater from Laydown Area 4 will be directed to Detention Pond 1.

The Refinery will be responsible for obtaining whatever additional permits are required to utilize Laydown Area 2. At this time, we anticipate that Detention Pond #2 will be sized so that it can accommodate stormwater runoff from Laydown Area 2 as well as the laydown areas being utilized by the Cogeneration Project.

SCA Amendment Process

Council regulations found at WAC chapter 463-66 govern amendments to an SCA. WAC 463-66-030 provides as follows:

A request for amendment of a site certification agreement shall be made in writing by a certificate holder to the council. The council will consider the request and determine a schedule for action at the next feasible council meeting. The council may, if appropriate and required for full

¹ The Corps of Engineers has issued a Section 404 permit authorize the fill of wetlands found in these areas.

² The Refinery proposes to relocate some occupied buildings to this area in order to comply with new safety regulations that require occupied buildings to be located further away from potential hazards.

understanding and review of the proposal, secure the assistance of a consultant or take other action at the expense of the certificate holder. The council shall hold one or more public hearing sessions upon the request for amendment at times and places determined by the council.

Depending upon the sort of amendment being sought, the Council may approve the amendment by resolution, or the Governor's approval may be required. WAC 463-66-070 provides that "[a]n amendment which does not substantially alter the substance of any provisions of the SCA, or which is determined not to have a significant detrimental effect upon the environment, shall be effective upon approval by the council." On the other hand, WAC 463-66-080 provides that "[a]n amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environmental shall be effective upon the signed approval of the governor."

BP believes the requested amendment can be approved by Council resolution because it will not substantially alter the substance of any provision in the SCA and will not have a significant detrimental effect on the environment. The original SCA contemplated that nearby areas would be used for construction laydown, and that laydown areas would be transferred to the Refinery for further use after Cogeneration Project construction was completed. With the requested change, the Cogeneration Project will continue to use nearby areas for laydown. No additional areas will require development or fill, and stormwater runoff from construction laydown areas will continue to be regulated. The requested change will merely accelerate the transfer of these areas to the Refinery.

Regulatory Requirements

WAC 463-66-040 provides:

In reviewing any proposed amendment, the council shall consider whether the proposal is consistent with:

1. The intention of the original SCA;
2. Applicable laws and rules; and
3. The public health, safety, and welfare.

The requested amendment satisfies these three requirements.

1. Intention of the Original SCA

The proposed amendment is consistent with the intent of the SCA. The SCA contemplated that the Cogeneration Project would use nearby areas for construction laydown, and that those areas would be transferred to the Refinery for further use following construction. Eventually, therefore, these areas would belong to the Refinery and would be outside of EFSEC's jurisdiction. With the requested amendment, the Cogeneration Project will continue to use nearby areas for laydown, Laydown Area 2 could be used by the Refinery immediately, and the other laydown areas will revert to the Refinery's use later.

2. Consistency with Applicable Laws and Rules

The requested amendment is consistent with applicable laws and rules. The requested change to the SCA is consistent with laws and rules governing power generation facilities in Washington. Compliance with SEPA and the Project's NPDES permit are discussed below.

3. Consistency with Public Health, Safety and Welfare

The requested amendment is consistent with public health, safety and welfare. As explained above, and documented in more detail in the attached SEPA Checklist, the requested change to the SCA will not result in any significant additional environmental impacts.

SEPA

The Council is obligated to comply with the State Environmental Policy Act (SEPA), RCW chapter 43.21C. BP has completed and enclosed a SEPA checklist. The checklist explains why the requested amendment would not result in significant adverse effects on the environment. Accordingly, BP believes it is appropriate for the Council's SEPA official to issue a determination of non-significance (DNS).

NPDES Permit

The SCA authorizing the construction and operation of the Cogeneration Project includes as an attachment a National Pollutant Discharge Elimination System Permit (NPDES Permit No. EFSEC 2002-01), that the Council issued pursuant to the federal Clean Water Act and Washington state law. The NPDES permit authorizes discharges of stormwater during construction and operation of the Cogeneration Project.

BP does not believe any amendment to the NPDES permit is necessary. The NPDES permit generally authorizes the discharge of stormwater from areas used for construction of the

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Cogeneration Project and imposes various conditions and monitoring requirements with respect to those discharges. However, the NPDES permit does not specifically identify the areas that will be used for construction laydown, and therefore, need not be amended to remove any reference to Laydown Area 2.

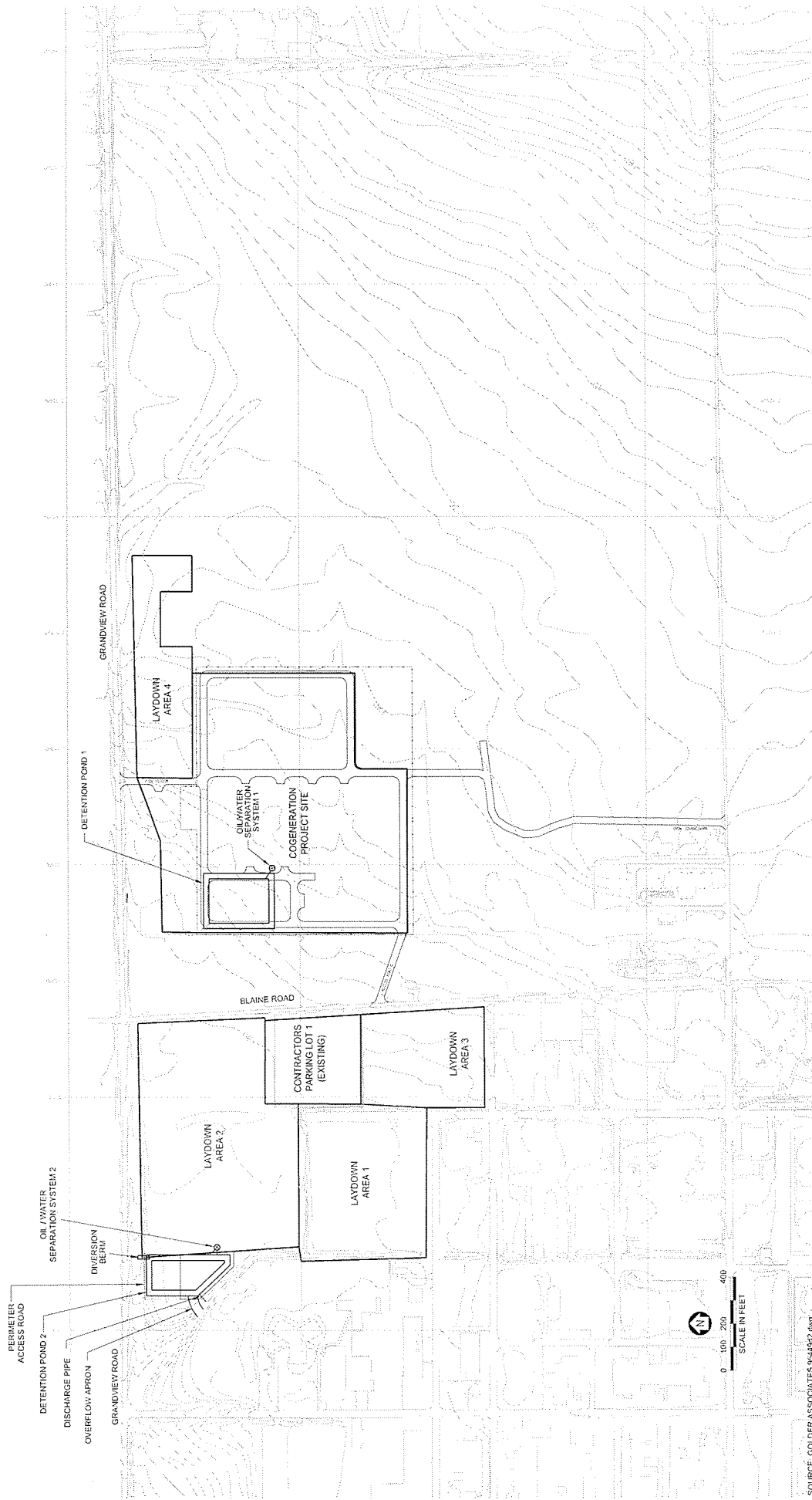
For the foregoing reasons, BP asks the Council to amend its SCA. Please feel free to call me or Trent Enzsol at BP (360-371-4607) if you need any additional information.

Sincerely,



Karen M. McGaffey

cc: Trent Enzsol, BP
Mark Moore, BP



**FIGURE 1
SITE MAP**

BP/CHERRY POINT COGENERATION PROJECT/MA

SOURCE: GOLDER ASSOCIATES 9643822.dwg

FILENAME: C:\ps\BpCherryPoint\SER\Fig 1 SITE.dwg
 EXT DATE: 11/07/06 AT: 15:51



WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: BP Cherry point Cogeneration Project
2. Name of applicant: BP West Coast Products LLC

3. Address and phone number of applicant and contact person:

Trent Enzsol
4519 Grandview Road, Blaine, WA 98230
(360) 371-4607

4. Date checklist prepared: November 3, 2006

5. Agency requesting checklist: Energy Facility Site Evaluation Council

6. Proposed timing or schedule (including phasing, if applicable):

BP proposes to commence construction of the Cogeneration Project within the term of the existing Site Certification Agreement (SCA), which requires construction to commence by December 21, 2014.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Final Environmental Impact Statement, BP Cherry Point Cogeneration Project (August, 2004), hereafter "FEIS" Application for Site Certification (Revised April, 2003)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. Yes. An application for an amendment to the PSD permit for the Project is pending before EFSEC.

10. List any government approvals or permits that will be needed for your proposal, if known.

Amendment of Site Certification Agreement

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

BP already possesses a Site Certification Agreement (SCA) and related permits authorizing the construction and operation of a gas-fired cogeneration facility known as the Cherry Point Cogeneration Project. BP now seeks to amend the existing SCA by removing Lay Down Area 2 from the SCA to allow the Cherry Point Refinery to use that area. The Refinery in turn would provide the Cogeneration Project access to areas already developed and permitted by the Refinery.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The Cogeneration Project is located in unincorporated Whatcom County, along Grandview Road, adjacent to the Cherry Point Refinery.

