



June 20, 2006

Allen Fiksdal, Manager
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, Washington 98504-3172

Re: Cherry Point Cogeneration Project – Request for SCA Amendment

Dear Allen:

BP West Coast Products, LLC ("BP") requests an amendment to the Site Certification Agreement ("SCA") for the Cherry Point Cogeneration Project. As explained in more detail below, BP seeks an amendment to accomplish the following:

1. Allow BP the flexibility to proceed with construction of the entire 720 MW cogeneration facility approved by the Council, or to construct the facility in phases using either GE or Siemens turbines.
2. Allow BP to use treated refinery fuel gas in the HRSG duct burners instead of natural gas, so long as it will comply with the same PSD permit emission limitations applicable when operating the duct burners with natural gas.
3. Allow BP to lengthen the construction period from 27 to 33 months.
4. Allow BP to use aqueous rather than anhydrous ammonia.
5. Change the SCA so that the International Building Code of 2003 (IBC-2003) rather than the Uniform Building Code of 1997 (UBC-1997) will govern project civil and structural design.
6. Allow BP to determine during the final project design whether stack silencers for the Phase I project are required to meet applicable noise regulations and noise limits agreed to in the stipulation with Whatcom County.
7. Change the description of the Ferndale Pipeline compressor facilities found in the SCA.

BP believes that these changes to the SCA are needed to allow the project to be moved into construction in the near future.

The following sections provide a brief description of the amendment requested, address the SCA amendment process, and explain why BP's request satisfies the requirements set forth in the Council's regulations. This letter also addresses the SEPA environmental review process and the requested PSD permit amendment.

BP's request is also supported by the following enclosures:

- Phased Construction Alternative - Project Description
- SEPA Environmental Checklist
- Proposed Amended SCA – Redlined
- PSD Amendment Application

Amendment Requested

BP's amendment request has seven components:

1. Phased Construction Alternative

The Cogeneration Project SCA currently authorizes BP to construct and operate a cogeneration facility adjacent to BP's Cherry Point refinery. The SCA describes the Cogeneration Project as a 3x1 configuration with three General Electric 7FA natural gas-fired combustion turbine generators, three heat recovery steam generators (HRSGs) equipped with duct firing capability, and a single steam turbine generator. Each combustion turbine generator would have a nominal rating of 174 MW, and the steam turbine would be rated to produce approximately 216 MW of electricity when 510,000 lbs/hr of steam is delivered to the refinery.

BP might proceed with construction of the Cogeneration Project as described in the SCA at some time in the future. In light of electricity market conditions, however, BP would also like the flexibility to construct the facility in phases.

Under the Phased Construction Alternative, Phase I would feature two combustion turbine generators, two HRSGs equipped with duct firing capability, and one steam

turbine generator cable of providing an average of 510,000 pounds per hour of steam to the adjacent Refinery. The Phase I facility would utilize either GE 7FA model turbines or Siemens SGT6-5000F model turbines. The gross electrical capacity of Phase I would be 520-570 MW, depending upon the gas turbine selected. A detailed description of the Phase I facility is provided in the enclosed Phased Construction Alternative Project Description.

Under the Phased Alternative, Phase II would consist of modifications or additions to the Phase I facility designed to increase its capacity to no more than the 720 MW (738 MW gross capacity) authorized by the original SCA. At this time, BP has not decided what modifications or additions Phase II may entail. BP could add another gas turbine and HRSG to the facility, add a separate 1 x 1 combined-cycle power train, or make other modifications and additions to the facility designed to increase its power output. The intent would be to increase the capacity while remaining within the footprint of the originally authorized facility, and complying with the substantive requirements of the SCA. Given the current design uncertainty regarding Phase II, BP understands that additional approvals will be required before proceeding with construction of Phase II. BP also understands that it would need to request another amendment to the SCA if it ultimately proposed to construct a second phase of the facility that would cause the facility to exceed 720 MW, expand beyond the footprint authorized by the original SCA, or exceed other limitations contained in the original SCA.

2. Refinery Fuel Gas Option

Article I section C.4 of the SCA and Approval Condition 1.1 of the PSD Permit currently provide that natural gas will be the only fuel used in the Cogeneration Project. BP requests an amendment to the SCA and the PSD permit to allow it to use refinery fuel gas in the HRSG duct burners as well.

Refinery fuel gas has less methane and more hydrogen, ethane, propane and butane than pipeline quality natural gas. Unrelated to the development of the Cogeneration Project, the BP Cherry Point Refinery is considering installing equipment that would enable it to treat refinery fuel gas so that the heavier petroleum components can be extracted and marketed, and the remaining gas would comply with low sulfur fuel requirements. More information about its properties is provided in the Project Description.

In the event that the Refinery begins producing treated fuel gas in the future, the Cogeneration Project would like to have the ability to use that fuel gas to fire the duct burners. BP proposes that the same emission limitations would apply regardless of whether refinery fuel gas or natural gas is used to fuel the duct burners.

3. Construction Period

The Cogeneration Project application described a 27-month construction period. The number of workers and extent of activity would vary along a bell shape curve, with relatively few workers and little activity at the beginning and end of the period, and the peak number of workers and activity in the middle. As written, article I section B of the SCA requires construction to be completed in no more than 27 months. BP requests that the SCA be amended to allow construction to be completed in 33 months. The slightly longer schedule would flatten the bell-shape curve some what, reducing the amount of construction activity at any given time by spreading it out over time.

4. Aqueous Ammonia

The Cogeneration Project application proposed to store anhydrous ammonia on site for use in Project's the emission control system. BP requests permission to store and use aqueous ammonia instead.

5. International Building Code of 2003

Article IV.F. of the SCA requires project buildings and structures to comply with the seismic requirements of the Uniform Building Code of 1997 (UBC-1997). Whatcom County has since adopted the International Building Code of 2003 (IBC-2003), and most construction now uses the IBC-2003 requirements. Accordingly, BP requests that the SCA be amended to require compliance with IBC-2003.

6. Stack Silencers

BP is committed to meeting applicable noise regulations for the Cogeneration project and the noise limits given in the BP-Whatcom County Amended Stipulation and Settlement Agreement (Attachment 7 to the SCA). Since the Phase I project has two gas turbines rather than three, stack silencers may not be required to meet these noise limits, and other mitigation techniques may be more effective in meeting these noise limits. BP requests that the need for stack silencers be determined during the final design phase for the project rather than required as a condition in the SCA.

7. Ferndale Pipeline Facility

The Cogeneration Project application indicated that the natural gas used to fuel the gas turbines would be delivered to the Project by the existing Ferndale Pipeline or another third party pipeline. At that time, BP assumed that the Ferndale Pipeline would construct a compressor station at the adjacent BP Refinery in order to deliver gas to the

Cogeneration Project at the necessary pressure. At this time, however, it appears likely that the Ferndale Pipeline intends to install compression facilities closer to the United States–Canada border. The Ferndale Pipeline would have to obtain whatever state and county permits are necessary to construct these facilities.

Although the Ferndale Pipeline is not within the Council's jurisdiction, the project description found in the SCA does refer to the pipeline constructing compressor facilities at the BP refinery. BP requests that this language be deleted to avoid any misunderstanding about compressor facilities that the Ferndale Pipeline plans to construct.

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 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 also be necessary. 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 would not substantially alter the substance of any provision in the SCA and would not have a significant detrimental effect on the environment. Each part of BP's amendment request is addressed in turn below.

Allowing phased construction would not change the SCA substantially and would not have significant detrimental effects on the environment. The environmental effects associated with construction and operation of the smaller Phase I facility would be less than those associated with the originally permitted project. The details of Phase II are not yet known, but if the cumulative effects of Phase I and Phase II were significantly greater than those associated with the originally permitted project, BP expects that further amendment of the SCA would be required before construction could proceed.

Allowing BP to use refinery fuel gas would not change the SCA substantially and would not have significant detrimental effects on the environment. The original SCA required that the Project be fueled by natural gas in order to exclude the possibility of operating the facility on diesel oil, which would result in substantially greater air emissions. BP now seeks the flexibility to use refinery fuel gas to fire the Project's duct burners. The refinery fuel gas would have characteristics similar to natural gas, and the Project would comply with the same emission limits regardless of whether duct burners were fueled with natural gas or refinery fuel gas. For this reason, the amendment would not adversely effect on the environment.

Allowing BP to lengthen the construction period from 27 months to 33 months would not change the SCA substantially and would not have significant detrimental effects on the environment. Although BP originally proposed to construct the project over a 27-month period, a 33-month construction schedule could be more appropriate. A five-month change in the construction schedule is not substantial. The slightly longer schedule will spread out the same construction activities, requiring fewer tasks to be completed simultaneously and fewer workers to be on-site at a particular time. This change will not adversely affect the environment. In fact, it should lessen the effects of construction on traffic in the project vicinity.

Allowing BP to use aqueous ammonia rather than anhydrous ammonia would not change the SCA substantially, and would reduce the hazards associated with handling the ammonia. In either case, BP must follow applicable regulations to ensure safe handling of the ammonia.

Requiring BP to comply with the seismic provisions of IBC-2003 rather than UBC-1997 would not change the SCA substantially. Both are designed to ensure that the facility is designed properly. IBC-2003 has superseded UBC-1997.

Allowing BP to determine whether stack silencers are necessary to meet its noise limit commitments would not change the SCA substantially. The BP-Whatcom County Amended Stipulation and Settlement Agreement does not identify specific equipment

modifications or noise mitigation devices that are required to meet the noise limits for the Cogeneration project. BP must still employ whatever measures are necessary to meet these limits, but wishes to have the most effective noise mitigation devices specified as part of the final design process.

Finally, revising the description of the Ferndale Pipeline facilities would not change the SCA substantially. The Ferndale Pipeline is not under EFSEC's jurisdiction and is merely described in (rather than being regulated by) the SCA.

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.

Each of the changes requested to the SCA are consistent with the intent of the original SCA. First, the request to be able to construct the project in phases is consistent with the original intent. In approving BP's application, the Council found that the Cogeneration Project is in the public interest. *See* Council Order No. 803 at 15. The intention of the original SCA was to authorize the construction of a cogeneration project adjacent to the BP Cherry Point refinery so that the state and region would benefit from the availability of electricity generated efficiently and with minimal adverse environmental impacts. *Id.* at 15-16. The requested amendment will assist BP in securing the power purchase agreements and financing that are necessary to make the Cogeneration Project, and its benefits, a reality.

Second, allowing BP to use refinery fuel gas to fire the duct burners is consistent with the original intent. As explained above, BP originally proposed that natural gas would be the only fuel used at the Cogeneration Project. This proposal distinguished the project from other electrical generation that proposed to operate on more polluting

diesel fuel under certain circumstances. Consistent with BP's proposal, the SCA limits operation of the Cogeneration Project to natural gas. Having the option to fuel the Project's duct burners with refinery fuel gas would be consistent with the original intent because, once treated, the refinery fuel gas would have properties similar to natural gas and would not result in increased emissions.

Third, allowing BP to lengthen the construction period from 27 months to 33 months would be consistent with the original intent. The intent of the original SCA appears to be to require the construction to occur on a continuous basis, without interruption, according to the construction schedule proposed by BP. Although BP originally proposed to construct the project over a 27-month period, a 33-month construction schedule now appears more appropriate. The slightly longer schedule will spread out the same construction activities, requiring fewer tasks to be completed simultaneously and fewer workers to be on-site at a particular time. This change is consistent with the original intent to require continuous construction on a reasonable schedule.

Fourth, allowing BP to use aqueous ammonia rather than anhydrous ammonia is consistent with the original SCA. The intent of the SCA is to authorize the use of ammonia to control emissions from the facility, and to require ammonia to be stored safely on site for this purpose. This change should reduce the hazards of handling ammonia and BP will follow applicable regulations to ensure safe handling of the aqueous ammonia.

Fifth, requiring BP to comply with the seismic provisions of IBC-2003 rather than UBC-1997 is consistent with the original SCA. The intent of the original SCA was to require the Project to be constructed in accordance with generally accepted seismic criteria. IBC-2003 has now superseded UBC-1997 as the accepted standard in this regard.

Finally, allowing BP to specify the appropriate noise mitigation measures during the final design phase is consistent with the intent of the SCA. The substantive noise mitigation requirement in the SCA is to meet the applicable noise regulations for the project and the noise limits established in the BP-Whatcom County Amended Stipulation and Settlement Agreement. Allowing BP to specify the appropriate noise mitigation measures during the final design phase will provide the best solutions for effective noise mitigation.

2. Consistency with Applicable Laws and Rules

The requested amendment is consistent with applicable laws and rules. All of the requested changes to the SCA are consistent with laws and rules governing power generation facilities in Washington. SEPA compliance is discussed below. BP would also have to obtain an amended PSD permit prior to commencing construction of the two-phased alternative. BP's application for a PSD amendment is 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 changes to the SCA would not result in 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).

PSD Amendment Request

BP is also requesting an amendment of its PSD permit to allow it to construct of the 3x1 facility that was originally permitted or to allow it to construct the Phase I facility described above. A copy of the PSD amendment application is attached.

With the exception of volatile organic compounds (VOCs), the Phase I facility's emission of regulated pollutants would be less than the emissions authorized by the existing permit. Potential VOC emissions could be higher because additional duct firing could be required to meet refinery steam demand.

In addition to requesting this amendment to the PSD permit, BP is requesting that the Council extend the PSD permit's commencement of construction deadline for an additional 18 months. The PSD amendment application includes an updated BACT analysis to support this request.

Allen Fiksdal
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For the foregoing reasons, BP asks the Council to amend its SCA and PSD Permit.
Please feel free to call me if you have any further questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark S. Moore". The signature is fluid and cursive, with the first name "Mark" being more prominent than the last name "Moore".

Mark S. Moore

Karen McGaffey, Perkins Coie
Michael Tribble, CFE
Hal Hart, Whatcom County
David Bricklin, representing British Columbia

Rick Porter, BP
Steve Berry, BP
David Glasgo, BP