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February 19, 2008

Allen Fiksdal, 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 and Cherry Point Cogen LLC (collectively "BP") to request an amendment to the Site Certificate Agreement (SCA) for the Cherry Point Cogeneration Project. The requested amendment would allow BP to fund a project that would reduce water use at the nearby Intalco Aluminum Smelter and make the unused water available for use by the Cogeneration Project, rather than requiring BP to fund the BP-Intalco water reuse project contemplated at the time the SCA was issued.

This letter provides further information about the requested amendment, explains why the amendment satisfies the requirements set forth in the Council's regulations, and addresses compliance with the State Environmental Policy Act (SEPA). We have previously provided a red-line of the SCA showing the requested changes and a SEPA Environmental Checklist to assist the Council in reviewing this request.

Amendment Requested

BP requests an amendment to the SCA to allow BP, Intalco and the Whatcom County PUD to go forward with a "No Use" water project rather than the "Reuse" project that they had agreed to implement at the time the Cogeneration Project was first permitted.

As originally permitted, the Cogeneration Project was a 720 MW combined-cycle cogeneration facility in a 3x1 configuration. The April 2003 Application for Site Certification estimated that the facility would use an average of 2,244 to 2,316 gallons per minute (gpm) of water. *See*

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Application, Part II: 3.3-7.¹ Rather than relying upon additional ground or surface water withdrawals to supply this water, BP entered into an agreement with the Whatcom County PUD and Alcoa to reuse water that was currently being discharged from the Intalco facility to the Strait of Georgia (the "Reuse Agreement").

Under the terms of the Reuse Agreement, BP would have provided funding for Intalco and the PUD to install equipment necessary to capture non-contact once-through cooling water from the Intalco facility, return it to the PUD's industrial water line and convey it to BP for use at the Cogeneration Project and the Refinery. The Reuse Project was designed to allow the industrial reuse of approximately 2,780 gpm of water from Intalco. The amount of Intalco water available for reuse would have been greater than the amount of water used at the Cogeneration Project, so the Reuse Project would have resulted in a net reduction in the amount of water the PUD would withdraw from the Nooksack River to serve Intalco and BP.

The Council recommended approval of the Cogeneration Project and the Governor executed the SCA with the following provisions concerning the Reuse Project:

Article I.C.5. provides:

The Facility will use industrial water provided by Whatcom Public Utility District No. 1 (PUD) pursuant to the PUD's existing water rights. If the Alcoa Intalco Works aluminum smelter is in operation, the Facility will use recycled once-through cooling water from Alcoa, supplied by Whatcom County PUD. The PUD owns and operates pipelines from its Nooksack River diversion facilities to both the Alcoa Intalco Aluminum Smelter and the BP Refinery. An underground pipe will be installed to transport water to the Facility.

Article VI.F. provides:

Prior to First Fire, the Certificate Holder shall fund the installation of equipment necessary to allow industrial water used for non-contact once-through cooling at the Alcoa Intalco aluminum smelter to be returned to the Whatcom Public Utility District No. 1 (PUD) water line serving the BP Refinery and the Project.

¹ Since the SCA was executed, it has been amended to allow BP the option of constructing the Cogeneration Project in phases. Under the phased approach, the first phase would be a 520 MW facility in a 2x1 configuration. The estimated water demand for this phase is 1700-2000 gpm.

Article VII.A.3. provides:

If the Alcoa Intalco Works aluminum smelter is in operation, the Certificate Holder shall minimize fresh water consumption by using recycled once-through cooling water from Alcoa, supplied by Whatcom County PUD.

Recently, the Whatcom County PUD and BP discussed alternatives to the Reuse Project. BP had learned from the Washington Department of Health that implementation of the Reuse Project would make it impossible for the PUD to continue to provide emergency backup potable water supply to the BP Refinery. The PUD operates a pipeline that delivers water to the Intalco facility, the BP Refinery and to other industrial water customers. Using this line, the PUD provides water primarily for industrial use by Intalco and BP, but it also has contracts to provide backup potable water to BP in the event that circumstances prevented it from relying upon its primary potable water sources. The Department of Health recently informed BP that, if once-through cooling water from Intalco were returned to the pipeline, the PUD would not be able to use the line to provide potable water to BP. Discussions between the PUD, Intalco and BP led to agreement that an alternative approach to the Reuse Agreement would avoid BP's potential potable water loss.

Intalco also raised concerns about the Reuse Project. Although the Reuse Agreement required BP to pay for the initial installation of necessary equipment, it left Intalco with obligations for on-going operation and maintenance expenses. Intalco no longer believes that the Reuse Project is the most cost-effective way of accomplishing the desired water savings.

The PUD, Intalco and BP have come up with an alternative proposal that is reflected in the Utility Water Reduction Project Agreement ("No Use Agreement"). A copy of the No Use Agreement was provided previously. Under the No Use Agreement, BP would provide funding for Intalco to install a compressor cooling system that would eliminate the use of approximately 3.6 million gallons per day (an average of 2,500 gpm) of water currently used for once-through cooling. The No Use Agreement provides that Intalco will release its contractual right to this water, and BP would enter into an agreement with PUD to use this water for the Cogeneration Project should it be constructed.

Regulatory Requirements

The Council's regulations include provisions that address SCA amendments, and the requested amendment satisfies these requirements.

With respect to other SCA amendments, 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;
3. The public health, safety, and welfare; and
4. The provisions of chapter 463-72 WAC.

The requested amendment satisfies these requirements.

First, the requested amendment is consistent with the intent of the SCA. The SCA contemplates that the Cogeneration Project will not require the additional withdrawal of surface or ground water to meet the Project's water demand. BP, Intalco and the PUD originally came up with a plan that would avoid additional withdrawals from the Nooksack River by reusing cooling water from Intalco. BP, Intalco and the PUD have now come up with an alternative proposal that would avoid additional withdrawals from the Nooksack River by substantially reducing the amount of water used by Intalco. Both approaches accomplish the same goal, allowing operation of both the Intalco facility and the Cogeneration Project without withdrawing additional water from the Nooksack River.

Second, the requested amendment is consistent with applicable laws and rules. The requested amendment is consistent with the laws and rules governing power generation facilities in Washington. Compliance with SEPA is discussed below.

Third, the requested amendment is consistent with public health, safety and welfare. As explained above, the requested change does not require any additional water withdrawals from the Nooksack River. The SEPA Checklist provided previously demonstrates that the requested amendment will not result in any significant adverse environmental impacts.

Fourth, the requested amendment is consistent with chapter 463-72 WAC, which concerns site restoration. The requested amendment does not change the Certificate Holder's obligations for site restoration.

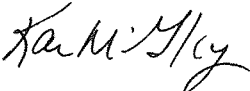
Allen Fiksdal, Manager
February 19, 2008
Page 5

SEPA

The Council is obligated to comply with the State Environmental Policy Act (SEPA), RCW chapter 43.21C. BP has provided a completed SEPA Checklist. The Checklist explains why the requested amendment would not result in significant adverse effects on the environment.

For the foregoing reasons, BP asks the Council to amend the SCA. Please feel free to call me or Pat Pollock at BP (360-371-1185), if you need additional information about the requested amendment.

Sincerely,



Karen M. McGaffey

Enclosures

cc: Pat Pollock, BP