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WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL

Richard Hemstad Building
1300 South Evergreen Park Drive Southwest, Conference Room 206
Olympia, Washington
Tuesday, November 19, 2013
1:30 P.M.

MONTHLY MEETING
Verbatim Transcript of Proceeding

REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028
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A P P E A R A N C E S

Councilmembers Present:

Bill Lynch, Chair
Liz Green-Taylor, Department of Commerce
Cullen Stephenson, Department of Ecology
Joe Stohr, Department of Fish and Wildlife
Andrew Hayes, Department of Natural Resources
Dennis Moss, Utilities and Transportation Commission

Local Government and Optional State Agencies:

Bryan Snodgrass, City of Vancouver, via telephone
Jeff Swanson, Clark County, via telephone
Larry Paulson, Port of Vancouver, via telephone

Assistant Attorney General:

Ann Essko, Assistant Attorney General

Staff in Attendance:

Stephen Posner, Interim EFSEC Manager, Compliance Manager
Jim LaSpina, Siting Specialist
Tammy Talburt, Commerce Specialist
Sonia Bumpus, Siting Specialist
Kali Wraspir, Administrative Assistant

Guests in Attendance:

Mark Anderson, Department of Commerce
Timothy L. McMahan, Stoel Rives
Jan Aarts, Cardno ENTRIX
Richard Downen, Grays Harbor Energy Project
Mark Miller, PacifiCorp Energy

Guests in Attendance Via Phone:

Shannon Khounnala, Energy Northwest
Eric Melbardis, Kittitas Valley Wind Project, EDP Renewables
Jennifer Diaz, Puget Sound Energy, Wild Horse Wind Power Project
Justin Allegro, Department of Fish and Wildlife
Kelly Flint, Savage Services Corporation

OLYMPIA, WASHINGTON, NOVEMBER 19, 2013

1:30 P.M.

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P R O C E E D I N G S

CHAIR LYNCH: Good afternoon. Let's go ahead and get started.

This is November 19th, the regularly scheduled monthly meeting, for the Energy Facility Site Evaluation Council.

And let's go ahead and have the Staff call the roll.

THE CLERK: Department of Commerce?

MS. GREEN-TAYLOR: Liz Green-Taylor here.

THE CLERK: Department of Ecology?

MR. STEPHENSON: Cullen Stephenson here.

THE CLERK: Fish and Wildlife?

MR. STOHR: Joe Stohr's here.

THE CLERK: Natural Resources?

MR. HAYES: Andy Hayes is here.

THE CLERK: Utilities and Transportation Commission?

MR. MOSS: Dennis Moss is here.

THE CLERK: From local governments -- or sorry -- project-related.

Department of Transportation?

1 City of Vancouver?

2 MR. SNODGRASS: Bryan Snodgrass here.

3 THE CLERK: Clark County?

4 Port of Vancouver?

5 And the Chair.

6 There is a quorum.

7 CHAIR LYNCH: Thank you.

8 And is that buzz somebody patching in to us now?

9 MR. POSNER: Yes.

10 MR. MOSS: Yes. That means that somebody's on the
11 conference bridge line.

12 CHAIR LYNCH: And is there anybody on the phone who
13 is not listed on the agenda who would like to identify
14 themselves at this time?

15 MR. SWANSON: Hi. It's Jeff Swanson from Clark
16 County.

17 CHAIR LYNCH: Thank you, Mr. Swanson.

18 And so we just had the roll call, and looking at the
19 proposed agenda, I just wanted to point out for the
20 Councilmembers' benefit that there's going to be a change in the
21 order of the agenda.

22 What you see under the project updates, Item C, for
23 Chehalis Generation Facility, we're actually going to take that
24 up after letter F, after WNP 1 and 4, because there are some --
25 there's an action item associated with that. There's a notice

1 of violation.

2 And just so that the optional members of the Council
3 understand, how the Council works is if we do end up taking
4 final action on that particular item, it's only the regular
5 members of the Council that actually vote on that particular
6 item. So that's just for your information about how the Council
7 works.

8 Are there any proposed changes to the Council's
9 agenda today?

10 Seeing none, let's go ahead and move forward to the
11 minutes.

12 Do any Councilmembers have any proposed corrections
13 or comments on the minutes from the October 15, 2013 meeting?

14 Yes, Mr. Stohr?

15 MR. STOHR: Mr. Chair, I noticed two minor sorts of
16 things as I went through the minutes. One was just a
17 consistency issue in terms of title. I noticed that at times
18 the Chair is referred to the Acting Chair and other times as the
19 Chair, so just making that consistent all the way through would
20 be one comment.

21 And then the second is on page 19 of the minutes. At
22 the bottom, there's a referral to Andy Harris, and I believe
23 that's our well-renowned fellow Councilmember, Andy Hayes, that
24 should be referred to there, so...

25 MR. HAYES: Thank you, Mr. Stohr.

1 CHAIR LYNCH: He's been called many things, so...

2 MR. HAYES: And that's one of the nicest.

3 CHAIR LYNCH: So with those changes noted, are there
4 any other proposed corrections to the minutes?

5 All those in favor as adopting the minutes as
6 corrected say "aye."

7 MULTIPLE SPEAKERS: Aye.

8 CHAIR LYNCH: Opposed?

9 Motions carries.

10 I believe someone else might have joined us on the
11 telephone.

12 Would you like to identify yourself, please?

13 MR. PAULSON: Yeah, Larry Paulson.

14 CHAIR LYNCH: Thank you very much.

15 Let's go ahead with project updates, and our first
16 one is Kittitas Valley Wind Project and Mr. Melbardis.

17 And I believe that someone else has joined us on the
18 telephone.

19 Would you care to identify yourself?

20 MR. ALLEGRO: Yes. This is Justin Allegro with the
21 Washington Department of Fish and Wildlife.

22 CHAIR LYNCH: Thank you.

23 MR. MELBARDIS: Yes. Good afternoon, Chair and EFSEC
24 Council. This is Eric Melbardis with the Kittitas Valley Wind
25 Power Project.

1 CHAIR LYNCH: Thank you. And that's good timing,
2 Mr. Melbardis, because I'm just calling on you right at this
3 moment for an update.

4 MR. MELBARDIS: Great. The update that was sent to
5 you that's in your packets is pretty routine. There was nothing
6 nonroutine that occurred this past month.

7 CHAIR LYNCH: And are there any questions from the
8 Council regarding the Kittitas County Valley Wind Project
9 update?

10 Thank you, Mr. Melbardis.

11 Let's go ahead and move on to the Grays Harbor Energy
12 Project update.

13 Mr. Downen?

14 MR. DOWNEN: Good afternoon, Chair Lynch, Council,
15 and Staff. My name is Rich Downen. I'm the plant manager at
16 Grays Harbor Energy.

17 The report that I submitted for the month of October
18 is fairly routine, and I'll just talk about the things that are
19 not routine if no one has any questions about the regular
20 portion.

21 The things that would not be routine are that we --
22 let's see. About the fifth bullet down under "Environmental,"
23 received the third quarter stormwater sampling results from our
24 laboratory. The stormwater runoff indicated a high level of
25 copper exceeding the permitted limit, but we discussed this with

1 EFSEC Staff, and the cause that we attributed to a buildup of
2 contaminants from vehicle brake pad wear with no measurable
3 rainfall between the sampling of that. So we had a pretty dry
4 summer. The first big rain we got we took a sample and had some
5 copper, and subsequent testing will determine further actions.

6 We actually received at the plant a letter today from
7 EFSEC Staff related to that. And I think that Mr. LaSpina
8 considers that not a surprise that we had that condition, and
9 we're talking about the steps that we would take next summer if
10 we had the same dry spell and before the rain, of possibly
11 having a sweeper truck or something out to come and clean the
12 parking lots before.

13 CHAIR LYNCH: That's what I was just going to ask
14 you: Do you anticipate having any sort of sweeping done of the
15 parking lot?

16 MR. DOWNEN: In the event of another summer like
17 that, that's what we would intend to do --

18 CHAIR LYNCH: Okay.

19 MR. DOWNEN: -- moving forward.

20 So we'll continue to follow up on that with EFSEC
21 Staff.

22 The next bullet down is we received the 2013 priority
23 pollutant sample results from the same laboratory. The results
24 indicated the presence of two volatile organic compounds
25 possibly attributed to a chemical that we use, ControlBrom 70,

1 the chemical used for biocide treatment in the cooling tower.
2 The outfall discharge was resampled to confirm the results, and
3 we're awaiting those results from the laboratory.

4 And, again, we're discussing that with EFSEC Staff to
5 see if we get any repeatability in that. And if that was the
6 case, then we would be discussing that with the company that
7 provides the chemical treatment service for us to come up with a
8 different plan.

9 And then -- excuse me -- at the bottom, we had two
10 complaints that we received during the month of October. The
11 first complaint we received was -- or the EFSEC Staff
12 received -- they received the complaints and then communicated
13 them to us. It was on October 15th, and that complaint was
14 regarding odors from the plant, quote, during foggy and
15 inversion conditions.

16 Plant staff investigated. Once we got that report
17 from EFSEC, we investigated the plant site, as well as
18 surrounding areas, including West Keys Road, where the neighbor
19 that complained lives. And the only odor that we could detect
20 was a really strong wood burning odor from a neighboring
21 business that's between our property and that neighbor. And
22 this neighboring business is between us and a little bit -- not
23 on a direct line, but it's right in between the two places. And
24 I'm not sure what they do there, but they burn wood.

25 I'm not sure if you would know either.

1 MR. LaSPINA: I don't know.

2 MR. DOWNEN: But I think it may be just as simple as
3 heat for the facility, but it was a really, you know, acrid wood
4 odor.

5 That day, the plant was running steady state
6 conditions and no abnormal or transient events. And ORCAA,
7 which works with EFSEC to provide our air regulation, said that
8 they were going to investigate, and I haven't heard anything to
9 the contrary there.

10 Then a second complaint was received on 10/28, again,
11 communicated to us through EFSEC, and that complaint was
12 regarding odors from the plant and a very loud noise at
13 approximately three a.m.

14 Again, we investigated the plant site, as well as the
15 surrounding areas, including West Keys Road again, and the only
16 odor that we could detect, again, was that strong wood burning
17 odor. And we didn't have any record of anything that would have
18 caused a noise at any time during the night, or let alone
19 specifically at three o'clock in the morning.

20 The plant that night was parked at 480 megawatts
21 generation. It sat there all night at that. There was no
22 ramping. It was completely steady state conditions with no
23 abnormal or transients indicated.

24 And, again, ORCAA was talked to by EFSEC, and they
25 came out to investigate. And we haven't received a report about

1 that, but, possibly, EFSEC has.

2 And that is the entirety of my report, so I'm happy
3 to answer any questions.

4 CHAIR LYNCH: Thank you. Before we have
5 Councilmembers ask any questions, I'm going to ask Staff if they
6 have anything to add to this presentation.

7 MR. LaSPINA: Yes. Thank you very much, Chair Lynch.
8 I just want to offer the Council a couple of clarifications
9 concerning the copper exceedance in the stormwater. That part,
10 the stormwater portion of the facility's NPDES permit, was taken
11 from Ecology's industrial stormwater general permit. Actually,
12 this is a misnomer. It's not a limit. What it is is a
13 benchmark, and the benchmark triggers actions by the permittee.

14 In other words, the permit, the stormwater portion of
15 the permit, is designed to be self-implementing to where the
16 permittee reviews their SWPPP, reviews their stormwater BMPs,
17 and makes whatever revisions or corrections are necessary.

18 So, for instance, the permittee mentioned the
19 possibility that if there's another -- at the end of a dry
20 summer, they would vacuum sweep. That would be the proper
21 response. I just wanted to emphasize it's not a permit limit.
22 It's just a benchmark.

23 CHAIR LYNCH: Thank you for that clarification.

24 MR. LaSPINA: And a follow-up on the complaints, I
25 just received an e-mail yesterday from our odor compliance

1 contractor, ORCAA, the Olympic Region Clean Air Agency. It was
2 too late to put in your packets. ORCAA has investigated the
3 odor complaint and has not documented any odors.

4 However, these complaints have been problematic for a
5 number of years because both sound and odor tend to dissipate.
6 And by the time we get an investigator up there, unfortunately,
7 the problem dissolves or whatever. So just to give you some
8 context, this has been ongoing for several years.

9 CHAIR LYNCH: Thank you.

10 Do any Councilmembers have any questions first of
11 Staff, and then I'll ask of Mr. Downen.

12 Any questions of Staff?

13 Questions for Mr. Downen?

14 MR. MOSS: I was just wondering if the complainant
15 was the same in both of these instances.

16 MR. DOWNEN: Yes, it is.

17 MR. MOSS: And does that person have a history of
18 interaction with your operation or with EFSEC Staff in this
19 regard?

20 MR. DOWNEN: I think that would be better answered
21 by...

22 MR. LaSPINA: Yes, sir. We have received sporadic
23 complaints from the specific neighbor since the day the plant --
24 well, actually, before the plant started operating.

25 At this point, she calls her complaints in directly

1 to me, so...

2 MR. MOSS: And I assume we continue to have a
3 pleasant exchange with this person in an effort to assuage their
4 concerns?

5 MR. LaSPINA: Well, we have yet to figure out a
6 resolution.

7 MR. MOSS: All right. Thank you.

8 MR. LaSPINA: I mean, because none of the complaints
9 have really been verified, so...

10 CHAIR LYNCH: Thank you, Mr. Moss.

11 Mr. Stephenson, you have a question?

12 MR. STEPHENSON: Thank you, Chair.

13 Mr. Downen, without judging on the merits of what's
14 happening or not, there's four things here: copper, biocide,
15 odor, and noise.

16 So can I assume that you'll bring back answers to all
17 those, because each of these have some further actions? And so
18 I just want to make sure that the next report will just tell us
19 what you found.

20 MR. DOWNEN: Yes --

21 MR. STEPHENSON: Thank you.

22 MR. DOWNEN: -- sort of.

23 MR. STEPHENSON: "Yes, sort of"?

24 MR. DOWNEN: With regards to the copper and the
25 biocide, absolutely.

1 With regards to the noise and the odors, that's -- I
2 believe that there's nothing to be done about those two specific
3 complaints still. I think ORCAA investigated, and those are --
4 those are put to bed as far as that. I mean, we'll --

5 MR. STEPHENSON: So can you at least assertively tell
6 us? I mean, if it's now, that's great, but assertively tell us
7 someone else looked at it and we don't know what else to do. I
8 just want to not have things hanging out for us.

9 MR. DOWNEN: In a report, yes.

10 MR. STEPHENSON: Thank you.

11 MR. DOWNEN: Absolutely.

12 MR. STEPHENSON: Thank you.

13 MS. GREEN-TAYLOR: Chair, I have some questions also.

14 CHAIR LYNCH: Yes.

15 MS. GREEN-TAYLOR: Just curious how far the neighbor
16 is from the plant.

17 MR. DOWNEN: I don't know the -- I could give you an
18 approximation. Off the top of my head, I'm not sure.

19 Do you remember?

20 MR. LaSPINA: Half a mile at the most.

21 MR. DOWNEN: I would say about a half a mile-ish.

22 MS. GREEN-TAYLOR: Okay. So that leads me to think
23 that it's possible that they're getting some smell from some
24 other cause, and so I'm wondering if there's any monitoring
25 equipment available that could be set up to do some ongoing

1 monitoring to see if you could identify some other source than
2 the plant that might be the cause of the odor.

3 MR. DOWNEN: Boy. I'm not sure what -- I don't know
4 if there is or not.

5 MR. POSNER: I have a comment on that.

6 What I would suggest is that we -- first of all, we
7 have an interagency agreement with ORCAA, Olympic Region Clean
8 Air Agency, in there. They're essentially our compliance entity
9 that helps us with compliance. We don't typically go out and
10 respond when complaints are received. We rely on them. They
11 have the expertise.

12 We can check with them and, you know, share that
13 concern with them and ask them if that's a possibility, if it's
14 possible, that since they would be responding to other
15 complaints concerning odors in the area, they may have some
16 other -- some options for doing some monitoring in the area. We
17 can certainly check with them and get back to you.

18 MS. GREEN-TAYLOR: Since it's an ongoing problem,
19 that might be worthwhile.

20 MR. POSNER: Okay.

21 MS. GREEN-TAYLOR: Thanks.

22 MR. POSNER: Sure.

23 CHAIR LYNCH: Thank you, Ms. Green-Taylor.

24 As my prior position before coming here, I was a
25 member of the Pollution Control Hearings Board, and we

1 frequently -- well, not frequently, but we had a number of odor
2 and noise complaints that would come in front of the Board, one
3 of them being the Cedar Grove composting facility. And one of
4 the things that that facility did was identified other potential
5 sources of odor in the area, and they -- and they were detecting
6 wind patterns for a period of time. And so when the complaints
7 came in, they were able to show that successfully, to the Board,
8 anyway, that a number of the odors were, in fact, not being --
9 coming from their facility but from some other facility, so...

10 But ORCAA can certainly talk to the Puget Sound Clean
11 Air Agency, I'm sure, but there's a number of things both for
12 noise and for odor that can be discussed.

13 MR. DOWNEN: I guess the only other thing that I
14 would add is that this has been an ongoing thing, and it's been
15 dealt with by EFSEC. And to the point that last year, end of
16 last summer, 2012, there was a letter from EFSEC regarding --
17 I'm trying to remember the details, if it was odor and noise or
18 just odor, that letter that -- from EFSEC to this particular
19 neighbor.

20 I guess my point is that -- and I'm happy to pursue
21 any of those things, but there's a lot of history behind this
22 that some of the newer members of the Council might -- we might
23 need to go back and just see some of the conversations that
24 we've had on this, that we have dealt with this issue quite a
25 bit, and nothing was ever -- there was never anything found.

1 I think on one odor complaint, we had like a bleach
2 smell that was from our cooling tower from the previous biocide
3 that we used, which is we why we switched to ControlBrom, so
4 that we would not have that issue again.

5 Since then, ORCAA has never reported that they have
6 found any odor whatsoever from our plant. So there is some
7 history to go back and reflect on a little bit, but I'm happy to
8 work with Council and the Staff to --

9 CHAIR LYNCH: Thank you.

10 MR. DOWNEN: -- pursue this matter.

11 CHAIR LYNCH: Mr. LaSpina?

12 MR. LaSPINA: Chair Lynch, I think there's enough new
13 members on the Council that perhaps this would trigger perhaps a
14 memo from EFSEC Staff to the Council bringing you up to speed on
15 the history of this issue. We can offer that to give you some
16 context of what this is about.

17 CHAIR LYNCH: I think that would be helpful.

18 MR. LaSPINA: I mean, there's a lot of new people
19 here, so...

20 CHAIR LYNCH: Yes. I think that would be helpful --
21 thank you -- understanding there has been some history with the
22 Council already.

23 But there's a number of new Councilmembers, including
24 myself, that don't have that history, so we appreciate that.

25 Any other questions for Mr. Downen?

1 Thank you, Mr. Downen.

2 And as I mentioned before, we're going to skip over
3 the Chehalis Generation Facility at the moment and come back to
4 that.

5 And now if we could have a project update from the
6 Wild Horse Wind Power Project, Ms. Diaz?

7 MS. DIAZ: Yes. Thank you, Chair Lynch, and
8 Councilmembers.

9 For the record, my name is Jennifer Diaz. I'm the
10 environmental manager for Puget Sound Energy at the Wild Horse
11 Wind Facility. I only have a few nonroutine complaints and
12 environmental updates.

13 The first item: We issued nearly 500 recreational
14 access permits for the modern firearm general elk hunting
15 season. Additional security measures were implemented during
16 this season to help enforce hunting rules and regulations and to
17 ensure the safety and security of hunters, the general public,
18 wind project personnel, and wind project facilities.

19 Department of Fish and Wildlife enforcement provided
20 Eyes in the Woods training for site staff in preparation for the
21 general elk hunting season. This is a fantastic program, and it
22 trains our employees to identify, document, and report any
23 natural resource crimes.

24 Site staff received training on Washington State's
25 New Hazard Communication Standard, and the final update is in

1 accordance with the Operation Stormwater Pollution Prevention
2 Plan. Culverts throughout the site were inspected for signs of
3 damage, sediment buildup, corrosion, bottom sag, and overall
4 effectiveness. Only one culvert required cleaning and
5 maintenance, and that's all I have.

6 CHAIR LYNCH: Are there any questions for Ms. Diaz?

7 Thank you, Ms. Diaz.

8 So let's go ahead for an update on, first, the
9 Columbia Generating Station, and then WNP 1 and 4.

10 Ms. Khounnala? I hope I said that correctly or close
11 to it.

12 MS. KHOUNNALA: Yes, very near.

13 This is Shannon Khounnala from Energy Northwest. To
14 begin with, an update on the Columbia Generating Station. The
15 items in the report are mainly routine items. There's one item
16 I'll call the Council's attention to, and that is Energy
17 Northwest did participate recently in a meeting with the
18 National Marine Fisheries Service, as well as EPA to address
19 some of the technical questions that those agencies had in
20 regards to Columbia Generating Station's intake structure as it
21 relates to the ongoing permitting process for our NPDES permit.

22 That meeting happened last week, and we believed it
23 was a productive meeting where a lot of technical issues were
24 discussed, and we hope the outcome of that helps advance those
25 discussions with those agencies on that NPDES permit forward.

1 In regard to the Columbia Generating Station, we have
2 no other nonroutine items to discuss.

3 Are there any questions?

4 CHAIR LYNCH: Any questions from the Council for
5 Ms. Khounnala?

6 There are no questions.

7 MS. KHOUNNALA: Okay. In regard to WNP 1 and 4, we
8 did receive word that the Department of Energy successfully
9 submitted the water rights applications for 1 and 4 at the end
10 of October, and we received word, actually just this week, that
11 the Department of Ecology is processing our application and we
12 expect to be working with the Department of Ecology by the end
13 of November and into December on the beginning efforts to begin
14 that water rights application. And that concludes my report.

15 CHAIR LYNCH: Thank you. Any questions from the
16 Council for Ms. Khounnala?

17 We're letting you get off easy, so no questions.
18 Thank you.

19 MS. KHOUNNALA: Thank you.

20 CHAIR LYNCH: So let's go ahead and turn to project
21 update on the Chehalis Generation Facility.

22 Mr. Miller?

23 MR. MILLER: Good afternoon, Chair Lynch, and
24 Councilmembers and Staff. I'm Mark Miller. I'm the plant
25 manager for the PacifiCorp Energy Chehalis Generating Station.

1 The report that I had submitted a few weeks ago is generally --
2 it's all routine. I did add, at the request of Staff, an update
3 on the carbon offset project, which was part of an order that
4 was entered when PacifiCorp Energy acquired the facility from
5 Suez Energy.

6 And so if there's any questions? And I understand
7 that there's another item on the agenda relative to the project
8 update.

9 CHAIR LYNCH: Any questions for Mr. Miller regarding
10 the project update? Don't appear to be any questions.

11 Thank you, Mr. Miller, and why don't you just hang
12 there in case there are some questions regarding the NOV.

13 MR. MILLER: Okay. That's fine.

14 CHAIR LYNCH: Mr. LaSpina, do you want to take us
15 through the proposed action item regarding the NOV?

16 Before you do that, I neglected to ask. I heard
17 someone join us on the telephone a little bit ago.

18 Does anybody who has joined us on the phone who
19 hasn't already identified themselves choose to identify
20 themselves?

21 MR. FLINT: Yes. This is Kelly Flint with Savage. I
22 have attended meetings in the past. I'm the senior vice
23 president and general counsel for Savage Companies.

24 CHAIR LYNCH: Thank you.

25 Anybody else?

1 Okay. Mr. LaSpina?

2 MR. LaSPINA: First, I just wanted to clarify again.
3 We have a lot of new Councilmembers. I just wanted to clarify
4 the carbon offset project that Mr. Miller was talking about was
5 actually two pieces of an agreement that PacifiCorp volunteered
6 during the SCA amendment when PacifiCorp was buying the plant to
7 install an auxiliary boiler at their facility which shortens the
8 startup time of the turbines, and, therefore, results in a
9 reduction in pollution emitted from the plant.

10 And then the other half of the agreement was to enter
11 into a carbon offset project, and, unfortunately, there's been
12 some just unavoidable issues with arranging that, but the
13 company has been very persistent about continuing to pursue the
14 project.

15 MR. MILLER: And we do have in place, if I may, a
16 contract with the National Climate Trust for purchasing offsets
17 that are tied -- that come from a Lynden farm project where it's
18 a methane digester for dairy cattle waste.

19 And, additionally, we have committed to working with
20 the Chehalis Tribe on planting trees in the Chehalis Basin.
21 That hasn't come to fruition, but we are receiving credits this
22 month from the National Climate Trust totalled some \$125,000,
23 so...

24 MR. LaSPINA: On to the NOV issue. I have a very
25 short blurb. Unless everybody's read the inserts in the

1 packets, then maybe I don't have to read it.

2 CHAIR LYNCH: Why don't you go ahead and read it,
3 Mr. LaSpina.

4 MR. LaSPINA: It's very short.

5 At the September 18th Council meeting, the Council
6 authorized Staff to issue an NOV for a nitrous oxide exceedance
7 that occurred at the Chehalis Generating Facility on June 15,
8 2013. The relevant documents are the last four documents on the
9 right side of your packets on the white paper.

10 EFSEC issued the NOV on October 18th. EFSEC's
11 compliance contractor, the Southwest Clean Air Agency, or SWCAA,
12 has reviewed PacifiCorp's response to the NOV and has determined
13 that the permittee has provided an adequate explanation of the
14 exceedance and has implemented reasonable corrective actions.

15 And, finally, SWCAA's recommendation letter also
16 recommended a minimum civil penalty of \$1250. The amount of
17 this civil penalty was determined by SWCAA staff using its
18 established penalty matrix. However, Staff recommends that the
19 Council consider the NOV closed and not levy a civil penalty for
20 the reasons listed on the second page of Staff's cover memo to
21 the Council, which I'm not going to read all those reasons,
22 but...

23 CHAIR LYNCH: So the Staff recommendation is to
24 essentially dismiss this particular NOV?

25 MR. LaSPINA: Well, I think the term that the NOV's

1 been fulfilled --

2 CHAIR LYNCH: Okay.

3 MR. LaSPINA: -- because the permittee explained the
4 circumstances and the corrective actions that it took to prevent
5 it from happening again in the future.

6 CHAIR LYNCH: Okay. And before I ask for
7 Councilmembers' comments on this, I just wanted to give some
8 thoughts that I have about this.

9 First of all, when I saw that there was an NOV issued
10 by the Council on this, I looked for a regulation that EFSEC
11 might have on this or absent a regulation. I was looking for a
12 policy or guidance document on it, and we have none. And I
13 think -- and that concerns me. I think that any entity,
14 especially if they're going to be issuing -- potentially issuing
15 penalties to someone should have its process clearly set forth.

16 And Governor Inslee appointed me not only to help
17 make things more efficient in our process, but also to increase
18 transparency, and so I'm going to direct the Council Staff to
19 prepare a policy regarding enforcement and the issuance of
20 penalties. It might take the form of -- you know, we could
21 develop our own penalty matrix here, or it might be a situation
22 where we just choose to employ the penalty matrix of the entity
23 that is of that particular regional air authority or the
24 Department of Ecology.

25 But it just concerns me that we're in a situation

1 where we don't have any policy in place. And I think it's just
2 a situation where we had some longtime Staff who are very able
3 and competent, but they tended to keep things in their head
4 rather than writing it down, and so it's time to write some of
5 these things down.

6 So as I say to my other Councilmembers, this will be
7 one of the first of, I think, numerous changes that you can
8 expect us to be developing.

9 So my recommendation is to follow the Staff's
10 recommendation for this particular NOV and not issue the penalty
11 because action was taken very quickly -- it sounds like within
12 seconds -- of the violation occurring. It was very minor, but I
13 would like to hear your thoughts not only about this particular
14 NOV, but about pursuing whether you think a policy is the right
15 way to go.

16 So I'll just open it up to other Councilmembers.

17 MR. MOSS: I have something to say about this.

18 CHAIR LYNCH: Mr. Moss?

19 MR. MOSS: Well, first of all, I will say I'm
20 prepared to support the Staff recommendation in this instance.
21 I'm also prepared to support your thoughts, Mr. Chair,
22 concerning the need for a written policy on the subject and
23 would further refer Staff, by way of a background study, the
24 WUTC has a fairly well-developed penalty practice and probably
25 can provide some insights that would be useful.

1 I noticed in looking at the report that you prepared,
2 Mr. LaSpina, many of the factors you listed here that influence
3 Staff's recommendation are the sorts of factors that UTC, for
4 example, looks at in mitigation considerations.

5 Our penalty authority is statutory. It provides for
6 minimum penalty. And we do look at mitigating the penalty that
7 could be imposed in any given case based on factors such as
8 these, so that would be helpful to look at.

9 CHAIR LYNCH: Any other Councilmembers would like to
10 add their thoughts at this time?

11 Mr. Stephenson?

12 MR. STEPHENSON: Thank you, Mr. Chair.

13 I'm supporting your notion of having a better
14 transparent process and a more clearly defined process for EFSEC
15 actions.

16 What I want to think about here is we asked the
17 people that do this most often, the Southwest Clean Air Agency,
18 what they thought, and they gave us a recommendation. And so to
19 go over their recommendation, it's -- it's oftentimes what
20 managers will do. They'll get a recommendation, and, Oh, you
21 know, I can make this a little better, and so I just wanted us
22 to be careful. I'm not suggesting we do anything differently on
23 this one. I just want us to be careful.

24 And as we move forward to a more transparent and a
25 more clear process for folks, I want to make sure that those

1 things are involved in this.

2 So I'm not overly concerned about this particular
3 thing. I think Staff has done a good job of looking at the
4 reasons why there's a possibility to have a lesser penalty
5 situation here, and so I'm happy with that. I just want to make
6 sure that we're very cautious and thoughtful as we move forward
7 on these things, and I'm sure that you will be.

8 CHAIR LYNCH: Point well taken, Mr. Stephenson.
9 Thank you.

10 Any other thoughts from Councilmembers?

11 Well, in that case, I would like to -- I will
12 entertain a motion for adopting the Staff recommendation.

13 MR. MOSS: So moved.

14 CHAIR LYNCH: Do I hear a second?

15 MR. HAYES: I'll second that motion.

16 CHAIR LYNCH: It's been moved and seconded that we
17 adopt the Staff recommendation regarding the NOV issue to the
18 Chehalis Generation Facility.

19 All those in favor say "aye."

20 MULTIPLE SPEAKERS: Aye.

21 CHAIR LYNCH: Opposed? Motion carries. Thank you.

22 And I appreciate your thoughts, and I'll be certainly
23 willing to get Councilmembers involvement as we develop this
24 policy along with Staff.

25 MR. MILLER: Thank you for your consideration.

1 CHAIR LYNCH: Thank you.

2 So let's go ahead and turn to the update regarding
3 the Vancouver Energy Distribution Terminal.

4 And, Ms. Bumpus, are you going to provide that?

5 MS. BUMPUS: Yes. Thank you. Good afternoon, Chair
6 Lynch, and Councilmembers. I just have a few updates for the
7 Tesoro Savage Project. I'm going to cover a few things on the
8 project update, and then I'll also address the ASC adequacy
9 determination update as well, and then Mr. Posner will do the
10 site tour item on the agenda.

11 So EFSEC received the application on August 29th.
12 The application continues to be under review. The SEPA scoping
13 comment period was extended by 30 days from November 18th to
14 December 18th.

15 To date we have received 3,784 SEPA scoping comments,
16 and a second SEPA scoping meeting is scheduled to be held in
17 Spokane Valley on December 11th at the CenterPlace Regional
18 Event Center.

19 And so that's the general update for the project of
20 late, and also I'll go ahead and go into the adequacy
21 determination update.

22 A question was raised at the last special Council
23 meeting about timing for adjudication, and so I looked at our
24 statutes and rules and I could not find anywhere where it's
25 clearly described, as far as a relationship or connection

1 between the timing of adjudication and an adequacy determination
2 of the application.

3 With that, I can tell you that at this time, the
4 application is still under review, and we are waiting to get
5 agency comments, agency SEPA scoping comments, on the
6 application.

7 Does anyone have any questions?

8 MS. GREEN-TAYLOR: When you say agency scoping
9 comments, what agencies are you referring to?

10 MS. BUMPUS: So we sent out the SEPA scoping notice
11 to major agencies, so, for instance, Department of Ecology, the
12 Department of Health, DAHP, Department of Fish and Wildlife,
13 Department of Natural Resources. These are the agencies that we
14 are waiting to hear from as far as the SEPA scoping.

15 MS. GREEN-TAYLOR: Thank you.

16 MR. POSNER: Could I just add a point of
17 clarification?

18 CHAIR LYNCH: Yes, Mr. Posner.

19 MR. POSNER: Sure. Just so the Council understands,
20 there's essentially two reviews going on. Sonia's right when we
21 talk about we're soliciting SEPA scoping comments from agencies,
22 and from those same agencies, many of the same agencies under
23 contract or interagency agreements, we have different people
24 within the organizations who are providing us comments on the
25 application for site certification.

1 So it's kind of a confusing process. It's a little
2 bit of -- this is what the EFSEC process is. As I believe most
3 of you know, we go through and review the application, you know,
4 sort in one flow -- flow through and then next to it, we're
5 doing a SEPA review.

6 And, essentially, there are different people within
7 the same agencies who are providing us comments, like scoping
8 comments, and then different people within, say, Ecology, for
9 instance, would be actually providing comments on the
10 application for site certification.

11 So I don't know if that was clear, but it is an
12 important distinction that Councilmembers should be aware of.

13 MS. BUMPUS: Right. And they're both -- both of
14 those processes are helping to develop the scope of the EIS;
15 both the comments that we get from the agencies in review of the
16 application itself, and also in the SEPA scoping comment process
17 as well.

18 CHAIR LYNCH: And I know that there's been some
19 question among Councilmembers about interaction with agency
20 staff and how does that work. And I believe our AG is -- if
21 they haven't already had a chance to talk to you and our
22 administrative law judge, they will be contacting you shortly.
23 And what I would really strongly recommend, if you do have
24 questions, that you initially funnel them through Mr. Posner.
25 He's our quarterback on our team here. He's the coordinator for

1 the Council. And even if it's something that you can just
2 certainly ask of Staff, I think it's good to have our in-house
3 Staff here aware of what people are thinking and how to proceed.
4 And just having been -- well, you all are staff people, and you
5 know what I'm talking about. Having been a staff person myself,
6 you like to know where everybody is when you are working on a
7 project. So I really would encourage that those calls be
8 forwarded through Mr. Posner first.

9 Anything else regarding this?

10 And, Ms. Bumpus, you have some more to provide us, I
11 believe?

12 MR. POSNER: The adequacy review.

13 MS. BUMPUS: Oh. Well, I think the extent of my
14 update on that was just that the application is still under
15 review. In addressing the question on timing of adjudication
16 and that connection between an adequacy determination, there's
17 not anything in our WAC that clearly connects those two.

18 And then also that being the case, the application is
19 still being reviewed. And we have yet to hear from the agencies
20 that we expect to be commenting on the application, and so we're
21 waiting to hear from them so that we can get a better idea of
22 the sufficiency of the application.

23 CHAIR LYNCH: And I think one of the things that we
24 were thinking about -- and please correct me if I'm wrong -- but
25 at our last special council meeting, we were wanting to charge

1 forward with let's get this adjudication started because we're
2 all interested people here and we want to plunge ourselves right
3 into the process and the information.

4 But if I remember correctly, after we've had some
5 other discussions, it makes some more sense to -- before we
6 start the adjudication process to at least wait for the
7 completion of the DEIS because at that point in time, you would
8 have -- the people -- at least the parties who are interested
9 have a much better sense of what the project entails and where
10 the impacts are potentially going to be.

11 And what happens is if you start the adjudication
12 process too early and you have a prehearing conference and
13 you're setting up your legal issues, is you might have people
14 afterwards deciding that they want to be an intervenor, or you
15 have people just saying, Oh. I didn't realize this was going to
16 happen, and I want to amend the list of legal issues.

17 And that triggers a set of motions in front of
18 whoever is the presiding judge, the ALJ. And having done some
19 of those myself, it's really a pain in the butt. I mean, it's
20 just easier just to wait a little bit longer. Then everybody
21 is much clearer about what sort of a project they're looking at.

22 And you can't really proceed anyway without having
23 the issues clearly formulated, so my sense is that we're
24 probably looking at not starting the adjudicatory process until
25 after the DEIS is issued.

1 Am I correct on that, Ms. Bumpus?

2 MS. BUMPUS: I think that that's correct. Because of
3 the way our WAC is written, there's nothing that is procedurally
4 wrong per se about starting adjudication now, but -- and
5 adjudication and SEPA are separate processes, but I think in
6 this case, one is driving the other in that you are allowing
7 SEPA to do its work and give people the information they need to
8 develop where they stand with regards to this project and their
9 interest in the project, which directly ties into the beginning
10 of adjudication and identifying intervenors, so, yeah, I think
11 that sounds right.

12 MR. HAYES: Chair, if I may?

13 CHAIR LYNCH: Yes.

14 MR. HAYES: It occurs to me that -- I can understand
15 why we would want to have the draft EIS prior to the
16 adjudication hearing, but my memory is that there are a number
17 of process steps that happened before that, and I'm wondering
18 whether there can be some efficiencies gained by having some
19 overlap between the two making sure that we don't have the
20 hearing before the DEIS is complete.

21 CHAIR LYNCH: We'll certainly be looking for
22 efficiencies as much as we can, Mr. Hayes. And I guess I will
23 just throw that back to Staff in terms of identifying those
24 efficiencies and letting us know when they think that updates or
25 whatever are appropriate.

1 But are you saying the actual -- the decision for the
2 adjudicatory process, or the actual kickoff for the adjudicatory
3 process?

4 MR. HAYES: What I'm referring to -- and I -- you
5 know, on the last project we reviewed, I entered sort of right
6 before the adjudication process, so I'm little hazy on sort of
7 what happens before that.

8 But, you know, my understanding is there's a land use
9 hearing. There are a number of prehearing meetings among the
10 parties, and that does take some time. And so I'm just
11 wondering whether there's some opportunity for some of that to
12 happen concurrently.

13 CHAIR LYNCH: It's my understanding that those
14 meetings with Staff and the applicant certainly are ongoing, and
15 so that's not waiting for the formal adjudication process to
16 trigger. The adjudication process itself will -- there's the
17 notice that's sent out and there's -- the different parties file
18 and then there's -- intervenors are either allowed or not
19 allowed to intervene, but then you have the prehearing
20 conference where you establish what are the legal issues for
21 that case and that those legal issues, once the prehearing order
22 goes out, can only be amended for cause.

23 And that's where -- that's why it gets to be a pain
24 if you do that too early, because what's just cause for somebody
25 is not just cause for somebody else. So you'll have a situation

1 where someone will say, Well, how could have I have known that
2 this was going to be an issue, and someone on the other side
3 will say, Well, you should have. A reasonable person would have
4 been able to anticipate this, and it should have been added to
5 the legal issues.

6 And so that's when you get motions filed, and it
7 gets -- it could be a little more difficult. But one of the
8 things that we have been talking about with Staff is before the
9 start of the adjudicatory process, that the Councilmembers be
10 briefed about -- some of you have been through an adjudicatory
11 process. Most of us have not here, anyway, but just a briefing
12 about how does the adjudicatory process work. What is the
13 Council's role in hearings and -- just so that we -- everyone
14 has a better understanding of just how it all works.

15 We're not going to do that right away, because if you
16 have it too early -- at least if it's me, if it's too early,
17 things tend to go out of my head, so -- but we anticipate that.

18 And if you have certainly any questions, further
19 questions, I'm happy to talk with you and talk with Staff about
20 how we can make this more efficient and more understandable.

21 But let me just turn back.

22 Mr. Posner, any thoughts? Any reaction to what we
23 have said so far?

24 MR. POSNER: Yes. Thank you, Chair Lynch.

25 I think that just a couple of things to keep in mind

1 is that even though we talked about sort of the EFSEC process --
2 and there's separate processes going on, the SEPA process, the
3 application review -- they kind of inform each other.

4 And as far as potential intervenors, folks, parties,
5 potential parties deciding whether or not they want to intervene
6 in this project, I think that they are informed by what's going
7 on on the SEPA side, so that I think if we were to, you know,
8 issue a formal notice beginning adjudication, say, very shortly,
9 where like now we're still in SEPA scoping, there are potential
10 parties who may not have enough information to know whether or
11 not they want to intervene. So I think there is some linkage in
12 terms of the timing.

13 I think that I agree with Mr. Hayes that we could
14 start, you know, the formal notice beginning adjudication before
15 the DEIS is issued, but my recommendation is to wait till we're
16 further along in the scoping process and moving towards getting
17 close to issuing a draft EIS. Because I think that just like
18 you were saying, there are some risk associated with starting
19 too soon and not being able to identify all the parties and then
20 having parties come back later on in the process and, you know,
21 with -- claiming that they didn't have the information available
22 earlier. I think there's potential issues about starting too
23 soon, but it seems to me that there's probably a number of
24 things that could be dealt with during prehearing conferences,
25 once adjudication begins, which, perhaps, could occur sometime

1 around or before the DEIS is issued so that we're ready to go
2 with the adjudicative hearing quickly after the DEIS is issued
3 rather than having to go through a number of prehearing
4 conferences and issuing prehearing conference orders dealing
5 with issues after the DEIS is issued. We might be able to deal
6 with some of these things earlier.

7 CHAIR LYNCH: And also, Mr. Hayes, I have had an
8 opportunity to talk to our administrative law judge, Judge
9 Torem, about just the practice of the adjudication, about how we
10 can make things efficient and not waste time.

11 And, for example, what EFSEC already does is you have
12 prefiled testimony for experts, and so that really is a great
13 time saver, because then the Councilmembers can have that
14 testimony and read it before you get into the hearing, and then
15 you can focus your questions on particular aspects. And that
16 also saves time at the hearing, because what that particular
17 expert does is -- typically what happens, they're asked if
18 they -- if their prefiled testimony is correct and if they want
19 to make any changes to it. And they generally say, Well, yes,
20 it's correct, or there's a typo on this one page. And then
21 after just a few overview comments, you go directly into
22 cross-examination -- or I shouldn't say direct and then
23 cross-examination. You move into cross-examination. And that
24 saves just a lot of time. And then you have all that direct
25 testimony from the expert right there that you can refer -- you

1 have it ahead of time, you can refer back to it in the course of
2 the hearing, and it's very useful.

3 I'm also hoping that the parties can -- particularly
4 if you have gone through a SEPA process. If you have gone
5 through a number of different things and a lot of fact finding,
6 that you can stipulate to a lot of facts at the front-end of the
7 process so you're not having to take a lot of time over again
8 and entering that as evidence. You're really kind of focusing
9 on what are the real issues before the Council as opposed to
10 what is just spending a lot of time on background. So those
11 sorts of things should save us some time.

12 But having said that, we're finding a number of ways
13 that we can do efficiencies, and, certainly, we would look for
14 your input as we go along.

15 MR. HAYES: I appreciate that. Thank you.

16 CHAIR LYNCH: Thank you.

17 Mr. Moss?

18 MR. MOSS: I would just like to comment in this
19 connection that while I understand the rationale -- or what I
20 understand the rationale to be for postponing the start of the
21 adjudication to that point in time when the DEIS is available to
22 us, is that -- the thought being that that somehow defines the
23 outside boundary of the issues; is that essentially correct? Is
24 that Staff's view?

25 MR. POSNER: Well, no. I'm not sure if I would

1 characterize in that manner. I would say that the information
2 that comes out of the DEIS informs the parties of potential
3 parties and that that -- with that information they can decide
4 or develop their position in terms of whether or not they want
5 to, you know, intervene in the project.

6 MR. MOSS: I just want to be sure I understand the
7 intended relationship between the two processes, because we
8 do -- we have to be careful in some sense about there being any
9 substantive overlap, and the adjudicatory process is an
10 independent process and relies on its own record for decision.

11 And I don't think that means we can't look at the
12 draft environmental impact statement in terms of informing us as
13 to what issues we might want to hear about or informing the
14 applicant or members of the public or whomever about issues that
15 they think are important and should be aired during the
16 adjudicatory process.

17 But to the extent that that's the relationship, I
18 feel comfortable with that. I do want to caution us, though. I
19 think we should be cautious and not tie ourselves to the idea of
20 waiting until some particular point in time. I think we can
21 sort of take that as a starting initiative, and let's see how it
22 goes.

23 The EIS processes can drag on for inordinate amounts
24 of time due to circumstances beyond anyone's control, frankly,
25 and I wouldn't want to see that unduly delay the initiation of

1 an adjudicatory process that would involve in a more formal way,
2 those stakeholders who have an interest in the outcome of this
3 project, including, significantly, the applicant.

4 So I just leave those comments for what they're
5 worth. And I will comment on one thing, one point on prefiled
6 testimony. As I'm sure Bill Lynch is aware, prefiled does save
7 a great deal of time at hearing, no doubt, but it's also my
8 experience that it takes a fair amount of time to prepare
9 prefiled testimony. And once the applicant has the opportunity
10 to have the first say, all of those who wish to have the second
11 or responsive say will be asking for significant amounts of time
12 for discovery and to prepare their own testimony.

13 So we have to be cautious as we go forward in the
14 process and not let it become unnecessarily prolonged. So I
15 just want us to be -- have a heightened awareness about the
16 importance of these things.

17 CHAIR LYNCH: Thank you, Mr. Moss. And your
18 experience is certainly very valuable to us. And as you know,
19 each project is different, and it's a dynamic process, so you
20 set up what you think are guidelines for working it, and then
21 sometimes you have to make adjustments as you go along.

22 Mr. Posner?

23 MR. POSNER: I was just going to respond, and I agree
24 with everything that Councilmember Moss said. In fact, our SEPA
25 rules -- specifically there's a section that authorizes the

1 Council to initiate the administrative adjudicative proceedings
2 but prior to the issuance of the DEIS.

3 So it's a Council call, and I think that that's -- I
4 mean, and -- that's really the point that I'm trying to make, is
5 that the Staff recommendation is to wait a little longer, but
6 it's your call. And we'll just keep you updated on how we're
7 going with the review of the application and SEPA and then
8 decide. The decision will be yours.

9 CHAIR LYNCH: Thank you. Anything else regarding the
10 adequacy determination update?

11 MR. MOSS: I just have one question.

12 CHAIR LYNCH: Yes, Mr. Moss.

13 MR. MOSS: Is it anticipated that there will be some
14 sort of a letter or some other document that sort of brings to
15 finality this adequacy review, or will that just be reported to
16 us?

17 MR. POSNER: There's nothing specific that is, you
18 know, spelled out that it has to be a report, but we will
19 provide an update to the Council. We'll let you know when we've
20 kind of reached that point after we have received all the
21 comments from our state agencies, and we'll give an update on
22 where we're at with that.

23 MR. MOSS: Okay. Thanks.

24 CHAIR LYNCH: Any other Councilmembers have any
25 questions or thoughts?

1 MS. GREEN-TAYLOR: I have one, Chair.

2 CHAIR LYNCH: Yes. Ms. Green-Taylor, please.

3 MS. GREEN-TAYLOR: Thank you. I just would like a
4 really brief description of what all the adequacy determination
5 process consists of. As a new member, I'm not sure what all you
6 do to determine adequacy of the application.

7 MS. BUMPUS: Would you like me to prepare something
8 and provide it after the Council meeting or...

9 MS. GREEN-TAYLOR: That would be great.

10 MS. BUMPUS: Okay.

11 MS. GREEN-TAYLOR: Yes, I'd appreciate that.

12 MS. BUMPUS: Sure. I'd be happy to.

13 CHAIR LYNCH: Just in the form of like bullets? You
14 just want to see you do this, this, this, this?

15 MS. GREEN-TAYLOR: Yeah. Something very brief --

16 MS. BUMPUS: Okay. Sure.

17 MS. GREEN-TAYLOR: -- just describing the process.

18 MS. BUMPUS: Yes.

19 CHAIR LYNCH: Anything else from Staff or for Staff
20 on that?

21 Okay. Mr. Posner, you are looking at me like you
22 want to say something.

23 MR. POSNER: I'm just anxiously waiting my turn to
24 talk about the site tour.

25 CHAIR LYNCH: Oh, I'm sorry.

1 Mr. Posner?

2 MR. POSNER: So just to follow up to the question
3 that was brought up, we had actually talked about a site tour, I
4 think, several Council meetings ago, and then it's been kind of
5 carried over. And then at the last Council meeting, one of the
6 Councilmembers brought it up, you know, what's going on with the
7 site tour, so I wanted to -- it's a follow-up item. I just
8 wanted to get back to you on that.

9 The recommendation -- and this is in consultation
10 with Ann Essko, our Assistant Attorney General. We've talked
11 about the timing of the site tour, and the Staff recommendation
12 is to not have a site tour now but to wait until closer to the
13 adjudicative hearing, at least until after the adjudicative
14 proceedings have been commenced.

15 And part of that is related to some of the things
16 we've already talked about. The parties will be closer to
17 identifying who the parties are. They'll have an opportunity to
18 participate in the site tour. The site tour essentially is a
19 public meeting. We have to public notice it. And any
20 information that's gained by the Councilmembers during the site
21 tour essentially becomes part of the adjudicative record for the
22 Council to consider, and I'm not sure that that will be the case
23 if we conducted the site tour before adjudication began.

24 So I think those are the reasons to kind of support
25 having the site tour at a later date. And I'm not sure when

1 that will occur, but probably my recommendation would be to wait
2 till after adjudication begins.

3 CHAIR LYNCH: Any questions for Mr. Posner?

4 I know I have one item of business here, but is there
5 anything else from Staff at this time?

6 MR. POSNER: No, I don't believe so.

7 CHAIR LYNCH: Thank you.

8 Well, the Council actually has something I would like
9 to read, which is Resolution No. 335, commending the services of
10 Acting Chair Dennis Moss. And it just kind of says a lot of
11 stuff, and so I'll just go ahead and read it.

12 MR. MOSS: Nice letter to follow.

13 CHAIR LYNCH: You're right. Nice letter to follow,
14 and the check's in the mail.

15 (As read): "WHEREAS, Dennis Moss was appointed
16 Acting Chair of the Washington State Energy Facility Site
17 Evaluation Council effective September 1, 2013; and

18 "WHEREAS, Dennis Moss served with distinction as
19 Acting Council Chair from September 1, 2013 through October 31,
20 2013. In addition to carrying out his duties as a Councilmember
21 representing the State Utilities and Transportation Commission;
22 and

23 "WHEREAS, Dennis Moss has ably represented the
24 interests of the citizens of the State of Washington in Council
25 deliberations during his tenure as Acting Chair; and

1 "WHEREAS, Dennis Moss has guided the Council's
2 activities during the initial stages of the review of the
3 application filed by Tesoro Savage for the Vancouver Energy
4 Distribution Terminal and ably participated in facilitating
5 public and State environmental policy act public meetings; and

6 "WHEREAS, Dennis Moss has served as an effective and
7 decisive Acting Chair of the Council; and

8 "WHEREAS, Dennis Moss will now continue his
9 membership on the Council as UTC's representative; and

10 "WHEREAS, Dennis Moss continues to provide dedicated
11 service to the Council and the State as the Council's longest
12 active member since his appointment in 2010; now, therefore, be
13 it

14 "RESOLVED, that the Energy Facility Site Evaluation
15 Council hereby recognizes Dennis Moss's vital contribution to
16 the Council over his term, looks forward to his continued
17 service, and expresses its gratitude for his exemplary service
18 and devotion as Acting Council Chair.

19 "Dated this 19th day of November, 2013. Washington
20 State Energy Facility Site Evaluation Council," and all the
21 permanent members of the Council have signed this, so
22 congratulations, Dennis.

23 (Applause.)

24 MR. MOSS: Thank you very much.

25 CHAIR LYNCH: And, Dennis, I have already met with

1 you at least once, and I will continue to enjoy your counsel and
2 advice as I proceed.

3 MR. MOSS: And I'll look forward to our interactions.

4 CHAIR LYNCH: Thank you. And with that, I believe we
5 are adjourned. Thank you.

6 (Whereupon, the meeting was adjourned at 2:37 p.m.)

7 -o0o-

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
and Notary Public in and for the State of Washington, do hereby
certify that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 3rd day of December, 2013.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2017

Kittitas Valley Wind Power Project

Monthly Project Update

November 19, 2013

Project Status Update

September Production Summary:

MWh 11,601 MWh
Wind 4.5 m/s or 10 mph
CF 15%

Safety:

No incidents

Compliance:

Project is in compliance as of November 18, 2013.

Sound:

No complaints

Shadow Flicker:

No complaints – automatic curtailments on A1 & A2 have resumed.

Environmental:

No stormwater discharge to report.

October, 2013

EFSEC Monthly Operational Report

Safety:

- There were no accidents or injuries in the month of October.

Environmental:

- Submitted September Discharge Monitor Report.
- Received final RATA and Emissions Testing Report. There has no formal response from EFSEC regarding the sulfuric acid mist emissions.
- Submitted third quarter Emissions Data Report (EDR) to EFSEC and Emissions Summary to EPA.
- Submitted Greenhouse Gas emissions summary to the Department of Ecology.
- Received third quarter storm water sampling results from the laboratory. Storm water runoff indicated a high level of copper, exceeding the permitted limit. The cause is attributed to a buildup of contaminants from vehicle brake pad wear with no measureable rainfall between sampling events. Subsequent testing will determine further actions.
- Received the 2013 Priority Pollutant sample results from the laboratory. The results indicated the presence of two volatile organic compounds (VOC) possibly attributed to ControlBrom 70, the chemical used for biocide treatment in the cooling tower. The outfall discharge was re-sampled to confirm the results and we are awaiting those results from the laboratory. Investigation into the source of the VOC's continues.
- .

Operations & Maintenance:

- Grays Harbor operated 17 days during the month of October, producing 185,392 MW.
- The capacity factor (CF) was 40.2% in October, and 24.4% YTD.
- The availability factor (AF) was 100% in October, and 95.0% YTD.

Noise and/or Odor:

- A complaint was received by EFSEC staff on 10/15/13, and communicated to GHE staff that day. The complaint was regarding odors from the plant "during foggy and inversion conditions". Plant staff investigated the plant site as well as surrounding areas including West Keys Road, where the neighbor lives, and the only odor that could be detected was a strong wood burning odor from a neighboring business. That day the plant was running in steady state conditions with no abnormal or transient events. ORCAA indicated they would investigate.
- A complaint was received by EFSEC staff on 10/28/13, and communicated to GHE staff that day. The complaint was regarding odors from the plant and "very loud noise" at approximately 3 am. Plant staff investigated the plant site as well as surrounding areas including West Keys Road, where the neighbor lives, and again the only odor that could

be detected was a strong wood burning odor from a neighboring business. There was no abnormal noise at the time of investigation, and plant conditions at 3 am were identical to what they had been all night. The plant ran in steady state conditions all night long, with no abnormal or transient events whatsoever. ORCAA indicated they would investigate.

Site Visits:

- There were no site visits for the month.

Other:

- None

Wild Horse Wind Facility - Monthly Compliance Report - October 2013

Below is the monthly operational/compliance update for Wild Horse. Please let me know if you have any questions.

Wind Production: October generation totaled 38,682 MWh for an average capacity factor of 19.07%.

Solar Production: The Solar Demonstration Project generated 74.4 MWh in October.

Safety: No lost-time accidents or safety incidents to report in October. Site staff participated in the 2013 Great Washington ShakeOut earthquake drill on October 17th.

Compliance/Environmental:

Nearly 500 recreational access permits were issued for the modern firearm general elk hunting season (October 26th-November 3rd). Additional security measures were implemented during this season to help enforce hunting rules/regulations and to ensure the safety and security of hunter's, the general public, wind project personnel, and wind project facilities.

WDFW enforcement provided Eyes in the Woods training for site staff in preparation for the general elk hunting season. This program trains employees to identify, document and report natural resource crimes.

Site staff received training on Washington State's new Hazard Communication Standard (WAC 296-901), which is substantially identical to OSHA's new Globally Harmonized System of Hazard Communications.

In accordance with the Operation Stormwater Pollution Prevention Plan (SWPPP) culverts throughout the site were inspected for signs of damage, sediment buildup, corrosion, bottom sag, and overall effectiveness. Only one culvert required cleaning/maintenance.

**Energy Northwest
EFSEC Council Meeting
November 19, 2013
(Shannon Khounnala)**

I. Columbia Generating Station Operational Status

Columbia is currently operating at 100% power, generating 1123 megawatts, and has been online for 147 days.

Environmental staff from Energy Northwest recently met with the National Marine Fisheries Service in Portland, Oregon to discuss the technical operation of Columbia, our intake structure, and the advancement of Columbia's NPDES permit. Staff from the Environmental Protection Agency listened to the meeting via phone. Energy Northwest found the meeting to be productive and informative. Both parties were able to share information and take away new information from the meeting for additional consideration. Both parties are now taking some time to evaluate what was learned and pose additional questions as needed.

There are no other events, safety incidents, or regulatory issues to report.

II. WNP 1/4 Water Rights

On October 31st, 2013 the Department of Energy submitted the water rights application for WNP 1/4 to the Department of Ecology. Based on the information gathered at the pre-application meeting, we expect to begin working with the Department of Ecology on specific application requirements during the month of December.

Chehalis Generation Facility----Monthly Plant Report to the Washington Energy Facility Site Evaluation Council – October 2013

1813 Bishop Road Chehalis, WA 98532

Phone (360) 748-1300, FAX (360) 740-1891

4 November 2013

Safety:

- There were no recordable incidents this reporting period and the plant staff has achieved 3999 days without a Lost Time Accident.

Environment:

- Storm water and waste water monitoring results are in compliance with the permit limits for the month of October 2013.

Personnel:

- Authorized plant staffing level is currently 19 with 19 positions filled.

Operations and Maintenance Activities:

- The Plant generated 259,370 megawatt-hours at a capacity factor of 69.67% for the month of October and the year-to-date capacity factor is 40.57%.
- There were no operational and no maintenance anomalies during the month October 2013.

Regulatory/Compliance:

- There were no air emissions deviations, waste-water or stormwater exceedances or spills during the month of October 2013.

Other:

- Sound monitoring: There were no noise complaints to report.

Carbon Offset Update:

As a condition of the transfer of ownership and the Site Certification Agreement for the Chehalis Generation Facility from Chehalis Power to PacifiCorp, the Washington State Energy Facility Site Evaluation Council ("EFSEC") included within its Order No. 836 a requirement that

PacifiCorp to provide \$1.5 million in funding for greenhouse (“GHG”) mitigation projects plus reimburse state agency staff for their time reviewing and approving proposals. The condition was as follow:

PacifiCorp will provide \$1.5 million in funding for greenhouse gas (GHG) mitigation projects. Energy Facility Site Evaluation Council (EFSEC) staff and PacifiCorp representatives will work together to identify potential mitigation projects and consult with Washington agencies including the Department of Ecology, the Department of Fish and Wildlife, the Department of Natural Resources and the Department of Community Trade and Economic Development. EFSEC staff and PacifiCorp representatives will evaluate potential projects, considering among other things, the extent to which the projects would offset CO₂ emissions. Based on the recommendations of EFSEC staff and PacifiCorp, the Council will make final decisions selecting projects and the supplier(s) to be funded out of the \$1.5 million of funding provided by PacifiCorp.

The first solicitation for offsets resulted in an award to the Washington Department of Natural Resources. However, on March 1, 2010, PacifiCorp received written notification from the Washington State Department of Natural Resources that it was withdrawing its formal response to the PacifiCorp carbon solicitation due largely to the significant budget cuts the Department had experienced, leaving it with inadequate capacity to complete all the requirements of the carbon offset mitigation proposal.

A subsequent request for proposal process selected a project advocated by The Climate Trust (TCT), a 501(c)(3) nonprofit organization headquartered in Portland, Oregon. The agreement stipulated that PacifiCorp would purchase from The Climate Trust up to 50,000 metric tons (tonnes) of carbon dioxide equivalent, verified emission reductions from a livestock anaerobic digester project near Lynden, Wash. This project, operated by Farm Power, captures and destroys methane from manure management systems at MJD Farms dairy operations. Manure from three separate barns is pumped three-quarters of a mile to an anaerobic digester, which burns the methane to operate a turbine engine that creates electricity.

The carbon offset project finished its second project year on July 31. Farm Power retained First Environment to verify the project’s performance against the Climate Action Reserve’s Livestock Manure Management Protocol. Farm Power and First Environment expect the verification to be complete in October. TCT’s expects to receive issued offsets from CAR approximately one week after the final verification report is submitted to CAR for its review.

Based on Farm Power’s monitored data, the estimated volume of 2012-2013 vintage VERs that will be transferred to PacifiCorp is 9,920 tons. PacifiCorp will be invoiced during the month of November 2013.

The Farm Power Lynden Anaerobic digester project reached commercial operation (began destroying methane) on December 3, 2010. The digester was designed to convert 5000 cubic feet of manure per day from approximately 2200 dairy cows into biogas. The biogas is being destroyed in a 750 kW engine that is generating grid electricity. The digester reached a steady state of operations in mid-2011 and biogas production levels are comparable to the anticipated production average of 9,125,000 scf/month. As such, the project is anticipated to reduce 7,000 metric tons of carbon dioxide equivalent emissions annually.

In addition, PacifiCorp has been working with the Confederated Tribes of the Chehalis Reservation to preserve and protect from harvest or waste the trees located on selected "Conservation Land" located in the Chehalis River Basin. The Chehalis River Basin includes parts of: Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Thurston, and Wahkiakum counties in the state of Washington. Planting trees and restoring the native vegetative cover in non-forested areas throughout the Chehalis Basin will sequester carbon and permanently improve air quality in Washington. And provide fish and wildlife benefits that are impacted in this basin.

There is no progress to report on at this time as legal counsel continue to work out the details of an agreement.

Mark A. Miller
Manager, Gas Plant
PacifiCorp-Chehalis Power
1813 Bishop Road
Chehalis, WA 98532
360-827-6462

E-mail: mark_a.miller@pacificorp.com



STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL
PO Box 43172 • Olympia, Washington 98504-3172

TO: EFSEC Council

FROM: Jim La Spina, EFSEC Staff

DATE: November 19, 2013

SUBJECT: Chehalis Notice of Violation EFSEC # 101

MEMO Attachments:

1. Southwest Clean Air Agency NO_x Exceedance Notes
2. PacifiCorp letter, dated June 26, 2013
3. Notice of Violation and cover letter, dated October 18, 2013
4. Southwest Clean Air Agency recommendation letter, dated October 29, 2013

Background

On June 17, 2013, Mr. Mark Miller, Plant Manager of PacifiCorp Energy-Chehalis Generating (Permittee), provided initial notification by e-mail and phone that on June 15, 2013 the NO_x concentration emission limit was exceeded by Combustion Turbine #1. Timely notification of this incident was made to EFSEC Staff and EFSEC's compliance contractor, the Southwest Clean Air Agency (SWCAA). In a letter dated June 26, 2013 the Permittee provided an explanation for the exceedance and explained corrective actions it had taken to prevent such occurrences in the future.

In response to the exceedance, the EFSEC Council, at its October 15, 2013 meeting approved issuance of a Notice of Violation (NOV) to the Permittee for violating provisions of Permit No. EFSEC/95-02 Prevention of Significant Deterioration/Notice of Construction (PSD/NOC) and Permit No. EFSEC/06-01 Air Operating Permit (AOP) Rev.1. (Details of the exceedance, relevant permit citations and a discussion of the incident are contained in the attached Southwest Clean Air Agency NO_x Exceedance Notes.)

In a letter dated October 29, 2013 SWCAA determined the Permittee had provided an adequate explanation of the exceedance and had implemented reasonable corrective actions. SWCAA's letter also recommended a minimum civil penalty of \$1,250.

EFSEC Staff Recommendation and Basis

EFSEC staff recommends the Council not levy a civil penalty on the Permittee. EFSEC staff recommends the Council consider the NOV closed and take no further action on this exceedance. These recommendations are based on the following considerations:

1. The Permittee reported the incident within 48 hours as required.
2. Permit deviations caused by human error have been relatively infrequent.
3. The operator corrected the problem within 4 minutes of discovery.
4. The Permittee provided an explanation in a timely manner for this incident and explained corrective actions it had taken to prevent such occurrences in the future.
5. NOV EFSEC # 101 is the first NOV issued to the Permittee.
6. Based on federal criteria, this incident does not constitute a High Priority Violation.
7. The Council can exercise its regulatory discretion to not issue a civil penalty. WAC 463-78-230(2) states: Any person who violates any of the provisions of chapter 70.94 RCW [Washington Clean Air Act] may incur a civil penalty . . .
8. There have been no significant issues of concern related to the Permittee's Site Certification Agreement and all applicable state and federal regulatory requirements.
9. EFSEC does not have a Council-approved enforcement policy to determine civil penalties.

Ecology and SWCAA both have 1) management-approved enforcement policies and 2) established procedures to determine civil penalties.

In summary, EFSEC staff recommends that the Council consider the NOV closed and take no further enforcement action on this incident.

NO_x Exceedance – Combustion Turbine 1
June 15, 2013

PacifiCorp Energy - Chehalis Power Plant

Physical Location: 1813 Bishop Road
Chehalis, WA 98532

Telephone: (360) 748-1300 ext. 5

Contact(s): Mark Miller

Requirements: Air Operating Permit EFSEC/06-01-AOP Rev.1 Monitoring Condition 12 - "Emissions of nitrogen oxides from each HRSG exhaust stack shall not exceed any of the following:

(a) 3.0 ppmvd @ 15% O₂ (1-hour average) when firing natural gas...

...Except when reference method testing is being conducted, these emission limits shall be applied on CEM clock hours and calendar days."

BACKGROUND INFORMATION:

On June 17, 2013 (Monday), Mr. Mark Miller provided initial notification by both e-mail and phone that the NO_x concentration emission limit was exceeded by Combustion Turbine #1 on Saturday June 15, 2013. A full report of the incident was provided on June 26, 2013 with follow-up information on June 27, 2013. During the incident the NO_x concentration limit was exceeded for three CEM clock hours.

| <u>Hour Ending</u> | <u>NO_x (ppmvd @ 15% O₂)</u> |
|--------------------|---|
| 13:00 | 4.4 |
| 14:00 | 4.5 |
| 15:00 | 4.4 |

After startup the operator conducted a calibration of the CEMS. When calibration was complete, the operator failed to notice for that the NO_x concentration reading did not return to compliant levels. The high NO_x values resulted from the SCR ammonia control valve cycling closed due to an incorrect temperature setpoint in the distributed control system logic. The temperature setpoint causing the valve to fail closed should have been at 160°F according to setup documentation. The setpoint was at 475°F. PacifiCorp reports that they have not made DCS changes since 2008. When the operator noticed the excess NO_x emissions he took manual control of the ammonia flow control valve and reduced NO_x emissions to well below the permit limit.

It is not known why a low temperature shutoff of the ammonia control valve had not occurred before this event. PacifiCorp has experienced significant maintenance issues with respect to the SCR blowers and speculates that perhaps the air flow through the system was low. A redundant blower is maintained because failures are common (5 this year for this turbine).

PacifiCorp reports that the temperature setpoint at issue will be corrected to prevent similar future incidents.

Root Cause: Human error both in the incorrect temperature setpoint and subsequent failure to notice a continued high NO_x level following completion of the calibration cycle.

Prior Violations: No Notice of Violation or Notice of Correction has been issued to this facility for past violations of air quality rules or permits. Documented past deviations caused by human error are listed below.

| Incident Date | Notes |
|--|--|
| 4/24/2004 | NH ₃ valve malfunctioning, placed in manual control, operators read wrong indicator (DAS does not match CEM) and controlled to incorrect limit. Resulted in 1 hour NO _x exceedance on Unit 2. |
| 12/20/2004 | Control room forgot to put control valve into "AUTO" after calibration. Resulted in 1 hour NO _x exceedance on Unit 2. |
| 2/1/2005 | 4th Quarter report was submitted 2-1-2005 and 2-4-2005. Report was due 1-30-2005. |
| 4/15/2005 | Emissions inventory was due April 15th, actually submitted April 18, 19, 21, and 30, 2005. |
| 8/9/2005 | Ammonia valve switched to manual - cause unknown. Audible portion of alarm failed, valve position and exceedance went unnoticed. Resulted in 1 hour NO _x exceedance on Unit 1. |
| 11/7/2006 | When performing work at the plant GE accidentally reset the plant controls so that fell out of Mode 6 when dropped load. Resulted in 1 hour NO _x exceedance on Unit 1. |
| 12/5/2006 | When performing work at the plant GE accidentally reset the plant controls so that fell out of Mode 6 when dropped load - problem found and fixed after this event. Resulted in 1 hour NO _x exceedance on Unit 1. |
| 6/18/2007 | Exceedance of CO, NO _x limits while tuning - NH ₃ was locked into "automatic" control - software error. Resulted in 2 hours of CO and 1 hour of NO _x exceedance on Unit 2. |
| 1/7/2008 | Operator accidentally shut down Unit #1 SCR blower in addition to Unit #2 SCR blower when shutting down Unit #2. Resulted in 1 hour NO _x exceedance on Unit 1. |
| March – December 2010 | Failed to conduct 7 of the weekly opacity observations in 2010. A new procedure has been adopted to prevent recurrence. |
| 2 nd /3 rd Quarters 2012 | Failed to conduct fuel flowmeter calibrations by the end of the 2 nd Quarter 2012. Calibration was completed July 15, 2012. |

DISCUSSION:

This exceedance is not a High Priority Violation (HPV) by either the general or matrix criteria. An exceedance detected by a CEM would be evaluated against HPV Matrix Criterion 4. This event lasted 3 clock hours. If an exceedance lasts less than 5% of the operating time in the reporting period it would not be a HPV.

| WAC 173-400 Criteria for Excuse from Civil Penalty for Excess Emissions - Upsets | Notes |
|--|--|
| Excess emissions shall be reported as soon as possible but no later than 48 hours after discovery. | This incident was reported within 48 hours. |
| Excess emissions were not caused by poor or inadequate design, operation, maintenance or other reasonable preventable condition. | This incident was reasonably preventable. |
| The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance. | Deviations caused by human error have been relatively infrequent. |
| The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded. | The operator corrected the problem immediately upon discovery. |
| The operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence. | CEM data indicates that the operators response resolved the high NO _x indication within 4 minutes. Most of this time is probably due to the response time of the CEM. |

RECOMMENDATIONS:

None

Clint Lamoreaux
June 27, 2013

June 26, 2013

Jim LaSpina
Siting Specialist
Energy Facility Site Evaluation Council
1300 South Evergreen Park Drive SW
P.O. Box 43172
Olympia, WA 98504-3172

Mr. Clint Lamoreaux
Southwest Clean Air Agency
11815 NE 99th Street, Suite 1294
Vancouver, WA 98682-2454

Subject: Chehalis Emission Unit #1 NO_x deviation from Title V Permit Condition 12

Dear Mr. LaSpina,

As required by Section IX of the Title V Air Operating Permit (EFSEC/06-01 AOP Rev.1), this letter is in follow up to the previously reported NO_x deviation that occurred Saturday, June 15, 2013.

The deviation began June 15, 2013 at 12:27 ending June 15, 2013 at 15:31. This deviation occurred as a result of the ammonia flow control valve supplying aqueous ammonia to the selective catalytic reduction (SCR) system failing to the closed position. The absence of ammonia supply to Emission Unit 1 SCR resulted in the hourly average beginning 13:00 and ending at 15:00 to exceed the NO_x permitted limit of 3.0 ppmvd @ 15% O₂.

The Chehalis staff performed an extensive review of the incident and determined that the control logic for the ammonia flow control valve (FCV) initiated a close when the SCR vaporizer outlet temperature dropped below 475 °F. The normal flue gas temperature entering the SCR vaporizer ranges from 520 °F to 630 °F.

The distributed control system (DCS) logic is written so that when dilution air temperature is less than 475 °F the resulting output signal is to fail close the ammonia flow control valve. The dilution air (flue gas) temperature was operating around 475 °F during this event causing the ammonia FCV to cycle. Further investigation into the design criteria and set points established by the manufacturer, Babcock-Hitachi, clarifies that the actual low-low alarm and FCV fail to close limit should have been 160 °F in the DCS control logic.

Another contributing factor is related to the continuous emission monitoring system (CEMS) calibration process. At 12:01, the Unit 1 Startup was complete, at which point the Control Room Operator initiated an auto-calibration of the Unit 1 CEMS analyzers. Upon completion of the

calibration sequence, the Operator noted a "Maintenance Limit" on the NOx High analyzer. The Operator initiated another auto-calibration and notified the Environmental Analyst of the initial calibration results.

During the second auto-calibration attempt, the Operator received alarms for each analyzer in the DCS, which is normal. As an analyzer enters its phase of the calibration, the span gas sequence initiates a "High" alarm in the Control Room. In this instance, the Operator did not recognize that all High limit alarms had "cleared" with the exception of NOx ppmvd. Upon completion of the second calibration, Unit#1 NOx was operating at approximately 4.5 ppmvd. Because the NOx level had not dropped below that of the alarm set point, no other alarms were received in the Control Room.

At 15:27, the Operator observed that the NOx emissions were above the limit of 3 ppmvd. He immediately took manual control of the Ammonia Flow Control Valve and reduced NOx below the operating limit. All appropriate personnel were then notified of the event.

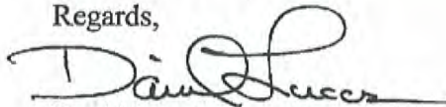
In addition to the immediate corrective action taken by the Operator, a management of change has been initiated. The SCR vaporizer outlet temperature set point in the DCS will be changed to a lower limit of 160 °F to prevent a similar event from occurring in the future.

I have attached the DAHS report for the period prior to and during the deviation occurrence.

I certify that I am the responsible official as defined in WAC 173-401-200, for this source. Based upon information and belief formed after reasonable inquiry, I certify that the statements and information in this document and all referenced documents are true, accurate, and complete.

If you have any questions or concerns, please contact Mark A. Miller, Manager Chehalis Gas Plant at 360-827-6462 (mark_a.miller@PacifiCorp.com) or David Lucas, Managing Director at 801-796-1911 (david.lucas@PacifiCorp.com)

Regards,

A handwritten signature in black ink, appearing to read "David Lucas", with a stylized flourish at the end.

David Lucas
Managing Director, Gas Plants



STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL
PO Box 43172 • Olympia, Washington 98504-3172

October 18, 2013

Mr. Mark Miller
Manager, Gas Plant
PacifiCorp Energy-Chehalis Generating
1813 Bishop Road
Chehalis, WA 98532

Re: Notice of Violation

Dear Mr. Miller:

The Energy Facility Site Evaluation Council (EFSEC) is issuing the enclosed Notice of Violation (NOV) to PacifiCorp Energy-Chehalis Generating for violating provisions of Permit No. EFSEC/95-02 Prevention of Significant Deterioration/Notice of Construction (PSD/NOC) and Permit No. EFSEC/06-01 Air Operating Permit (AOP) Rev.1. As provided for in the Revised Code of Washington 70.94.422 and 70.94.332, PacifiCorp Energy-Chehalis Generating has the opportunity to discuss this notice with the EFSEC staff and/or the full EFSEC Council prior to the commencement of enforcement action.

The next regular meeting of the EFSEC Council is November 19, 2013. The December regular meeting is scheduled for December 17, 2013.

Please contact Jim LaSpina at (360) 664-1362 or jlaspina@utc.wa.gov if you have any questions concerning this matter.

Sincerely,


Stephen Posner
Interim EFSEC Manager

Enclosure: Notice of Violation
By certified mail No.
cc: Clint Lamoreaux - SWCAA

STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

IN THE MATTER OF COMPLIANCE)
WITH WASHINGTON STATE CLEAN) NOTICE OF VIOLATION
AIR) EFSEC #101
LAWS AND RULES)

To: Mr. Mark Miller, Manager
PacifiCorp Energy-Chehalis Generating
1813 Bishop Road
Chehalis, WA 98532

The Energy Facility Site Evaluation Council (EFSEC) is issuing this Notice of Violation to PacifiCorp Energy-Chehalis Generating under provisions of:

- Permit No. EFSEC/95-02 PSD/NOC Amendment 2.
- Permit No. EFSEC/06-01 AOP Rev.1.
- Chapter 463-78 Washington Administrative Code (WAC) – General and operating permit regulations for air pollution sources.
- Chapter 70.94 Revised Code of Washington (RCW) - Washington Clean Air Act.
- Chapter 80.50 RCW – Energy facilities – site locations.

EFSEC has the authority to issue this Notice of Violation under RCW 70.94.422 and RCW 80.50.040.

I. FINDINGS OF FACT

PSD/NOC

The Washington Energy Facility Site Evaluation Council (EFSEC) issued the initial PSD/NOC Permit No. EFSEC/95-02 on June 18, 1997.

EFSEC issued Extension 1 to the PSD/NOC permit on November 16, 1998 extending the initial permit's construction deadline.

EFSEC issued Amendment 1 to the PSD/NOC permit approving revision of the NOx limits to 3.0 ppmvd @ 3% when firing natural gas.

EFSEC issued Amendment 2 to the PSD/NOC permit approving modification of opacity monitoring requirements, startup provisions for cold startups, and removing references to auxiliary boilers due to expiration of authorization to construct the boilers.

EFSEC issued NOC Permit No. 2009-1 to allow construction of an auxiliary boiler.

Approval Condition 2.1 requires NO_x emissions from each HRSG exhaust stack shall not exceed 3.0 parts per million on a dry volumetric basis (ppmvd) over a one hour average when corrected to 15.0 percent oxygen when burning natural gas.

AOP

EFSEC issued the initial AOP, EFSEC/06-01, on October 10, 2006.

EFSEC issued Revision 1 of the permit on October 10, 2011. The new AOP incorporated new permit conditions related to operation of a new Auxiliary Boiler, and updated regulatory citations and requirements as appropriate.

Permit Section VI, Operating Condition 12 requires that "Emissions of nitrogen oxides from each HRSG exhaust stack shall not exceed 3.0 ppmvd @ 15% O₂ (1-hour average) when firing natural gas. . . except when reference method testing is being conducted, these emission limits shall be applied on CEM clock hours and calendar days."

II. DETERMINATION OF VIOLATION

EFSEC is basing this notice on the violation listed below:

On June 17, 2013 (Monday), Mr. Mark Miller provided initial notification by both e-mail and phone that the NO_x concentration emission limit was exceeded by Combustion Turbine #1 on Saturday June 15, 2013. A full report of the incident was provided on June 26, 2013 with follow-up information on June 27, 2013. During the incident the NO_x concentration limit was exceeded for three CEM clock hours.

| <u>Hour Ending</u> | <u>NO_x (ppmvd @ 15% O₂)</u> |
|--------------------|---|
| 13:00 | 4.4 |
| 14:00 | 4.5 |
| 15:00 | 4.4 |

After startup the operator conducted a calibration of the CEMS. When calibration was complete, the operator failed to notice that the NO_x concentration reading did not return to compliant levels. The high NO_x values resulted from the SCR ammonia control valve cycling closed due to an incorrect temperature setpoint in the distributed control system logic. The temperature setpoint causing the valve to fail closed should have been at 160°F according to setup documentation. The setpoint was at 475°F. PacifiCorp reports that they

have not made DCS changes since 2008. When the operator noticed the excess NO_x emissions he took manual control of the ammonia flow control valve and reduced NO_x emissions to well below the permit limit.

It is not known why a low temperature shutoff of the ammonia control valve had not occurred before this event. PacifiCorp has experienced significant maintenance issues with respect to the SCR blowers and speculates that perhaps the air flow through the system was low. A redundant blower is maintained because failures are common (5 this year for this turbine).

The permit was issued in accordance with RCW 80.50.040 and is enforceable in accordance with RCW 80.50.150, RCW 70.94.422, and RCW 70.94.332.

III. OPPORTUNITY TO MEET WITH EFSEC

You have until at least 30 days from the date of this Notice before the commencement of any formal enforcement action occurs. You are encouraged to meet with EFSEC staff and/or the EFSEC Council as soon as possible.

The next regular meeting of the EFSEC Council is November 19, 2013. The December regular meeting is scheduled for December 17, 2013.

If you would like to schedule a meeting to discuss the facts of this violation, please contact Jim LaSpina at 360-664-1362 or jlaspina@utc.wa.gov.

IV. MORE INFORMATION

- **Chapter 70.94 RCW, Washington Clean Air Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=70.94>
- **Chapter 80.50 RCW, Energy Facilities – Site Locations**
<http://apps.leg.wa.gov/rcw/default.aspx?cite=80.50>
- **Chapter 463.78 WAC, General and operating permit regulations for air pollution sources**
<http://apps.leg.wa.gov/wac/default.aspx?cite=463-78>

V. SIGNATURE



Stephen Posner
Interim EFSEC Manager

18/Oct/2013
Date



Southwest Clean Air Agency

11815 NE 99th Street, Suite 1294 • Vancouver, WA 98682-2322
(360) 574-3058 • Fax: (360) 576-0925
www.swcleanair.org

October 29, 2013

Jim LaSpina
Siting Specialist
Energy Facility Site Evaluation Council
1300 South Evergreen Park Drive SW
P.O. Box 43172
Olympia, WA 98504-3172

RE: Notice of Violation EFSEC #101: PacifiCorp Chehalis Power Excess NO_x Emissions of June 15, 2013 at Unit #1

Dear Mr. LaSpina:

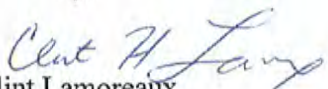
PacifiCorp Energy's June 26, 2013 letter describing the causes and responses to the June 15, 2013 NO_x exceedance on Unit #1 at the Chehalis Power Plant provides an adequate explanation of the event and PacifiCorp's plan to prevent a similar recurrence. As PacifiCorp explained, the event was caused by an incorrect temperature setpoint and the failure of the exceedance to be noticed by plant personnel, in part because the event occurred immediately following an instrument calibration event.

PacifiCorp's letter explains that the temperature setpoint will be corrected. Plant personnel now have greater awareness of the issue due to the investigation and reporting efforts of plant personnel and their response to the Notice of Violation issued by EFSEC on October 18, 2013. These activities constitute reasonable measures to prevent a recurrence of this event.

SWCAA Regulation 400-107 and Department of Ecology Regulation WAC 173-400-107 establish certain criteria for excusing excess emission events from civil penalties if they are determined to be "unavoidable". Because the excess emissions event experienced at the PacifiCorp Energy Chehalis Power Plant on June 15, 2013 was the sixth unexcused violation for excess NO_x emissions (of a recurring pattern), and the root cause was operator error (reasonably preventable), it does not meet the "unavoidable" criteria of either of the above regulations. Accordingly, a civil penalty is appropriate.

In similar situations at a similar major source, SWCAA has assessed civil penalties ranging from \$1,000 to \$2,500. This range represents several events over a period of about six years with progressive escalation of the penalty amount at \$500 intervals. SWCAA's Board of Directors has since approved a 25% increase in the Schedule of Minimum Civil Penalty Assessment Levels. Accordingly, in this case SWCAA would recommend a minimum civil penalty amount of \$1,250.

Sincerely,


Clint Lamoreaux
Air Quality Engineer
Southwest Clean Air Agency

