



To: Richmond City Council **Date:** October 23rd, 2002
From: Councillor Linda Barnes **File:** 6125-01
Chair, Community Safety Committee
Re: **SUMAS ENERGY 2 AND BP CHERRY POINT ENERGY GENERATION FACILITIES - UPDATE**

The Community Safety Committee, at its meeting held on October 16th, 2002, considered the attached report, and recommends as follows:

Committee Recommendation

- (1) That a letter be written to the National Energy Board advising of:
 - (a) the City of Richmond's concerns regarding the adverse impacts to air quality in the Lower Mainland as a result of the proposed Sumas Energy 2 electrical generation facility,*
 - (b) Council's position that the National Energy Board consider evidence of the environmental impacts of the entire Sumas Energy 2 project as opposed to only those impacts associated with the construction of a power transmission line in Canada.**
- (2) That a copy of the letter to the National Energy Board be sent to the Office of the Premier, the Ministry of Water, Land and Air Protection, the Greater Vancouver Regional District and the City of Abbotsford.*
- (3) That a letter be written to the Province of British Columbia to:
 - (a) express the City of Richmond's concerns regarding the potential for adverse impacts to air quality associated with the BP Cherry Point electrical generation facility,*
 - (b) urge the Provincial Government to seek intervenor status for the BP Cherry Point review process to represent the City of Richmond's interests,*
 - (c) encourage the Provincial Government to explore options for a developing more strategic approach to strengthening transboundary airshed management in the Lower Mainland, particularly with respect to addressing cumulative impacts of existing and new facilities.**
- (4) That a copy of the letter to the Provincial Government be sent to the federal Ministry of Environment and provincial Ministers of Water, Land and Air Protection, Sustainable Resource Management and Energy and Mines.*

- (5) *That staff prepare a letter to the Greater Vancouver Regional District expressing the City's disappointment with the Board's decision to recommend that the Provincial Government seek intervenor status regarding the Sumas Energy 2 and BP Cherry Point Energy Generation Facilities, and indicating that the City is of the view that the Board should have taken this matter forward because the GVRD is responsible for air quality in this region.*

Councillor Linda Barnes, Chair
Community Safety Committee

Attach.

VARIANCE

Please note that staff recommended the following:

- (1) That a letter be written to the National Energy Board advising of:
 - (a) the City of Richmond's concerns regarding the adverse impacts to air quality in the Lower Mainland as a result of the proposed Sumas Energy 2 electrical generation facility,
 - (b) Council's position that the National Energy Board consider evidence of the environmental impacts of the entire Sumas Energy 2 project as opposed to only those impacts associated with the construction of a power transmission line in Canada.
- (2) That a copy of the letter to the National Energy Board be sent to the Office of the Premier, the Ministry of Water, Land and Air Protection, the Greater Vancouver Regional District and the City of Abbotsford.
- (3) That a letter be written to the Greater Vancouver Regional District (GVRD) to:
 - (a) express the City of Richmond's concerns regarding the potential for adverse impacts to air quality associated with the BP Cherry Point electrical generation facility,
 - (b) urge the GVRD to seek intervenor status for the BP Cherry Point review process to represent the City of Richmond's interests,
 - (c) encourage the GVRD to explore options for a developing more strategic approach to strengthening transboundary airshed management in the Lower Mainland, particularly with respect to addressing cumulative impacts of existing and new facilities.
- (4) That a copy of the letter to the GVRD be sent to the federal Ministry of Environment and provincial Ministers of Water, Land and Air Protection, Sustainable Resource Management and Energy and Mines.

Staff Report

Origin

At the August 26th City Council Meeting, Richmond Council discussed their concerns over Washington State Governor Locke's decision to approve the Sumas Energy 2 project. Concerns were expressed over the potential adverse impacts this project may have on the shared regional airshed. Council also expressed concerns of potential air quality impacts from the proposed BP Cherry Point co-generation facility which is presently under review in Washington State. The purpose of this report is to update Council on the status of the two projects and provide recommendations for expressing Council's views and interests in relation to these two facilities.

Sumas Energy 2 (SE2)

Project Overview

SE2 is a natural gas powered electrical generation facility approved for construction approximately ½ mile south of the U.S./Canada border and in close proximity to the City of Abbotsford. The natural gas fuel for the facility is proposed to be imported from Canada through a new pipeline, which SE2 proponents are seeking approval to construct from the National Energy Board (NEB).

According to the Greater Vancouver Regional District (GVRD), emissions from this project may degrade the air quality in the Lower Mainland and result in adverse impacts to the health of local residents. Contaminants of key concern include particulate matter, ammonia and greenhouse gases. Further information on the project and emissions is provided in Attachment 1.

Project Review Process

The Governor's Communications Office issued a press release on August 23, 2002, announcing the Governor's approval of the proposed SE2 power plant (Attachment 2). SE2 proponents are now seeking approval by National Energy Board (NEB) of Canada requesting approval to construct an international power line. Public hearings on this matter are scheduled to begin on October 18th, 2002 in Abbotsford. This first set of hearings will be convened to consider 3 motions put forward by intervenors. The motions are:

- whether the NEB should hear evidence of the environmental impacts of the entire Sumas II project (vs. just the construction of the transmission line in Canada)
- whether the NEB hearings should be discontinued due to the unanimous support of all Canadians involved in the process and that the application to proceed in Canada should not be approved
- whether the application is with prejudice as it did not include information of an agreement made between Sumas II and CPR regarding the use of CPR right-of-ways.

NEB expects that the hearings to decide on these motions will take up to 2 weeks. Further hearings on whether to approve or deny the application will be conducted after the above motions are resolved.

Parties who have been granted intervenor status may participate in the NEB hearings. However, the intervenor status of presently involved parties could change depending on the rulings made during the October hearings. For example, should it be decided that the NEB can only consider the impacts of the proposed transmission line, parties whose sole interests lie beyond this scope would lose their intervenor status. This would include parties who only had identified concerns of impacts to the regional airshed as their basis for seeking intervenor status. While the call to become an intervenor has expired, there is still an opportunity for concerned parties to apply for late intervenor status. SE2 proponents can contest any application for intervention.

In addition to becoming involved in the NEB process, there is an option available for concerned parties to submit a petition to the Washington State Supreme Court requesting that the Governor's decision to approve Sumas II be re-considered. Pursuing this option of judicial review would likely necessitate significant commitment of resources.

Actions by External Agencies

The GVRD's Planning and Environmental Committee has approved a staff recommendation that the GVRD Board Chair send a letter to the NEB to convey:

- the Board's strong desire to protect public health within the lower Fraser Valley airshed
- the Board's concerns of the potential impacts from the emissions from the proposed plant
- the Board's position that the NEB hears evidence concerning all of the environmental effects in Canada of the proposed project.

These recommendations were approved at the GVRD Board meeting on October 4, 2002.

The GVRD has also obtained partial intervenor status for the NEB hearings (Option 1) which means that they can participate in the hearings but will not be involved in the filing and review of all written evidence. The City of Abbotsford and the Province of BC have obtained full intervenor (Option 2) status.

Recommended Next Steps for the City of Richmond

Staff suggest that the most effective way to convey the City's concerns regarding the SE2 project is to write to the NEB and strongly urge them to consider all aspects of the project in their review. Copies of this letter should be sent to the Ministry of Water, Land and Air Protection, the City of Abbotsford, and the GVRD in for use during their intervention in the hearings.

Staff does not recommend that the City of Richmond seek intervenor status due to the short time restrictions and the resources that would be required to defend a late intervention status and prepare for the hearings.

Alternative Action

- the City of Richmond could seek intervenor status and participate in the NEB hearings
- the City of Richmond could petition the Washington State Supreme Court requesting a judicial review of the Governor's decision to approve SE2
- the City of Richmond could urge another agency, such as the GVRD or the Province of BC to request a judicial review.

BP Cherry Point

Project Overview

BP Cherry Point is a natural gas powered co-generation facility proposed for construction adjacent to the existing refinery located @ 5 miles northwest of the City of Ferndale in Washington State. The natural gas fuel for the facility would be supplied from Canadian sources through an existing pipeline to the refinery. Co-generation projects tend to be more fuel-efficient than stand-alone energy plants. The proposed co-generation project at BP Cherry Point will allow BP to make modifications to their existing refinery. It is projected that these modifications will result in a net overall reduction in emissions of common air contaminants, but not on a one-to-one basis. While some contaminants will be reduced, others will increase. It is unknown the relative impact these changes will have on health since such impacts are dependent on the concentrations of individual contaminants. Emissions of concern for the proposed BP Cherry Point facility include particulate matter, ammonia and greenhouse gases.

There are some notable differences between the BP Cherry Point project and SE2. These include the following:

- SE2 is a stand-alone energy plant – BP Cherry Point is a co-generation facility
- SE2 will result in a net increase in emissions – it is estimated that BP Cherry Point will result in a no net change (although some individual contaminants will increase)
- SE2 is located within close proximity to a heavily populated area.

However, despite these distinctions, the GVRD advise that the BP Cherry Point project has the potential to degrade the air quality in the Lower Fraser Valley airshed. Further information on the project and emissions is provided in Attachment 1.

Project Review Process

The BP Cherry Point proposal is in its early stages of review. In July 2002, EFSEC issued the following schedule for review of the BP Cherry Point project:

Application Submitted to EFSEC	June 2002
Scoping Meeting	July 2002
Draft Environmental Impact Statement Issued for Comment	December 2002
Public Comment Hearing on Draft Environmental Impact Statement	January 2003
Draft PSD Air Emissions Permit Issued for Comment	Winter 2002/2003
Adjudicative Hearings	Early Spring 2003
Public Witness Hearings and Comment on Draft PSD Air Emissions Permit	Early Spring 2003
Final Environmental Impact Statement Issued	Early Spring 2003
Recommendation to the Governor	Spring 2003
Governor's Decision	Summer 2003

Interested parties can participate through the review process by:

1. Submitting written comments on the draft Environmental Impact Statement and PSD Air Emissions Permit

2. Participating in public hearings
3. Obtaining intervenor status and participating in the Adjudicative Hearings.

On September 19th, 2002, EFSEC issued an invitation for interested parties to submit petition for intervention (Attachment 3). The deadline for applying for intervention is October 22, 2002. Obtaining intervenor status means that parties can identify witnesses, conduct cross-examinations, and fully participate in the adjudicative hearings. It is understood that there will be a later opportunity to seek intervenor status once the Environmental Impact Statement (EIS) is completed. However, only those parties that can demonstrate that they had learned new information from the draft EIS would be considered eligible for obtaining late intervenor status.

Becoming an intervenor requires a significant commitment of time and financial resources. Intervenors are expected to:

- become familiar with EFSEC procedural rules and guidelines
- participate in the proceedings, either on their own behalf or by an attorney (e.g., identify witnesses, conduct cross-examinations, etc.)
- study other parties' cases in order to participate knowledgeably.

Staff at the City of Abbotsford advise that the City has spent considerable dollars in direct costs, including the hiring of an American legal counsel and a lobbyist as a result of their decision to become intervenors in the SE 2 project. In addition to these direct costs, the City of Abbotsford has committed 2 staff positions full-time for over two years. Despite this investment, the Environmental Manager for the City of Abbotsford feels that the City played a very minor role in the decision-making process.

Actions by External Agencies

An inter-agency technical review team, with representation from Environment Canada, BC Ministry of Water, Land and Air Protection, the GVRD and the FVRD, has been established to review the BP Cherry Point project and evaluate its impacts on the Lower Fraser Valley airshed. The GVRD is acting as the lead Canadian agency.

On behalf of the inter-agency committee, the GVRD has sent letter to EFSEC stating concerns of the potential impacts the project may have on the Lower Fraser Valley airshed and requesting that the review process take into account the impacts of increased emissions of particulate matter, ammonia and greenhouse gases (Attachment 4).

Actions Taken by the City of Richmond

To-date, the City has:

- sent correspondence requesting that EFSEC keep the City apprised of developments made in the review process and that the City be informed of opportunities to participate and provide input
- in response to input what the Environmental Impact Study (EIS) should include, submitted a second letter to EFSEC stating the City's concerns that proposed BP Cherry Point may result in adverse impacts to the regional airshed and requesting that among other considerations, the EIS take into account cumulative impacts and the uncertainties which exist between health impacts and pollutant loadings

- sent correspondence to the GVRD requesting that the GVRD represent the City's interests (as copied in the City's letter to EFSEC), keep the City informed of any concerns with the proposed project and any new developments in the review process.

Recommended Next Steps for the City of Richmond

Recognizing that the GVRD takes a leadership role in air quality management for the region and has identified potential concerns with the BP Cherry Point project, it is staff's recommendation that:

- the City of Richmond send a letter to the GVRD that re-iterates the concerns of Richmond Council and urges the GVRD to seek intervenor status for the BP Cherry Point review process, and thereby represents the City of Richmond's interests along with the concerns of other member municipalities in the EFSEC process for BP Cherry Point
- the letter be copied to the federal Member of Parliaments; federal Ministry of Environment, provincial Ministers of Water, Land and Air Protection, Sustainable Resource Management and Energy and Mines
- City staff continues to stay apprised of the decision-making process and inform Council of opportunities to participate as a non-intervenor stakeholder.

Due to the significant resources required and the unknown benefit that would result, staff does not recommend that the City of Richmond seek intervenor status in the project review at this time.

Alternative Action

- the City of Richmond could seek intervenor status in the EFSEC review process
- the City of Richmond could discontinue its involvement in the review of the project

Potential Future Projects

In reviewing the decision-making on the Sumas Energy 2 and BP Cherry Point energy generation facilities, it has come to staff's attention that there are likely to be more proposals for energy generation facilities in Washington State. The laws under which the Energy Facility Evaluation Council must follow include a legislative intent binding clause that requires EFSEC "to recognize the pressing need for increased energy facilities" [WAC 463-14-020] in its review of proposals. In a letter dated August 23, 2002, Governor Locke informed the EFSEC Chair that he agreed with EFSEC's recommendation and stated that "As we know from 2000 and 2001, power shortages can wreck havoc on our economy and our communities. We need to expand our stable, clean power supplies, and this project [SE2] will contribute to that objective in an environmentally sound manner."

There is no real sense on how many new proposals for energy generation facility may be forthcoming. Further concern exist that under the present decision-making process of EFSEC, each project is reviewed in isolation without consideration of future plans or the assimilative capacity of the shared regional airshed.

Concerns also exist regarding the adequacy of US and Canadian air quality standards which are used as the basis for decision-making to assess air quality impacts in the EFSEC review process. The final Environmental Impact Statement from EFSEC concluded that "although the proposed

project would result in an increase in air emissions, no significant adverse air quality impacts would occur when the facility is fired with natural gas.” (FEIS, 3.1-37). The press release from Governor Locke also stated that the air pollution permit accompanying the site certification agreement “will prevent any significant air quality deterioration by limiting emissions to levels well below those allowed by both U.S. and Canadian standards”.

However, in a letter to EFSEC dated October 18, 2001 regarding the SE2 project, Environment Canada raised concerns that regulatory standards used to assess air quality impacts may not be sufficient for protecting human health. The letter cites a study done by Medical Health Officers which states that “Air pollution is an important public health problem. About as many deaths in the lower mainland may be attributable to air pollution as from HIV, accidental falls or traffic accidents” (Copes et al., 2001). The sufficiency of regulatory standards was also raised as a concern by testimony filed during the SE2 adjudicative hearings by the Ministry of Water, Land and Air Protection. Air quality management staff at the GVRD have also expressed concerns that safe thresholds have yet to be determined for certain pollutants, particularly with respect to particulate matter.

It is recommended that the GVRD be urged to explore options to encourage a broader strengthening of transboundary airshed management and ensure that decision-making addresses cumulative impacts and is protective of human health. It is envisioned that this more proactive and strategic approach would result in greater benefits than addressing each proposal on a project-by-project basis.

Financial Impact

The actions recommended by staff have no direct associated costs. However, should Council wish to gain intervenor status in the review of the BP Cherry Point proposal or petition for judicial review for SE2, it is anticipated that significant fiscal resources would be required.

Conclusion

The Sumas II project was recently approved by the US. Another energy facility is being considered at BP Cherry Point. Richmond Council have expressed concerns over potential cumulative impacts to the transboundary airshed. A combination of actions for expressing Council’s views directly to the National Energy Board relating to SE2, and through the GVRD for BP Cherry Point, are proposed.



Margot Daykin, M.R.M
Assistant Manager - Environmental Programs
MD:md

Attachment 1: Project Summaries of Sumas Energy 2 and BP Cherry Point

Sumas Energy 2

- approved plant is a 660 MW natural gas-fired electrical generation facility
- the project will be constructed approximately ½ mile south of the U.S./Canada border and the City of Abbotsford
- the project will be fuelled by natural gas imported from Canada through a newly constructed pipeline
- proponents are seeking approval to construct an electrical transmission line from the site to an existing substation in Abbotsford
- a summary of estimated emissions of common air contaminants of concern is provided in the following table (Table 1):

Table 1: Estimated Emissions of Common Air Contaminants from SE2

Pollutant	Estimated Emissions from Proposed Cogeneration Plant (tons/year)
Particulate Matter (PM10)	190
Nitrogen Oxides (NOx)	131
Carbon Monoxide (CO)	80
Sulphur Dioxide (SO ₂)	63
Volatile Organic Compounds (VOC)	139

(GVRD, 2002)

- in addition to these common air contaminants of concern, it is also estimated that SE2 will emit 126 tons of ammonia (NH₃) and 2.2 million tons of greenhouse gases per year.

BP Cherry Point

- proposed plant is a 720 MW natural gas-fired cogeneration facility adjacent to the existing refinery
- the plant will be fuelled with natural gas only which would be supplied from Canadian sources through an existing pipeline running directly to the refinery
- a new transmission line would be built on refinery-owned property and connect with an existing radial line
- the GVRD advise that the co-generation project will be more fuel-efficient than stand-alone energy plants
- the co-generation facility project will enable BP to implement modifications to their existing refinery - it is estimated that modifications to the refinery will result in an overall net reduction in emissions of common air contaminants but not on a one-to-one basis. For example, while there will be a net reduction in nitrogen oxides (NOx), particulate matter (PM) will increase (Table 2)

Table 2. Estimated Emissions of Common Air Contaminants from BP Cherry Point Cogeneration Plant and Reductions in Refinery Emissions

Pollutant	Estimated Emissions from Proposed Plant (tons/year)	Estimated Reduction in Refinery Emissions (tons/year)
Particulate Matter (PM10)	271	6
Nitrogen Oxides (NOx)	208	631
Carbon Monoxide (CO)	116	39
Sulphur Dioxide (SO ₂)	49	77
Volatile Organic Compounds (VOC)	36	1
TOTAL	680	754

(GVRD: Report to Planning and Environment Committee report, August 15, 2002)

- an overall net reduction in contaminant release of these common air contaminants does not necessarily mean an overall decrease in health impacts since this depends on the concentrations of individual contaminants
- in addition to these common air contaminants of concern, it is estimated that the project will release approximately 350 tons of ammonia per year
- it is also estimated that the project will release about 2 million tons of greenhouse gases per year; however, project proponents have indicated these emissions will be offset by reductions made in operations in other locations.

Attachment 2: Press Release – Gov. Locke Approves State-of-the-Art Natural-Gas Energy Plant

Gov. Locke Approves State-of-the-Art Natural-Gas Energy Plant
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FOR IMMEDIATE RELEASE - August 23, 2002

Contact: Governor's Communications Office, 360-902-4136

Gov. Locke Approves State-of-the-Art Natural-Gas Energy Plant

OLYMPIA – Aug. 23, 2002 – Gov. Gary Locke today cleared the way for the development of a state-of-the-art natural-gas-powered electricity-generating plant in Whatcom County, citing the need for additional reliable, long-term energy sources and noting the project's high levels of environmental controls.

"The Sumas Energy 2 Plant will benefit our state by meeting the ongoing need for stable, clean power sources in the Northwest and by providing hundreds of family-wage jobs during construction," Locke said. "Moreover, Sumas Energy 2 sets a new standard of excellence for environmental protection."

The governor approved a unanimous recommendation of his Energy Facility Site Evaluation Council (EFSEC) to grant Sumas Energy 2, Inc., a Kirkland-based firm, permission to build a proposed 660-Megawatt power plant in Sumas, Wash., about one-half mile south of the Canadian border.

On July 18, Locke hosted a public meeting in Olympia to hear the perspectives of all sides. More than 100 people attended, and about 20 people spoke.

"Clearly, the decision to proceed with this project involved many complex issues, and I carefully evaluated the concerns of many passionate citizens who contacted us during the review process," Locke said. "I thoroughly weighed the technical issues analyzed by our experts along with the perspectives I heard from people on both sides of the issue and the border."

"After careful consideration, I believe this energy plant is safe and is in the best interests of our state and region. I'm satisfied that Sumas Energy 2 has substantially modified its application to include a number of key environmental safeguards for people in Washington and British Columbia," Locke said.

Sumas Energy 2 first applied for the necessary state approval in January 1999, but then withdrew its application and reapplied in January 2000. In February 2001, EFSEC denied the application, but allowed the company to revise and resubmit its application.

In June 2001, the company submitted a substantially modified application, eliminating the use of back-up diesel oil generation capacity, which reduced many environmental concerns. The governor's approval of the application requires zero net nitrogen oxide and particulate emissions and mitigation of carbon dioxide emissions as well as impacts on water supply, wetlands, flood potential and noise.

As part of the "site certification agreement" the governor approved today, Sumas Energy 2 will be able to build a 4.5 mile natural gas pipeline to convey gas from the border to the plant and a short portion of the 5.9 miles of transmission line to the B.C. Hydro Clayburn Substation near Abbotsford, B.C. The Canadian National Energy Board must still approve the transmission line

Gov. Locke Approves State-of-the-Art Natural-Gas Energy Plant
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within British Columbia.

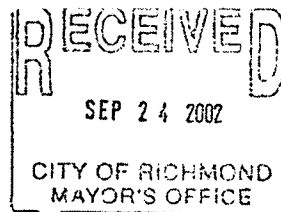
An air pollution permit accompanying the site certification agreement will prevent any significant air quality deterioration by limiting emissions to levels well below those allowed by both U.S. and Canadian standards. In fact, the plant will meet Canadian standards that won't be mandatory until 2010. Sumas Energy 2 will also pay \$8 million toward projects to reduce greenhouse gas output.

Locke said, "It's important that we take action to address greenhouse gas emissions, and I'm pleased that Sumas Energy 2 volunteered to meet the Oregon standards that were in place when its application was filed. I'm confident the plant will not adversely affect the people of Washington or Canada. Under our agreement, the state-of-the-art Sumas Energy 2 facility will be the cleanest in the region."

Washington has no carbon dioxide regulations; however, Locke recently asked EFSEC to begin developing new carbon dioxide emissions standards. The goal is to have the new standards in place for future projects.

In the current submittal, Sumas Energy 2 has committed that at least 60 percent of the plant's capacity will be sold to electricity providers under long-term contracts for at least five years. At least 40 percent of the output will be sold to purchasers with "integrated resource plans," which spell out how power companies will meet future demand by generating more power, increasing efficiency and promoting conservation.

Attachment 3: Notice of Opportunity for Seeking Intervention in the BP Cherry Point Cogeneration Project Review Process



BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2002-01

BP WEST COAST PRODUCTS, LLC.

BP CHERRY POINT COGENERATION
PROJECT

NOTICE OF INTENT TO HOLD
ADJUDICATIVE PROCEEDING;

NOTICE OF OPPORTUNITY AND
DEADLINE TO FILE PETITIONS FOR
INTERVENTION - **OCTOBER 22, 2002**;

NOTICE OF SCHEDULE FOR
RESPONSES TO PETITIONS FOR
INTERVENTION
Applicant's Response: **October 29, 2002**
Parties Replies: **November 5, 2002**

NOTICE OF INTENT TO HOLD
PREHEARING CONFERENCE -
NOVEMBER 5, 2002

The Application

On June 10, 2002, BP West Coast Products, LLC, submitted Application No. 2002-01 to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the BP Cherry Point Cogeneration Project, a 720-megawatt natural gas-fired combustion turbine electrical cogeneration facility. The proposed BP Cherry Point Cogeneration Project will be located in Whatcom County, near the community of Birch Bay.

Associated with the Project will be an approximately one mile electrical transmission line and a 1,400-foot natural gas pipeline. The siting of the transmission line is under the jurisdiction of the Bonneville Power Administration (BPA).

EFSEC and BPA are conducting an environmental review of this Project and will be issuing a draft Environmental Impact Statement for public comment under the Washington State Environmental Policy Act (SEPA), and the National Environmental Policy Act (NEPA). EFSEC will also conduct an examination of the project through a formal adjudicative proceeding.

Notice of Intention to Conduct an Adjudicative Proceeding

The Council is reviewing Application No. 2002-01 under the procedures set forth in Chapter 80.50 of the Revised Code of Washington (RCW) and Title 463 of the Washington Administrative Code (WAC) for reviewing applications for new major energy facilities. The

BP Cherry Point Cogeneration Project
Notice of Intent to Hold Adjudicative Proceeding;
Notice of Deadline to File Petitions for Intervention - October 22, 2002;
Notice of Intent to Hold Prehearing Conference November 5, 2002\

statute requires the Council to hold an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedure Act. EFSEC intends to hold adjudicative hearings relating to Application No. 2002-01 in accordance with the procedural rules found in Chapter 463-30 WAC and Chapter 34.05 RCW.

Notice of Deadline for Submitting Petitions for Intervention – October 22, 2002

The statutory parties to an adjudicative proceeding are the Applicant, BP West Coast Products, LLC., and the Counsel for the Environment (as defined in RCW 80.50.020(12)), Assistant Attorney General, Michael Lufkin. According to WAC 463-30-050, any state agency that is a member of EFSEC, or has opted to appoint a Council member for this proposal, may participate as a party. Any other person may petition to intervene as a party in this adjudicative proceeding under RCW 34.05.443, RCW 80.50.090, and WAC 463-30-400. The Council will consider the requests for intervention and determine whether or not to grant intervention.

An "intervenor," as defined in RCW 80.50.020(3), may be an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized. Any such "person" who wishes to participate in this proceeding may petition for intervention. The nature of intervenor status and a discussion of factors that the Council has used in deciding whether to grant petitions for intervention are set out later in this notice.

Each person admitted to an adjudicative proceeding as an intervenor is a party to the proceedings only for the purposes and subject to any limitations and conditions specified in the EFSEC order granting intervention.

In this case, the deadline for submitting requests for intervention is October 22, 2002.

The Council will consider requests for late intervention according to the requirements of WAC 463-30-400 and other considerations identified in this Notice of Opportunity and Deadline to file Petitions for Intervention – October 22, 2002. See the discussion below for further information. Also see Other Opportunities for Public Participation on page 5.

How to Intervene

To be considered timely, Petitions for Intervention in the matter of Application No. 2002-01 must be received in the offices of the Council no later than the close of business (5 p.m.) on October 22, 2002. Petitions for Intervention will not be considered after that date except for good cause as discussed below. A copy of each petition must be served on BP West Coast Products, LLC and on Counsel for the Environment at the same time they are filed with the Council. The names and mailing addresses of the Council, all known parties, and their representatives appear in Attachment A.

BP Cherry Point Cogeneration Project
 Notice of Intent to Hold Adjudicative Proceeding;
 Notice of Deadline to File Petitions for Intervention - October 22, 2002;
 Notice of Intent to Hold Prehearing Conference November 5, 2002;

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Petitions for Intervention must be filed with:

Washington State Energy Facility Site Evaluation Council
Attn: Allen J. Fiksdal, EFSEC Manager
P.O. Box 43172
925 Plum Street SE
Olympia, WA 98504-3172

Persons wishing to intervene should consider relevant provisions of Chapter 463-30 WAC. In particular, WAC 463-30-400 establishes the following requirements for Petitions for Intervention:

All petitions to intervene shall be verified under oath by the petitioner, shall adequately identify the petitioner, and shall establish with particularity an interest in the subject matter and that the ability to protect such interest may be otherwise impaired or impeded.

In considering whether to file a petition to become an intervenor, potential parties should recognize that persons who are granted intervenor status assume responsibilities they must meet in order for the adjudicative process to be an effective means for all participants to resolve the significant issues that are raised. Intervenors are expected to appear in the proceeding, either on their own behalf or by an attorney. Intervenors must study other parties' cases so they can participate knowledgeably. They must decide whether to cross-examine other parties' witnesses, and determine the nature and scope of the cross-examination. Intervenors also have the responsibility either to attend the entire proceeding, including prehearing conferences, or to monitor it to learn when their interests will be at issue - otherwise they may be bound by matters that are resolved in their absence. Intervenors have the responsibility to become familiar with the Council's procedural rules and guidelines to enable them to participate knowledgeably and to advance their interests effectively. Because of potential delay to the proceeding that could interfere with rights of the parties involved, and because simply appearing to give advice to one party could give the appearance of impropriety or could adversely affect the rights of others, the Council has a limited ability to instruct participants on procedural matters. Intervention is not a step to be approached casually. Becoming an intervenor in a Council adjudicative proceeding may require a significant commitment of time and financial resources.

To receive examples of petitions for intervention that have been filed in previous EFSEC cases, contact the EFSEC office.

Each petitioner for intervention and each governmental agency appearing as a party must identify the particular issue(s) or concern(s) that the petitioner or agency intends to address as an intervening party. The identification of issues must be specific enough for the Council and other parties to identify the specific problem that could cause harm to the petitioner or agency and the nature of that harm. The designation of issue(s) may be a factor in determining whether to grant intervention and will be used to organize and to manage the hearing. Parties may add additional

BP Cherry Point Cogeneration Project
Notice of Intent to Hold Adjudicative Proceeding;
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Notice of Intent to Hold Prehearing Conference November 5, 2002.

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issues later in the proceeding on the same bases on which the Council may grant late-filed petitions for intervention.

The Council requests that each petitioner for intervention and all governmental agencies who intend to participate as intervenors submit notice of that intention on or before the deadline for intervention, October 22, 2002.

Late Intervention for Good Cause Shown

Upon issuance of a draft Environmental Impact Statement (DEIS) for public comment (at a date to be announced later), parties who have been granted intervenor status may petition the Council to permit them to add new issues based on new information or issues that have been identified in the DEIS. At this time, other persons may also petition the Council to intervene for the first time if they can establish that new information identified in the DEIS, not previously known or reasonably discoverable, demonstrates that an interest of theirs could be impaired or impeded by the proposed project. Persons may seek late intervention or expansion of the issues they may address as parties at other times, but must also demonstrate that their petition to do so is based upon new information, not previously known to them or reasonably discoverable by them, and that their petition is made within a reasonable period after discovering that information.

Notice of Intention to Conduct a Prehearing Conference – November 5, 2002

The Washington State Energy Facility Site Evaluation Council will convene an initial prehearing conference at 1:00 p.m., November 5, 2002, in Rowe Six Conference Center located in Building 1, 4224 6th Ave. SE, Lacey, Washington, 98504. The purpose of this prehearing conference will be to hear petitioner's responses to the Applicant's objections to petitions for intervention, as well as to rule on other procedural and scheduling matters. A detailed notice of first prehearing conference will be sent at a later date to all parties, all petitioners for intervention, and all persons who ask to receive such notices.

Notice of Schedule For Responses To Petitions For Intervention

The Applicant must file any objections to intervention requests with EFSEC no later than 5 p.m. October 29, 2002. The Applicant's objections must be filed in accordance with the Draft Hearing Guidelines, which are being furnished to the Applicant. If other recipients of this Notice wish to review these Guidelines, which may be discussed at the First Prehearing Conference, contact the EFSEC office or view the Guidelines on EFSEC's internet site at www.efsec.wa.gov. The Applicant must file one original and 15 copies with the Council no later than the deadline indicated above. Copies must be served to all statutory parties and petitioners for intervention.

Petitioners' responses to the Applicant's objections to intervention requests should be presented orally at the first prehearing conference which is scheduled for November 5, 2002, for any review of the basis of their intervention. If there are objections, petitioners must be prepared to respond to any objections filed. Appearance by telephone does not constitute an acceptable appearance, and will not be considered by the Council for the November 5th prehearing conference.

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Other Opportunities for Public Participation

Besides formal intervention, public participation in the EFSEC process is accommodated in several additional ways. First, under RCW 80.50.080, the Counsel for the Environment represents "the public and its interest in protecting the quality of the environment"; second, RCW 80.50.090(3) affords an opportunity for members of the public to present testimony in the hearing without having to intervene formally. Third, the public has the opportunity to participate in the environmental review portion of the Council's process through comments on the draft Environmental Impact Statement.

When evidentiary hearings begin, the Council plans to schedule specially-designated sessions for the purpose of receiving the testimony of members of the public, at one or more times and places to be set by later notice of hearing. The Council will maintain a copy of current records of the hearing at its offices in Olympia for the use of persons who may wish to review them. Mr. Michael Lufkin has been designated as Counsel for the Environment by the Attorney General under RCW 80.50.080 to represent the public and its interest in protecting the quality of the environment. Persons wishing to contact Counsel for the Environment should contact him directly at the address, e-mail or telephone number listed on Attachment A.

To obtain additional information about the intervention process, please contact the EFSEC office at (360) 956-2121.

More specific information about the project is available from EFSEC's office or from reviewing the application at public libraries at the following locations:

Olympia, WA:

Washington State Library
 Washington State Library - Joel M. Pritchard
 Branch
 6880 Capitol Blvd South
 Olympia, WA, 98504-5513
 (360) 704-5200

EFSEC
 925 Plum Street SE, Building 4
 Olympia, WA, 98504-3172
 360-956-2121

Whatcom County, WA:

Whatcom County Public Library - Blaine Branch
 610 - 3rd Street
 Blaine, WA 98230
 360) 332-8146

Whatcom County Public Library - Ferndale Branch
 2222 Main Street
 Ferndale, WA 98248
 (360) 384-3647

Bellingham Library
 210 Central Avenue
 Bellingham, WA, 98225-4421
 (360) 676-7794

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Canada:

Ocean Park Library
City of Surrey
12854 17th Avenue
Surrey, BC V4A 1T5
(604) 502-6449

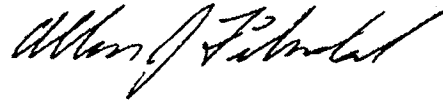
White Rock Public Library
15342 Buena Vista Avenue
White Rock, BC V4B 1Y6
(604) 541-2205

On the Internet:

www.efsec.wa.gov/bpcogen.html

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this 18th day of September, 2002



Allen J. Fiksdal, EFSEC Manager

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Addresses of the Council and representatives of known parties
BP Cherrv Point Cogeneration Project Application No. 2002-01

Note: Parties petitioning to intervene must serve petitions to all of the addresses below.

BP West Coast Products, LLC. Applicant:

<p>Mike Torpey BP West Coast Products, LLC. 4519 Grandview Road Blaine, WA 98230</p> <p>E-mail: Torpevml1@bp.com</p> <p>Phone: (360) 371-1757 Fax: (360) 371-1402</p>	<p>Karen McGaffey Attorney at Law Perkins Coie LLP 1201 Third Avenue, Suite 4800 Seattle, WA 98101</p> <p>E-mail: mcgak@perkinscoie.com</p> <p>Phone: (206) 583-8888 Fax: (206) 583-8500</p>
<p>Energy Facility Site Evaluation Council</p>	<p>Counsel for the Environment</p>
<p>Mr. Allen J. Fiksdal EFSEC Manager Energy Facility Site Evaluation Council 925 Plum Street SE, Building 4 PO Box 43172 Olympia, WA 98504-3172</p> <p>E-mail: allenf@ep.cted.wa.gov</p> <p>Phone: (360) 956-2252 Fax: (360) 956-2158</p>	<p>Michael Lufkin Assistant Attorney General Counsel for the Environment Office of the Attorney General Ecology Division 2425 Bristol Ct SW Olympia, WA 98504-0117</p> <p>E-mail: MichaelL@atg.wa.gov</p> <p>Phone: (360) 586-3649 Fax: (360) 586-6760</p>

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**Attachment 4: GVRD Letter to EFSEC Regarding the Scope of the Environmental Review
for the BP Cherry Point Cogeneration Project**



Greater Vancouver Regional District
4330 Kingsway, Burnaby, British Columbia, Canada V5H 4G8

Policy and Planning Department
Telephone (604) 432-6375
Fax (604) 436-6970

August 8, 2002

File: CP08 01 BPA
Via Fax: (360) 956-2158

Allen Fiksdal, Manager
Energy Facility Site Evaluation Council (EFSEC)
Dept. of Community, Trade and Economic Development
Government of the State of Washington
925 Plum St. SE, Building 4
P.O. Box 43172
Olympia, WA 98504-3172
USA

Dear Mr. Fiksdal:

Re: *Agency and NEPA/SEPA Scoping for the Proposed BP Cherry Point Cogeneration Project*

As the technical lead organization for Canadian air quality agencies reviewing the proposed BP Cherry Point Cogeneration Project, we wish to advise EFSEC of our comments and concerns regarding the proper scope of the review for this project. These concerns have been identified by a multi-agency technical committee consisting of staff from Environment Canada, and the B.C. Ministry of Water, Land and Air Protection, as well as the Greater Vancouver Regional District (GVRD), who reviewed the air quality sections of the *BP Cherry Point Cogeneration Project – Application for Site Certification*.

It is our view that the proposed cogeneration plant has the potential to adversely impact air quality within the Lower Fraser Valley airshed. In addition to the air quality issues included in the *BP Cherry Point Cogeneration Project – Application for Site Certification*, we would also like the Council to take the following concerns into consideration for scoping the review process:

- **Particulate matter (PM) emissions:** The total amount of PM emissions from the proposed plant is an issue of potential concern. Primary PM emissions from this project are estimated at 270 tons per year, and would be released almost entirely in the form of fine particulate (PM_{2.5}), which has been linked to respiratory and circulatory diseases in humans. However, the project will also reduce emissions of other criteria air pollutants (e.g. NO_x and SO_x), which are precursors for fine particulate. Because it is not clear how the net reductions in emissions of these precursor species from the new project would affect the total amount of primary and secondary PM_{2.5} produced by the BP Cherry Point facility, we suggest that the project review examine this issue.

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Mr. Allen Fiksdal

- **Ammonia (NH₃) Emissions:** Ammonia emissions from the proposed plant are also an issue of potential concern. As currently proposed, the project will use selective catalytic reduction (SCR) control technology to reduce NO_x emissions from the project. The use of SCR technology is estimated to result in the release of more than 350 tons of ammonia per year. In addition to being toxic, ammonia is a precursor for secondary particulates (e.g. ammonium nitrate and ammonium sulfates). We believe that these emissions should be taken into consideration when examining the issue of fine particulate emissions from the plant (see above), and that the project review should include an examination of the implications of, and alternatives to, SCR technology.
- **Greenhouse Gas Emissions:** As proposed, the project would emit more than two million tons per year of greenhouse gases to the atmosphere. The proponent company has committed itself to greenhouse gas emission reduction targets on a worldwide basis. Other firms and agencies active in the energy generation sector, including Seattle Light & Power, the State of Oregon, and BC Hydro, have also developed policies and programs to mitigate greenhouse gas emissions. We suggest that the scope of the project review include a comparative review of the proponent's proposed greenhouse gas mitigation plan.

Thank you for the opportunity to present our concerns regarding the scope of the review for the proposed BP Cherry Point Cogeneration Project.

Yours truly,



Ken Cameron
Manager, Policy and Planning

cc: Morris Mennell, Environment Canada (via fax 604-666-6800)
Hu Wallis, Ministry of Water, Land and Air Protection (via fax 250-356-7197)
Hugh Sloan, Fraser Valley Regional District (via fax 604-792-9684)