

**WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL**

RESOLUTION NO. 321

***AMENDMENT NO. 4 TO THE
WILD HORSE WIND POWER PROJECT SITE CERTIFICATION AGREEMENT
SOLAR DEMONSTRATION FACILITY***

Nature of Action

Puget Sound Energy (PSE) is the Certificate Holder of the Site Certification Agreement (SCA) governing the Wild Horse Wind Power Project (WHWPP or Project). By letter dated March 2, 2007 (Attachment 1), PSE requested that the Energy Facility Site Evaluation Council (EFSEC or Council) amend the SCA for the WHWPP to allow for the construction of a Solar Demonstration Facility (Facility). PSE is requesting that the Council approve a technical amendment to the WHWPP SCA to allow for the following changes:

- Installation of a 500 kilowatt (kw) Solar Demonstration Facility on two previously disturbed areas within the boundaries of the WHWPP site.
- Delay restoration of the disturbed areas until the operation of the Facility is complete and the Facility is removed from the WHWPP site.

Background

On July 26, 2005, Governor Christine Gregoire executed on behalf of the State of Washington a Site Certification Agreement authorizing the construction and operation of the WHWPP. On August 30, 2005, the Council approved the transfer of the WHWPP SCA to PSE. PSE began construction of the WHWPP in October 2005. Major construction was completed in December 2006 and commercial operation began in January 2007.

The proposed amendment to the SCA would allow for the installation of a 500 kilowatt Solar Demonstration Facility. The majority of the Facility (4.5 acres) would be located within Quarry 1, an existing disturbed area. The remainder of the Facility (.05 acres) would be located adjacent to the Operations/Visitors Center. The Facility would utilize photovoltaic panels fitted to metal framework, anchored to concrete foundations.

The proposed Facility meets the definition of a minor alternative energy facility contained in Section 17.61.010 (11) of the Kittitas county Zoning Code. Per Section 17.61.020 (2) of the Kittitas county Zoning Code, minor alternative energy facilities are a permitted use in all zones. Therefore, the Facility is compatible with existing local land use and zoning regulations.

At 500 kilowatts the Facility would nearly double Washington's entire solar generated electricity. The project would also be four times larger than any single solar facility now in

existence in the Northwest. PSE desires to construct the Facility to promote solar development and help gain a better understanding of how solar power can be integrated into a broader power-supply portfolio.

Selection of a construction contractor is expected to occur in April 2007 with construction commencing in June 2007, lasting for 2-3 months. The Facility is expected to operate for approximately 20 years. Once operation is complete, the facility will be dismantled and removed from the site for recycling. The area in Quarry 1 and the area near the Operations/Visitors Center will be restored per the approved Post-Construction Restoration Plan for the Wild Horse Wind Power Project.

Procedural Status

EFSEC's amendment procedure is governed by chapter 80.50 RCW and chapter 463-66 WAC.

PSE and EFSEC have complied with procedural requirements of Chapter 463-66 WAC as follows:

- Pursuant to WAC 463-66-030, the request for amendment of the SCA was submitted in writing, on March 2, 2007.
- At its monthly meeting of March 13, 2007 the Council determined a schedule for action on the request as follows: March 27, 2007 conduct a public informational meeting in Ellensburg, with April 6, 2007 as the deadline for written comments; and consider and take action on the request at the monthly council meeting April 10, 2007.
- Notice of the informational hearing was mailed to approximately 340 people. The notice advised that PSE had requested an amendment to the SCA, and that an informational hearing to consider the matter would be conducted on March 27, 2007. The notice also said that comments could be made either orally at that time or in writing prior to the conclusion of the public comment period ending at 5:00 p. m. on April 6, 2007.
- An informational hearing in which the public commented on this matter was held in Ellensburg on March 27, 2007.
- The Council considered the amendment request at its April 10, 2007 monthly meeting.

Public Comment

Public Comments regarding this matter are summarized in Attachment 2 to this Resolution.

Discussion

WAC 463-66-040 outlines the relevant factors that the Council shall consider prior to a decision to amend a SCA:

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

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

WAC 463-66-050 explains that the Council's consideration of public health, safety, and welfare includes environmental concerns, as follows:

In reviewing whether a proposed amendment is consistent with the public health, safety, and welfare, the council shall consider the short-term and long-term environmental impacts of the proposal.

The Council has considered these factors and has concluded that the proposed amendment would be consistent with each. Each of the Council's conclusions is discussed below.

A. Consistency with the public health, safety, and welfare

Under WAC 463-66-040(3) and -050, the Council must consider whether the proposed amendment would be consistent with public health, safety, and welfare, including environmental aspects of the public welfare.

1. Comments from Kittitas County and the Department of Fish and Wildlife

Kittitas County commented in support of the proposal at the March 27, 2007 informational hearing.

The Department of Fish and Wildlife has provided written support of the project contingent upon approval of the proposed design plans by EFSEC. As a result, the following procedures will be followed:

- Construction of the Facility will not begin until final design plans have been approved by EFSEC.
- EFSEC contractors may review and comment on the plans prior to final approval.
- Disturbed areas resulting from the construction of the Facility will be restored upon removal of the solar facility.

The change does not substantially alter the substance of the SCA or result in detrimental effects on the environment.

2. Consistency with public health, safety, and welfare, including environmental aspects of the public welfare.

This amendment will have no effect on the health and safety of the public. All activities associated with the installation of the Facility will be conducted in the Project Area. Public health, safety and welfare will therefore not be affected in any manner not previously analyzed during review of the Project application. Furthermore, the activities will not cause any significant adverse environmental impact.

PSE will continue to abide by all the terms and conditions of the WHWPP SCA. The substance of existing SCA conditions and environmental mitigation requirements is not altered in any manner by the requested amendment.

B. Consistency with applicable laws and rules

Under WAC 463-66-040(2), the Council must consider applicable laws and rules, including chapter 43.21C RCW and chapter 197-11 WAC (the State Environmental Policy Act and SEPA rules) and WAC 463-66-070 through -080.

1. Consistency with SEPA (chapter 43.21C RCW and chapter 197-11 WAC).

In general, SEPA requires an agency to perform a threshold determination to determine whether a proposed action will have a significant adverse effect on the environment. See WAC 197-11-310. The Council's SEPA Responsible Official, Allen Fiksdal, has reviewed the proposed changes to the SCA and has determined they do not have any probable significant adverse environmental impact. EFSEC issued a Determination of Non-Significance on March 16, 2007.

2. Consistency with WAC 463-66-070 and -080.

WAC 463-66-080 provides:

An [SCA] amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environment shall be effective upon the signed approval of the governor.

On the other hand, WAC 463-66-070 provides:

An amendment request which does not substantially alter the substance of any provisions of the SCA, or which is determined not to have a significant detrimental effect upon the environment, shall be effective upon approval by the council. Such approval may be in the form of a council resolution.

Based on its previous findings that (i) the proposed amendment has no environmental impact and no impact on public health, safety, and welfare; and (ii) does not alter the Certificate Holder's legal responsibilities under the SCA, the Council finds that this amendment may be approved by Council resolution pursuant to WAC 463-66-070.

C. Consistency with intention of the original SCA

Under WAC 463-66-040(1), the Council must consider whether the proposed amendment is consistent with the intention of the original SCA. In general, the intention of every SCA is to grant state authorization to a certificate holder to construct and operate an energy project that has been determined to be in the states interest. In return, the certificate holder commits to comply with the terms of the SCA.

The Facility will be developed on previously disturbed areas. These areas do not contain any sensitive features and the proposed Facility will have minimal impact on habitat. It should be noted that 600 acres of the site has been set aside as a mitigation parcel, for the environmental impacts of the WHWPP. The size of the mitigation parcel exceeds the impacts caused by the installation of the Facility.

PSE requests approval to construct the solar demonstration facility to promote solar development and to gain a better understanding of how solar power can be integrated into a broader power-supply portfolio. The Certificate Holder will implement the same mitigation measures identified in the SCA for construction and operation of these facilities. The Certificate Holder will also provide a Post-Construction Restoration Plan that will include provisions for restoration of the Solar Demonstration Project area.

The Council finds that the proposed changes to the SCA are consistent with this intent.

D. Conclusion

The Council concludes that the proposed amendment of the WHWPP SCA to allow installation of a Solar Demonstration Facility and delaying restoration of previously disturbed areas is consistent with public health, safety, and welfare; the applicable law; and the intent of the original SCA. The Council hereby determines that it is appropriate to approve an amendment to the WHWPP SCA, necessary to reflect the proposed changes to the Project; *Provided*, PSE shall continue to implement mitigation measures identified in the SCA.

RESOLUTION

For the foregoing reasons, the Council amends the Wild Horse Wind Power Project SCA to allow PSE to proceed with:

- Installation of a 500 kw Solar Demonstration Facility, contingent upon approval of design plans by EFSEC staff. The Facility will be constructed on two previously disturbed areas within the boundaries of the WHWPP site, covering approximately 5 acres.

- The Post-Construction Restoration Plan shall include provisions to the reclamation of temporary rock and gravel quarries. Provided however that the restoration for that portion of Quarry #1 (approximately 4.5 acres) and .5 acres adjacent to the Operations Visitors Center, upon which a Solar Demonstration Facility is constructed, may be delayed, until after operation of the Solar Demonstration Facility is complete and the facility is removed from the site. The certificate holder shall provide EFSEC notice prior to removal of the Solar Demonstration Facility together with submittal of a restoration plan subject to EFSEC approval.
- All applicable SCA conditions and mitigation measures apply to the construction and operation of the Facility.
- This resolution is incorporated into the WHWPP SCA as Attachment 10.
- The specific SCA changes are set out in Attachment 3 to this resolution.

DATED at Olympia, Washington and effective on April 10, 2007.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

By: _____
James O. Luce, Chair

Attested: _____
Allen J. Fiksdal, EFSEC Manager

- Attachments:
1. PSE SCA Amendment Request
 2. Public Comments
 3. Specific SCA Changes