

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

IN RE APPLICATION NO 2002-01

WITHDRAWAL OF INTERVENTION

BP WEST COAST PRODUCTS, LLC

BP CHERRY POINT COGENERATION
PROJECT

The province of British Columbia hereby withdraws its intervention in the above captioned matter.

Dated this 2nd day of December, 2003

BRICKLIN NEWMAN DOLD, LLP

Signed December 2, 2003

David Bricklin
Attorneys for the Province
of British Columbia

MEMORANDUM OF UNDERSTANDING

BP West Coast Products, LLC ("BP") has applied to the Washington Energy Site Evaluation Council ("EFSEC") for certification of a proposed 720 MW natural gas-fired Cogeneration Project to be constructed adjacent to the existing BP Refinery at Cherry Point ("the Refinery"), in Whatcom County, Washington. The Province of British Columbia ("the Province") has formally intervened in the EFSEC adjudicatory process. EFSEC has scheduled adjudicatory hearings to be held December 8-12, 2003.

BP and the Province wish to resolve the Province's concerns regarding the Cogeneration Project through mutual agreement rather than the adjudicatory process. Therefore, BP and the Province agree to the following:

1. In recognition of the Province's concerns about carbon dioxide emissions, BP agrees to mitigate twenty-three percent (23%) of the Cogeneration Project's actual CO emissions for thirty years in the manner described in the "Stipulation Between Counsel for the Environment and BP West Coast Product, LLC," filed with EFSEC on October 20, 2003. BP agrees to provide the Province with copies of all documentation that is submitted to EFSEC related to compliance with the CO mitigation requirement outlined in that Stipulation.
2. The Province has expressed concerns about particulate matter (PM₁₀) emissions in the Lower Fraser Valley airshed since before BP announced its Cogeneration Project proposal in 2001. With respect to the Province's and BP's concerns about PM in the airshed, BP is evaluating projects that are expected to reduce annual sulfur dioxide (SO₂) emissions on an ongoing basis from the Refinery, a portion of which converts to PM₁₀ by at least 140 tons compared to the emissions associated with those operations of the Refinery in 2001. Such reductions, added to the emission reductions provided by decommissioning boilers at the Refinery, are expected to be greater than the amount of particulate emissions from the Cogeneration facility, using the conversion factors recommended by Environment Canada, and used in the inter-agency review of the draft Environmental Impact Statement led by the Greater Vancouver Regional District ("GVRD"). The Refinery expects to implement these SO₂ reduction projects by 2007, but must still obtain final corporate approval. The Refinery has requested and will actively pursue such approval.
3. In response to the Province's concerns about particulate matter emissions, BP has identified current research regarding the United States Environmental Protection Agency (EPA) test method used to measure PM emissions. Within 30 days of the execution of this Memorandum of Understanding, BP will provide the Province with the information it has gathered that relates to the EPA test method for measuring particulate.
4. In response to the Province's concern about particulate matter and other air emissions, if the Cogeneration Project is constructed and operated, BP will provide the Province with the annual Washington Emissions Data System

(“WEDS”) report that the Refinery prepares for the Northwest Air Pollution Authority.

5. If the Cogeneration Project is constructed, BP will provide the International Airshed Strategy Initiative with \$25,000 (Canadian) to fund studies on the issue of particulate emissions from marine traffic in the Puget Sound/Georgia Basin airshed. Marine traffic is thought to be a major contributor of PM₁₀ to the airshed. BP will provide these funds prior to the commencement of the Cogeneration Project’s commercial operation. If BP has not obtained final corporate approval for the projects referenced in section 2 above by December 31, 2004, BP will increase the amount of funding referenced in this section to a total of \$50,000 (Canadian)
6. If the Cogeneration Project is constructed, BP will fund, the implementation of the “Solar Connection” program at two schools in British Columbia selected by the Province beginning with the first school year following the commencement of the Cogeneration Project’s commercial operation. The program consists of the installation of a demonstration (3-5kW) solar generating system, and the provision of curriculum materials exploring the science and benefits of renewable energy sources that have been developed by the National Energy Education Development Project. If BP has not obtained final corporate approval for the projects referenced on section 2 above by December 31, 2004, BP will increase the commitment referenced in this section to the funding of the Solar Connection school program at four schools in British Columbia, as selected by the Province.
7. The parties may, by mutual agreement, amend the arrangements in points 5 and 6 to reflect changed circumstances, such as changes in institutional arrangements or identification of an opportunity to make a more cost-effective contribution to regional air quality management.
8. Within 4 days following the execution of this Memorandum of Understanding, the Province will file a notice with EFSEC formally withdrawing its intervention in the EFSEC adjudicatory proceedings. The notice will be substantially similar to the notice attached as an appendix to this Memorandum of Understanding. The Province further agrees to abstain from any participation in the certification or permitting processes concerning the Cogeneration Project. The Province reserves the right to participate in the certification and permitting processes if BP substantially changes the Project, but the exercise of such right would excuse BP from the foregoing commitments.

Signed December 3, 2003

Rick Porter
Cherry Point Refinery Manager
BP West Coast Products, LLC

Signed December 2, 2003

John van Dongen
Minister of Agriculture, Food & Fisheries
Province of British Columbia