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, Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON SPECIAL USE APPLICATION SU 01 0186

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: PUGET SOUND ENERGY

ASSESSOR PARCEL NO: P21272, P21273

ABBREVIATED LEGAL DESCRIPTION: The property is located at 13085 Ball Road, Burlington, WA; a portion of Section 9, Township 34 North, Range 3 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of)
PUGET SOUND ENERGY) SU-01-0186
)
For a Special Use Permit Modification) **FINDINGS OF FACT,**
To Authorize the Installation of Four) **CONCLUSIONS OF LAW**
Additional Simple-cycle Combustion) **AND DECISION**
Turbine Generating Units and Associated)
Equipment at a Previously Developed Site.)
_____)

THIS MATTER, a Special Use Permit Modification request, came on regularly for hearing on May 23, 2001, after due notice. Brandon Black, Associate Planner, appeared for the Planning and Permit Center. Andy Swayne, Municipal Land Planner, represented the applicant. Members of the public were given an opportunity to be heard.

After hearing the presentations made, the Examiner, at the request of the applicant, ruled orally that the application should be approved. There was no public testimony. The following memorializes the oral ruling.

FINDINGS OF FACT

1. Puget Sound Energy (PSE) seeks approval for the installation of additional generating units at the Fredonia Generating Facility in the Bayview Ridge Heavy Industrial area. The request is made to augment generating capacity in the face of a drought that places in doubt the adequacy of regional power supplies.

2. The location is 13085 Ball Road, within a portion of Sec. 9, T34N, R3E, W.M. The 40-acre site is along the south side of Ovenell Road and just east of the Farm to Market Road. Twenty-two acres of the 40-acre site are already developed. The proposed units would be installed on this previously developed acreage.

3. The current development consists of level gravel pad areas surrounded by undeveloped vegetated buffer areas. There are now two combustion turbine generators, an electric transmission switchyard, a water treatment plant and control building, a water tank, a waste water holding pond and a fuel oil storage tank. These are all within a fenced gravel yard.



4. Originally the facility was developed to provide peak load, outage and emergency operations. Since July 1999, the existing units have been operated as base load generating sources.

5. The site is served by Skagit County PUD #1 (water), City of Burlington (sewer), Cascade Natural Gas and Olympic Oil (fuels), PSE (electricity), and Drainage District 19 (surface drainage). The infrastructure is adequate for the proposed additions.

6. To the north of the site is open space; to the south -- open space and a soils composting operation; to the east -- a metal fabrication operation; to the west -- the county transfer station, a sulfur handling operation and an agricultural processing operation.

7. The application was properly noticed and routed for agency comments. Apart from asking compliance with applicable regulations, no agency concerns were expressed. No public comment was received.

8. The request is for the installation of four additional simple-cycle combustion turbine generating units. Each unit will consist of two combustion turbines and one electrical generator within modular acoustic enclosures equipped with intake and exhaust noise reduction systems. The units will be equipped with best available control technology (BACT) exhaust emissions control systems.

9. The project includes transmission line restoration along an existing line corridor extending to the west from the western site boundary approximately one-quarter mile to an existing 230kV transmission line along the Farm to Market Road. Restoration work includes replacement of existing wood utility poles and re-installation of transmission line conductors.

10. The project also involves grading activity along the northern and eastern portions of the site. A small addition of fenced yard area with grading is proposed. A separate fill and grade permit (#BP01-0368) has been sought.

11. The project will not result in any interference with neighboring uses. The new units are not likely to create significant new or additive adverse environmental impacts. Anti-air pollution efforts appear to involve state of the art controls. On the basis of modeling, it appears that ambient air quality standards will not be exceeded. No nuisance-type impacts have been identified. There are no critical areas concerns. The nearest residence is at least a quarter of a mile away.

12. The applicant has applied for Prevention of Significant Deterioration (PSD) approval from the United States Environmental Protection Agency. This is essentially a non-degradation standard for air quality. EPA, the State Department of Ecology, and the regional Northwest Air Pollution Authority (NWAPA) have approved the operation of



two of the new turbines pending final PSD approval. The expectations are that PSD approval will ultimately be received.

13. A Final Environmental Impact Statement (FEIS) was entered for the generating facility in June of 1982. The instant request is for modification of the original Special Use Permit (SPU 82-0009). To comply with the State Environmental Policy Act (SEPA), the County has issued a Determination of Non-Significance (DNS) Addendum, dated April 10, 2001. The Addendum describes the project and states that this added information that does not substantially change the analysis of significant impacts or alternatives in the existing FEIS.

14. Pursuant to SCC 14.04.020, the proposal is a "major utility development." Under SCC 14.16.190(5), such developments require approval by the Hearing Examiner as special uses.

15. The general criteria for Special Use Permit approval are set forth in SCC 14.16.900(2)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy or surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resources management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

16. The Staff Report thoroughly analyzes this proposal against the above standards and concludes that, with appropriate conditions, it will be consistent with the relevant criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference included herein as though fully set forth.

17. The proposed additional generating units appear to answer an urgent public need.



18. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding.

2. The requirements of SEPA have been met.

3. The proposal is consistent with the Special Use Permit requirements of SCC 14.16.900(2)(b)(v).

4. Accordingly, it is appropriate that the existing Special Use Permit be modified to allow for the construction of the additional facilities proposed, subject to the following conditions:

A. The proposed installation shall be constructed, installed and operated as described in the application and accompanying project information.

B. All other necessary permits or approvals shall be obtained. The operation of two of the turbines may commence as soon as they are installed. The remaining units shall not be placed in operation until PSD approval is obtained.

C. The operation of the facility shall comply with the State's Maximum Environmental Noise Levels as set forth in Chapter 173-60 WAC and with the performance standards of SCC 14.16.840.

D. Discharges of water from the site shall not cause any violation of State Water Quality Standards.

E. The project shall comply with SCC Chapter 14.32, the Drainage Ordinance.

F. All conditions of the original Special Use Permit (SPU #82-0009) shall continue in force and shall be complied with.

G. Failure to comply with the conditions of approval may be grounds for revocation.

5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

The requested Special Use Permit Modification is approved, subject to the conditions set forth in Conclusion 4 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: June 26, 2001

Copies Transmitted to Applicant: June 26, 2001

Attachment: Staff Report

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 dates after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.



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**SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT**

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER
HEARING DATE: MAY 23, 2001
APPLICATION NUMBER: SPECIAL USE PERMIT REQUEST PL01-0186
APPLICANT: PUGET SOUND ENERGY
C/O ANDY SWAYNE
ADDRESS: P.O. BOX 90868 MER-4,
BELLEVUE, WA. 98009-0868

PROJECT LOCATION: Located at 13085 Ball Road, Burlington, within a portion of Section 9, Township 34N, Range 3 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Special Use permit modification request PL01-0186 for the installation of four additional simple-cycle combustion turbine-generating units and associated equipment on the previously developed 22 acres of the 40-acre site.

ASSESSOR'S ACCOUNT NUMBER: 340309-2-001-0003, P21272
340309-2-002-0002, P21273

ZONING: The property is located within an area designated as Bayview Ridge Heavy Industrial (BR-HI).

COMPREHENSIVE PLAN: The Comprehensive Plan designates the area as Bayview Ridge Heavy Industrial as indicated in the Skagit County Comprehensive Plan and associated maps as adopted June 1, 1997.

RECOMMENDATION: The Planning and Permit Center recommends **approval** of the request special use permit modification with conditions.

EXHIBITS:

1. Application dated March 9, 2001
2. Letter of completeness issued March 20, 2001
3. Notice of Development published March 22, 2001 1999
4. Determination of Nonsignificance (DNS) Addendum dated April 10, 2001
5. Site Plan



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6. Assessors section map

STAFF FINDINGS:

1. The subject property is designated as Bayvirew Ridge Heavy Industrial as indicated within the Comprehensive Plan and associated maps as adopted June 1, 1997. The application was determined to be complete on March 20, 2001 and is vested under the Comprehensive Plan and zoning regulations in effect at that time.
2. Per Section 14.01.033 of the Skagit County Code, a letter of completeness was issued and a Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on March 22, 2001 as required by Section 14.06 of Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C). A Determination of Nonsignificance (DNS) Addendum was issued on April 10, 2001 based on the revised SEPA checklist and scope of the existing Final Environmental Impact Statement.
4. The subject property is located out of any designated flood hazard areas.
5. The subject parcel is approximately 40 acres in size, 1,360 x 1,340 square feet in size, located along the south side of Ovenell Road, just east of Farm to Market Road. The project site is an existing combustion turbine generating station with approximately thirty developed acres with level, gravel pad areas surrounded by undeveloped vegetated buffer areas. The existing permitted site development consists of two combustion turbine generators, electric transmission switchyard, water treatment plant and control building, water tank, waste water holding pond and fuel oil storage tank, all within the fenced gravel yard. Surface drainage is piped to a detention pond at the southwest corner of the site.
6. The site is situated within the Bayview Ridge Heavy Industrial area along the south side of Ovenell Road. The existing uses surrounding the site are open space to the north. Open space and a soils/composting operation (Skagit Soils) on the south side, a metal fabrication operation (Edco) on the east and the Skagit County Transfer Station, a sulfur handling operation (Sulex), a agricultural processing operation (Hughes Farms) on the west (across Ball Road).
7. The applicant is requesting a Special Use permit modification to install two additional simple-cycle combustion turbine-generating units, along with the associated equipment, within the existing open gravel pad area on the eastern portion of the site. Each unit consists of two combustion turbines and one electrical generator within a modular acoustic enclosure and are equipped with intake and exhaust noise reduction systems. The units will be equipped with best available



control Technology (BACT) exhaust emissions control systems. The project also includes transmission line restoration along an existing east-west line corridor westward from the western site boundary approximately one-quarter mile to an existing 230kV transmission line along Farm to Market Road. Restoration includes replacement of existing wood utility poles and re-installation of transmission line conductors. Skagit County Code Section 14.16.190 (5)(e) states that Major Utility Developments require a Hearing Examiner Special Use permit approval in the Bayview Ridge designation. Skagit County Code section 14.04.020 defines Major Utility Developments as "Utility developments designed to serve a broader community area, or are manned".

8. The application was routed to the health unit for review. Environmental Health indicated that the site is currently being serviced by sewer. Environmental Health had no concerns with the proposed project.
9. The application was reviewed by the Water Resources division of Skagit County Planning and Permit Center. Water Resources indicated that the operation of equipment/plant shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC and address noise and vibration limitations, as well as Skagit County Code 14.16.840 for light and noise conditions. Water Resources further indicated that WAC's 173-201A and 173-200 shall be complied with as required to address surface water quality issues and ground water issues.
10. The application was routed to The Public Works Department for review. The Public Works Department indicated that the project shall comply with Skagit County Code 14.32 the Drainage Ordinance.
11. The application was routed to Skagit County critical areas staff for review. Critical areas staff indicated that the project proposal is located within a pre-existing/pre-developed site. Critical areas staff recommended approval of the proposal without conditions.
12. Section 14.16.900 Special Uses of the Skagit County Code states that certain items will be reviewed when approving or denying Special Use Permits. Those items are as follows:
 - A. The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.

The proposed project is in conformance with the Comprehensive Plan in respect to the compatibility with existing and future land use patterns and circulation. Staff notes that the facility itself is currently existing and the project proposal is to add new generator units within the existing developed site. Further, Chapter 10, the Utilities Element, of the current Comprehensive Plan states under Goal A, "To assist in providing high quality, cost-effective and safe utility services a low environmental cost by: coordination and consistency among utility providers and comprehensive



plans; integration of utility facility plans and capacity needs; joint use of transportation rights-of-way and utility corridors; environmentally sensitive siting of utility facilities; maintenance of facilities and utility corridors; underground installation of utility distribution lines where possible; encouraging conservation of water and energy, and encouraging research and implementation of alternative energy resources.”

The applicant has indicated that the existing Fredonia Generating Facility is situated within the Bayview Ridge Heavy Industrial zone and consistent with both the Skagit County Comprehensive Plan and the Unified Development Code. The site is surrounded by industrial zoned property on all sides which are either undeveloped or are in industrial/commercial use. The existing use is compatible with existing and planned (allowed) uses. The proposed installation and operation of additional combustion turbine generating units at this site will not change the existing use nor impact its compatibility with surrounding uses.

B. The proposed use complies with Skagit County Code.

The current designation of the subject property and surrounding properties is Bayview Ridge Urban Growth Area with a designation listed as Areas Eligible for Heavy Industrial Special Uses. Section 14.16.190 (5) of the Skagit County Code requires that major utility developments obtain a Hearing Examiner Special Use permit within the Bayview Ridge Heavy Industrial designated area. Staff notes the this project is being considered as a Special Use permit modification to the existing approval of SPU 82-0009 with the approval date of June 28th, 1982. Section 14.04.020 of the Skagit County Code sets forth the definition of Major Utility Development as: “Utility developments designed to serve a broader community area, or are manned”. With the approval of the special use permit the subject proposal will be in compliance with Skagit County Code.

The applicant has indicated that the existing Fredonia Facility complies with applicable requirements under Skagit County Code (SCC) and special use permit SPU 82-0009. Major utility developments (including electrical generating stations and electrical transmission lines) are special uses allowed under SCC 14.16.190. the proposed installation and operation of additional combustion turbine generating units at this site will not alter site compliance with SCC.

C. The proposed use will not create undue noise, odor heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.

Staff notes that there is no indication that there will be any significant impacts due to noise, odors, heat, vibration, air or water pollution potential from the proposed project. The project will be manned and required to comply with all federal, state, and local regulations.



The applicant has indicated that the nearest dwelling unit is ¼ mile west of the site, west of Farm to Market Road, at Ovenell Road. The operation of the existing and additional generating units will not result in perceptible vibration beyond the site boundaries. Potential sources of significant vibration will be installed using vibration-dampening mountings. No glare or steam will be produced by the operations and combustion turbine exhaust will be discharged approximately fifty feet above ground. Heated exhaust plumes rise, cool and disperse such that no increase in air temperature occurs beyond site boundaries. The generator operation does not/will not adversely affect operation of equipment or appliances on surrounding properties. The site operations will not result in undue odor nor will air emissions exceed state or federal ambient air quality standards. Site operations do not result in discharge to surface or ground water (other than approved wastewater discharged to municipal sewer system). The applicant further indicated that Skagit County Code applies a Class B EDNA limit to the BR-HI zone. Noise levels from the site operations do not now nor are projected to exceed 65dBA at site boundaries.

D. The proposed use will not generate intrusions on privacy of surrounding uses.

The site will not intrude on the privacy of adjacent sites. The use, and the facility currently exist with no apparent intrusion of privacy.

The applicant has indicated that the site operations will not generate intrusions on surrounding uses. A vegetative buffer screen and security fence surround the site. Employees access the site via a private road. The transmission lines associated with this site are located within utility easements providing PSE right of access for installation, maintenance and operation of such lines.

E. Potential effects regarding the general public health, safety, and general welfare.

There should be little effect to the region as a result of the project. There should be minimal impact on the general public health, safety, and general welfare provided the site is secured to mitigate the impact of unwanted trespass and maintained.

The applicant has indicated that the availability of reliable, environmentally sound and cost effective electricity (electrical utility service) directly promotes public health, safety and general welfare. Installation and operation of additional generating units at this site will help ensure adequate electricity supplies to Skagit County and the northwest region. No significant adverse impact will result from site operations. Operating noise and air emissions will not exceed state or federal standards. A security fence surrounds the site with site access restricted to authorized personnel. No undue potential hazards are created by the presence of the facility or site operations.



- F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, and Rural Resource – Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.

Not applicable, this proposal is not located with a area designated as a natural resource area.

- H. The proposed use is not in conflict with the health and safety of the community.

The proposed use will not be in conflict with the health and safety of the community provided all requirements are adhered to and the site continues to maintained.

The applicant has indicated that the existing facility is appropriately situated in an industrial area. Neither the presence of the facility nor its operation will conflict with community health or safety for reasons previously discussed. Other appropriate uses in this area will not be adversely effected by the operation of this site.

- I. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities..

The proposed use is a public facility and will not adversely affect other public services in the surrounding area.

The applicant has indicated that the existing public facilities and services serving the site are adequate for proposed site operations. No adverse effect to public services will result. Additional consumption of raw water and discharge of additional wastewater will not exceed or unduly tax existing system utility systems capacity. Emergency response services will not be affected and added trips to the site by delivery and operating vehicles will be negligible.

RECOMMENDATION

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested Special Use Permit modification to add the additional combustion turbine-generating units with the following conditions:

1. The applicant shall obtain all necessary land use approvals.



2. The operation of equipment/plant shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC and address noise and vibration limitations, as well as Skagit County Code 14.16.840 for light and noise conditions.
3. WAC's 173-201A and 173-200 shall be complied with as required to address surface water quality issues and ground water issues.
4. The project shall comply with Skagit County Code 14.32 the Drainage Ordinance.
5. The applicant shall comply with the conditions outlined within the original special use permit approval SPU #82-0009.

Prepared By: BB
Approved By:
Dated: 5-14-01



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