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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 SU 02 0459

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: PUGET SOUND ENERGY

ASSESSOR PARCEL NO: P21272, P21273

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

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Puget Sound Energy
c/o Andy Swayne
P. O. Box 90868 XRD-1W
Bellevue, WA 98009-0868

File No: PL02-0459

Request: Special Use Permit

Location: 13085 Ball Road within the Bayview Ridge Heavy Industrial area, within a portion of Sec. 9, T34N, R3E, WM.

Summary of Proposal: To allow heights to 65 feet above ground level for four exhaust stacks at the Fredonia Generating Station. Existing stacks on units 3 and 4 would be increased from 50 feet to 65 feet. Future units 5 and 6 (already authorized) would be allowed a stack design height of 65 feet.

Land Use Designation: Bayview Ridge Heavy Industrial (BR-HI)

Public Hearing: After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on October 23, 2002.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. Puget Sound Energy (applicant) seeks permission to increase the height of four exhaust stacks at its Fredonia Generating Station. The station is within the area zoned Bayview Ridge Heavy Industrial at 13085 Ball Road. The property is within a portion of Sec. 9, T34N, R3E, WM.

2. The application was determined to be complete on August 16, 2002. Notice of Development was published on August 22, 2002.

3. A Determination of Non-Significance (DNS) was issued under the State Environmental Policy Act (SEPA) on September 12, 2002, with a comment period ending September 26, 2002. The DNS was not appealed.

4. The subject parcel is approximately 40 acres in size, located along the south side of Ovenell Road, directly east of the intersection of Ball Road and Ovenell Road. The facility is an existing combustion turbine generating station with approximately 30 developed acres located on level, gravel pad areas surround by undeveloped vegetated buffers.

5. The site development consists of four simple cycle combustion turbine generators (Units 1 & 2 at 104 megawatts, Units 3 & 4 at 54 megawatts), an electric transmission switchyard, a water treatment plant and control building, a water tank, a wastewater holding pond and a fuel oil storage tank, all within a fenced yard.

6. The surrounding uses are as follows: South: a mixture of undeveloped land, equipment storage and petroleum pipeline; North: undeveloped open space; West: a sulfur handling operation (Sulex), an agricultural processing station (Hughes Farm) and Skagit County Transfer Station; Southwest: open space and a soil/composting operation (Skagit Soils); East: a metal fabricating operation (Edco). Further to the south and west, the uses include a solid waste container shipping operation (Rabanco) and a wood products manufacturing operation (Washington Alder).

7. The nearest residential use is located to the west on the west side of Farm to Market Road near the intersection with Ovenell Road.

8. The application requests modification of previous special use approvals SPU82-0009 and PL01-0186. The proposal is to increase the height of the existing exhaust stacks for Units 3 and 4 from 50 feet to 65 feet above ground level. The request is also to increase the design stack height for previously authorized but as yet unbuilt Units 5 and 6. It is asked that these future stacks also be allowed to extend 65 feet above the ground.



9. The facility meets the definition of "major utility development" in that it is designed to serve a broader community area. SCC 14.04.020. Such developments required a Hearing Examiner Special Use Permit.

10. The purpose of the increased stack height is to improve exhaust plume dispersion in order to lower sulfuric acid mist levels at ground level. Operational testing shows higher sulfur dioxide concentrations than were initially forecast. The higher stacks should result in compliance with the National Ambient Air Quality Standards.

11. The Northwest Air Pollution Authority has written, endorsing of the increased stack height, although it is not clear that they have completed their Notice of Construction process. The issuance of a state/federal PSD (Prevention of Significant Deterioration) approval is also still pending. Nevertheless, based on existing information, there is no reason to think that this proposal will not be approved from an air quality stand point.

12. At the industrial site in question, there is nothing from a land use point of view that causes concern. There were no adverse public comments on this proposal. There were not adverse agency comments. There is no evidence to suggest that the additional 15 feet of elevation will adversely impact aviation at the nearby Skagit Regional Airport. The Port of Skagit did not object.

13. The general criteria for Special Use Permit Approval are set forth in SCC 14.16.900(2)(b)(v).

- (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.



14. The Staff Report does a very thorough job of analyzing the application against these criteria and finds that, as conditioned, the proposal will meet the standards. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

15. Any conclusions 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. SCC 14.06.050(1)(b).

2. In the Bayview Ridge Heavy Industrial (BR-HI) zone, a Hearing Examiner Special Use Permit is required for a major utility development. SCC 14.16.190(5)(e).

3. As conditioned, the application meets the Special Use Permit requirements. SCC 14.16.900(2)(b)(v).

4. The Code as presently written does not contain a special procedure for modifying existing Special Use Permits. The process where such is desired, therefore, is to acquire a new permit for whatever changes are requested. The old permit conditions remain in effect, except to the extent that they new permit necessarily modifies them.

5. The following conditions should be imposed.

(1) The proposal shall be carried out as described in the application and accompanying materials, except as the same may be modified by these conditions.

(2) The conditions of SPU #82-009 and #PL01-0186 shall remain in force to the extent they do not conflict with this approval.

(3) The applicant shall obtain all other necessary approvals, including those required by local, state and federal air pollution control authorities. If any such approvals conflict with the provisions hereof, the Planning and Permit Center shall be notified.

(4) The applicant shall comply with the provision of SCC 14.16.900(2)(d).

(5) Failure to comply with all conditions of approval may result in permit revocation.

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



DECISION

The requested Special Use Permit is granted, subject to the conditions set forth in Conclusion 5 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: November 6, 2002

Copies Transmitted to Applicant: November 6, 2002

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 days 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.



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

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: OCTOBER 23, 2002

APPLICATION NUMBER: SPECIAL USE PERMIT MODIFICATION
REQUEST PL02-0459

APPLICANT: PUGET SOUND ENERGY
C/O ANDY SWAYNE

ADDRESS: P.O. BOX 90868 XRD-1W,
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 application (PL02-0459) for the modification of previous permit applications #SPU82-0009 and PL01-0186. The project proposal is to increase the height of the existing exhaust stacks (units 3 and 4) from fifty (50) feet to sixty-five (65) feet above ground level. The additional exhaust stack height will improve exhaust plume dispersion and will result in lower sulfuric acid mist concentrations at ground level in compliance with the National Ambient Air Quality Standards. PSE also proposes to increase the design exhaust stack height for planned future units (#5 and 6) also to 65 feet above ground level. (PSE's current PSD permit application does not address units 5 and 6. Future installation of units 5 and 6 will require separate and additional Notice of Construction approval by NWAPA and PSD approval by WDOE).

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 (BR-HI) as indicated in the Skagit County Comprehensive Plan and associated maps as adopted July 24, 2000.

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



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EXHIBITS:

1. Application dated August 8, 2002
2. Letter of completeness issued August 16, 2002
3. Notice of Development published August 22, 2002
4. Determination of Nonsignificance (DNS) Published September 12, 2002
5. Site plan
6. Assessors section map
7. Skagit County Hearing Examiner's written order of approval (June 26, 2001) for Special Use Permit #PL01-0186.

CORRESPONDANCE:

1. Letter received August 29, 2002 from Robert Nord, Port of Skagit County, 15400 Airport Drive, Burlington, WA. 98233, requesting additional information on the elevations of the proposed stack extensions.
2. Letter received August 30, 2002 from James Randles, Northwest Air Pollution Authority, 1600 South Second Street, Mount Vernon, WA. 98273, in support of the proposed height request.

STAFF FINDINGS:

1. The subject property is designated as Bayview Ridge Heavy Industrial (BR-HI) as indicated within the Comprehensive Plan and associated maps as adopted July 24, 2000. The application was determined to be complete on August 16, 2002 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 August 22, 2002 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). The optional DNS process was utilized with this project as per WAC 197-11-355 and Skagit County Code 14.12 and the SEPA comment period was combined with the Notice of Development comment period which ended on September 6, 2002. A Determination of Nonsignificance (DNS) was issued on September 12, 2002, and became effective following a fourteen-day (14) appeal period that ended on September 26, 2002.
4. The subject property is located out of any designated flood hazard areas.



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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 (Fredonia Generation Station) is an existing combustion turbine generating station with approximately thirty developed acres located on level, gravel pad areas surrounded by undeveloped vegetated buffer areas. The existing permitted site development consists of two 104 MW (megawatt) (units 1 & 2) and two 54 MW (units 3 & 4) simple cycle combustion turbine generators, a electric transmission swithchyard, water treatment plant and control building, water tank, waste water holding pond and fuel oil storage tank, all located 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 (BR-HI) area along the south side of Ovenell Road and directly to the east of the intersection of Ball Road and Ovenell Road. The existing uses surrounding the site are as follows: a mix of undeveloped land, equipment storage and petroleum pipeline on the south; open space (undeveloped area) to the north; open space and a soils/composting operation (Skagit Soils) to the southwest; a metal fabrication operation (Edco) to the east; the Skagit County Transfer Station to the west; a sulfur handling operation (Sulex) and an agricultural processing operation (Hughes Farms) to the immediate west (across Ball Road). Further to the south and west, the uses include a solid waste container shipping operation (Rabanco) and a wood products manufacturing operation (Washington Alder). The nearest residential use is located on the west side of Farm to Market Road at that intersection with Ovenell Road.
7. The applicant is requesting a Special Use permit for the modification of previous permit applications #SPU82-0009 and PL01-0186. The project proposal is to increase the height of the existing exhaust stacks (units 3 and 4) from fifty (50) feet to sixty-five (65) feet above ground level. The additional exhaust stack height will improve exhaust plume dispersion and will result in lower sulfuric acid mist concentrations at ground level in compliance with the National Ambient Air Quality Standards. PSE also proposes to increase the design exhaust stack height for planned future units (#5 and 6) also to 65 feet above ground level. (PSE's current PSD permit application does not address units 5 and 6. Future installation of units 5 and 6 will require separate and additional Notice of Construction approval by NWAPA and PSD approval by WDOE). 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".

The most recent previous special use permit request was approved by the Skagit County Hearing Examiner on June 26, 2001 under permit number PL01-0186. That request included the installation of two additional simple-cycle combustion turbine-generating units, along with the associated equipment, within the existing



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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 project also included 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 included the replacement of existing wood utility poles and re-installation of transmission line conductors.

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 conditions placed on the previous special use permit are still in effect and as long as those conditions still apply, there are no additional concerns. Those conditions are as follows: 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 had no comments or concerns with the proposal.
11. The application was routed to the Skagit County Building Official for review. The Building Official indicated that the described work is not regulated by the Uniform Building Code, therefore, no building permits will be required.
12. The application was routed to Skagit County critical areas staff for review. Critical areas staff indicated that the critical areas review had been previously completed with special use permit #PL01-0186. The project proposal is located within a pre-existing/pre-developed site. Critical areas staff recommended approval of the proposal without conditions.
13. 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



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notes that the facility itself currently exists and the project proposal is to increase the exhaust stack heights on the 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 is 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.

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. Further, Skagit County Code section 14.16.190(5)(J), Hearing Examiner Special Uses, states that "Structures greater than 40 feet in height" require approval from the Skagit County Hearing Examiner. Staff notes that this project is being considered as a Special Use permit modification to the existing approvals granted with SPU 82-0009 with the approval date of June 28th, 1982 and P101-0186, with the approval date of June 26, 2001. 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 modification 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 increase in exhaust stack heights is a special use allowed by approval of the County Hearing Examiner under SCC 14.16.190(5)(J) (structures greater than 40 feet in height) and will not alter site compliance with SCC.



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- 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, or vibration pollution potential from the proposed project. The proposal is to further reduce any potential air and water pollution potential by increasing the height of the exhaust stacks which will improve the dispersion of air pollutants emitted from the turbines. The project will be manned and required to comply with all federal, state, and local regulations. Staff further notes that Northwest Air Pollution Authority (NWAPA) has submitted a letter in support of the proposal and have indicated that the stack height will improve the dispersion of air pollutants emitted from the turbines, thereby resulting in lower ambient concentrations of hazardous exhaust products. NWAPA further indicated that it would be beneficial to accomplish this project before the upcoming winter power generating season.

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 future additional generating units will not result in perceptible vibration beyond the site boundaries. No glare or steam will be produced by the operations at this site. The increase in exhaust stack height will increase the discharge height above ground, allowing the exhaust plumes to rise, cool and disperse such that no increase in air temperature occurs beyond site boundaries. The increase of the exhaust stack height will not increase noise levels surrounding the site and may result in a slight decrease in overall site noise levels. The applicant further indicated that the proposed modification will insure compliance with state and federal ambient air quality standards and site operation do not result in discharge to surface or ground water (other than approved wastewater discharged to municipal sewer system).

- 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 increase in exhaust stack height will not generate intrusions on surrounding uses. A vegetative buffer screen and security fence surround the site and employees access the site via a private road.

- 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



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the site is secured to mitigate the impact of unwanted trespass and continued to be maintained in compliance with state and federal standards.

The applicant has indicated that no significant adverse impacts or potential hazard will result from the increase in exhaust stack height. The proposed modification will reduce the ground level concentration of sulfuric acid mist to comply with state and federal standards. Further, a security fence surrounds the site with site access restricted to authorized personnel.

- 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 an area designated as a natural resource area.

- G. 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 and continues to comply with state and federal standards.

The applicant has indicated that the proposed modification will not conflict with community health or safety for reason previously discussed. Other appropriate used in this area are not, nor will be, adversely effected by this modification.

- 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..

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 impact to public services will result from the increase in the exhaust stack heights.

RECOMMENDATION

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested Special Use Permit modification to



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increase the exhaust stack height to 65 feet for generating units #3 – 6 at the existing Fredonia Generating Facility with the following conditions:

1. The applicant shall comply with the conditions of approval outlined within the previous Special Use Permit (PL01-0186) approved June 26, 2001. Those conditions are as follows:
 - a. The applicant shall obtain all necessary land use approvals.
 - b. 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.
 - c. WAC's 173-201A and 173-200 shall be complied with as required to address surface water quality issues and ground water issues.
 - d. The project shall comply with Skagit County Code 14.32 the Drainage Ordinance.
 - e. The applicant shall comply with the conditions outlined within the original Special Use Permit approval SPU #82-0009.
2. The applicant shall comply with any additional conditions outlined within the Hearing Examiners Written Order of approval of SPU #PL01-0186.

Prepared By: BB
Approved By:
Dated: 10-2-02



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