

**Exhibit No. __ (WHW-4)
Dockets UE-072300/
UG-072301/UG-080064
Witness: William H. Weinman**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY, INC.

Respondent.

**DOCKET UE-072300
DOCKET UG-072301
(consolidated)**

DOCKET UG-080064

EXHIBIT TO TESTIMONY OF

WILLIAM H. WEINMAN

**STAFF OF THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION**

*Department of Ecology Notice of Penalty
Re: Crystal Mountain Diesel Spill of November 2006*

May 30, 2008



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 15, 2008

Lorna Luebbe
Sr. Corporate Counsel & Environmental Services
Puget Sound Energy
10885 NE 4th Street
P.O. Box 97034
Bellevue, WA 98009-9734

Dear Lorna Luebbe:

RE: Notice of Penalty No. 5573 for Puget Sound Energy's Crystal Mountain diesel spill of
November 3, 2006

Enclosed is a Notice of Penalty Incurred and Due No. DE 5573 issued for violation of RCW
90.48.080 and 90.56.330. If you have questions concerning the content of the document, please
call Jeff Fishel, at 360-407-7504. If you wish to formally contest the penalty, you must follow the
procedures described in the Notice within 30 days of receiving this Notice.

Sincerely,

A handwritten signature in cursive script that reads "Polly Zehm".

Polly Zehm
Deputy Director
Department of Ecology

CERTIFIED MAIL 7006 2760 0000 7716 7547

Enclosures

cc: Mark W. Schneider, Puget Sound Energy
Perkins Coie, Puget Sound Energy
Leann Ryser, Financial Services, Department of Ecology
Dale Jensen, Spills Program Manager, Department of Ecology
David Byers, Spills Response Section Manager, Department of Ecology
Jeff Fishel, Spills Enforcement Coordinator, Department of Ecology ✓
Phil Ferester, Assistant Attorney General



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY)
ASSESSMENT AGAINST:)
Puget Sound Energy)

NOTICE OF PENALTY
INCURRED AND DUE
No. DE 5573

To: Puget Sound Energy
10885 NE 4th Street
P.O. Box 97034
Bellevue WA 98009-9734
Attn: Lorna Luebbe

As owner or operator of the Crystal Mountain Emergency Generator Station on or about November 3, 2006:

The Department of Ecology (Department) has assessed a penalty against you in the amount of \$366,000 for violation of Washington laws and rules from November 2, 2006, until December 4, 2006.

The penalty is based on the following Department findings:

At 2:49 p.m. on Thursday, November 2, 2006, power to the Crystal Mountain area was disrupted and the Crystal Mountain Emergency Generator Station (CMEGS) automatically came on line and supplied backup power. Two hours into its run, or at 4:40 p.m., the CMEGS sent a signal to PSE's Redmond Load Center that the fuel transfer pumps were transferring fuel to the day tank. At 4:58 p.m., normal power was restored and the unit automatically switched off-line. However, the unit ran for another hour to clean out the engine. At 5:59 p.m., the CMEGS notified Redmond that its engine had stopped.

At 3:58 a.m. Friday, November 3, 2006, the CMEGS sent a low-fuel alarm to the Redmond Load Center. Three minutes later, the Veeder-Root underground storage tank system sent a "Low Product Alarm" fax to the maintenance office in Fredrickson. By the time the PSE technician arrived at the CMEGS to investigate, around 11 a.m., the fuel transfer pump had been continuously operating for about 18 hours and 20 minutes.

Approximately 18,000 gallons of diesel were discharged to the environment. Emergency response involved deployment of sorbent materials and temporary dams to control runoff, removal of 1,374 loads of contaminated soil, 50 monitoring wells plus other borings, and an interceptor trench fitted with an oil-water separator that became operational on

December 4, 2006. After the interceptor trench was installed, the risk of further contamination of Silver Creek by oil seeps was eliminated. Oil sheens were observed in Silver Creek after December 4, 2006, primarily from agitation of impacted wetlands and stream banks.

Violation 1:

RCW 90.48.080. Discharge of polluting matter in waters prohibited.

It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter.

The following support a determination of violation:

- A. PSE is a person as defined in RCW 90.48.020.
- B. Diesel oil causes pollution of state waters as defined in RCW 90.48.020.
- C. Ground water, Silver Creek and adjoining wetlands are waters of the state as defined in 90.48.020.
- D. Diesel oil discharged from the CMEGS to ground water, Silver Creek and adjoining wetlands from approximately 1649 on November 2, 2006, to 1100 on November 3, 2006.
- E. CMEGS is owned and operated by PSE.

Violation 2 – Negligence:

Under RCW 90.56.330, an additional penalty may be assessed if Ecology determines that the spill was negligent, reckless or intentional. The statute states:

RCW 90.56.330 Additional penalties. Except as otherwise provided in RCW 90.56.390, any person who negligently discharges oil, or causes or permits the entry of the same, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to twenty thousand dollars for every such violation, and for each day the spill poses risks to the environment as determined by the director. Any person who intentionally or recklessly discharges or causes or permits the entry of oil into the waters of the state shall incur, in addition to any other penalty authorized by law, a penalty of up to one hundred thousand dollars for every such violation and for each day the spill poses risks to the environment as determined by the director. The amount of the penalty shall be determined by the director after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of chapter 90.48 RCW, the speed and thoroughness of the collection and removal of the oil, and such other considerations as the director deems appropriate. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty herein provided for shall be imposed pursuant to RCW 43.21B.300.

[RCW 90.56.390 exempts from liability a person, other than a responsible party, who responds to an oil spill consistent with national response plan and/or directions from the federal on-scene coordinator. By its terms, this statute does not apply to Puget Sound Energy.]

The following supports a determination of a negligent oil spill:

In June 2004, the CMEGS 1960's electro-mechanical internal controls were modernized by replacing them with electronic controls. The work was completed by ESI, Inc. and the CMEGS underwent three days of testing by PSE to determine if the work was acceptable. Although the fuel transfer pump controls were replaced, the switches and pumps were not tested.

On January 11, 2005, a PSE electrician discovered the fuel pumps were mis-wired. To correct the problem, he needed to reverse the polarity by switching the power legs. He had three options to make this correction – at the pump motors, the circuit breaker, or the main internal bus. Because the electronic controls were wired in a high-leg delta configuration, it was necessary to know which leg was the “high-leg” before switching the wires of the four-wire circuit at the circuit breaker or main bus.

The PSE electrician decided to switch two legs of the four-wire system at the circuit breaker box without first determining which leg was the “high-leg”. Although the pumps' rotation was corrected, the electrician's repair energized the electronic controls with 208 volts instead of 120 volts.

The spill of 18,000 gallons of diesel from the CMEGS occurred because the controls that powered the fuel pumps failed due to heat generated by excessive voltage to the operating circuit.

This penalty is assessed under the authority granted by RCW 90.48.144 and 90.56.330.

The penalty is due and payable by you within thirty (30) days of your receipt of this Notice. Please send your penalty payment to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia, WA 98504-7611

You may contest this Notice of Penalty by either filing an **Application for Relief** to the Department of Ecology or an **Appeal** to the Pollution Control Hearings Board (PCHB). You may file an Appeal with the PCHB without filing an Application for Relief to Ecology first. The **Application for Relief** or **Appeal** must be filed with the Department no later than thirty (30) days after you receive this Notice of Penalty.

If you file an **Application for Relief**, after consideration of your application is complete, the Department will respond with a Notice of Disposition Upon Application for Relief. You may then further contest this penalty by filing an appeal the Department's decision to the PCHB.

NOTICE: If you do not submit a timely Application for Relief or Appeal, this Penalty will become due and owing within 30 days of receipt and you lose your right to contest the penalty.

To submit an Application for Relief from an Assessed Penalty: The original Application for Relief should be submitted to:

Maylee Collier
Appeals and Relief Coordinator
Department of Ecology
P.O. Box 47608
Olympia, WA 98504-7608

Also submit a copy to:

Department of Ecology
Fiscal Office
P.O. Box 47615
Olympia, WA 98504-7615

To Appeal this Notice of Penalty you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of the Notice of Penalty and/or Notice of Disposition that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 - 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

Deliver your appeal in person to:

The Department of Ecology
Appeals and Relief Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

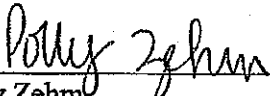
3. And send a copy of your appeal to:

Jeff Fishel
Enforcement Coordinator
Spills Program
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

*For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov/>*

*To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>*

DATED this 15th day of April 2008 at Lacey, Washington.



Polly Zehm
Deputy Director
Department of Ecology