

BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKETS UE-200900, UG-200901,
TRANSPORTATION COMMISSION) UE-200894 (*Consolidated*)

Complainant,)

v.)

AVISTA CORPORATION d/b/a)
AVISTA UTILITIES)

Respondent.)

_____))
In the Matter of the Petition of)

AVISTA CORPORATION d/b/a)
AVISTA UTILITIES,)

For an Accounting Order Authorizing)
Accounting and Ratemaking Treatment of)
Costs Associated with the Company's)
Wildfire Resiliency Plan.)
_____)

CONFIDENTIAL EXHIBIT GS-3

MEMORANDUM: MATERIAL REVIEW SUMMARY

(REDACTED)



Memorandum

April 7, 2021

To: Kevin Rasler, Inland Empire Paper Company

From: Greg Summers, Anchor QEA, LLC

CC: Tyler C. Pepple, Davison Van Cleve

Re: Material Review Summary

Introduction

Anchor QEA, LLC, was retained to provide expert testimony and opinion regarding the permitting feasibility of a 30-megawatt (MW) natural gas-fired cogeneration (combined heat and power [CHP]) unit at Inland Empire Paper Company's (IEP's) existing facility in Spokane County, Washington. This memorandum describes the regulatory context applicable to the project and the environmental permitting requirements.

Project Understanding

IEP operates a pulp and paper mill in Spokane, Washington. IEP produces approximately [REDACTED] of pulp and paper annually. This production currently uses on average [REDACTED] of electricity per year and used [REDACTED] of natural gas in 2020. IEP receives electric service from Avista Utilities under Schedule 25 and gas from IGI Resources through the Northwest Pipeline. IEP is evaluating the feasibility of constructing a 30 MW CHP system to decrease the operating expenses and produce on-site electricity. This memorandum describes the permits required to construct such a facility.

Anticipated Permits and Project Considerations

The typical permits considered for a project like this are included in Tables 1 and 2. Table 1 lists the permits considered, but not anticipated to be needed. Table 2 includes the permits and approvals likely required and needed for constructing the CHP. These Tables also include the applicable statutes and project considerations that influence the regulatory compliance process.

The following assumptions were used to prepare this memorandum:

- No water is needed for the CHP system.
- No discharges, other than air emissions, would result from the CHP system.
- Construction would occur in previously disturbed industrially zoned areas on the IEP site and no wetlands, cultural resources, or other resources protected by federal statute, including any species listed under the Endangered Species Act or their habitats, would be impacted.

- No federal funding would be used for this project and therefore, based on the previous assumptions, there is no federal nexus for this project.
- No state listed species, protected habitats, or critical areas would be impacted by the project.
- The proposed cap and trade regulations are assumed to be implemented and IEP would purchase 100% of emissions offsets for the project.
- The project complies with the anticipated requirements of the Greenhouse Gas Assessment for Projects (GAP) rule.
- The SEPA lead agency is likely to issue a Determination of Significance and therefore a State Environmental Policy Act (SEPA) Environmental Impact Statement (EIS) would be prepared rather than a SEPA Checklist/Mitigated Determination of Non-Significance.

Table 1
Environmental Permits and Approvals Considered but Not Anticipated to be Needed

Permit or Approval	Agency	Trigger	Notes
Individual CWA Section 404 Permit	USACE	Discharge of fill material to waters of the United States under CWA Section 404	It is assumed that no wetlands under USACE jurisdiction would be impacted and no connection to the Spokane River would occur. Therefore, a CWA Section 404 permit would not be needed.
State of Washington AO to Conduct Work in Isolated Wetlands or Other Waters	Ecology	Discharge of fill material to non-federally jurisdictional wetlands and other waters under the Washington State Water Pollution Control Act	It is assumed that no isolated wetlands under the State of Washington jurisdiction would be impacted.
NEPA Compliance	N/A	Requirement for a project requiring a federal permit and/or federal funding	Without a federal nexus, NEPA is not triggered.
ESA Compliance	NMFS and USFWS	Associated with approvals of activity that may affect species listed under ESA Section 7	The project is not expected to affect ESA-listed species. With no direct impacts to listed species, potential impacts would be considered with the SEPA/local permitting process.
NHPA Section 106 Compliance	Department of Archaeology and Historic Preservation	Associated with proposals that may affect archaeological or cultural resources or historic properties	The project is not expected to impact archeological or cultural resources or any historic properties.
Conditional and Final Letters of Map Revision ¹	FEMA	Work within a FEMA mapped floodplain	N/A because the site is outside of the floodplain.

Permit or Approval	Agency	Trigger	Notes
CWA Section 401 WQC	Ecology	Necessary for federal approvals for discharge of fill material to waters of the United States under CWA Section 404	If a CWA Section 404 permit isn't required, then CWA Section 401 isn't applicable.
HPA	WDFW	Necessary for any work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state per WAC 220-660	An HPA is not anticipated to be needed.
Floodplain Permit	Spokane County	Necessary for work within the special flood hazard area	The property does not appear to be in the floodplain.

Table 2
Summary of Environmental Permits and Approvals Likely Required for this Project

Permit or Approval	Agency	Trigger	Notes
AOP	Spokane Regional Clean Air Agency	<p>A business must turn in an AOP application 12 months before the business has the potential to emit the following:</p> <ul style="list-style-type: none"> • More than 100 tons per year of any air pollutant • More than 10 tons per year of any hazardous air pollutant • More than 25 tons per year of a combination of hazardous air pollutants 	It is assumed the facility will exceed at least one of these thresholds and require this permit.
SEPA Compliance	Spokane County	Issuance of the AOP Permit	It is assumed that the potential for significant impacts would result in a Determination of Significance and an EIS would be prepared.
Notice of Intent/Construction Permit	Spokane Regional Clean Air Agency	New or modified air pollution sources are required to file a Notice of Construction application with the Spokane Regional Clean Air Agency	This is required for new sources of emissions. This triggers the need for a Prevention of Significant Deterioration Permit.
Prevention of Significant Deterioration Permit	Ecology	New, large facilities or changes at existing large facilities that could increase air pollution	This permit is required for construction.

Permit or Approval	Agency	Trigger	Notes
Critical Areas Review	Spokane County	Necessary for work occurring within any designated critical areas in Spokane County jurisdiction	The Spokane River is considered a critical habitat. No work is expected to occur in the river so submittal of a memorandum requesting verification that no permit would be needed is recommended.
Stormwater Permit	Spokane County	Necessary for excavation or grading of any area greater than or equal to 5,000 square feet	A Stormwater Permit application would need to be prepared and submitted to Spokane County for review.
Shoreline Permit	Spokane County	Necessary for work within a shoreline of the state	The Spokane River is a shoreline of the state, so a substantial shoreline development permit would likely be needed.
Demolition Permit (Requires Asbestos Report)	City of Millwood Planning Department and Permitting ¹	When a building is proposed for demolition	If needed, an application would be prepared and submitted to the Spokane Regional Clean Air Agency along with any required documentation (e.g., pre-demolition assessment, asbestos survey, or subsurface structure survey).
Building Permit (Excavation and Grading Permit)	Spokane County ²	Necessary for development within City of Millwood jurisdiction	A Building Permit application will be prepared and submitted to the City of Longview.

Notes:

1. Building permits, plan review, and building inspections are performed by Spokane County Building and Planning under a contract with the City of Millwood.
2. Additional permits for construction (e.g., stormwater construction permit, city tree ordinance, historic district) may be necessary from the City of Millwood or Spokane County.

AO: Agreed Order

AOP: Air Operating Permit

CWA: Clean Water Act

Ecology: Washington Department of Ecology

ESA: Endangered Species Act

FEMA: Federal Emergency Management Agency

HPA: Hydraulic Project Approval

N/A: not applicable

NEPA: National Environmental Policy Act

NHPA: National Historic Preservation Act

NMFS: National Marine Fisheries Service

USACE: U.S. Army Corps of Engineers

USFWS: U.S. Fish and Wildlife Service

WAC: Washington Administrative Code

WDFW: Washington Department of Fish and Wildlife

WQC: Water Quality Certification

Permitting Summary

Based on the assumptions listed previously, the lack of federal nexus would keep the permitting at the state and local level. The permits and approvals needed are listed in Table 2 and most are relatively straightforward. The exception is the Air Operating Permit (AOP) and supporting Prevention of Significant Deterioration Permit, which would be required to operate the facility.

The fact that the facility would generate less than 350 MW means that it does not fall under the Energy Facility Site Evaluation Council jurisdiction but falls under Washington Department of Ecology (Ecology) jurisdiction. Ecology works in partnership with Clean Air Agencies for granting AOPs, and this facility would fall under the jurisdiction of the Spokane Regional Clean Air Agency, which would oversee the process for granting the AOP.

As part of the AOP process and shoreline permit, a SEPA review of the facility would be required. SEPA is intended to ensure that environmental values and impacts are fully considered during decision-making by state and local agencies. SEPA directs state and local agencies to consider environmental information (impacts, alternatives, and mitigation) before committing to a particular course of action. It is assumed that the level of SEPA review for this facility would be an EIS. This assumption is based on the likelihood that the lead agency would issue a Determination of Significance for the project because of the potential for significant impact related to the level of greenhouse gas (GHG) emissions from the facility. Assuming the lead agency is Spokane County, it would be advisable to include Ecology in the EIS process, as an "agency with expertise." This provides a direct avenue for Ecology input in the process.

SEPA assessments include an analysis of impacts as an air pollutant; however, the scope and approach to these assessments, including the approach to analyzing GHG emissions, are determined on a case-by-case basis as determined by the SEPA lead agency. For more consistency in how these assessments approach the analysis of GHG emissions, Ecology is currently developing the GAP rule. The GAP rule is intended to provide consistent, predictable, and transparent consideration of GHG emissions related to industrial and fossil fuel projects (Washington Administrative Code [WAC] 173-445). It is assumed that this project would be required to comply with the GAP rule and follow the protocols being established under that rule. As currently proposed, those protocols include an environmental assessment of GHG emissions for the facility under operation and a full life-cycle analysis including inputs and outputs. It is assumed the assessment would also require an energy analysis for direct or indirect effects on energy supply, output, load, or other energy impacts associated with the project.

The GAP rule will require mitigation that outlines the "methods, procedures, protocols, criteria or standards for mitigation of greenhouse gas emissions, as necessary to achieve a goal of no net

increase in greenhouse gas emissions attributable to the project” (WAC 173-445). By purchasing credits to offset 100% of emissions, this project should comply with the upcoming GAP rule.

Based on the information provided to date, permitting this facility is feasible under current regulations. Of the required permits listed in Table 2, the AOP and Prevention of Significant Deterioration permits typically take the most time and require the most analysis; however, the bulk of this analysis could be done through SEPA EIS and incorporating the methods being considered for the GAP rule. The scope and approach to environmental process would be fairly standard and definitely “doable.” It’s not a question of if the project can be permitted but more a question of whether strong opposition causes delays in the process.

Timeline and Cost

Completing a SEPA EIS would likely take up to 2 years and would be the longest process to support environmental permitting. The GAP rule would be addressed as part of the SEPA review, along with the development of GHG mitigation. The SEPA EIS would be used by the permitting agencies to aid in determining whether to issue a permit(s) and to inform any conditions that may be required. Consequently, permits are issued after the completion of the SEPA process. The soonest permits can be issued after the completion of the SEPA process is 7 days; however, the SEPA lead often increases this time period to ensure adequate public notice is provided. The actual time period would be determined by the SEPA lead.

The most common reason for the SEPA process to take longer is public opposition to a project and the lead agency not being comfortable with the level of analysis related to the topic the public is concerned about. For this project, GHG emissions would likely be the issue of concern. Completing a thorough life-cycle analysis and not restricting the analysis to a narrow focus would increase the likelihood of addressing agency and public concerns and decrease the risk of legal challenge. The fact that this project would utilize IEP’s existing natural gas infrastructure and would not require a new lateral connection or pipeline expansion. It will be important to address how the facility will impact both emissions and energy from the overall perspective (i.e., how this project would replace or decrease emissions from current rates, and how the energy would shift, would need to be fully explained). For example, because IEP has proposed to fully offset the emissions from the project, reducing IEP’s purchases of electricity from Avista, to which GHG emissions are attributed and not offset, this project would likely be viewed as a net reduction to GHGs overall.

Purchasing full GHG offsets and decreasing total existing emissions would increase the likelihood of addressing agency and public concerns and provide a clear path for permits to be issued. Explaining how this project will fit into the State’s overall energy strategy to reduce GHG will also be integral to issuing permits. Table 3 summarizes the primary permits needed, timelines, and cost. Other permits

would be needed as noted in Table 2 but are not included in this summary due to the more routine nature of those permits.

Table 3
Summary of Environmental Permits Processes and Timelines for the Project

Permit or Approval	Agency	Process Time	Approximate Cost
AOP	Spokane Regional Clean Air Agency	Up to 1 year (it is expected that most permit processes would overlap with the SEPA process; however, no permits can be issued until SEPA is complete)	\$10,000 to \$50,000 ¹
SEPA Review	Spokane County	Typically, 1 to 2 years for an EIS (if there is large public opposition or complex analysis required, it can take longer)	\$500,000 to \$2M depending on the level of analysis needed and public comments
Notice of Intent/Construction Permit	Spokane Regional Clean Air Agency	2 to 6 months ²	\$10,000 to \$25,000 ¹
Prevention of Significant Deterioration Permit	Ecology	8 to 10 months ²	\$25,000 to \$100,000 ^{1,2}
Critical Areas Review	Spokane County	Up to 6 months	\$10,000 to \$25,000
Shoreline Permit	Spokane County	Up to 6 months	\$5,000 to \$15,000

Notes:

1. Most of the information needed for this permit would be completed as part of the SEPA process so the cost would be determined by the level of analysis needed for SEPA.
2. The level of controversy impacts both the timeline and cost of this permit. Some permits have taken more than 2 years and associated costs were higher.

Conclusion

Based on my understanding of the project and the regulatory process, I conclude this project would be permitted by the regulating agencies, albeit likely with conditions from Ecology or the County, such as monitoring and verification of emissions offsets. This conclusion is based on the assumptions provided and the expectation that a thorough analysis of the emissions of the facility, including a full life-cycle analysis, would be completed and GHG offsets are purchased. Additionally, it will be important to highlight how the project would fit into the overall state GHG strategy.