

SITE CERTIFICATION AGREEMENT

BETWEEN

THE STATE OF WASHINGTON,

GRAYS HARBOR ENERGY LLC

AND

GRAYS HARBOR ENERGY II LLC

GRAYS HARBOR ENERGY CENTER

LOCATED IN:

GRAYS HARBOR COUNTY, WASHINGTON

**Incorporating all provisions up to and including
AMENDMENT NO. 5**

EXECUTED OCTOBER 27, 1976

AMENDMENT NO. 1 MARCH 18, 1982

AMENDMENT NO. 2 MAY 21, 1996

AMENDMENT NO. 3 AUGUST 12, 1999

TECHNICAL AMENDMENT, RESOLUTION NO. 297, FEBRUARY 12, 2001

TECHNICAL AMENDMENT, RESOLUTION NO. 298, APRIL 13, 2001

TECHNICAL AMENDMENT, RESOLUTION NO. 309, APRIL 19, 2004

TECHNICAL AMENDMENT, RESOLUTION NO. 312, MARCH 24, 2005

AMENDMENT NO. 5, ORDER NO. 860, DECEMBER 21, 2010

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Site Certification Agreement

Between

**The State Of Washington,
Grays Harbor Energy LLC**

and

Grays Harbor Energy II LLC

for the

Grays Harbor Energy Center

Located In Grays Harbor County, Washington

PREAMBLE

This Site Certification Agreement is made and entered into pursuant to Chapter 80.50 of the Revised Code of Washington by and between the State of Washington (which is also referred to as the "State" in this document), acting by and through the Governor of the State of Washington, Grays Harbor Energy LLC, a Delaware limited liability company, and Grays Harbor Energy II LLC, a Delaware limited liability company, (referred to collectively as "Certificate Holders").

The initial Site Certification Agreement was executed on October 27, 1976, by Governor Daniel J. Evans and provided for construction and operation of Nuclear Projects No. 3 and No. 5. On March 18, 1982, Governor John Spellman approved Amendment No. 1, which included changes to the terms for the operation of emergency diesel generators for Projects No. 3 and No. 5. On May 21, 1996, Governor Mike Lowry approved an Amended Site Certification Agreement incorporating Amendment No. 2, which provided authorization and the terms and conditions for construction and operation of the combustion turbine project. On August 12, 1999, Governor Gary Locke approved Amendment No. 3 which removed the terms and conditions for Nuclear Projects No. 3 and No. 5 (WNP-3 and WNP-5), but retained the terms and conditions for the combustion turbine project.

On February 12, 2001, the Energy Facility Site Evaluation Council (referred to as the "Council" in this document) approved by resolution the addition of Duke Energy as a co-agreement holder with Energy Northwest. On April 13, 2001, the Council approved, by resolution, technical changes to the project description.

On November 19, 2001, Energy Northwest and Duke Energy submitted an application to amend this Site Certification Agreement, which would have been Amendment No. 4, but they later withdrew the amendment request.

On April 19, 2004, the Council approved, by resolution, technical changes to clarify provisions related to water use. On March 24, 2005, the Council approved a resolution removing Energy Northwest from the Site Certification Agreement and naming Grays Harbor Energy LLC, as the successor to Duke Energy Grays Harbor Energy, LLC, as the Certificate Holder.

On _____, Governor Christine Gregoire approved Amendment No. 5, which authorized the construction and operation of two additional gas-fired turbines, an additional steam turbine generator and associated facilities at the Grays Harbor Energy Center (GHEC) and added Grays Harbor Energy II LLC as a co-Certificate Holder.

The Grays Harbor Energy Center consists of up to four gas-fired combustion turbine units and two steam turbine-generators, and associated facilities. The project is located on a 22-acre site within a prior construction laydown area on the former Satsop Nuclear Power Plant Site. The balance of the former nuclear site has been transferred to the Grays Harbor Public Development Authority ("PDA"), a political subdivision of Grays Harbor County, to pursue economic development activity pursuant to county ordinances and RCW 80.50.300. Grays Harbor Energy LLC owns the 22-acre Project site and has agreements with the PDA to ensure that all facilities and/or systems necessary to support the construction and operation of the project are available.

This Site Certification Agreement is administered on behalf of the State by the Energy Facility Site Evaluation Council, also referred to as "EFSEC" or the "Council" in this document.

The parties hereto now desire to set forth all terms, conditions, and covenants relating to such site certification in this Site Certification Agreement pursuant to the provisions of RCW 80.50.100(1).

ARTICLE I: DEFINITIONS

"Approval" (by EFSEC) means an affirmative action by EFSEC or its properly-authorized agents, regarding documents, plans, designs, programs, or other similar requirements submitted pursuant to this Agreement.

"Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting the facility with existing energy and fuel supply, processing, or distribution systems, including, but not limited to, the natural gas fuel line from the Grays Harbor Energy Center metering point to the turbines, utility connections, and the electrical power lines connecting the Grays Harbor Energy Center to existing Bonneville Power Administration electrical transmission lines. The project does not include a natural gas delivery system, other than those elements under the Certificate Holders' control and located on the generating facility site.

"Commencement of construction" means the initiation or beginning of any actual construction activities such as form work, rebar, or pouring concrete for a unit's major components (e.g., the combustion turbine), but excludes site preparation.

"EFSEC" or "Council" means the State of Washington Energy Facility Site Evaluation Council created by Chapter 80.50 RCW, or such other agency or agencies of the State of Washington as may hereafter succeed to the powers of EFSEC for the purpose of this Agreement.

"Certificate Holder" means Grays Harbor Energy LLC after March 24, 2005. After December 21, 2010, "Certificate Holder" means both Grays Harbor Energy LLC and Grays Harbor Energy II LLC, jointly and severally.

"Site Certificate Agreement" or "SCA" refers to this agreement.

"Site preparation" means grading, excavation, and preparation of lay down areas prior to commencement of construction.

"Units 1 and 2" means the energy generation facility, consisting of two combustion turbine generators, one steam generator, and associated facilities, the construction of which was completed in 2008.

"Units 3 and 4" means two additional combustion turbine generators, one steam generator and associated facilities authorized to be constructed and operated pursuant to Amendment No. 5 of this Agreement.

"Will" in this agreement when referencing an action to be taken by the Certificate Holder, means that the certificate holder is obligated to perform the action as set out in the relevant text.

ARTICLE II SITE CERTIFICATION

A. Site Description

The site for the Grays Harbor Energy Center is located in Grays Harbor County, Washington, south of the Chehalis River near the town of Satsop, and is more particularly described in Attachment I, which is incorporated herein by this reference.

B. Site Certification

1. The State authorizes the combined cycle combustion turbine generating project, known as the Grays Harbor Energy Center, and as described below, to be located, constructed, and operated in the locations described in Section I.A.1 and I.A.2.
 - a. The project consists of up to four natural gas-fired turbine units, up to two steam turbine-generators, and associated facilities. Two gas turbines, one steam turbine and associated facilities (Units 1 and 2) were constructed and commenced commercial operation pursuant to the applicable Site Certification Agreement in 2008. The Certificate Holders are authorized to construct and operate two more gas turbines, another steam turbine and associated facilities (Units 3 and 4).
 - b. The combustion turbine generators (CTGs) will be General Electric Frame 7FA turbines, arranged in two 2x1 combined cycle configurations with General Electric D11 steam turbines. Each combustion turbine unit will have a nominal capacity of 175 megawatts and shall have a heat recovery steam generator (HRSG). Each steam turbine generator (STG) will have a capacity of approximately 300 megawatts. Dry Low NO_x Combustors in combination with Selective Catalytic Reduction (SCR) shall be used to minimize the formation of nitrogen oxides (NO_x). An oxidation catalyst shall be used to control carbon monoxide (CO) and volatile organic compounds (VOC) emissions. Cooling will be provided by two cooling towers, one consisting of nine cells (Units 1 and 2) and a second consisting of ten cells (Units 3 and 4).
 - c. Natural gas will be used as the fuel. Natural gas will be delivered through a 48-mile pipeline, owned and operated by Northwest Pipeline Corporation.
 - d. The electrical output of each unit will be delivered through the Bonneville Power Administration's high-voltage system to the existing Bonneville Power Administration Satsop substation.
2. This Site Certification Agreement authorizes the Certificate Holders to begin construction of Units 3 and 4 within ten (10) years of the execution of Amendment No. 5. If construction of Units 3 and 4's major components has not been commenced within ten (10) years of the execution of Amendment No. 5, all rights under this Site Certification Agreement to construction and operation of Units 3 and 4 will cease.

If the Certificate Holders do not begin construction of Units 3 and 4 within five (5) years of the execution of Amendment No. 5, the Certificate Holders will report to the

Council their intention to continue and will certify that the representations in the application, environmental conditions, pertinent technology and regulatory conditions remain current and applicable, or identify any changes and propose appropriate revisions in the Site Certification Agreement to address changes. Construction may begin only upon prior Council authorization, upon the Council's finding that no changes to the Site Certification Agreement are necessary or appropriate, or upon the effective date of any necessary or appropriate changes to the Site Certification Agreement.

Further, if the Certificate Holders do not begin construction of Units 3 and 4 within five (5) years of the execution of Amendment No. 5 and the Council has adopted by rule changes to the standards governing "construction and operation for energy facilities" specified in WAC chapter 463-62, the construction and operation of Units 3 and 4 will be governed by the regulations in effect at the time the Council authorizes construction to proceed.

ARTICLE III. GENERAL CONDITIONS

A. Legal Relationship

1. This Site Certification Agreement is made in lieu of any permit, certificate or similar document required by any department, agency, division, bureau, commission, board, or political subdivision of this state.
2. This Agreement shall bind the Certificate Holder, and its successors in interest, and the State and any of its departments, agencies, divisions, bureaus, commissions, boards, and its political subdivisions, subject to all the terms and conditions set forth herein, as to the approval of, and all activities undertaken with respect to, the Project or the Site. For regulatory purposes, the co-owners of the Project, Grays Harbor Energy LLC and Grays Harbor Energy II LLC, agree that they are jointly and severally responsible for the operation of the facility as a single entity under this Agreement, and for compliance with all provisions of this Site Certification Agreement. All references in this document to “certificate holder,” “applicant,” or similar term, unless the context requires otherwise, refers to either or both entities as their interests may appear, so as to provide seamless authority and responsibility for regulatory purposes. The Certificate Holder shall ensure that any activities undertaken with respect to the Project or the Site by its agents (including affiliates), contractors, and subcontractors comply with this Agreement. The term “affiliates” includes any other person or entity controlling, controlled by, or under common control of or with the Certificate Holder.
3. Liquid discharges from the project to navigable waters shall be made in accordance with the National Pollution Discharge Elimination System (NPDES) permit issued by the Council (Attachment II to this Agreement, or as reissued by the Council).
4. Emissions from Units 1 and 2 into the atmosphere of gases or substances will be made in accordance with the Prevention of Significant Deterioration (PSD) permit issued by the Council (Attachment V to this Agreement or as reissued by the Council). Emissions from Units 3 and 4 into the atmosphere of gases or substances will be made in accordance with the PSD permit issued by the Council (Attachment VI to this Agreement or as reissued by the Council).
5. This Site Certification Agreement is subject to federal laws and regulations applicable to the project and to the terms and conditions of any permits and licenses which may be issued to the Certificate Holders by appropriate federal agencies.
6. This document, which results from the cumulative actions of Project sponsors and the State of Washington as recited above, is intended to remove all superseded or irrelevant provisions and to incorporate all relevant existing provisions or conditions resulting from the original application, all applications for amendment, and all resolutions of the Council. To the extent any relevant provision is inadvertently omitted, it is nonetheless the intention of the parties to this document that such provision be interpreted to remain in full force and effect. In the event the Council identifies an inadvertent omission, it will promptly correct the omission by resolution.

7. This Site Certification Agreement constitutes the whole and complete agreement between the parties and supersedes any other negotiations, representations or agreements, whether written or oral, or not set forth herein.

B. Enforcement

1. This Site Certification Agreement may be enforced by means of all remedies available at law or in equity.
2. This Site Certification Agreement may be revoked, suspended, or modified by the State for failure by the Certificate Holders to comply with any of the terms and conditions attached, or for violations of Chapter 80.50 RCW, regulations issued there under, any applicable state or federal laws or regulations, or for violation of any order of the Council, pursuant to the provisions of Chapters 80.50 and 34.05 RCW and Title 463 WAC.
3. When any action of the Council is required by or authorized in this Site Certification Agreement, the Council may, but will not be required to, conduct a hearing pursuant to Chapter 34.05 RCW. If the Council grants a hearing to consider withholding or refusing approval of a required or requested action, the hearing will be conducted pursuant to Chapter 34.05 RCW.

C. Notices and Filings

Filing of any document or notice required by this Site Certification Agreement with the Council will be deemed to have been duly made when delivered to the Council's offices in Olympia, Washington. Notice to be served upon the Certificate Holders will be deemed to have been duly made when deposited in first class mail, postage prepaid, addressed to each Certificate Holder at the address on file with the Council.

D. Right of Inspection

The Certificate Holders agree to provide access to the Grays Harbor Energy Center and all associated facilities to designated representatives of the Council in the performance of their official duties.

E. Site Certification Agreement Compliance Monitoring and Costs

The Certificate Holders will pay to the Council such reasonable costs as are actually and necessarily incurred for the monitoring and compliance activities during the construction and operation of the project as authorized in this Site Certification Agreement and as required in Chapter 80.50 RCW. EFSEC will prescribe the amount and manner of such payment subject to applicable rules and procedures.

F. EFSEC Liaison

The Certificate Holders will designate one or more persons to act as a liaison between the Council and the Certificate Holders for matters relating to the Grays Harbor Energy Center. If the Certificate Holders designates more than one person, notice to or communication by the Council with one shall constitute notice to or communication with all.

G. Site Restoration

1. The Certificate Holders are responsible for site restoration pursuant to Council rules.
2. At least three months prior to beginning construction of Units 3 and 4, the Certificate Holders will present to the Council a modified site restoration plan reflecting the construction of Units 3 and 4, and showing any changes necessary to the previously approved site restoration plan in light of the construction and operation of those units. Construction of Units 3 and 4 may not begin until the Council has approved a plan adequately providing for site restoration and the funding of site restoration of the entire Grays Harbor Energy Center or any part thereof in the event the project is terminated before it has completed its planned useful operating life.

H. Modification of Site Certification Agreement

1. This Site Certification Agreement may be amended pursuant to Council rules and procedures then in effect, and in like manner as the development of the original Site Certification Agreement, including, but not limited to, obtaining approval of the Governor. Any amendments to this Site Certification Agreement will be made in writing. Alteration that does not substantially alter the substance of the Agreement may be accomplished by resolution of the Council pursuant to WAC 463-66-070. Alteration shall occur as a matter of law after five years if the Council adopts by rule changes to its standards governing “construction and operation for energy facilities” as specified in WAC 463-62 and the Certificate Holder has not then commenced construction of Units 3 and 4.
2. Any change of the terms or conditions of a PSD or NPDES Permit or this Site Certification Agreement required by federal law or regulations will be governed by applicable law and regulation and will not require modification of this Site Certification Agreement in the manner prescribed in H.1, above. Any changes in the terms or conditions of Attachment I – Site Legal Description; and Attachment III – Water Withdrawal Authorization; shall not require modification of this Site Certification Agreement in the manner prescribed in H.1 above, unless otherwise required by Council rules or regulations.
3. In circumstances where the Council believes that a significant degree of unforeseen adverse impact on the environment exists or is imminent as a result of the operation or condition of the Grays Harbor Energy Center, the Council may impose specific conditions or requirements upon the Certificate Holders in addition to the terms and conditions of this Site Certification Agreement as a consequence of those circumstances. Such additional conditions or requirements will be effective only while needed to protect the public health, safety or welfare from the adverse

circumstances, for not more than 90 days, and may be extended for additional 90-day periods if deemed necessary by the Council.

ARTICLE IV. PROJECT CONSTRUCTION

A. Construction Commencement and Reporting

1. Construction Schedule and Environmental Monitoring

- a. Sixty days prior to beginning site preparation of Units 3 and 4, the Certificate Holders will submit an overall construction and site preparation schedule. The construction schedule will provide a good faith basis to believe that construction of Units 3 and 4 will be completed within twenty-two (22) months of beginning construction. After beginning construction, the Certificate Holders will submit a quarterly Construction Progress Report to the Council, within 30 days after the end of each calendar quarter until construction is completed.
- b. The Certificate Holders agree to notify the Council immediately in the event of any significant change in the construction schedules on file with the Council.
- c. EFSEC will retain, prior to commencement of site preparation and construction, a qualified firm or individual as environmental monitor. The environmental monitor will be available to assist in resolution of environmental concerns during construction; will verify that development complies with all conditions and requirements of this Agreement; and will personally inspect the site and the activities under this Agreement at appropriate intervals and stages to reasonably ensure compliance.

2. Plans and Specifications

- a. The Certificate Holders will submit to EFSEC or its designated representative for approval, at the appropriate time, prior to the commencement of construction, those design documents that demonstrate compliance with all conditions and requirements of this Site Certification Agreement. The design documents will include, but are not limited to, conceptual design studies, flow diagrams, system descriptions, detailed design drawings and specifications as appropriate, and vendor guarantees for equipment and processes.
- b. The Certificate Holders will design the proposed facility to comply with requirements for construction in Seismic Zone 3.
- c. Project buildings and structures will comply with requirements of the approved design and construction plans, and the building code in effect at the time of construction.

B. Aesthetics and Landscaping

1. The Certificate Holders agree to construct Units 3 and 4 in a manner aesthetically compatible with the existing facility and the adjacent area.
2. One screening berm has been built and landscaped between the Grays Harbor Energy Center and Keys Road. The Certificate Holder will maintain the berm landscaping in an appropriate manner.

C. Surface Run-off and Erosion Control

1. The Certificate Holders will apply for coverage under a National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit. The Certificate Holders will comply with all applicable permit requirements.

D. Transmission Lines

1. Associated transmission lines will connect the project to the Northwest Power grid at the Bonneville Power Administration Satsop Substation. The transmission lines will be placed in the existing Bonneville Power Administration rights of way.
2. All associated electrical transmission and service lines will comply in design and construction with all applicable state, federal, and industry standards. In the event of inconsistency among applicable standards, the most stringent standard will apply.

E. Construction Clean-Up

The Certificate Holders agree upon completion of construction to dispose of all temporary structures not required for future use. The Certificate Holders also agree to dispose of used timber or brush, refuse or flammable material resulting from the clearing of lands or from the construction of the project in a manner approved by the Council.

F. As-Built Drawings

The Certificate Holders agree to provide or to allow access by the Council or its designated representatives, on request, to complete sets of as-built drawings for the project.

G. Archaeological Site Protection

1. The Certificate Holders agree to coordinate with the Council and Tribes to develop an acceptable cultural resources monitoring plan, and will implement the plan during construction of the project.
2. The Certificate Holders agree to halt relevant construction activity immediately and report to the Council, Tribes and the Department of Archaeological and Historic Preservation all archaeological or historical findings made during the course of excavation and construction.

3. The Certificate Holders agree to consult with the Council to arrange for preservation of artifacts and for interpretation of any archaeological or historical site discovered in the course of any construction.

H. Construction Phase Spill Prevention and Countermeasures Plan

Three months prior to beginning construction of Units 3 and 4, the Certificate Holders will submit for Council review and approval any necessary modifications of the spill prevention and countermeasure plan that complies with applicable state and federal regulations and provisions of the project's NPDES permit. This program will address oil/chemical storage, containment, site security and personnel training. The program shall also address measures that will be taken to control and contain discharge, cleanup actions, notification of appropriate agencies and a list of available cleanup materials.

I. Septic System for the Project

The Certificate Holders shall be permitted to construct, maintain, and operate a septic system. The Certificate Holder will provide verification to the Council prior to commencement of construction of Units 3 and 4 that the septic system for the proposed expanded facility will comply with applicable county codes.

J. Noise during Construction

1. No construction activities are permitted on Sundays, legal holidays, or between 10:00 p.m. and 6:00 a.m. within 1000 feet of an occupied residential dwelling.
2. All construction equipment will have noise control devices no less effective than those provided originally by the equipment's manufacturer.
3. Pile driving or blasting operations shall not be permitted within 3,000 feet of an occupied residential dwelling on Sundays or legal holidays or between 8:00 p.m. and 8:00 a.m. on other days.
4. Notice of the proposed construction schedule and locations will be well publicized in the area, and nearby residents shall be notified in advance of the anticipated schedule for especially noisy activities, such as blasting or steam blows

K. Construction Traffic

The Certificate Holders shall develop a Traffic Management Plan in consultation with the Grays Harbor County Department of Public Works, and submit it to the Council for approval. The plan shall include measures to encourage construction traffic to use the Wakefield-Lakefield corridor to minimize traffic at the Highway 12-Keys Road intersection, address pedestrian traffic leaving the construction site, and provide for reasonable access to side roads during periods when project-related traffic or construction equipment may impede such access.

L. Fugitive Dust

Fugitive dust will be controlled by spraying water on dry earth in the active construction areas.

ARTICLE V. OPERATION OF THE PROJECT

A. Water Withdrawal

1. The Certificate Holders are hereby authorized to withdraw water to be used for the operation of the project as follows:

For Units 1 and 2, the Grays Harbor Energy Center is authorized to withdraw a total of 9.2 cubic feet per second of water from the Ranney wells pursuant to the water authorization in Attachment III, incorporated by this reference. If needed, the Certificate Holders may obtain additional water from another valid water right holder, such as the Grays Harbor Public Development Authority ("PDA").

Following construction of Units 3 and 4 of the Grays Harbor Energy Center, the Certificate Holders may withdraw up to a total of 16 cubic feet per second of water. This water may be supplied through a combination of withdrawals authorized by Attachment III and water obtained from another valid water right holder. The Certificate Holders will notify EFSEC of the source of water to be used for operation of the facility prior to commencing construction of Units 3 and 4, and prior to any change in the source of water.

2. The Certificate Holders are authorized to withdraw up to 300 gallons per minute from ground water in an area near the confluence of the Chehalis and Satsop rivers from a well known as the raw water well. Withdrawal of water from this well for any uses other than domestic supply and fire suppression will be limited to 300 gallons per minute and will be limited by restrictions set forth in Attachment III on withdrawals during periods of low flows.
3. Should the withdrawal for operation of the project impair senior water rights, the Certificate Holders agree to compensate the holder of such rights for the impairment, and to take necessary measures to prevent recurrence or continuation of such impairment.
4. Withdrawal of water pursuant to Attachment III will be adjusted as necessary to ensure that the project does not affect the minimum base flows immediately downstream of the point of diversion. The required minimum base flows are established in Chapter 173-522-020, Washington Administrative Code, and set forth in Attachment III. This authorization is also subject to the provisions of Chapter 173-522 and Chapter 173-500, Washington Administrative Code.
5. During periods in which the withdrawal restrictions set forth in Attachment III are in effect, the Certificate Holders may continue to operate the Grays Harbor Energy Center using water purchased from the PDA or from other water rights holders, so long as the water purchased is derived from water rights that are not subject to base flow restrictions. The Certificate Holders will submit annual reports to EFSEC, Ecology and WDFW indicating when base-flow restrictions were in effect, and describing the measures taken to comply with the base flow restrictions during those periods.

6. The Certificate Holders may use stored water in order to provide the necessary water for the project during the low flow periods set forth in Attachment III, or may obtain water from other holders of valid water rights that are not subject to minimum base flow requirements.

B. Water Discharge

All discharges by the Certificate Holders to state waters shall be in accordance with Chapter 90.48 RCW, this Site Certification Agreement, and the NPDES Permit, as issued by the Council and attached hereto as Attachment II, and as may be later amended by the Council.

C. Emissions Into Air

1. The Certificate Holders will operate Units 1 and 2 of the project so that all emissions to the atmosphere will comply with the Approval of Notice of Construction and Prevention of Significant Deterioration Application as set forth in Attachment V, attached and incorporated by this reference. The Certificate Holders will operate Units 3 and 4 so that all emissions to the atmosphere will comply with the Approval and Notice of Construction and Prevention of Significant Deterioration Application as set forth in Attachment VI, attached and incorporated by this reference.
2. The Certificate Holders will properly operate and maintain in good working order all air pollution control equipment and monitoring equipment required in Attachments V and VI.
3. The Certificate Holders will be subject to the time limitations for construction and renewal conditions as set forth in Attachments V and VI.

D. Lighting

In specific locations where glare or light spillover would impact Keys Road or be visible to nearby residences, lighting angles will be adjusted to minimize glare impacts, or supplemental light shields/vegetation will be used for extra screening.

The Certificate Holders will minimize nighttime lighting that is not essential for operations, safety and security, and will direct lighting downward or install shielding where practical.

E. Noise during Operation

1. Units 1 and 2 have been designed and constructed so that the combustion turbines and several other major sources of sound are enclosed within structures containing acoustical damping and/or surrounded by acoustical enclosures or walls. Acoustically absorptive insulation has been installed on the duct walls of the combustion turbine air intake system; silencers have been installed in the air flow path of the enclosure ventilating systems, and acoustically absorptive silencers have been installed on several emergency relief valves. By June 15, 2011, the Certificate Holders will install the following additional acoustical mitigation devices on Units 1 and 2:

- Acoustical walls around the combustion turbine exhaust transition pieces;
- Silencers in four combustion turbine enclosure ventilation systems; and
- Silencers on one auxiliary steam relief valve and four cold reheat steam valves.

Within six months after installation of additional acoustic devices specified above, the Certificate Holder must conduct a least-cost verification noise study of Units 1 & 2. Prior to conducting the study, the Certificate Holder must submit the least-cost verification study plan to the Council for approval.

2. The project will comply with the maximum noise limits set forth in WAC 173-60-040, as adopted by the Council in WAC 463-62-030. If the Certificate Holder begins construction of Units 3 and 4 more than five (5) years after the execution of Amendment No.5, and in the interim, the Council has amended the noise standard set forth in WAC 463-62-030, the amended standard will apply to the expanded project.
3. Before commencement of construction of Units 3 and 4, and in adequate time to incorporate sound suppression measures into the development of design of Units 3 and 4, the Certificate Holders will retain a qualified acoustical specialist to conduct a field study of Units 1 and 2 to identify additional, reasonable, cost-effective mitigation measures that could be implemented with the construction of Units 3 and 4 to further reduce project noise below the maximum noise limits. The field study will focus on reducing or avoiding sounds annoying nearby residents, rather than merely on reducing A-weighted decibel levels. The Certificate Holder will submit the draft study report to the Council for its review.
4. The Certificate Holders will retain an acoustical specialist to take noise measurements during performance testing of Units 3 and 4 prior to commercial operation. The results of these measurements will be used to determine whether additional acoustical barriers are necessary along the property boundaries, or if in-lieu mitigation waivers are needed from adjacent property owners.
5. After commencement of commercial operation of Units 3 and 4, the Certificate Holders will retain a qualified acoustical specialist to conduct a noise monitoring study to determine whether the expanded facility complies with the maximum noise limits set forth in WAC 173-60-040, as adopted by the Council in WAC 463-62-030.
6. The Certificate Holders have implemented a procedure for recording and responding to communications from nearby residents concerning project noise. The Certificate Holder will report to the Council on a monthly basis regarding noise complaints, responses and follow-up actions.
7. Irrespective of whether the volume of resulting noise is above or below the applicable regulatory noise limits, the Certificate Holders shall maintain all noise suppression equipment and features in good working order and shall use them during all relevant operations of the Project.

ARTICLE VI. PUBLIC AND ENVIRONMENTAL PROTECTION

A. Emergency Plans

The Certificate Holders will develop an Emergency Response Plan describing the methods, means, and resources available to provide for employee safety in the event of emergencies including fire or explosions, in association with the project. No later than three months prior to first operation of the combustion turbines, the plan will be submitted for Council review and approval. In preparing the plan, the Certificate Holders must agree to:

1. Coordinate such plan with local, state and federal agencies directly involved in implementing such a plan.
2. Follow the requirements of WAC 296-24-567 and 296-62-3112 and 29 CFR 1910.38, Emergency Action Plan.
3. Include detailed provisions for public health and safety, emergency medical treatment, special emergency training programs and prevention of property damage.
4. Provide the Council with lists of emergency personnel, communication channels and procedures, and update the information when any changes occur.
5. All employees, contractors, and visitors will be covered by the plan.
6. The Certificate Holder will update the plan and submit it to the Council every two years from the date of the approved amendment.

B. Security Plan

The Certificate Holders will submit a comprehensive physical Security Plan for the protection of the site and project facilities.

C. Spill Prevention Control and Countermeasure Plan

The Certificate Holders will maintain and implement a Spill Prevention, Control and Countermeasure (SPCC) Plan, approved by the Council, consistent with the requirements of the NPDES Permit and with requirements of applicable state and federal laws and rules. The SPCC plan is to be approved by a Professional Engineer and include the amount and type of oils and hazardous materials to be stored at the project site, patterns of usage, transfer procedures and other factors which will indicate the magnitude of spill notification requirements. This SPCC plan shall also describe procedures for securing valves, type of gauges, dike size and design, site security, lighting, alarms, spill response materials and equipment, inspection procedures, personnel training, emergency procedures and spill notification requirements. This SPCC plan shall be submitted to the Council and its designated representatives within one year of beginning construction of the project, and shall be updated at intervals no longer than every two years.

D. Explosions

The Project will be equipped with detectors to provide warning of the release of flammable or explosive gases. The detection system must be described in the final design plans.

ARTICLE VII. MISCELLANEOUS PROVISIONS

A. Discharge of Pollutants

All discharges into waters of the State of Washington must comply with the requirements of an NPDES Permit issued by the Council, pursuant to Chapter 90.48 RCW.

B. Greenhouse Gases and Carbon Dioxide Mitigation

1. The Council has approved a mitigation plan for carbon dioxide emissions associated with the operation of Units 1 and 2.
2. If a comprehensive federal or state mitigation program is implemented, the Council reserves the right to exercise its authority under that program considering and appropriately crediting any measures that the Certificate Holders have accomplished.
3. The Certificate Holders are required to mitigate carbon dioxide emissions from Units 3 and 4 in accordance with RCW chapter 80.70 and Chapter 463-80 WAC. Within 120 days of commencing commercial operation of Units 3 and 4, the Certificate Holders will make a mitigation payment to an independent qualified organization approved by EFSEC in an amount that satisfies the mitigation obligation. Certificate Holders will require the independent qualified organization to consult with Grays Harbor County and provide preference and priority for mitigation projects located within Grays Harbor County.
4. Attachment VII to this Agreement contains preliminary calculations determining the amount of carbon dioxide mitigation payments to be made by Certificate Holders.

C. Attachments

Attachments hereto by this reference are included in the Site Certification Agreement:

- I. Site Legal Description
- II. National Pollution Discharge Elimination System Permit
- III. Water Withdrawal Authorization
- IV. GHE Noise Mitigation Commitment Letters of July 9, 2010 and August 30, 2010.
- V. Final Approval Notice of Construction and Prevention of Significant Deterioration Application for Units 1 and 2
- VI. Final Approval Notice of Construction and Prevention of Significant Deterioration Application for Units 3 and 4
- VII. Carbon Dioxide Mitigation Calculations
- VIII. Errata Sheet – February 2011

SIGNATURES

Dated and effective this 18th day of February, 2011.

FOR THE STATE OF WASHINGTON



Governor Christine Gregoire

FOR GRAYS HARBOR ENERGY LLC

FOR GRAYS HARBOR ENERGY II LLC
