

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the Petition of)	
COLUMBIA RIVERKEEPER)	DOCKET NO. _____
)	
For a Declaratory Order Re: Jurisdiction Over)	PETITION FOR DECLARATORY
KALAMA METHANOL)	ORDER
MANUFACTURING AND EXPORT)	
<u>FACILITY.</u>)	

1. Name and Address of Petitioning Party:

Columbia Riverkeeper
111 Third Street
Hood River, OR 97031
(541) 490 – 0487

2. Statutes at Issue:

RCW 80.50.020(12)(f)—definition of energy plant
RCW 80.50.020(11)—definition of energy facility
RCW 80.50.060(1)—energy facilities to which chapter applies

INTRODUCTION

3. The Washington legislature created the Energy Facility Site Evaluation Council (“the Council”) to balance growth in energy demands with public and environmental protection and to establish consistent state-wide procedures for selecting and approving energy facility sites. RCW 80.50.010. The legislature found that Washington citizens deserve a review process designed “to preserve and protect the quality of the environment; to enhance the public’s opportunity to enjoy the esthetic and recreational benefits of the air, water and land resources; to

promote air cleanliness; and to pursue beneficial changes in the environment.” RCW 80.50.010(2).

4. To effectuate these goals, petitioner Columbia Riverkeeper (“Riverkeeper”) requests a declaratory order stating that the Council, not Cowlitz County, has jurisdiction over Northwest Innovation Works’ (“NWIW”) proposal to build a natural gas-to-methanol refinery and export terminal at Kalama, Washington.

5. NWIW, a company controlled by the Chinese government, seeks to take advantage of Washington’s cheap natural gas, water, and electricity to manufacture methanol for export to China. NWIW’s proposal would include construction of a 90-acre methanol refinery at the Port of Kalama, a massive new dock and dredging in the lower Columbia River, and increased ship traffic through the Columbia River estuary. The methanol refinery would use gas extracted through hydraulic fracking, generate hazardous air pollutants, and consume millions of gallons of groundwater every day.

6. To supply NWIW’s methanol refinery with natural gas, Northwest Pipeline LLC proposes building a 3.1-mile pipeline through a pioneer cemetery and residential properties in Cowlitz County. Northwest Pipeline LLC has requested, and received, approval from the Federal Energy Regulatory Commission to seize private and public lands via eminent domain in order to construct the natural gas pipeline.

7. NWIW’s proposal falls under the statutory definition of “energy plants” over which the Council has jurisdiction. *See* RCW 80.50.020(12). Specifically, NWIW’s proposed methanol refinery is a facility “capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products” *See* RCW 80.50.020(12)(f). Natural gas is a form of petroleum that, under NWIW’s proposal, would be refined into methanol. The

methanol refinery would receive more than 100,000 barrels per day of methane, the primary component in natural gas.

FACTUAL BACKGROUND

8. On April 9, 2014, NWIW and the Port of Kalama executed a lease for the construction and operation of the methanol refinery and export terminal. On October 31, 2014, the Port of Kalama and Cowlitz County issued a determination of significance under the State Environmental Policy Act for NWIW's proposal. On March 3, 2016, the Port of Kalama and Cowlitz County issued a draft Environmental Impact Statement ("Draft EIS")¹ describing the methanol refinery. A final Environmental Impact Statement is not expected to be published for several months.

9. NWIW has submitted applications or pre-application materials to Cowlitz County for land use and shorelines permits, to the Washington State Department of Ecology for permits under the Clean Water Act, and to the Southwest Clean Air Agency for a permit under the Clean Air Act. None of these agencies have made decisions about NWIW's applications or even published draft permits for public review.

REQUIREMENTS FOR A PETITION FOR A DECLARATORY ORDER: RCW 34.05.240(1); WAC 463-34-070

10. Pursuant to state law, any petition for a declaratory order must demonstrate that a controversy necessitating resolution exists; that the requested order will not be an advisory opinion; that the identified controversy adversely affects the petitioner; and that the harm to the petitioner from the existing controversy outweighs any adverse effects that would result from the requested order. RCW 34.05.240(1)(a)–(d).

¹ Available online at: <http://kalamamfgfacilitysepa.com/>.

A. Need for Resolution

11. The Council should formally and expeditiously resolve which Washington agencies have jurisdiction over NWIW's proposal. *See* RCW 34.05.240(1)(a). Because state and local regulatory decision-making processes have not begun in earnest, the Council has a window of opportunity to clarify the Council's jurisdiction and assert regulatory control over the permitting of NWIW's proposal.

B. Actual Controversy

12. There is an actual controversy regarding this jurisdictional issue, not just a theoretical dispute. *See* RCW 34.05.240(1)(b). When NWIW initially proposed constructing methanol refineries in Washington, Council Chair Bill Lynch and staff believed that such projects fell within the Council's jurisdiction. *See* Exhibit 1. NWIW and the Port of Kalama² believe that the Council lacks jurisdiction over NWIW's proposal. *See* Exhibits 2, 3, 4, 5, and 6. This fundamental dispute has real consequences for the parties because this jurisdictional question determines the standards and process for permitting the methanol refinery and terminal. If the Council assumes jurisdiction over NWIW's proposal, the permitting standards and process will be substantively different from, and more inclusive of public participation than, Cowlitz County's permitting processes.

C. Uncertainty Adversely Affects Petitioner

13. The Council's failure to assert jurisdiction over the proposed Kalama methanol refinery injures Riverkeeper and its members in several ways. *See* RCW 34.05.240(1)(c). First, construction and operation of the refinery, pipeline, and export terminal will adversely impact the Columbia River ecosystem that Riverkeeper and its members use, enjoy, and work to protect.

² The Port of Kalama has asserted that it is a lead SEPA agency; the Port of Kalama would not be a lead SEPA agency if the Council has jurisdiction over NWIW's project. *See* WAC 197-11-938(1).

Second, construction and operation of the methanol refinery and export terminal will increase deep-draft vessel traffic with attendant increases in pollution, delays, and safety hazards that will impact fishing and recreational access on the Columbia River. Third, operation of this project will result in significant increases in Washington State's natural gas consumption and contribution to global emissions of greenhouse gases. The proposal's many impacts will harm Riverkeeper and its members' commercial, recreational, conservation, aesthetic, spiritual, and other interests.

D. No Adverse Effects From the Requested Order

14. The adverse effect of the jurisdictional uncertainty on Riverkeeper "outweighs any adverse effects on others or on the general public that may likely arise from the order requested," RCW 34.05.240(1)(d), because there would be no adverse effects if the Council asserts jurisdiction. On the contrary, everyone benefits from a clear order by the Council. If the Council asserts jurisdiction, the result will be a thorough, transparent review process followed by a decision about NWIW's proposal made by the proper authority.

15. A declaratory order from the Council on jurisdiction could prevent future litigation and delay. There are two avenues to receive a formal opinion on jurisdiction over NWIW's methanol refinery. If the Council does not act on this petition, Riverkeeper or others would be left to challenge—for lack of jurisdiction—local and state permits issued for the methanol refinery over the coming years. It would be more efficient to resolve jurisdictional questions before various permitting processes have substantially begun, much less concluded.

16. Besides avoiding confusion and delay, the public would substantially benefit from the Council reviewing NWIW's proposal. First, with Council jurisdiction, the level of review will reflect the level of impact—state-wide review for a project impacting the entire state. Second, there will be greater transparency and opportunity for public input during the review, a

necessary component of a permitting process with such significant consequences for Washingtonians. RCW 80.50.090. Another important effect of the Council jurisdiction would be the appointment of an assistant attorney general as a counsel for the environment. RCW 80.50.080. It is crucial that the environment have a representative during the consideration of this unprecedented proposal in Washington. Finally, under the Council's jurisdiction, the final decision would be made by the Governor, a more appropriate decision maker on this major public issue. RCW 80.50.100. It is in the public's best interest, as well as Riverkeeper's, to have a robust state-wide review and debate about the largest proposed methanol refinery in the nation, and the first ever in Washington.

THE KALAMA METHANOL MANUFACTURING FACILITY FALLS UNDER EFSEC JURISDICTION PURSUANT TO RCW 80.50.020(12)(F).

17. The State of Washington, through the passage of RCW 80.50, assigned jurisdiction over the permitting of certain "energy facilities" to the Council. RCW 80.50.060(1). The term "energy facilities" includes "energy plants," RCW 80.50.020(11), and "energy plants" include:

"Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products"

RCW 80.50.020(12)(f). NWIW's proposed methanol refinery meets this definition and therefore falls within the Council's jurisdiction.

E. Natural gas is "petroleum" for purposes of Council jurisdiction.

18. The natural gas that NWIW's facility would receive is "petroleum" for the purposes of RCW 80.50.020(12)(f). According to the American Association of Petroleum Geologists, "petroleum" is a:

"mixture of gaseous, liquid, and solid hydrocarbons that occurs naturally beneath the

earth's surface [that] can be separated into fractions *including natural gas . . .*”³ (emphasis added). Accordingly, natural gas—like crude oil—is part of “petroleum” as that term is used in RCW 80.50.020(12)(f). Such considerations led Council Chair Bill Lynch and Council Manager Stephen Posner to conclude: “Natural gas is a form of petroleum, which under [NWIW’s] proposal would be refined into methanol.” Exhibit 1.

F. NWIW will receive over 25,000 barrels of natural gas every day.

19. NWIW would receive and process a stunning volume of gas each day—roughly one third the amount of gas used on a daily basis in the entire state of Washington. The threshold for Council jurisdiction is 25,000 barrels of petroleum per day. RCW 80.50.020(12)(f). While natural gas is not typically measured in barrels, it is relatively simple to convert NWIW’s proposed natural gas consumption from dekatherms—as gas is commonly measured—into liquid volume in barrels. NWIW’s minimum projected daily use of 270,000 dekatherms of natural gas (see Draft EIS, p.7-3) equates to a liquid volume of 108,958 barrels of methane, the primary component in natural gas.⁴ This is well above the Council’s jurisdictional threshold of 25,000 barrels per day. *See* RCW 80.50.020(12)(f). NWIW should not be allowed to avoid Council review just because NWIW’s project involves a form of petroleum that is not customarily measured in barrels.⁵

³ American Association of Petroleum Geologists, “*What Is Petroleum?*” webpage (last viewed June 13, 2016) (<http://www.aapg.org/about/petroleum-geology/petroleum-through-time/what-is-petroleum>), citing the American Heritage Dictionary.

⁴ (270,000 dekatherms of natural gas / day) (1,000 cubic feet gas / dekatherm) (1 gallon of liquid methane / 59 cubic feet methane gas*) (1 barrel / 42 gallons) = 108,958 barrels methane / day
* *See* Natural Gas Processors Suppliers Association, *Engineering Data Book*, p.16-2 (1972) (because natural gas is a mixture of methane, ethane, propane, nitrogen, and carbon dioxide, the barrels of natural gas received by NWIW’s facility will differ, but still exceed 25,000 BPD).

⁵ This would be like excluding a large biofuel refinery from the Council’s jurisdiction because the feedstock was customarily measured in gallons or tons.

20. Viewed from a different angle, NWIW's proposed methanol refinery would consume almost twice as much potential energy as a crude oil refinery that triggered the Council's jurisdiction. Twenty-five thousand barrels of U.S. crude oil contains roughly 145 billion British thermal units ("Btu") of energy.⁶ By contrast, NWIW's daily gas consumption would contain, at the very least, 277.56 billion Btu of energy.⁷ If the Council's purpose is to make state-wide policy decisions about projects that entail significant energy consumption or production, NWIW's proposal warrants Council review.

G. NWIW would be "processing" natural gas into a "refined product[]."

21. NWIW's facility would process natural gas (a form of petroleum) into methanol, a refined product. *See* RCW 80.50.020(12)(f). As Council Chair Bill Lynch explained: when determining jurisdiction, the Council's "focus is on the process used," and the natural gas at issue "under [NWIW's] proposal would be refined into methanol." Exhibit 1. Accordingly, NWIW's process falls under the Council's jurisdiction.

22. Information in the draft EIS confirms that NWIW would engage in a process that is subject to the Council's jurisdiction under RCW 80.50.020(12)(f). The draft EIS explains that the natural gas would be processed into "synthesis gas" and then converted into "crude methanol." Draft EIS, p.2-8. The "crude methanol" would then be refined—via distillation—into "refined methanol." *Id.* Accordingly, the methanol is a "refined product[]" processed from natural gas, a form of petroleum. RCW 80.50.020(12)(f).

⁶ (25,000 barrels of U.S. crude) (5,800,000 Btu / 1 barrel U.S. crude)* = 145 billion Btu
* *See* U.S. Energy Information Administration, *Energy Units and Calculators Explained* (http://www.eia.gov/energyexplained/index.cfm?page=about_energy_units).

⁷ (270,000,000 million feet³ of natural gas) (1,028 Btu / 1 foot³ natural gas)* = 277.56 billion Btu
* *See* U.S. Energy Information Administration, *Energy Units and Calculators Explained* (http://www.eia.gov/energyexplained/index.cfm?page=about_energy_units).

H. The Council has jurisdiction, even if NWIW's methanol is made into plastic.

23. The Council has jurisdiction over NWIW's plant regardless of how the methanol would ultimately be used. NWIW has repeatedly asserted that its methanol would be used to create plastics, not burned as fuel. Even if NWIW could provide verifiable, binding support for this assertion, the Council would still have jurisdiction over NWIW's facility. In response to a direct inquiry, the Council's Chair Bill Lynch clearly indicated that the end use of the methanol would not impact the Council's jurisdiction. *See* Exhibit 1. Moreover, nothing in RCW 80.50.020(12)(f) indicates that the end use of a "refined product[]" has any bearing on the Council's authority.

CONCLUSION

24. For the reasons discussed above, petitioner Columbia Riverkeeper asks the Council to declare that the Council has jurisdiction over the proposed Kalama Methanol Manufacturing and Export Facility because the methanol refinery is an "energy plant" within the meaning of RCW 80.50.020(12)(f).

Respectfully submitted this 23rd day of June, 2016.



Miles Johnson
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(541) 490-0487
miles@columbiariverkeeper.org

Attorney for Petitioner Columbia Riverkeeper

From: Lynch, Bill (UTC)
Sent: Tuesday, November 5, 2013 12:15 PM
To: Phillips, Keith (GOV)
Subject: RE: gas to methanol

Keith.

I double-checked with some staff and they said that it would include everything. The focus is on the process used, and then the volume of what is produced. Having said that, I'm not sure what expertise exists over here for that type of a facility. We might lean heavily on Ecology. All of the existing refineries in the state pre-date EFSEC and were grandfathered in.

Bill

From: Phillips, Keith (GOV)
Sent: Tuesday, November 05, 2013 11:44 AM
To: Lynch, Bill (UTC)
Subject: RE: gas to methanol

Thanks, very helpful ... we're trying to get a bead on the planned volumes.

Does "refined products" include everything ... e.g., non-fuel chemicals, such as olefins, aromatics, wax, etc.?

From: Lynch, Bill (UTC)
Sent: Tuesday, November 05, 2013 8:27 AM
To: Phillips, Keith (GOV)
Subject: RE: gas to methanol

Hi Keith.

It appears that EFSEC would have jurisdiction, depending on the volume, of siting such a facility. EFSEC has jurisdiction over certain energy facilities. Energy facilities include energy plants under RCW 80.50.020(11). RCW 80.50.020(12)(f) includes under the definition of "energy plant" the following: "Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities."

Natural gas is a form of petroleum, which under the proposal would be refined into methanol. If the facility would process more than 25,000 barrels a day, it would meet the threshold for EFSEC jurisdiction.

Stephen Posner and I talked about this, and we both agree with this interpretation.

Hope this is helpful.

Bill

From: Phillips, Keith (GOV)
Sent: Tuesday, November 05, 2013 7:14 AM

To: Lynch, Bill (UTC)

Subject: gas to methanol

Hi, Bill – does EFSEC have any jurisdiction, required or opt-in, on a facility that would convert natural gas to methanol (for later petrochemical offtake)?

I assume not, but wanted to double check.

We have a firm from China looking at possibly locating such a refinery (?) in WA.

Thanks.

Keith

From: Phillips, Keith (GOV)
Sent: Tuesday, January 14, 2014 1:10 PM
To: Rick Desimone (rick@desimonecg.com)
Subject: CECC methanol project

Rick – have you and your folks determined whether you think EFSEC would have permit jurisdiction over the above project?

I've heard some questions, second hand ... so I thought I'd start with you. I understand the answer turns on project details (e.g., output volume, see below) and interpretation of the statute.

If you have a conclusion you can share, I'd appreciate hearing. If you think further discussion is warranted, let's chat about the right next steps.

Thanks.

Keith

Excerpt on EFSEC jurisdiction: "EFSEC has jurisdiction over certain energy facilities. Energy facilities include energy plants under RCW 80.50.020(11). RCW 80.50.020(12)(f) includes under the definition of 'energy plant' the following: 'Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities.' ... Natural gas is considered a form of petroleum, and methanol is considered a refined product."

From: Phillips, Keith (GOV)
Sent: Thursday, January 30, 2014 1:56 PM
To: 'Rick Desimone'
Subject: RE: Friday works

Yep. I have the half hour ... hoping that will be sufficient?

From: Rick Desimone [mailto:rick@desimonecg.com]
Sent: Thursday, January 30, 2014 1:50 PM
To: Phillips, Keith (GOV)
Subject: RE: Friday works

If it's ok, I think I'd like to come down tomorrow to sit with you for this meeting. We'll have the Stoel Rives folks (Mark Morford from Portland and Eric Anderson from Seattle) and a couple of the company folks on the phone. that work?

From: Phillips, Keith (GOV) [mailto:Keith.Phillips@gov.wa.gov]
Sent: Monday, January 27, 2014 9:05 AM
To: Rick Desimone
Subject: Friday works

Let's plan on 9 am on Friday.

Unless you think otherwise, I won't include our legal folks on this call ... assuming we'll focus on process, and the company's views/preference. Right?

From: Rick Desimone [mailto:rick@desimonecg.com]
Sent: Sunday, January 26, 2014 5:31 PM
To: Phillips, Keith (GOV)
Subject: RE: here we go

I'd like Mark Morford, who is our attorney (Stoel Rives out of Portland) to be part of this conversation as well. Unfortunately, he cannot participate on Tuesday morning – any chance we could move this to Friday sometime between 8 – 9:30 – that works for both of us.

From: Phillips, Keith (GOV) [mailto:Keith.Phillips@gov.wa.gov]
Sent: Friday, January 24, 2014 12:32 PM
To: Rick Desimone
Subject: RE: here we go

Got it.

If you want a later time, I'm good until 10 am.

Thanks.

From: Rick Desimone [mailto:rick@desimonecg.com]
Sent: Friday, January 24, 2014 12:16 PM

To: Phillips, Keith (GOV)
Subject: RE: here we go

I'll come down – would be good to see you

From: Phillips, Keith (GOV) [<mailto:Keith.Phillips@gov.wa.gov>]
Sent: Friday, January 24, 2014 12:11 PM
To: Rick Desimone
Subject: RE: here we go

Let's do 8:00-8:30 am. Is that ok?

Phone or at my office (Insurance Building, first floor)?

Thanks.

From: Rick Desimone [<mailto:rick@desimonecg.com>]
Sent: Friday, January 24, 2014 11:43 AM
To: Phillips, Keith (GOV)
Subject: RE: here we go

How would Tuesday morning 1/28 anytime between 8 – 10:45 work for you? (I could do earlier as well, but I need to be on the road by 11)

From: Phillips, Keith (GOV) [<mailto:Keith.Phillips@gov.wa.gov>]
Sent: Friday, January 24, 2014 11:16 AM
To: Rick Desimone
Subject: RE: here we go

Hi, Rick – when can we talk about EFSEC, please? Questions are coming in ... and I want to make sure the Gov is properly positioned, for either course.

If you're ready, let's set a time. Either I or Jane Wall in our office can schedule.

Thanks.

Keith
(360) 902-0630

From: Rick Desimone [<mailto:rick@desimonecg.com>]
Sent: Wednesday, January 22, 2014 7:28 AM
To: Bonlender, Brian (COM); Phillips, Keith (GOV)
Subject: here we go

METHANOL

Chinese company ready to invest \$2 billion in Kalama, Clatskanie methanol plants

Officials estimate project will bring 2,000 construction jobs during initial building period.

ERIK OLSON

In what would be the biggest jobs boost for the region in about 20 years, a Chinese company plans to build two methanol export plants — at the Port of Kalama and Port Westward near Clatskanie — creating 240 full-time jobs in the Lower Columbia region.

At the Port of Kalama, officials at the company, Northwest Innovation Works, want to lease a vacant site north of Steelscape for one of the manufacturing facilities. It also would require a natural gas pipeline to supply the plant. At Port Westward, Northwest Innovation is seeking to lease 82 acres for a similar, separate project.

Combined, the \$2 billion investment would create 2,000 construction jobs during the two-year building period, according to local economic development officials and other sources. Each plant would employ 120 full-time workers when the projects are complete. Northwest hopes the plans go online in 2017 or 2018.

The two plants would provide the biggest employment boost for the region since the construction of Steelscape in the early 1990s. It is believed to be the largest one-time private investment in the region's history. In addition to jobs, the two plants would provide a significant boost in tax revenue for local governments.

The company would build administration facilities, a cooling tower and storage facilities to hold up to 8 million metric tons of methanol at each site. Northwest Innovation has not yet applied for building permits and must clear regulatory hurdles before construction begins.

Methanol is used as a component of plastics and laminates. It is manufactured by combining natural gas with a stream of water, carbon dioxide, carbon monoxide and hydrogen.

In China, it is produced by burning coal, but Northwest Innovation officials plan to use cleaner burning natural gas at the two Lower Columbia plants, said Ted Sprague, president of the Cowlitz Economic Development Council.

“This brings together all the best benefits of economic development. It's a large capital investment, brings a lot of high-wage jobs, and exports a product. Plus, we like the green product,” Sprague said.

Northwest Innovation officials plan to discuss the Kalama plan in further detail Wednesday morning. Sprague said the company has been eyeing the region for four months and was attracted by the low energy costs.

Northwest Innovation Works is a subsidiary of the Chinese Academy of Sciences, a government-owned group that supports economic development projects worldwide.

Innovation Works officials are planning to seek permission to start preliminary work during a Port of Kalama commissioners' meeting 5:30 p.m. Wednesday. On Thursday, the company will present its Oregon plan to Port of St. Helens commissioners at 5 p.m. at the Clatskanie PUD building.

Previous plans to build a natural gas line to the Port of Kalama have met with protests from citizens along the proposed route, some of whom argue that landslides on the soft ground could cause a line to rupture.

Rick Desimone
Desimone Consulting Group
rick@desimonecg.com
253-441-7275

From: Phillips, Keith (GOV)
Sent: Friday, January 31, 2014 4:38 PM
To: Lynch, Bill (UTC)
Subject: RE: methanol

Thanks. I have some additional notes to share, when you have a moment.

From: Lynch, Bill (UTC)
Sent: Friday, January 31, 2014 3:01 PM
To: Phillips, Keith (GOV)
Subject: RE: methanol

Hi Keith.

I went to the Law Library and pulled some Law Review articles regarding the energy facility siting process in Washington. These were written in the '70's and hopefully will provide some historic overview of what was envisioned when the Legislature created EFSEC. When a jurisdictional question isn't clear, rules of statutory construction allow going back to historical documents to get a sense of what people were thinking at the time. This helps when looking at a proposal that doesn't quite fit within existing law – is it more like what is being regulated, or so different that the current law shouldn't be applied.

I plan on plowing through this and letting you know if this is helpful, and what my opinion is on jurisdiction.

At the end of the day, we aren't looking for anything more to do – so that isn't a factor. I think we just want a review process that isn't arbitrary.

Have a good weekend.

Thanks,
Bill

From: Phillips, Keith (GOV)
Sent: Friday, January 31, 2014 8:27 AM
To: Lynch, Bill (UTC)
Subject: methanol

Hi, Bill – left you a vm. Let me know if you have a minute prior to 9 am, for a quick chat. Thanks. Keith



7200 NE 41st, Suite #101, Vancouver, WA 98662

RECEIVED

AUG 27 2015

WA State Department
of Ecology (SWRO)

August 26, 2014,

Mr. Stephen Posner
Manager
Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, WA 98504-3172

Dear Mr. Posner:

On behalf of Northwest Innovation Works Northwest, Kalama, LLC ("NWIW") I am writing to advise you of the company's methanol manufacturing facility ("project" or "facility") proposed for development at the Port of Kalama. Based on the information and analysis set forth below, NWIW does not believe that the facility meets the jurisdictional requirements for siting by the Washington Energy Facility Site Evaluation Council ("EFSEC"). By this letter, I respectfully ask that you review the information contained below and formalize, in writing, whether EFSEC concurs with our analysis. Should you require additional information before making such a determination, please contact me at the email address or telephone number provided above.

NWIW proposes to develop a facility that will receive natural gas by pipeline and use it as a raw material to manufacture methanol for export to China from a terminal at the Port of Kalama. The methanol will be sold for use as the feedstock for production of olefins, which are the fundamental building blocks for a wide range of petrochemical materials, such as polyethylene and polypropylene. The project is comprised of three main elements - the natural gas delivery system, the methanol processing facility and in-water dock improvements.

- **Natural Gas Delivery:** The methanol processing facility would receive natural gas from an approximately 3.1 mile, 24-inch pipeline extended through unincorporated Cowlitz County by Northwest Pipeline GP. The pipeline is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC").
- **Methanol Processing Plant:** The methanol processing plant would be constructed on an approximately 90-acre site leased from the Port of Kalama on the Columbia River. The facility at full capacity will consist of two production lines, each with an expected production capacity of 5,000 metric tonnes per day, for a combined 10,000 metric tonnes of methanol per day from natural gas. Approximately 170,000 metric tonnes of methanol, the equivalent of up to 56,000,000 gallons, will be stored on site in above-ground storage tanks prior to shipment.
- **Marine Terminal Improvements:** A new dock will be constructed in the Columbia River to load the methanol onto ships. Once the plant reaches full capacity, it is estimated that a



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ship would call on the facility once every 5 to 10 days. The dock will also be available for general Port use when not being used to load methanol.

EFSEC has jurisdiction over new construction of “energy facilities” and the reconstruction or enlargement of existing energy facilities that meet certain new capacity criteria. See RCW 80.50.060(1). Pursuant to RCW 80.50.020(11), an “energy facility” means an energy plant or a transmission facility.

Energy Plant is defined in 80.50.020(12)(a) through (f). These various definitions distinguish between fuel products, expressly setting different criteria for establishing jurisdiction over facilities handling LNG, crude petroleum, uranium, biofuels, liquefied petroleum gas (also known as LP gas or propane) and natural gas. Each fuel is distinct in chemical and organic composition. The Legislature specifically defined the facilities and fuels over which EFSEC has siting authority under RCW 80.50.020(a) through (f).

- 80.50.020(12)(a) and (b) apply to nuclear or non-nuclear thermal generation.
Discussion: For purposes of EFSEC jurisdiction, a “thermal power plant” means, for the purpose of certification, any electrical generating facility using any fuel for distribution of electricity by electric utilities. The NWIW methanol facility is neither a nuclear nor a non-nuclear thermal generation plant under 80.50.020(12)(a) or (b).
- 80.50.020(12)(c) applies to facilities with the capacity to receive LNG that is the equivalent of more than 100 million standard cubic feet of natural gas per day that has been transported over marine waters.
Discussion: The NWIW methanol facility will not receive any LNG regardless of means of transport.
- 80.50.020(12)(d) applies to facilities with capacity to receive an average per day of more than 50,000 barrels of crude petroleum or liquefied petroleum gas (propane) transported over marine waters or new crude/LP gas storage.
Discussion: The NWIW methanol facility will not receive crude or refined petroleum, only natural gas. Liquefied petroleum gas is also known as LP gas, commonly known as propane, and also periodically chemically constituted as butane or isobutane. The NWIW facility will not receive, manufacture or transport liquefied petroleum gas. Neither crude, refined petroleum nor liquefied petroleum gas will be stored at the facility.
- 80.50.020(12)(e) addresses underground natural gas storage siting.
Discussion: Natural gas will be delivered to the processing facility via pipeline. There will be no underground storage facilities at the NWIW facility for natural gas.
- 80.50.020(12)(f) applies to petroleum or biofuel facilities capable of refining more than 25,000 barrels per daily.
Discussion: The NWIW facility is not a petroleum refinery. “Biofuels” are defined at RCW 43.325.010 as “biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.” NWIW will neither receive nor refine any biofuel product.



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The Legislature's specific and correct use of each fuel term, with different jurisdictional parameters, demonstrates that the various fuel types are not interchangeable for purposes of establishing siting authority under RCW 80.50.020(a) through (f). The NWIW Kalama methanol facility is not an energy plant under RCW 80.50.020(12)(i) through (f).

Transmission Facility is defined in RCW 80.50.020(21)(a) and (b).

- RCW 80.50.020(21)(a) applies to crude and refined petroleum pipelines or liquid petroleum transmission pipelines greater than 15 miles.
Discussion: The NWIW proposal does not involve any crude, refined or liquid petroleum pipelines, regardless of length or nature as either transmission or distribution.

- RCW 80.50.020(21)(b) applies to natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipelines larger than fourteen inches minimum inside diameter, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission.

Discussion: The pipeline that will serve the facility, at 3.1 miles, is well under the 15-mile minimum length required to trigger EFSEC jurisdiction. Further, the pipeline will not deliver natural gas to a distribution facility. Instead, the gas will be delivered to a manufacturing plant that will convert the gas into a different product. The proposed 3.1 mile of pipeline is subject to regulation by FERC.

The NWIW methanol facility proposal, inclusive of the interrelated parts described above, does not constitute either an 'Energy Plant' or a 'Transmission Facility' subject to siting by EFSEC. Based on the foregoing, I respectfully ask that your staff review these materials and confirm in writing that our analysis of the absence of EFSEC jurisdiction supports the conclusion that siting of the NWIW methanol facility is not subject to the siting jurisdiction of EFSEC. We look forward to hearing from you soon.

Best regards,

Northwest Innovation Works, Kalama, LLC

Murray V. (Vee) Godley III, President



STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

September 3, 2014

Murray V. Godley, President
NW Innovation Works, Kalama, LLC
7200 NE 41st, Suite 101
Vancouver, WA 98662

Subject: EFSEC Determination of Jurisdiction for the Proposed NW Innovation Works, Kalama, LLC

Dear Mr. Godley:

Thank you for your letter dated August 26, 2014 describing NW Innovation Works proposed methanol manufacturing facility, to be sited at the Port of Kalama.

Your letter describes the proposal as a facility that will receive natural gas by pipeline and use it to manufacture methanol for export to China from a terminal at the Port of Kalama.

Revised Code of Washington (RCW) 80.50.020 (12) defines six categories of facilities that constitute an 'energy plant'. The proposed facility, as described in your letter does not appear to fall under any of these categories.

A transmission pipeline associated with the proposed facility is also described in your letter. Your proposal to construct a total of 3.1 miles of natural gas pipeline does not meet the statutory criterion of a 'transmission pipeline' contained in (RCW) 80.50.020 (21)(b).

After consideration of the information in your letter and relevant statutory requirements, we have determined the proposed facility is not subject to Energy Facility Site Evaluation Council jurisdiction. This determination applies only to the proposed facility described in your August 26 letter.

Please contact me at 360-664-1903, if you have any questions concerning this matter.

Sincerely,

A handwritten signature in blue ink that reads "Stephen Posner".

Stephen Posner
EFSEC Manager

cc: Sally Toteff, Ecology
Alan Bogner, ORIA