

COMMONWEALTH OF MASSACHUSETTS
Energy Facilities Siting Board

In the Matter of the Petition of IDC)
Bellingham LLC, for Approval to)
Construct and Operate a 525-MW Bulk)
Generation Facility in the Town of)
Bellingham, Massachusetts)

EFSB 97-5B

FINAL DECISION
PROJECT CHANGE

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Hearing Officer
September 25, 2001

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The Energy Facilities Siting Board hereby approves, subject to conditions, changes to the IDC Bellingham project as further described below.

I. INTRODUCTION

On December 21, 1999, the Energy Facilities Siting Board (“Siting Board”) conditionally approved the petition of IDC Bellingham LLC (“IDC” or “Company”) to construct a natural gas-fired combined-cycle, electric generating facility with a net nominal electrical output of 700 megawatts (“MW”) in Bellingham, Massachusetts (“Bellingham” or “Town”).¹ IDC Bellingham, LLC, 9 DOMSB 225, 236 (1999) (“Final Decision”).

After the close of evidentiary hearings, but before the Siting Board issued the Final Decision, IDC informed the Siting Board of the possibility that the Company would have to change turbine manufacturers. Id. at 242. Consequently, the Siting Board directed IDC to make a compliance filing regarding the Company’s choice of turbine. Id. On March 3, 2000, IDC submitted its compliance filing (“Compliance Filing”), informing the Siting Board that the Company intended to use a different turbine manufacturer and that the net nominal capacity of the facility would be reduced to 525 MW. On September 11, 2000, the Siting Board conditionally approved the petition of IDC to construct the proposed facility with the different turbine at a reduced net nominal electrical output of 525 MW. IDC Bellingham, LLC, 11 DOMSB 27, 35 (2000) (“IDC Compliance Decision”).²

On June 6, 2001, IDC provided the Siting Board with notice of other changes to the proposed project (“June 6 Filing”). The changes included: (1) an increase in the height of the facility stack from 190 feet to 225 feet; (2) a reduction in the projected emissions of certain criteria pollutants; (3) a change in the proposed air permit limits for short-term ammonia emissions; (4) a reduction in the size of

¹ The original petition was filed in this case on November 18, 1997 by Infrastructure Development Corporation. On March 10, 1998, counsel for the petitioner informed the Siting Board that the name of the petitioner had been changed to IDC Bellingham LLC. IDC Compliance Decision at 35.

² The Final Decision and the IDC Compliance Decision are collectively referred to as the “underlying decisions”.

the ammonia storage tank from 40,000 gallons to 29,000 gallons; and (5) a change in the departure time for the main construction shift from between 2:30 p.m. and 3:30 p.m. to between 5:00 p.m. and 6:00 p.m. (Exhs. PC-IDC-1, at 9; PC-IDC, Att. D at 1).

II. PROJECT CHANGES

A. Project Change Notification

In its approvals of the IDC project, the Siting Board required IDC to notify it of any changes other than minor variations to the proposal as presented to the Siting Board, so that it might decide whether to inquire further into such issues. Final Decision at 363; IDC Compliance Decision at 80. The standard of review to determine whether further inquiry is warranted was articulated by the Siting Board in the Berkshire Power Decision on Compliance (“Berkshire Compliance Decision”) 7 DOMSB 423, at 437 (1997). In the Berkshire Compliance Decision, the Siting Board declined to make further inquiry regarding certain project changes if the change did not alter in any substantive way either the assumptions or conclusions reached in its analysis of the project’s environmental impacts in the underlying proceeding. Id. at 437; see also IDC Compliance Decision, 11 DOMSB at 38-39.

B. The Company’s Project Change Filings

In its June 6 Filing, IDC provided: (1) a January 3, 2001 Decision of the Bellingham Zoning Board of Appeals (“ZBA Decision”), approving five special permits required for the IDC project (“special permit”);³ (2) the Massachusetts Department of Environmental Protection’s (“MDEP”) Proposed Conditional 7.02 Air Quality Plan Approval (“proposed conditional air plan approval”) for the IDC project;⁴ (3) a set of visual depictions of the stack under the configuration approved in the IDC

³ Individual permits are referred to as Special Permit No. 1 - 5.

⁴ On August 29, 2001, IDC supplemented its June 6 Filing by providing a copy of IDC’s Conditional Air Plan Approval that was issued by the MDEP on August 20, 2001 (“conditional air plan approval”). The August 29, 2001 filing consisted of (1) an August 20, 2001 letter signed by Thomas P. Cusson, approving the proposed facility subject to conditions (Exh. PC-
(continued...)

Compliance Decision, at a height of 225 feet; and (4) a traffic analysis that assumes the main construction shift ends at 5:00 p.m.⁵ On July 17, 2001, IDC submitted responses to Siting Board staff information requests (“July 17 Filing”).⁶ IDC submitted supplemental information request responses on July 24, 2001 and August 8, 2001 (“July 24 Filing” and “August 8 Filing” respectively).⁷ On August 15, 2001, all parties were given an opportunity to issue information requests or submit comments with respect to the proposed project changes. No information requests or comments were filed by any party.

⁴ (...continued)
IDC-1, Att. B(s)); and (2) Appendix A, Air Quality Plan Approval IDC Bellingham LLC, Bellingham Massachusetts, ASP# ASPIDC (Exh. PC-IDC-1, Att. B-1(S)). Each of these documents is hereby marked for identification and entered into evidence in this matter.

⁵ The June 6 Filing consisted of the following documents, each of which is hereby marked for identification and entered into evidence in this matter: (1) a nine-page letter dated July 6, 2001 signed by John A. DeTore regarding proposed changes to the IDC project (Exh. PC-IDC-1); (2) a January 3, 2001 ZBA Decision (Exh. PC-IDC-1, Att. A); (3) a May 14, 2001 MDEP letter signed by Thomas P. Cusson regarding MDEP’s proposed conditional air plan approval (Exh. PC-IDC-1, Att. B); (4) MDEP’s proposed conditional air plan approval, Appendix A (Exh. PC-IDC-1, Att. B-1); (5) MDEP’s May 11, 2001 proposed Section 61 findings (Exh. PC-IDC-1, Att. B-2); (6) viewshed photographs and associated drawings depicting the project with a 225-foot stack (Exh. PC-IDC-1, Att. C); (7) a May 18, 2001 traffic analysis document entitled “Technical Memorandum” (Exh. PC-IDC-1, Att. D); and (8) a May 14, 2001 “DEPNEWS” press release (Exh. PC-IDC-1, Att. E).

⁶ The July 17 Filing consisted of the following documents, each of which is hereby marked for identification and entered into evidence in this matter: (1) information regarding visual mitigation (Exh. PC-EFSB-1); (2) information regarding the proposed modification to the construction schedule (Exh. PC-EFSB-2); and (3) information regarding possible traffic mitigation measures (Exh. PC-EFSB-3).

⁷ The July 24 Filing consisted of a supplemental response to Exh. PC-EFSB-2 and the August 8 Filing consisted of a supplemental response to Exh. PC-EFSB-1. These documents are marked for identification as Exh. PC-EFSB-2(S) and Exh. PC-EFSB-1(S), respectively, and are entered into evidence in this matter.

III. SCOPE OF INQUIRY

In its June 6 Filing, IDC provided the Siting Board with information concerning emissions limits set in the proposed conditional air plan approval.⁸ The Company provided an analysis showing that the maximum modeled concentrations for all criteria pollutants would be at or below levels approved by the Siting Board in the IDC Compliance Decision (Exh. PC-IDC-1, at 4, 5). IDC specifically noted a substantial decrease in NO_x emissions, stating that the proposed conditional air plan approval limited NO_x emissions to 1.5 ppmvd @15% O₂,⁹ rather than the 2.0 ppmvd anticipated in the IDC Compliance Decision (Exh. PC-IDC-1, at 5 to 6; PC-IDC-1, Att. B-1, at 4). IDC also noted that the proposed conditional air plan approval allows somewhat higher short-term ammonia emissions than anticipated in the IDC Compliance Decision, but that the annual emission rate remains the same (Exh. PC-IDC-1, at 7; PC-IDC-1, Att. B-1, at 4). Finally, IDC stated that the size of its on-site ammonia storage tank would be reduced from 40,000 gallons, as anticipated in the Final Decision, to 29,000 gallons, as required by both the proposed conditional air plan approval and the ZBA Decision (Exhs. PC-IDC-1, Att. A-1, at 13; PC-IDC-1, Att. B-1, at 9).

In the underlying proceedings, the Siting Board found that IDC had demonstrated that emissions of criteria and other pollutants, including NO_x and ammonia, associated with the proposed project would be consistent with minimizing impacts on the existing air quality. Final Decision at 271; see also IDC Compliance Decision at 74 (the Siting Board found that the air impacts of the proposed facility in the compliance configuration would be less than those reviewed by the Siting Board in the underlying case). The criteria pollutant emission limits set forth in the conditional air plan approval would result in lower emissions (particularly of NO_x) than the levels reviewed and accepted by the Siting Board in the underlying proceedings. Further, the annual ammonia emissions from the project would be no greater than that approved in the IDC Compliance Decision, and the reduction in the size

⁸ The parameters for emission limits, stack height and ammonia tank size are essentially the same for both the proposed and conditional air plan approvals.

⁹ The exception to the limit is for a period of no more than 10% of the actual operating time per rolling 12-month period when the limit shall not exceed 2.0 ppmvd (Exh. PC-IDC-1, Att. B-1(S) at 4).

of the on-site ammonia tank would lower ammonia concentrations from a potential worst-case spill. Because the changes involving criteria pollutant emissions and ammonia emissions and storage would either reduce the environmental impacts of the proposed project, or not cause a long-term increase in emissions, the Siting Board finds that these changes do not require further inquiry.¹⁰

The Siting Board notes that, in the Final Decision, IDC was explicitly required to notify the Siting Board if the final design for the facility included a stack height significantly greater than 190 feet. Final Decision at 300, n.94. In light of this requirement, the Siting Board finds that further inquiry is warranted to determine whether additional mitigation is needed to minimize the visual impacts of a 225-foot stack. The Siting Board undertakes this further inquiry in Section IV.A, below.

The Siting Board also notes that the proposed change in the construction schedule conflicts directly with Condition G of the underlying decisions, which called for a traffic mitigation plan that included, inter alia, a departure time of between 2:30 p.m. and 3:30 p.m. for construction workers. Final Decision at 329; IDC Compliance Decision at 79. The Siting Board finds that further inquiry is necessary to resolve the conflict between Condition G and the requirements of the Bellingham ZBA Decision, and to determine whether additional mitigation is needed to minimize the traffic impacts of the proposed facility. The Siting Board undertakes this further inquiry in Section IV.B, below.

IV. ENVIRONMENTAL IMPACTS

A. Visual Impacts

In the underlying decision, the Siting Board noted that the proposed facility would be somewhat screened from view in most directions as a result of its proposed wooded buffer, and that from the majority of viewshed locations, views of the proposed facility likely would be limited to the upper

¹⁰ The Siting Board notes that this is the first conditional air plan approval in which MDEP has established a 1.5 ppmvd limit for NO_x emissions from a power plant, and that, to our knowledge, the equipment proposed by IDC has not been field-tested at these emissions levels. If, following field testing, the conditional air plan approval is rewritten at levels consistent with those approved in the IDC Compliance Decision, IDC need not return to the Siting Board for further inquiry into its proposed project.

portions of the stack as seen above existing trees. Final Decision at 293-298. The Siting Board concluded that even with the 190-foot stack, the viewshed analysis indicated the potential for visual impacts in certain areas. Id. at 298. In addition, the Siting Board noted that the visual impacts would be greater, overall, with the 225-foot stack than with IDC's preferred 190-foot stack. Id. Overall, the Siting Board found that the visibility of the proposed facility would be primarily dependent upon stack height and vegetative buffer. The Siting Board then found that, with the implementation of Condition C concerning reasonable off-site mitigation of visual impacts, including shrubs, trees, window awnings or other mutually-agreeable measures, the environmental impacts of the proposed facility with a stack height of 190 feet at the proposed site would be minimized with respect to visual impacts. Id. at 300.

In its Compliance Filing, IDC stated that as part of its proposed change in configuration the stack would be relocated 200 feet to the north, and that it would be built at a six foot higher ground elevation (see IDC Compliance Decision at 58). In the IDC Compliance Decision, the Siting Board reviewed the viewshed photographs submitted by the Company and concluded that views from most points would be essentially unchanged by the change in configuration. IDC Compliance Decision at 59. The Siting Board noted that the slight movement of the stack, the minor increase in stack elevation, and the small change in vegetative buffer resulting from the change in configuration were not likely to significantly affect visual impacts. Id. at 59-60. Therefore, the Siting Board found that the visual impacts of the proposed facility in the compliance configuration would be substantially similar to those reviewed by the Siting Board in the underlying case.

IDC now seeks to construct a 225-foot stack, rather than the 190-foot stack contemplated in the underlying decisions, in order to comply with a condition in Special Permit No. 1 requiring a 225-foot stack (Exhs. PC-IDC-1, at 2; PC-IDC-1, Att. A-1, at 21). The Company noted that the proposed conditional air plan approval also requires a 225-foot stack, citing the preference of the ZBA as a factor underlying such requirement (Exh. PC-IDC-1, at 2). In its June 6 Filing, the Company also proposed to use a circular, rather than a rectangular, outer shell for the stack (Exh. PC-IDC-1, at 2, 3). To illustrate the effect of the proposed change to a taller, circular stack, IDC presented a revised

viewshed analysis depicting the facility with both rectangular and circular 225-foot stacks, superimposed on photographs taken from the set of locations used in the viewshed analysis presented in the underlying case (Exh. PC-IDC-1, Att. C). The Company later proposed to construct the stack without a concrete outer shell, and provided a depiction of the proposed facility with a shell-less stack from two selected viewpoints (Exh. PC-EFSB-1(S)).¹¹

IDC asserted that the documentation it has provided to the Siting Board regarding the change in stack height from 190 feet to 225 feet warrants the same determination as was made by the Siting Board in the IDC Compliance Decision (Exh. IDC-PC-1, at 2). IDC noted that in the underlying decisions, the Siting Board directed IDC to provide reasonable off-site mitigation that would screen views of the facility from residences and roadways or other locations within one mile of the proposed facility (*id.* at 3). The Company argued that this condition would adequately mitigate views of the 225-foot stack, and noted that in the IDC Compliance Decision, the Siting Board stated that “any slight variation in facility visibility upon residences can be addressed by this condition” (*id.*, citing IDC Compliance Decision at 26).

The Siting Board has reviewed the Company’s rendering and viewshed analyses of the stack with and without an outer shell, and concludes that while there may be some visual benefit from using a design that reduces the stack profile through elimination of an outer shell or through a change in the shape of the shell, such benefits would be limited, and likely would not contribute significantly to offsetting any increase in visual impacts created by the use of a taller stack. A change to a round or shell-less stack would not alter our findings in the underlying decisions with respect to visual impacts; therefore IDC may construct the stack in any of these configurations without further notice to the Siting Board.

In the Final Decision, the Siting Board noted that the proposed facility with a 190-foot stack would be screened from many viewpoints by the wooded buffer to be retained at the site, and that otherwise facility views would be confined to the upper portions of the stack. Final Decision at 298.

¹¹ The views of the stack without the outer shell are for viewsheds #5 (church parking lot on Route 140, Mendon) and #11 (Arbend Circle, Bellingham) (Exh. PC-EFSB-1(S), Figure 2S).

Here, the Company's revised viewshed analysis demonstrates that, with the addition of 35 feet to the top of the stack structure, views of the upper portions of the stack would be more pronounced than previously from numerous viewpoints. Thus, with the addition of 35 feet to the stack, the benefit of the retained wooded buffer at the site in reducing visual impacts would be reduced.

The Company's viewshed analyses also demonstrate that the terrain drops off in elevation between the facility and a number of the receptors (e.g. 3, 4, 7, 11, 13, 14, 15 and 20), reflecting the presence of stream valleys or other features. It is clear from the viewshed analyses that, where the intervening area between the site and individual visual receptors is relatively low, screening of adequate height must be present close to the receptor location to be effective in mitigating views of the facility. Therefore, the Siting Board concludes that, in this case, a modification to the guidelines for Condition C is warranted to ensure that, in responding to valid requests for off-site visual mitigation, the Company provides plantings that are of a type and size, at the time of planting, to provide effective screening under applicable terrain conditions. Specifically, as part of IDC's compliance with Condition C, the Siting Board directs that in cases where, due to terrain, the planting of a larger tree is needed to screen a view of the facility, IDC shall make available the option of at least one tree at least 14 feet in height, in lieu of several smaller plantings.

Therefore, the Siting Board finds that it is appropriate to replace Condition C of the underlying decisions with the following condition, which reflects the change in stack height and the need for additional visual impacts mitigation:

Consistent with Siting Board precedent concerning the minimization of visual impacts, the Siting Board directs the Company to provide reasonable off-site mitigation of visual impacts, including shrubs, trees and window awnings or other mutually agreeable measures, that would screen views of the proposed generating facility and related facilities at affected residential properties and at roadways and other locations within one mile of the proposed facility, as requested by individual property owners or appropriate municipal officials. In implementing this requirement, the Company: (1) shall provide shrub and tree plantings, window awnings or other reasonable mitigation on private property, only with the permission of the property owner, and along public ways, only with the permission of the appropriate municipal officials; (2) shall, in cases where due to terrain the planting of a larger tree is warranted, make available the option of at least one tree at least 14 feet in height, in lieu of several smaller plantings; (3) shall

provide written notice of this requirement to appropriate officials and to all potentially affected property owners, prior to the commencement of construction; (4) may limit requests for mitigation measures from local property owners and municipal officials to a specified period ending no less than six months after initial operation of the plant; (5) shall complete all agreed-upon mitigation measures within one year after completion of construction, or if based on a request filed after commencement of construction, within one year after such request; and (6) shall be responsible for the reasonable maintenance and replacement of plantings, as necessary, to ensure that healthy plantings become established.

Accordingly, the Siting Board finds that, with the implementation of the foregoing condition, the visual impacts of the proposed facility would be minimized.

B. Traffic Impacts

In the underlying case, IDC stated that construction traffic impacts would be minimized because construction workers would arrive between 6 a.m. and 7 a.m. and depart between 2:30 p.m. and 3:30 p.m., outside of peak commuter traffic periods.¹² Final Decision at 322. The Company also agreed to place a traffic control officer at the Hartford Avenue/Depot Street intersection during periods of maximum flow of construction traffic. Id.

The traffic analysis presented in the underlying case indicated that northbound and southbound traffic at the Hartford Avenue/Depot Street intersection experienced LOS (“level of service”) C during the afternoon peak traffic period, and that this LOS could be maintained during construction if a traffic control officer was stationed at that intersection. Id. at 324-325. Further, the traffic analysis indicated that traffic westbound through the Depot Street/ North Main Street intersection experienced LOS C

¹² In the IDC Compliance Decision, IDC indicated that it would not change either the shift schedules from those presented in the underlying case, or other aspects of the traffic plan approved in the Final Decision. IDC Compliance Decision at 69. Therefore, the Siting Board found that the traffic impacts of the proposed facility in the IDC Compliance Decision would be substantially similar to those reviewed by the Siting Board in the Final Decision. Id. at 70.

during the afternoon peak period, with conditions at either LOS A or B for all other movements, and that these conditions would be maintained during construction. Id.¹³

The Final Decision also addressed the possibility that departing construction traffic would affect afternoon school buses, which run on Depot Street and Hartford Avenue between 2:00 p.m. and 2:50 p.m. The Siting Board stated that the Company should take steps to avoid conflicts with school bus traffic, suggesting adjustments to the release rates for construction workers between 2:30 p.m. and 2:50 p.m., and perhaps to the direction of their travel on Depot Street. Final Decision at 328.

In the Final Decision, the Siting Board found that, with the implementation of a condition relating to the development and implementation of a construction traffic mitigation plan, the environmental impacts of the proposed facility would be minimized with respect to traffic. Id. at 329. Specifically, the Siting Board directed IDC to work with its EPC contractor and the Town of Bellingham¹⁴ to develop and implement a traffic mitigation plan which addressed scheduling and any necessary roadway construction or improvements. Id. at 328-329. The Siting Board specified that the plan should, inter alia, “... (4) include the provision of a traffic control officer at the Hartford Avenue/Depot Street intersection for a minimum of the nine to eleven months designated as peak on-site construction; (5) include an arrival schedule of between 6:00 a.m. to 7:00 a.m. and a departure schedule of between 2:30 p.m. and 3:30 p.m. for construction workers ...”. Id.

IDC now proposes to use a single 10-hour shift, with workers arriving between 6:00 a.m. and 7:00 a.m. and departing between 5:00 p.m. and 6:00 p.m. (Exh. PC-IDC-1, at 9). IDC asserted that this schedule is required under the terms of its Special Permit from the ZBA, noting language in Special Permit No. 1 that requires IDC to comply with the work schedule limitations approved by the ZBA for

¹³ The Company’s analysis assumed that 80 percent of construction workers would travel to the site from the north and depart using the same route, thus avoiding Bellingham Center and possible construction worker traffic associated with the ANP Bellingham project to the east. Final Decision at 328. The Company noted the potential for additional traffic impacts in areas south of the site if actual construction traffic routing differed from these projections. Id.

¹⁴ The Siting Board noted that should delivery routes include local roadways in nearby towns other than Bellingham, officials of those municipalities should be consulted in developing the traffic mitigation plan for the project. Final Decision at 329.

the ANP Bellingham project (Exh. PC-EFSB-2). An attachment to Special Permit No. 1 indicates that the normal single day shift would run from 7:00 a.m. to 5:30 p.m. (Exh. PC-IDC-1, Att. A-1, Exhibit A).

The Company submitted a revised traffic analysis (“revised analysis”), dated May 2001, which reevaluated afternoon peak traffic conditions assuming that all construction-related workers depart between 5 p.m. and 6 p.m. (Exh. PC-IDC-1, Att. D). The revised analysis indicated that northbound and southbound movements at the Hartford Avenue/Depot Street intersection in the absence of construction traffic would operate at LOS F during the afternoon peak traffic period (Exh. PC-IDC-1, Att. D at 10). The revised analysis showed that these movements would continue at LOS F with the addition of construction traffic, but would improve to LOS C northbound and LOS B southbound if a traffic control officer were placed at the intersection (id.).¹⁵ The revised analysis also indicated that afternoon peak traffic conditions at the Depot Street/North Main Street intersection in the absence of construction traffic would operate at LOS F for westbound movements, LOS C for eastbound movements, and LOS A for all other movements (id.). With the addition of construction traffic, afternoon peak period conditions at the Depot Street/North Main Street intersection would remain at LOS F¹⁶ westbound, degrade to LOS E eastbound, and would remain at LOS A for all other movements (id.).

The Siting Board recognizes that the proposed change in shift schedule has the approval of the Bellingham ZBA, and that it has the advantage of eliminating conflicts between construction worker traffic and school bus schedules. However, the proposed change also would result in construction worker traffic coinciding with the afternoon peak traffic period. The Company’s revised analysis shows that the anticipated LOS at the Hartford Street/Depot Street (where the use of a traffic control officer is

¹⁵ Conditions experienced by eastbound and westbound traffic would degrade from LOS A to LOS B and C respectively if a traffic control officer were assigned to the intersection (Exh. PC-IDC-1, Att. D at 10).

¹⁶ The delay in seconds associated with the westbound movement is listed as exceeding 120 seconds, since the program does not record higher amounts. The existing LOS F delay is 60.2 seconds (Exh. PC-IDC-1, Att. D at 10).

assumed in the Final Decision) would be unaffected by the change in shift timing. The change in shift schedule appears to have a greater impact on the Depot Street/North Main Street intersection. In the underlying decision, afternoon peak period traffic conditions at this intersection were expected to be the same with and without the construction traffic. However, with the change in afternoon departure time, construction traffic would cause eastbound movements through the Depot Street/North Main Street intersection to deteriorate from LOS C to LOS E; further, westbound movements, already at LOS F, which represents forced flow or breakdown conditions with highly unstable operating conditions, would experience a doubling in delay time from 60.2 to over 120 seconds.¹⁷ In addition, the analysis of traffic flow at the Depot Street/North Main Street intersection assumes that only 20 percent of construction workers turn south onto Depot Street when leaving the site; however, given the later departure time, it is possible that a higher percentage of workers may turn south in an attempt to avoid rush hour traffic.

The Siting Board acknowledges that the ZBA Special Permit is consistent with the Company's proposed change in the construction shift. However, as discussed above, the record suggests that afternoon construction worker traffic would have a significant impact on traffic conditions at the Depot Street/North Main Street intersection, and that additional traffic mitigation may be needed to minimize construction traffic impacts. Therefore, the Siting Board finds that it is appropriate to replace Condition G of the underlying decisions with the following condition, which reflects the change in shift timing and the need for additional mitigation:

The Siting Board directs IDC to work with its EPC contractor and the Town of Bellingham to develop and implement a traffic mitigation plan which addresses scheduling and any necessary roadway construction or improvements. This plan should: (1) to the extent practicable, address scheduling of arrivals and departures of construction-related traffic, including but not limited to deliveries of materials, equipment, and plant components, so as to avoid daily peak travel periods in affected areas; (2) include steps to minimize traffic impacts associated with any roadway modifications, or other improvements, that may be required to effect delivery of large plant components; (3) include the provision of a traffic control officer at the Hartford Avenue/Depot Street intersection for a minimum of the nine to eleven months

¹⁷ See Final Decision at 323 for a full description of the flow conditions associated with the LOS scale, which runs from A to F.

designated as peak on-site construction; (4) include the provision of a traffic control officer at the Depot Street/North Main Street intersection to coincide with the departure of workers at the end of the construction shift, for a minimum of the nine to eleven months designated as peak on-site construction; and (5) establish protocols allowing IDC to coordinate with the appropriate municipal authorities to identify and implement any traffic control measures, in addition to the traffic control officers at Hartford Avenue/Depot Street and Depot Street/North Main Street, needed to mitigate construction traffic impacts of the project at the access road to the site, and any other intersections affected by the change in the afternoon departure and associated changes in traffic patterns.

The Siting Board finds that, with the implementation of the foregoing condition, the traffic impacts of the proposed facility would be minimized.

V. DECISION

Consistent with the Siting Board's directive to IDC to inform the Siting Board of any changes to IDC's proposed project, other than minor variations, IDC has informed the Siting Board of five such changes. The Siting Board has found that changes related to a decrease in criteria pollutants, a change in the proposed air permit limits for short term ammonia and a decrease in the size of the ammonia tank from 40,000 gallons to 29,000 gallons do not require further inquiry.

With respect to changes related to visual impacts that may result from a change in stack height, the Siting Board found that further inquiry was warranted. After conducting such inquiry, the Siting Board found in Section IV.A, above, that it was appropriate to replace the existing language of Condition C with language that reflects the change in stack height and the need for additional mitigation. The Siting Board found that, with the implementation of Condition C as revised, the visual impacts of the proposed facility would be minimized. Therefore Condition C in the underlying decisions is replaced with the following:

Condition C:

Consistent with Siting Board precedent concerning the minimization of visual impacts, the Siting Board directs the Company to provide reasonable off-site mitigation of visual impacts, including shrubs, trees and window awnings or other mutually agreeable measures, that would screen views of the proposed generating facility and related facilities at affected residential properties and at roadways and other locations within one mile of the proposed facility, as requested by individual property owners or appropriate municipal officials. In implementing this requirement, the Company: (1) shall provide shrub and tree plantings, window awnings or other reasonable mitigation on private property, only with the permission of the property owner, and along public ways, only with the permission of the appropriate municipal officials; (2) shall, in cases where due to terrain the planting of a larger tree is warranted, make available the option of at least one tree at least 14 feet in height, in lieu of several smaller plantings; (3) shall provide written notice of this requirement to appropriate officials and to all potentially affected property owners, prior to the commencement of construction; (4) may limit requests for mitigation measures from local property owners and municipal officials to a specified period ending no less than six months after initial operation of the plant; (5) shall complete all agreed-upon mitigation measures within one year after completion of construction, or if based on a request filed after commencement of construction, within one year after such request; and (6) shall be responsible for the reasonable maintenance and replacement of plantings, as necessary, to ensure that healthy plantings become established.

With respect to changes related to traffic impacts that may result from the change in shift time, the Siting Board found that further inquiry was warranted. After conducting such inquiry, the Siting Board found in Section IV.B, above, that it was appropriate to replace the existing language of Condition G with language that reflects the change in shift timing and the need for additional mitigation. The Siting Board found that, with the implementation of Condition G as revised, the traffic impacts of the proposed facility would be minimized. Therefore Condition G in the underlying decisions is replaced with the following:

Condition G

The Siting Board directs IDC to work with its EPC contractor and the Town of Bellingham to develop and implement a traffic mitigation plan which addresses scheduling and any necessary roadway construction or improvements. This plan should: (1) to the extent practicable, address scheduling of arrivals and departures of construction-related traffic, including but not limited to deliveries of materials, equipment, and plant components, so as to avoid daily peak travel periods in affected areas; (2) include steps to minimize traffic impacts associated with any roadway modifications, or other improvements, that may be required to effect delivery of large

plant components; (3) include the provision of a traffic control officer at the Hartford Avenue/Depot Street intersection for a minimum of the nine to eleven months designated as peak on-site construction; (4) include the provision of a traffic control officer at the Depot Street/North Main Street intersection to coincide with the departure of workers at the end of the construction shift, for a minimum of the nine to eleven months designated as peak on-site construction; and (5) establish protocols allowing IDC to coordinate with the appropriate municipal authorities to identify and implement any traffic control measures, in addition to the traffic control officers at Hartford Avenue/Depot Street and Depot Street/North Main Street, needed to mitigate construction traffic impacts of the project at the access road to the site, and any other intersections affected by the change in the afternoon departure and associated changes in traffic patterns.

Accordingly, the Siting Board finds that, upon compliance with the revised Conditions C and G set forth in IV.A and IV.B, above, the Company's plans for the construction of the proposed facility would minimize the environmental impacts of the proposed facility consistent with the minimization of cost associated with the mitigation, control, and reduction of the environmental impacts of the proposed generating facility.

Findings in this Project Change Decision are based upon the project change information provided by the Company examined in light of findings the Siting Board made in the Final Decision and the IDC Compliance Decision. Since the project changes outlined in this decision pertain to the facility approved by the Siting Board in the underlying proceedings, the Company must construct and operate its facility in conformance with its proposal presented in the underlying proceedings; the only modifications permitted are those stated in the above conditions.

The Siting Board requires the Company to notify the Siting Board of any changes other than minor variations to the proposal so that the Siting Board may decide whether to inquire further into a particular issue. The Company is obligated to provide the Siting Board with sufficient information on changes to the proposed project to enable the Siting Board to make these determinations.

Jolette A. Westbrook
Hearing Officer

Dated this 25th day of September, 2001

APPROVED by the Energy Facilities Siting Board at its meeting of September 24, 2001, by the members and designees present and voting: James Connelly (Chairman, DTE/EF SB); Deirdre K. Manning (Commissioner, DTE); W. Robert Keating (Commissioner, DTE); Matthew Morais (for David L. O'Connor, Commissioner, Division of Energy Resources); and Joseph Donovan (for Elizabeth Ames, Director of Economic Development).

James Connelly, Chairman
Energy Facilities Siting Board

Dated this 24th day of September, 2001.

EFSB 97-5B - Project Change

Appeal as to matters of law from any final decision, order or ruling of the Siting Board may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the order of the Siting Board be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Siting Board within twenty days after the date of service of the decision, order or ruling of the Siting Board, or within such further time as the Siting Board may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the clerk of said court. (Massachusetts General Laws, Chapter 25, Sec. 5; Chapter 164, Sec. 69P).