

Oct. 6, 2006

Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington St  
Boise, ID 83702

RECEIVED

2006 OCT 10 AM 8:22

IDAHO PUBLIC  
UTILITIES COMMISSION

**Re: AVU-E-05-07**

Dear Ms. Jewell:

The NW Energy Coalition and its Idaho members have an interest in the above-referenced case (AVU-E-05-07), and as a result we respectfully submit the following comments.

The Coalition has 14 member organizations in Idaho and has been active in proceedings before the Idaho Public Utilities Commission.

For reasons outlined below, the Coalition believes this proposed power purchase agreement is appropriate for a more thorough examination and public discussion prior to final Commission action, and as a consequence we believe a public hearing on the merits of this application is appropriate.

The parties at issue, Thompson River Co-Gen (TRC) and Avista, appear to have had significant difficulties in reaching an agreement on a power purchase and sale agreement. One of the issues prior to settlement in this case, and one we believe warrants further discussion by the Commission, was TRC's status as a self-certified qualifying facility as defined by the Public Utility Regulatory Policies Act (PURPA). In addition, The parties reported in their Joint Petition that they had agreed in principal to settle this dispute and presented this Commission with a 20-year power purchase and sale agreement, yet there continued to be some disagreement among the parties as to the capacity levels attributed to this project. In addition, we believe the rates as proposed in the settlement warrant a public discussion before this Commission.

Potentially more troubling, the Coalition has been contacted by a number of interests both in Idaho and Montana who have raised questions about the environmental integrity of this plant and also of the plant's fuel mixtures. TRC and its environmental record have been the source of numerous public inquiries, including by the state of Montana, and we believe this particular power plant's environmental record merits review as part of this docket insofar as it may impact the plant's future operations. Among other issues, there appear to be ongoing questions as to the fuel source for this power generator, ie, whether it will be coal or biomass in the form of wood waste. We believe the fuel sources, and the environmental attributes related to them, for this generator merits review by the Commission.

Finally, we remind the Commission that it is currently the policy of the State of Idaho that coal-fired plants will not be constructed in this state and that Gov. James Risch has directed his Department of Environmental Quality to opt out of the U.S. Environmental Protection Agency's mercury trading program under the Clean Air Mercury Rule. The Board of Environmental Quality will review this rule and presumably will approve it as per the governor's order next week.

Realizing the governor's directive does not affect IPUC decisions with regard to power purchase agreements between Idaho utilities and out-of-state generators, the question must still be asked: Is it in Idaho's best interest for its regulated utilities to import power from out of state if that power is generated under conditions that have been challenged in the state where it originates? In this case, objections about TRC's Montana operations are a matter of record and are manifest. We believe Idahoans deserve an opportunity to address this issue, much as they have in recent months in other significant energy policy issues. Whether both parties in this docket have agreed upon their contractual and pricing language is less important than whether this is a good deal for Idaho ratepayers or the obvious environmental concerns in Idaho and Montana.

Regardless of how this Commission decides to proceed with this case, we urge it to inquire more deeply into the history and current status of TRC's environmental permitting history in Montana, and whether those issues should weigh in your decision in this docket. We believe they are ripe for consideration in this docket and that they warrant – at a minimum – an opportunity for the public to participate more fully. We also believe TRC's principals deserve an opportunity to explain to Avista ratepayers why they deserve to be participants in the utility's resource portfolio.

It appears that, from a review of the formal record in this docket and even a casual review of the parties' history in Montana, that Idaho and Idaho ratepayers deserve nothing less.

Respectfully submitted,

Ken Miller  
NW Energy Coalition  
5400 W. Franklin, Suite G  
Boise, ID 83705  
(208) 890-3944  
[ken@nwenergy.org](mailto:ken@nwenergy.org)

Attachments: News articles and agency press releases regarding the Thompson River Co-Gen Project

### **Thompson Falls power plant idle**

*By The Associated Press - 10/07/05*

THOMPSON FALLS (AP) — A controversial power plant here is at a standstill, but a partner in the project said Wednesday it is only “temporarily idle” while undergoing modifications, and will reopen.

“We’ve invested a significant amount of money in this plant and fully intend to conduct business in Montana,” Barry Bates of Thompson River Co-Gen LLC said in a telephone interview. “We intend to generate electricity in complete compliance with the state’s environmental standards.”

A Job Service manager in Thompson Falls told the Missoulian earlier this week that some of the 13 people employed at the plant had visited his office to complete paperwork for unemployment compensation and other benefits. Bates said “13 or 14” people worked at the plant. He said he was unable to say how many were on the payroll Wednesday.

“We plan on having those people back to work at Thompson River Co-Gen,” he said.

The plant’s startup was last December. Bates said it operated through August or early September. He described operations as on and off, “through testing phases on different systems.”

Developers filed for an air-quality permit in 2001 after announcing plans to burn waste wood for the generation of steam and electricity. However, eastern Montana coal delivered by rail became a major source of fuel for the plant.

Regulatory issues have included charges by the Montana Department of Environmental Quality that air-quality requirements were not met. Some residents of the Thompson Falls area said they worried the plant’s use of coal would bring health risks from mercury exposure, something not anticipated when the plant was proposed as a producer of power from wood waste.

DEQ charged that construction of the plant did not meet specifications of a state permit that was issued, said Eric Merchant, air-quality permit specialist for the agency. That matter “went through a settlement and resulted in a fine of \$106,400,” Merchant said.

Bates disputed charges of noncompliance and use of the term “fine.” He said Thompson River Co-Gen agreed to a financial settlement so the issue could be put to rest.

A payment schedule for the \$106,400 requires the first installment, \$35,000, late this month.

Merchant said that on Sept. 14, DEQ issued a letter alleging violation of terms spelled out in the plant’s air-quality permit. Thompson River Co-Gen LLC has until Oct. 21 to file a response.

NorthWestern Energy agreed to buy power from the Thompson River plant. NorthWestern spokeswoman Claudia Rapkoch said Wednesday the amount of power in

that deal was not "a significant portion of our overall portfolio. That is energy we can make up from other sources." Rapkoch declined to provide other comment about the status of the plant.

On the Net:

Department of Environmental Quality: <http://www.deq.state.mt.us>

## **Community fumes over power plant process**

*By JOHN STROMNES of the Missoulian*

THOMPSON FALLS - More than 100 Thompson Falls residents demanded Thursday night to know how a co-generation power plant was granted permits to pollute the air in their community without much public discussion or citizen input.

People at the community center meeting said they were worried about the health of their children, themselves and their animals. They also voiced concern about the harm the increased pollution will cause the environment, and the fact that only three of the 15 jobs created by the plant will go to Thompson Falls residents.

Local workers apparently do not have the boiler-operator licenses needed for the majority of openings.

"When this was first presented, it was presented as mainly burning wood waste - so clean we'd never even know it was there," complained one woman.

"You sold us a pig of a different color," another person said.

In fact, initial reports did imply the plant would mostly burn wood.

Plant owners in Kalispell indicated in a Sept. 22, 2002, article in the Daily Inter Lake newspaper that Thompson River Lumber and Thompson River Co-Gen were one and the same entity - they are not - and that biomass would be the primary fuel.

That assertion is qualified much later in the article with the statement: "If it can't produce enough biomass, the plant is licensed to burn coal."

Thompson River Co-Gen LLC is owned by investors from Kalispell and Colorado, and received its air pollution permit almost two years ago. Active partners are Barry Bates of Kalispell and Lawrence M. Underwood of Denver.

Montana's Board of Investments guaranteed about \$10 million in loans for construction and long-term financing of the plant. Private investors put up about \$2.4 million, and a Kalispell bank about \$3.3 million.

The state did an assessment that determined the facility will use state-of-the-art scrubbers, filters and combustion techniques to control emissions.

The company proceeded to build the plant after it received its license. Construction is about 85 percent complete, with start-up scheduled for May, according to a full-page ad by Thompson River Co-Gen in the Sanders County Ledger on Thursday.

Plant owners recently asked state environmental officials to allow them to make substantial cost-saving modifications to plant operations. The modifications will increase pollution, and the request led to the recent public outcry. The modification requests have yet to be accepted or denied.

And it recently came to light that Thompson River Co-Gen may also need a groundwater discharge permit, after Rep. Paul Clark, D-Trout Creek, alerted the state Water Quality Bureau that the facility had not applied for one. The plant would be discharging water into an unlined pond on the property that would drain into the ground, and possibly discharge into the nearby Clark Fork River.

This permit process could delay opening by at least six months, if one is required, Tom Reid, supervisor of the state Water Protection Bureau said. Reid said a member of his staff inspected the site recently and reported that a permit is likely necessary.

The company's environmental engineering firm said Thursday night it is reviewing all the options. The initial statement two years ago that the plant's waste water would drain into a lined, evaporative pond was premature, and no decision has yet been made about waste water disposal, these officials said.

All this uncertainty has caused some confusion. In fact, the very name of the plant has caused considerable confusion. Although it is named Thompson River Co-Gen, the plant is not a subsidiary or element of Thompson River Lumber Co., which is the last surviving lumber mill of any substantial size in Thompson Falls and one of the community's major employers.

Although not owned by the mill, the plant has a symbiotic relationship with the mill. It is built on land leased from the mill. The 125-gallons-a-minute supply of water the plant needs to operate its boilers will be provided by the lumber mill. And all of the wood waste the plant will use when it begins operations will be from waste generated at the mill.

The "co-fired" power generation facility is operated by a contractor, Savage Coal Services Corp. of Salt Lake City. "Co-fired" means the facility can burn both wood waste, called biomass, and coal. But plant officials now say it will actually burn mostly coal for the foreseeable future since appropriate biomass fuel is not readily available at a competitive price.

Co-generation means that it will generate "off-grid" electricity to be sold to NorthWestern Energy, the default power supplier for some 300,000 Montana customers, as well as co-generate steam and power for Thompson River Lumber Co.

Baker, one of the managing owners of the co-generation facility, said no company official ever claimed that the plant would burn primarily biomass. He said biomass is the preferred fuel, but the supply simply isn't available

"As we develop contracts we will increase the wood waste and burn less coal," he said.

About 550 rail car loads of coal annually will be shipped to the plant from a coal mine in the Bull Mountains, 500 miles away.

The coal will emit four regulated pollutants under the federal Clean Air Act: PM-10 (very small dust particles), oxides of nitrogen, carbon monoxide and oxides of sulphur.

The plant has promised to comply with all applicable laws to minimize pollution. But as a private business manufacturing a social good - electricity - some pollution is permitted.

"These are licenses to pollute," said John Coefield a meteorologist with the state Department of Environmental Quality. "The way the law works in the U.S. is people have the right to pollute if they get a license. Our job is to make sure they don't exceed the standards we enforce in that license."

Lacking zoning regulations - Sanders County has none - local governments have little veto power over these federal- and state-regulated industrial developments.

Thursday's meeting was called by State Sen. Jim Elliott, D-Trout Creek, in response to numerous citizens' concerns.

Coefield said that, despite citizens' fears, additional air pollution from the plant will be minimal - at most a 10 percent rise.

Nor will it endanger Thompson Falls' current relatively good air quality, said Coefield, who has been with the agency for some 30 years.

In the early 1990s, the state branded Thompson Falls with a "non-attainment" label because of its air pollution. Its air quality continues to be monitored. Analysis shows that most of the particulate pollution in the community comes from road dust. Other substantial contributors are residential wood stoves, slash burning (or forest fires), plus lumber mills and other industrial sources.

Since 1990, the community has cut air pollution particulate in half, due mostly to better road maintenance and the closure of one of the lumber mills. Coefield said measurable particulate has decreased from about 600 tons per year in 1990 to about 300 tons per year last year.

"This facility really, truly is a very low emitter for an industrial facility," Coefield told a skeptical audience.

Mercury emissions are another matter. Mercury is not currently regulated by air pollution standards. But mercury attached to smoke particles will be captured as it leaves the stack, according to Dennis Schwehr of Trout Creek, a retired air-pollution expert who does mercury consulting for private industry. He said some elemental mercury will escape as a gas in combustion - about 5.4 pounds a year from Thompson River Co-Gen, if it burns 100 percent Bull Mountain coal, about 0.78 pounds if it burns all wood.

Compare this to about 158 tons of elemental mercury that is put into the atmosphere by all U.S. sources, and the co-gen plant's contribution is insignificant, he said.

"What effect is this (mercury) going to have on me and my critters, and vegetables and wildlife - and make it (the explanation) simple," demanded one elderly woman.

The elemental mercury in the atmosphere will likely disperse all over the globe, not precipitate out immediately on the crops and animals and surface water near Thompson Falls, Schwehr said. "Elemental mercury poses no health threat from those (small) levels," emitted from the plant.

One critic asked why the Co-Gen plant was built in Thompson Falls rather than elsewhere - closer to coal supplies, or where waste wood was more accessible or where there was more skilled labor.

"They are not building this in Whitefish, they are not building it in Big Sky," said Thompson Falls carpenter Michael Gross. "Why not? Why don't they build it where the coal is? I don't care if they meet acceptable (pollution) levels. I think it is crap."

"The plant was built here because you have a (lumber) mill system that was not viable" without it, a Savage Coal Services Corp. official responded. "We burn all the waste wood that TRL (Thompson River Lumber) produces, and provide the steam they need."

Reporter John Stromnes can be reached at 1-800-366-7186 or at [jstromnes@missoulian.com](mailto:jstromnes@missoulian.com).

From the Montana Department of Environmental Quality:

FOR IMMEDIATE RELEASE  
Sep 02, 2005

[ [Back](#) ] [ [Current Press Releases Home](#) ] [ [Next](#) ]

Autumn Coleman  
Enforcement  
406-444-2411

## **THOMPSON RIVER CO-GEN. RESOLVES CLEAN AIR ACT VIOLATIONS**

Helena -- The Montana Department of Environmental Quality (DEQ) recently settled an enforcement action with Thompson River Co-Gen. LLC (TRC) for violations of the Clean Air Act of Montana that occurred at TRC's co-generation plant in Thompson Falls, Montana. TRC agreed to pay an administrative penalty in the amount of \$106,400 to resolve the matter.

TRC constructed a facility that differed from its original Montana air quality permit and from its application for that permit, in violation of the Clean Air Act of Montana. TRC has since applied for and been granted a permit modification, which corrected those violations.

For more information concerning this enforcement action, please contact Autumn Coleman, Montana Department of Environmental Quality, Enforcement Division 406-444-2411.

### END ###