

DOCKETED
January 4, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

ADJUTANT
GENERAL
OFFICE

In the Matter of)
)
Washington Public Power) Docket No. 50-460-OL
Supply System)
)
(Nuclear Project No. 1))

MOTION FOR WITHDRAWAL OF APPLICATION

I. Introduction

Pursuant to 10 C.F.R. § 2.107(a), the Washington Public Power Supply System ("Supply System"), the applicant in this proceeding,¹ requests the issuance of an order authorizing the withdrawal of the Operating License ("OL") application at issue and terminating this proceeding.

II. Background

In 1983, the Supply System notified the Licensing Board that construction of the WNP-1 project would be deferred indefinitely. The project has been preserved in a deferred status since that time, in accordance with the NRC's "Policy Statement on Deferred Plants" (52 Fed. Reg. 38,077 (1987)). The Supply System has filed quarterly status reports with the Licensing Board in accordance with the Licensing's Board

¹ As discussed in previous correspondence to the Licensing Board, the Supply System is now conducting business under a new name, Energy Northwest. However, because the Supply System is the applicant's name of record in this proceeding, and to avoid confusion, the applicant will be referred to here as the Supply System.

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directive in Washington Public Power Supply System (WPPSS Nuclear Project No. 1), LBP-83-66, 18 NRC 780, 798-801 (1983).

As the Supply System has previously apprised the Licensing Board, on May 13, 1994, the Supply System Board of Directors voted to formally terminate the WNP-1 project. At the time, however, the Supply System indicated that it wished to maintain the Construction Permit ("CP") in effect and to continue the deferred status of the OL application in order to maximize the value of the project and the equipment for an interim period. (The Supply System apprised the Licensing Board of these developments by letters dated May 17, 1994 and February 15, 1995.) A limited project preservation program has remained in place since that time, while various options for alternative uses of the project were considered. In addition, the Supply System prepared a Site Restoration Plan that encompassed the WNP-1 project (which shares a site with the previously canceled WNP-4 project). That plan was prepared for and submitted to the State of Washington Energy Facility Site Evaluation Council ("EFSEC") in March 1995.² A revised, more cost-effective site restoration plan was submitted to EFSEC on June 30, 1999, and is presently being considered by EFSEC and other stakeholders.³

² The Site Restoration Plan encompassed both the WNP-1/WNP-4 and the WNP-3/WNP-5 sites. By resolution of June 12, 1995, EFSEC generally approved the Site Restoration Plan, conditioned on more detailed reviews as additional information is developed. A copy of the plan was also submitted to the NRC Staff for information by correspondence of March 28, 1995 (Letter GO1-95-0017/GO3-95-0071, dated March 28, 1995, W.G. Council (Supply System) to J.M. Taylor (NRC Staff), "Nuclear Projects 1 and 3 Site Restoration Plan").

³ The revised Site Restoration Plan is available on the World Wide Web (<http://www.efsec.wa.gov>).

III. Discussion

As described in the attached correspondence to the NRC Staff dated December 21, 1999, the Supply System has now determined that it is no longer necessary to maintain the CP and the deferred OL application for WNP-1. The WNP-1 project will not be completed as a nuclear power plant. Accordingly, the Supply System is now prepared to terminate the existing CP, to withdraw the application for an OL, and to terminate this proceeding. Due to the early deferral and subsequent cessation of construction, there is no nuclear fuel at the WNP-1 site and the unfinished plant is incapable of being operated as a "utilization facility."

In addition, site restoration will be fully monitored by state and federal authorities. For example, the Site Restoration Plan submitted to EFSEC this year includes proposed site restoration alternatives and performance standards — to be monitored by EFSEC — designed to protect the surrounding environment and to minimize and mitigate unavoidable short-term impacts of restoration. The Site Restoration Plan also recognizes an option for economic development of the site, but will nonetheless assure environmental stability of the site. This latter option is similar in concept to the approach recently taken for the terminated WNP-3 project. The site restoration plan will be evaluated by EFSEC and other stakeholders. In addition, because the WNP-1 site is on federal leased land within the Hanford reservation, the U.S. Department of Energy ("DOE") exercises oversight of the plans for the site as allowed by

the land lease and to assure that restoration plans are appropriate for the future land use options.⁴

Under these circumstances, there is no basis or need for conditions on the withdrawal of the OL application or on the termination of this proceeding. See, e.g., Duke Power Company (Perkins Nuclear Station, Units 1, 2 and 3), LBP-82-81, 16 NRC 1128, 1134-35(1982)(federal law favors dismissals where the other parties will not be harmed; conditions on withdrawal would be imposed only when needed to obviate legal harm). No party to this proceeding will be harmed by a dismissal. Indeed, the alleged harm due to the proposed plant operation, the very basis for this proceeding, will not occur because the plant will not be completed. See Sequoyah Fuels Corporation, LBP-93-25, 38 NRC 304, 327 (1993).

Moreover, the Supply System expects that the NRC Staff will review site restoration environmental matters for the WNP-1 project and will prepare an environmental assessment prior to terminating the CP. See, e.g., 64 Fed. Reg. 1644 (January 11, 1999) (Environmental Assessment and Finding of No Significant Impact related to terminating the WNP-3 CP). Faced with similar circumstances in 1996 for the WNP-3 project, the presiding NRC licensing board unconditionally granted the Supply System's motion for withdrawal and termination of the OL proceeding. Washington

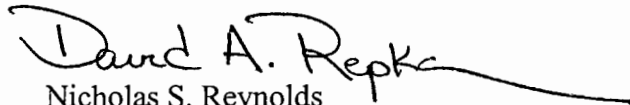
⁴ See, for example, the Final Hanford Comprehensive Land-Use Plan Environmental Impact Statement prepared and published by DOE (<http://www.hanford.gov/netlib/eis.html>). DOE recently issued a Record of Decision to adopt the Comprehensive Land Use Plan. 64 Fed. Reg. 61615 (November 12, 1999). The DOE preferred alternative anticipates multiple land uses for the Hanford site, including industrial options being considered for the WNP-1 area (which also includes the operating WNP-2 facility).

Public Power Supply System (WPPSS Nuclear Project No. 3), LBP-96-21, 44 NRC 134
(1996).

IV. Conclusion

On the basis of the foregoing, Applicants move that the Board issue an order authorizing withdrawal of the application and terminating this proceeding.

Respectfully submitted,



Nicholas S. Reynolds
David A. Repka

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(202) 371-5700

Attorneys for Washington Public Power
Supply System

Dated in Washington, DC
this 4th day of January, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

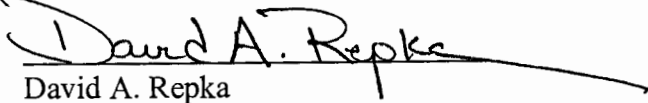
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)
) Docket No. 50-460-OL
Washington Public Power Supply System)
)
(Nuclear Project No. 1))
)

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with 10 C.F.R. § 2.713(b), the following information is provided:

Name: David A. Repka
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Admissions: District of Columbia Court of Appeals
Name of Party: Washington Public Power Supply System
(Energy Northwest)


David A. Repka

Dated at Washington, District of Columbia
this 4th day of January, 2000

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)
)
Washington Public Power)
Supply System)
)
(Nuclear Project No. 1))

Docket No. 50-460-OL

OFFICE OF THE
GENERAL COUNSEL
ADJUDICATION

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "MOTION FOR WITHDRAWAL OF APPLICATION" and "NOTICE OF APPEARANCE" for David A. Repka in the above-captioned proceeding have been served upon the following persons by deposit in the United States mail, first class, this 4th day of January, 2000.

Adm. Judge G. Paul Bollwerk, III
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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Board Panel
U.S. Nuclear Regulatory
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Mr. Doug Coleman
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Energy Northwest
P.O. Box 968, Mail Drop PE-20
Richland, Washington 99352-0968


David A. Repka

December 21, 1999
GO1-99-067

Docket No. 50-460

Dr. WD Travers
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Travers:

Subject: **ENERGY NORTHWEST NUCLEAR PROJECT NO. 1 (WNP-1)
TERMINATION OF CONSTRUCTION PERMIT CPPR-134**

- References:
- 1) Letter GO2-94-122 dated May 20, 1994, WG Council (Supply System) to JM Taylor (NRC), "Termination of Washington Public Power Supply System Nuclear Projects Nos. 1 and 3"
 - 2) Letter GO1-95-004 dated February 3, 1995, WG Council (Supply System) to JM Taylor (NRC), "Termination of Washington Public Power Supply System Nuclear Projects Nos. 1 and 3"
 - 3) Letter GO1-95-0017/GO3-95-0071 dated March 28, 1995, WG Council (Supply System) to NRC Document Control Desk, "Nuclear Projects 1 and 3 Site Restoration Plan"

In 1982 the Washington Public Power Supply System (Supply System), now conducting business as Energy Northwest, deferred the construction of the partially completed WNP-1 Project. The project was held in deferred status until May 13, 1994, when it was formally terminated by the Supply System's Board of Directors (Reference 1). At the time of termination, the Supply System decided to maintain the Construction Permit and to continue the deferred status of the Operating License application in order to maximize the value of the project and equipment for an interim period prior to any site restoration (References 1 and 2).

Energy Northwest has now determined that the NRC permits and licenses are no longer necessary for this project. Accordingly, Energy Northwest requests the termination of Construction Permit CPPR-134 and withdrawal of the pending Operating License application for WNP-1. A separate motion will be filed with the Atomic Safety and Licensing Board to terminate the pending Operating License proceeding.

ENERGY NORTHWEST NUCLEAR PROJECT NO. 1 (WNP-1)

TERMINATION OF CONSTRUCTION PERMIT CPPR-134

Page 2

Due to the early deferral and subsequent termination of construction, there is no nuclear fuel at the site and the plant is not capable of being operated as a "utilization facility." Requirements to restore the site are being imposed by the Washington State Energy Facility Site Evaluation Council (EFSEC) and separately by the U.S. Department of Energy in accordance with the terms of the site land lease.

An initial plan for restoration of the site was submitted to the State (EFSEC) in March 1995 (transmitted to the NRC by Reference 3). The plan proposed removal of the assets and restoration of the facilities such that the site would pose minimal hazard to the public. A revised plan was submitted in June 1999. This recent submittal proposed a more cost-effective plan for the safe closure of the buildings and acknowledged a new option for ownership and economic development of the site by others.

A decision by the NRC to terminate the WNP-1 Construction Permit is supported by the absence of unresolved (substantial) issues, the inability of the unit to be operated as a utilization facility, stable environmental conditions, and continuing oversight by other agencies. Accordingly, Energy Northwest believes the proposed termination of the facility construction permit is a simple administrative action that is not associated with a significant environmental impact.

Should you have any questions or desire additional information regarding this matter, please contact Mr. DW Coleman at (509) 377-4342.

Respectfully,



JV Parrish
Chief Executive Officer
(Mail Drop 1023)

- cc: NRC Document Control Desk
EW Merschoff - NRC RIV
JS Cushing - NRC NRR
MM Mendonca - NRC NRR
JH Wilson - NRC NRR
NRC Sr. Resident Inspector - 927N
DJ Ross - EFSEC
TC Poindexter - Winston & Strawn
DL Williams - BPA/399