

Forelaws on Board



FORELAWS ON BOARD
19142 S. Bakers Ferry Rd.
Boring, Oregon 97009
Ph. 637-3549

- *THE FOUR LAWS OF ECOLOGY**
1. Everything is connected to everything else.
 2. Everything must go somewhere.
 3. Nature knows best.
 4. There is no such thing as a free lunch.

Reprinted by permission from THE LICENSING CIRCLE
by Barry Commoner, a Hazen Mack, published by
Albert A. Knopf, Inc.

*Our conscience teaches us it is right,
our reason teaches us it is useful,
that men should live according to
the Golden Rule.*

W. Winwood Reade

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
Puget Sound Power & Light)
Company, et al.)
)
(Skagit Nuclear Power)
Project, Units 1 and 2)
_____)

DOCKET NOS. 50-522
50-523

DATED: July 16, 1979



FOE/CFSP MOTION TO REQUIRE DISQUALIFICATION
OF BOARD CHAIRMAN

Intervenor FOB/CFSP, in accordance with 10 CFR 2.704(c), hereby moves to have Valentine B. Deale disqualify himself as Chairman of the Licensing Board in these dockets.

Attached to this motion is supporting affidavit setting forth the grounds for this motion.

Respectfully,

Eric Stachon
Eric Stachon
Forelaws On Board
Coalition for Safe Power

7908300018

A REVERENCE FOR ALL LIFE

— THE GOLDEN RULE —

THE FOUR LAWS OF ECOLOGY

•
GUIDELINES OF CREATIVE ENVIRONMENTALISM
•

FORELAWS ON BOARD



851 344

Forelaws on Board



FORELAWS ON BOARD
19142 S. Baker's Ferry Rd.
Boring, Oregon 97009
Ph. 837-3549

- *THE FOUR LAWS OF ECOLOGY
1. Everything is connected to everything else.
2. Everything must go somewhere.
3. Nature knows best.
4. There is no such thing as a free lunch.

Reprinted by permission from THE CELESTINE CIRCL...
by Gary L. ...
Illustration published by
Albert A. Knapp, Inc.

Our conscience teaches us it is right,
our reason teaches us it is useful,
that men should live according to
the Golden Rule.

W. Winwood Reude

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
Puget Sound Power & Light
Company, et al.
(Skagit Nuclear Power
Project, Units 1 and 2)

DOCKET NOS. 50-522
50-523

DATED: July 16, 1979



AFFIDAVIT OF ERIC STACHON

In Support of FOB/CFSP Motion

I, Eric Stachon, having been duly sworn, do hereby affirm
and state:

a) that I represent both Forelaws On Board and the Coalition
for Safe Power in these proceedings,

b) that I have appeared before both the previous Board
Chairman (Samuel W. Jensch) and the current Chairman, Valentine
B. Deale,

c) the the following sets forth sufficient grounds for the
disqualification of Valentine Deale as presiding officer:

1) Chairman Deale's first appearance in these proceed-
ings was at a pre-hearing conference on January 16, 1979. The
purpose of the conference was to identify remaining issues before
the Board. Board Order of December 22, 1978.

A REVERENCE FOR ALL LIFE

THE GOLDEN RULE

THE FOUR LAWS OF ECOLOGY

GUIDELINES OF CREATIVE ENVIRONMENTALISM

FORELAWS ON BOARD

851 345



2) The most significant issue pending before the Board at the time of the conference was a late-filed petition to intervene entered on behalf of three Native American tribes. The petition had been granted by the previous chairman but, on appeal, that decision was vacated by the Atomic Safety and Licensing Appeal Board and the matter was remanded to the newly constituted Board. ALAB Order of January 12, 1979.

3) Chairman Deale recognized the significance of the Indian issue and its effect on the course of these proceedings, stating, "...we feel that the [Indian] matter deserves priority attention." Tr. 11,489 (emphasis added). Deale also stated, "And, quite, clearly, the sooner the Petition to Intervene is ruled upon the better." Tr. 11,495. As for scheduling, the chairman commented:

"...in the scheduling of the issues to be considered by us, while the Indians' petition is being considered, I believe the Board would be sympathetic in scheduling, say, the issues for its consideration in the petition which the Indians have an immediate interest in at perhaps a later time than might otherwise be scheduled." Tr. 11,491-92

4) While acknowledging the seriousness of the Indian issue, the chairman let it be known that he would not let it delay the hearings, stating,

"Now, I want to make sure this is understood, that this proceeding will not be held up until we make a decision on the Indians' petition." Tr. 11,491

and,

"We said in our order that we intend to move ahead with this case with all deliberate speed..." Tr. 11,522

5) As a means of expediting the hearings process, the Board convened a second pre-hearing conference on April 24, 1979.

"The purpose of the conference is to schedule evidentiary hearings and to take further steps in moving along the proceeding." Order for Conference, March 27, 1979.

The Order also stated:

"Between now and the scheduled conference, the Board is planning...to issue its order on the question of intervention by the Upper Skagit Indian Tribe, the Sauk-Suiattle Indian Tribe and the Swibomish Tribal Community..."

6) At the April 24 conference the Board ruled on the record against granting the Petition to Intervene. The Chairman, however, delayed any appeal, requiring petitioners to await issuance of a written decision. Meanwhile, at the April 24 conference, the parties agreed to a three-week evidentiary session to start on July 17. The petitioning tribes had shown interest in many of the issues scheduled to be addressed at the July session.

7) While awaiting issuance of an appealable order, petitioners found it necessary to file a Motion to Expedite Issuance of Written Decision Denying Intervention, filed May 15, 1979. The tribes were understandably anxious to begin the appeal process, stating:

"The Tribes are fearful that the Board's previous delay, and any further delay, will prejudice their position on appeal." Motion at p. 2.

8) The written decision was finally entered on June 1, 1979, over six months after the initial granting of intervention by the previous chairman, almost five months after the Appeal Board remanded the issue back to the Board, and over two months after the chairman announced the Board's intentions of ruling on the petition on or before the April 24 conference.

9) Not only had Chairman Deale personally assured a quick decision on the petition, but also the Commission, in an Order dated March 8, 1979, noted, "(the) Board should proceed to consider the matter expeditiously." The subject of the Order was the petition for Commission review of the Appeal Board order, filed by the tribes. The Commission deferred ruling on the petition until the Licensing Board issued its decision.

10) The Chairman's lack of desire in resolving the Indian issue, while at the same time taking action to speed up the ultimate

POOR ORIGINAL

conclusion of the proceedings, has severely prejudiced the rights of the petitioning tribes. The matter is presently before the Appeal Board. Yet, before the Appeal Board rules on the matter, evidentiary hearings will have been held on subjects of concern to the tribes. Even if the Appeal Board reverses the Board's decision and allows intervention, it is doubtful that petitioners will be able to address issues previously litigated before this Board. Chairman Deale was not offered, nor do FOB/CFSP feel that he can, provide a reasonable explanation for his delay in issuing a decision that petitioners could appeal.

11) Beyond the issue of timeliness, there is the matter of the nature of some of the language used in the chairman's Order of June 1. At p. 5 Deale refers to the Indians' participation in a federal court case granting the tribes federally adjudicated fishing rights. Deale states:

"The Indians' victory in the latter case [United States v. Washington] might have energized the Indians to try another legal battleground,..." Order at p. 5.

Deale's remarks regarding Indians and battlegrounds conjures up visions of the white man's stereotyped image of Native Americans as "savages." There is no place in these proceedings for such remarks.

12) Thus, Deale's words, as well as his actions, constitute grounds for his removal. In In the Matter of Commonwealth Edison, 6 NRC 68, ALAB-102, (Feb. 20, 1973), the Appeal Board stated at p. 71:

"an appearance of prejudgement is as much a ground for disqualification as is prejudgement itself."

There is no doubt that, at the very least, Chairman Deale appears to have prejudiced the rights of the petitioning tribes and has caused them needless harassment.

In the interests of preserving Commission integrity, Chairman Deale should disqualify himself as presiding officer.

Respectfully,

851 348

Eric Stachon
Eric Stachon
Forelaws On Board
Coalition for Safe Power

Subscribed and sworn before me this 17th day of July, 1979.

Gale W. Schwartz
Notary Public

My Commission Expires: 11/27/82

851 349