



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)
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PUGET SOUND POWER & LIGHT) DOCKET NOS. STN 50-522
COMPANY, et al.,) 50-523
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(Skagit Nuclear Power Project,)
Units 1 and 2))
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INTERVENOR SCANP'S LIST OF PRINCIPAL ISSUES

This list and the accompanying discussion are in response to the Board's order of December 22, 1978, and are intended to supplement SCANP's letter response dated January 11, 1979. SCANP adheres to its position stated in the letter that none of the issues are ripe for decision, and states briefly its reasons for this position with respect to each of the issues noted.

1. Alternative Sites

SCANP's contentions express concerns that the Applicant's evaluation of alternative sites is insufficient (Contention C) and that the staff has failed to conduct an independent evaluation of alternative sites, as required by NEPA (Contention J 12).

These original contentions have not been answered adequately, either in the FES and the FSFES or by evidence presented by the Staff and Applicant.

Staff review has been limited to sites considered by Applicant. TR 7659, 7670, 7674. Both the courts and the Commission have held that this is insufficient to satisfy the requirements of NEPA, which requires the responsible agency to undertake for itself the comparison of alternatives. 42 U.S.C. §4332(2)(c)(iii), (E); Aeschliman v. NRC, 547 F.2d 622(2d Cir. 1976); Boston Edison Co., 7 NRC 774, 780 (1978); Public Service Co. of New Hampshire, 5 NRC 503, 525 (1977). Further, a focus on general regions, which is all the Staff had done here, TR 7655, is insufficient; the Staff must independently investigate specific alternatives and compare them to the proposed site. Boston Edison Co., 7 NRC at 781. Further evidentiary hearings will be required after the staff's study and analysis is completed.

The evaluation of alternatives undertaken by the applicant and reviewed by the staff is incomplete in several respects, and will require further evidentiary hearing. TR 7659-60. No detailed study of costs for

alternative sites has been developed or presented. TR 7661; 7686-87. The sunk hole costs of the Skagit site have not been ascertained and factored out of comparisons with other sites. TR 7698. Although the Applicant has submitted data comparing the site to Pebble Springs, the staff has not presented its analysis of this data at an evidentiary hearing, nor has SCANP had the opportunity to cross-examine with respect to the Pebble Springs data. Finally, the Applicant has not yet presented its testimony on the geology and seismology of alternative sites.

The Staff's independent analysis of alternative sites will probably require revision or supplementation of the FES. It is appropriate, therefore, to defer evidentiary hearings on the above issues relating to Applicant's studies until the Staff has completed its own studies.

2. Radon 222

This issue is one on which no evidentiary hearings have been held. SCANP has contended that the Perkins record is inadequate, and that the effects of low level radiation must be addressed in evidentiary hearings. See Intervenor SCANP's Response to Partial Initial Decision in Perkins, filed Nov. 15, 1978. Because Indian intervenors have presented contentions

respecting the effects of low level radiation on genetically isolated tribal populations, it would be appropriate to defer consideration of the Radon-222 issue until the status of the Indians in this proceeding has been clarified.

3. Class 9 Accidents

Although the proposed annex to 10 CFR Part 50 App. D excepts from study the consequences of a Class 9 accident in the absence of special circumstances indicating a higher probability of such an accident, there is new evidence indicating that the Commission may have based its assessment of the probability of such an accident on incomplete data. SCANP asserts that this new evidence refutes the basis for the proposed annex, and that the consequences of a Class 9 accident at the Skagit site would be different in nature than those foreseen by the Commission in proposing the now discredited annex. It is therefore appropriate for the Board to receive and consider written and oral testimony addressed to this issue. See Offshore Power Systems, 8 NRC 194 (1978).

This week counsel for SCANP learned that new information has been made public pursuant to a Freedom of Information Act request by the Union of Concerned Scientists, enumerating a large number of incidents which might have caused accidents. Counsel is informed that these inci-

dents were not publicly considered by the Commission in evaluating the probability of a Class 9 accident. Further, these incidents were not considered in the assessment of Class 9 accident probability undertaken in Wash-1400, which used as a data base only the incidents then publicly known. Recent sharp criticisms of Wash-1400 further undermine the validity and credibility of Wash-1400's conclusion that the probability of a Class 9 accident is so low so as to preclude its consideration.

SCANP therefore intends to review this new information as soon as it is obtained, and to prepare to offer witnesses and other testimony on this issue.

SCANP notes further that consideration of Class 9 accidents is underway regarding floating nuclear plants, on the basis that the risk presented by such plants is of a nature different than that presented by certain land-based plants which the Commission had in mind when it proposed a rule excluding Class 9 accidents from consideration. Offshore Power Systems, 8 NRC 194 (1978). Similarly, SCANP is concerned that the proximity of the Skagit site to a major waterway might cause unforeseen consequences should a Class 9 accident occur. See Liquid Pathway Generic Study (NUREG-0440, February 1978). These consequences as well as the ability of the land surrounding the site to contain radioactive materials, preventing

their spread to the river and ultimately to Puget Sound, should be addressed by the Staff. The Staff will have opportunity to do so when revising or supplementing its impact statement to include the Staff's alternative site evaluation and to assess the environmental impact of the proposed project, as substantially redesigned by the Applicant.

4. Need for Power

On May 24, 1978, SCANP moved to reopen the record on need for power. Upon suggestion of the Staff, TR 10378, the motion is still pending, awaiting further proceedings of the Oregon Energy Facility Siting Council. The Staff has indicated support for SCANP's motion if those proceedings yield evidence different from that already presented to the Board, and has urged the Board to base its decision on this issue upon the best available information.

The Applicant opposed SCANP's motion as untimely, and contended further that the proposed new evidence is merely cumulative and would unduly burden the Board's efforts to assess the evidence already before it. Applicants' Answer to Skagit Intervenor's Motion to Reopen the Record on Need for Power (June 9, 1978).

In Intervenor's Supplement to Motion to Reopen Need for Power Record (June 19, 1978), SCANP contended that the Applicant failed to use factors necessary to justify its

"critical water criterion" approach, and that the Pacific Northwest Region is building too much baseload capacity. Supplement at 2-4. These contentions, supported by methodology used and forecasts compiled by the Oregon Department of Energy (ODOE) have been strengthened by the release in May, 1978, of the Northwest Energy Policy Project (NEPP) Final Report. This Final Report, based upon the most comprehensive and advanced methodology ever used to assess energy demand in the Pacific Northwest, supports the conclusion of ODOE that energy growth through the year 2000 will most probably approximate 2.5%, a figure substantially lower than that submitted by Applicants in their proposed findings on April 13, 1977 (over a year prior to release of the NEPP Final Report).

Insofar as these and other studies criticize the methodology of the West Group forecasts (which predicted substantially lower growth rates in 1978 than in 1977) as well as their results, they are not merely cumulative, as Applicant suggests.

But the Applicant's suggestion that SCANP's motion is untimely, in light of Applicant's own actions, is even more curious. Applicant submitted proposed findings on need for power in April, 1977, and proposes to rely on those findings in contending that the record is complete. Applicant, then, would have the Board ignore Applicant's

own 1978 forecasts, which was significantly different and undermines the evidence upon which Applicant relied in proposing findings. And now Applicant informs the Board that it intends to furnish the Board its 1979 updated forecasts, although we must presume, consistent with Applicant's position in opposing SCANP's motion to reopen, that SCANP and the other parties will not be afforded the opportunity to review and challenge this evidence, and that the Board must ignore what the Applicant submits and base its decision on the evidence underlying Applicant's 1977 proposed findings.

The Applicant's position is unreasonable, and inconsistent with its own actions which bring into question its testimony on need for power. It is also inconsistent with new evidence which suggests that Applicant has erred in forecasting energy demand. SCANP's motion to reopen the record on need for power should be granted, and hearings scheduled to evaluate new evidence pertaining to this important issue.

5. Wild and Scenic Rivers Act

Assistant Secretary Cutler issued a determination pursuant to §7(b) of the Wild and Scenic Rivers Act, 16 U.S.C §1278(b), on April 11, 1978. This determination held that the project would have a "direct and adverse effect" on the river, and could not be licensed unless the

portion of the river adjacent to the power plant was excluded from the portion of the Skagit designated for permanent inclusion in the wild and scenic river system. If so excluded, Assistant Secretary Cutler determined that certain mitigating measures would permit the license to issue under the "unreasonably diminish" standard in §7(a).

Although Assistant Secretary Cutler addressed the §7(a) determination, his discussion was a preliminary one. He did not have the Applicant's proposals to carry out the suggested mitigating measures before him. Therefore, prior to licensing a §7(a) determination based upon a proper record will be necessary. SCANP notes at this time its disagreement with the Assistant Secretary's §7(b) determination insofar as it suggests that the plant can be licensed. SCANP does not agree that the proposed mitigating measures will avoid unreasonable diminishment of the Skagit's values, and contends that such mitigating measures are required in any event by NEPA.

The Secretary's discussion implied that the Wild and Scenic Rivers Act imposes no requirements in addition to what is required by NEPA. Under such an interpretation, which is contrary to both the Act and its legislative history, designation of a river for inclusion in the wild and scenic river system would add no protection to the values for which the river was selected. The Assistant Secretary's interpretation nullifies the Act.

As the Board and Staff have recognized, the Wild and Scenic Rivers Act imposes obligations upon the NRC as well as upon the Department of Agriculture. Because the Department's §7(b) determination requires, at a minimum, a great deal of redesign by Applicant, see, e.g., TR 10795-96 (removal of riprap); TR 10930-35 (setback of Ranney laterals); TR 10949-60 (riprap and flooding); hearings will be required to assess the impacts of such new designs. Such hearings will need to address the effect of these redesigns themselves, as well as their cumulative effect as that effect bears upon the §7(a) requirements. Thus, separate hearings will be required to evaluate the redesigned Ranney Well Collectors, the redesigned Off Loading Barge, removal of riprap, new plans devised for delivery of the reactor vessel by barge up the Skagit River, and other features which have undergone revision since last addressed at hearings. Additionally, there should be hearings to address the cumulative effect of these redesigns on fisheries and other aquatic features which are the values for which the Skagit River was included in the wild and scenic river system.

6. Ranney Collector System

The Ranney Collector System presents an issue on which further evidentiary hearing is required before

Board decision is appropriate. Although testimony has been presented addressing SCANP's contention (PSAR Contention 4) that the provision made for intake of cooling water is inadequate and temporary, see TR 3037-75, 3618-19, the Applicant has since modified and redesigned the intake system.

Although some early modifications by the Applicant have been addressed in subsequent hearings, e.g., TR 10728-967, several aspects of this issue remain to be heard. The Board noted prior to the last session in which this issue was addressed that Applicant proposed further exploratory work, leaving the issue in a state of flux. TR 10723. At this last session, Applicant's witnesses testified that, because Assistant Secretary Cutler's §7(b) determination would require removal of riprap (TR 10795-96) and additional setback of laterals (TR 10930-35), further modification of the design will be necessary. This will require further exploratory work, because Applicant's witnesses testified that tests were conducted only for pumping at no distance from the river, not for pumping 150 feet from the river as will now be required. TR 10902-07.

Inasmuch as the Wild and Scenic Rivers Act requires an entire new scheme for intake of cooling water, with

lesser protection and more maintenance, TR 10960, SCANP anticipates that the Applicant will present its new design and the results of its further exploration at future hearings. Presumably, the Staff will present its analysis of this new design along with the testimony and documents it has already indicated it intends to present. TR 10966-67.

7. Adequacy of the FES and FSFES

The sufficiency of the Staff's impact statements are called into doubt for two reasons. First, important new evidence (specifically discussed under other headings in this list, especially Wild and Scenic Rivers) suggests that a re-evaluation of the environmental impacts of several aspects of the project is appropriate. Second, the massive redesign of the project by the Applicant, specifically the Ranney Well Collector system, the setback of laterals, the off loading barge facility and transport of the reactor vessel up the Skagit River, have changed the likely environmental impacts of the project.

The Staff and Applicant submitted proposed findings on environmental issues on October 24, 1975. TR after 4742. Since that time, Applicant and Staff have submitted a great deal of new testimony on environmental issues. E.g., TR 7762-8179 (visual impacts), and on other issues central to the impact statement. E.g., TR 4937-5015,

5849-5908 (alternative sites). A revision or supplement to the FES is therefore necessary, to assess important new environmental data and to evaluate the environmental impacts of the Applicant's new designs.

8. Evacuation Plan

The Environmental Protection Agency and the NRC recently issued a report entitled, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants", (NUREG - 0396, EPA 520/178-016), which suggests generic emergency planning in two zones of 10 mile and 50 mile radii around nuclear plants.

In light of this report, which sets into action probable revision of the NRC's present emergency evacuation standards, the adequacy of the evacuation plan for the proposed Skagit facility should be reassessed.

Respectfully submitted,

ROGER M. LEED

By



MICHAEL W. GENDLER
Of Attorneys for Inter-
venor SCANP

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Richard L. Black, Esq.
Counsel for NRC Staff
U.S. Nuclear Regulatory
Commission
Office of the Executive Legal
Director
Washington, D. C. 20555

Nicholas D. Lewis, Chairman
Energy Facility Site Evaluation
Council
820 East Fifth Avenue
Olympia, Washington 98504

Robert C. Schofield, Director
Skagit County Planning Depart-
ment
120 West Kincaid Street
Mt. Vernon, Washington 98273

Richard M. Sandvik, Esq.,
Assistant Attorney General
Department of Justice
500 Pacific Building
520 S. W. Yamhill
Portland, Oregon 97204

Robert Lowenstein, Esq.
Lowenstein, Newman, Reis &
Axelrad
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

H. H. Phillips, Esq.
vice President and Corporate
Counsel
Portland General Electric
Company
121 S.W. Salmon Street
Portland, Oregon 97204

CFSP and FOB
E. Stachon & L. Marbet
19142 S. Bakers Ferry Road
Boring, Oregon 97009

Canadian Consulate General
Peter A. van Brakel
Vice-Consul
412 Plaza 600
6th and Stewart Street
Seattle, Washington 98101

F. Theodore Thomsen
Perkins, Coie, Stone, Olsen
& Williams
1900 Washington Building
Seattle, Washington 98101

Alan P. O'Kelly
Paine, Lowe, Coffin, Herman
& O'Kelly
1400 Washington Trust Financial
Center
Spokane, Washington 99204

Russel W. Busch
Evergreen Legal Services
520 Smith Tower
Seattle, Washington 98104

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Michael W. Leed
ROGER M. LEED
Counsel for Intervenors