

ORIGINAL

NUCLEAR REGULATORY COMMISSION



In the Matter of:

PUGET SOUND POWER & LIGHT CO.,
et al

(Skagit/Hanford Nuclear Project
Units 1 & 2

)
)
) DOCKET NOS.
) STN-50-522
) STN-50-523
)

DATE: May 5, 1982

PAGES: 1 thru 77

AT: Richland, Washington

*1 ROL
50/1
1 copy to OBC*

ALDERSON  REPORTING

400 Virginia Ave., S.W. Washington, D. C. 20024

Telephone: (202) 554-2345

8205120172 820507
PDR ADOCK 05000522
T PDR

1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 -----

4 In the matter of: :

5 PUGET SOUND POWER & LIGHT CO. :
et. al. : Docket Nos.

6 (Skagit/Hanford Nuclear Project : STN-50-522
7 Units 1 and 2) : STN-50-523

8 -----

9 Auditorium
10 Federal Building
825 Jadwin Avenue
Richland, Washington

11 Wednesday, May 5, 1982

12 The prehearing conference in the above-entitled
13 matter was convened, pursuant to notice, at 10:00 a.m.

14 BEFORE:

15 The Honorable JOHN WOLF, Chairman
Administrative Judge

17 The Honorable FRANK F. HOOPER
Administrative Judge

18 The Honorable GUSTAVE A. LINENBERGER, Jr.
Administrative Judge

1 APPEARANCES:

2 On behalf of the NRC Staff:

3 RICHARD L. BLACK, Esq.

4 On behalf of the Applicant, Puget Sound Power & Light Co.:

5 F. THEODORE THOMSEN, Esq.
6 Perkins, Coie, Stone, Olsen & Williams
7 1900 Washington Building
8 Seattle, Washington 98101

9 STEVEN P. FRANTZ, Esq., and
10 DAVID G. POWELL, Esq.
11 Lowenstein, Newman, Reis & Axelrad
12 1025 Connecticut Avenue, Suite 1214
13 Washington, D.C. 20036

14 On behalf of the Intervenors, Natural Resources Defense
15 Council, Inc.:

16 RALPH C. CAVANAGH, Esq.
17 25 Kearny Street
18 San Francisco, California 94108

19 On behalf of the Intervenors, National Wildlife
20 Federation and the Oregon Environmental Council:

21 TERENCE L. THATCHER, Esq.
22 Law Center
23 1101 Kincaid
24 Eugene, Oregon 97403

25 On behalf of the Intervenors, Coalition for Safe Power:

NINA BELL, and
LLOYD MARBET
Coalition for Safe Power
408 S.W. 2nd, Suite 527
Portland, Oregon 97204

Also present :

ROBERT LOTHROP
Columbia River Intertribal Fish Commission
8383 N.E. Sandy Boulevard, Suite 320
Portland, Oregon 97220

1 CHAIRMAN WOLF: Good morning. We are meeting here
 2 this morning in the matter of Puget Sound Power & Light Co.,
 3 et al., the Skagit/Hanford Nuclear Power project Units 1 and
 4 2. We are meeting pursuant to a Notice of Special Prehearing
 5 Conference, which was issued on April 2, 1982 for the purpose
 6 of identifying the key issues to be considered in this
 7 proceeding, take steps necessary to further define the issues,
 8 consider all petitions to intervene, and to establish a
 9 schedule for further action in this proceeding.

10 I would like to begin by introducing the members
 11 of the Licensing Board: On my left is Dr. Frank F. Hooper.
 12 He is a professor at the University of Michigan. He is a
 13 biologist, and has broad experience in his field.

14 To my right is Gustave A. Linenberger, Jr. He is
 15 a nuclear physicist and has been in this field from the very
 16 early days at the University of California.

17 I am John Wolf, a lawyer.

18 First I would like to ask for preliminary matters.
 19 Before I do that, I have one preliminary statement to make,
 20 namely, that I would like to have all Counsel submit notices
 21 of appearance for this proceeding.

22 The first preliminary matter I would like to take
 23 up is Mr. Thomsen's letter of April 26, 1982, which brought
 24 a response from Mr. Lewis of the Energy Facility Site
 25 Evaluation Council.

PENSAC CO. - BAYONNE, N.J. 07002 - FORM 740

1 Mr. Thomsen, could you discuss your letter a bit,
2 and tell us what you propose to do, whether you propose to
3 file any motions, as a result of the situation you discuss
4 therein, or what you have in mind regarding it?

5 MR. THOMSEN: Yes, Judge Wolf, I would be pleased
6 to.

7 No, we don't contemplate filing any motions. This
8 was simply an effort to advise the Board and the parties
9 in advance of our thoughts on scheduling the evidentiary
10 hearings in the proceeding, and as indicated in the letter,
11 we summarized the background of scheduling heretofore.
12 Earlier this year, Applicants and the Staff, in conjunction
13 with the Staff of the State Siting Council, had agreed on a
14 tentative schedule that would have called for the
15 environmental hearings, the joint hearings, between you
16 gentlemen and the Siting Council to begin in mid-June, at
17 least that was the party's suggestion.

18 As the time went along, as we described in the
19 letter, there were several new developments that to us
20 indicated that it would make more sense to postpone the
21 hearing on need for power until some of these new developments
22 had come to light, so to speak. And so we suggest that the
23 hearing on need for power at least would be more efficiently
24 conducted and more productive, if it were held sometime in
25 early '83, after the regional plan becomes available, and

1 after the BPA draft forecast is final, and after we hope
2 some of the questions concerning the supply system nuclear
3 units have been answered.

4 So with that suggestion on the table, on our part,
5 that need for power hearings should be deferred, then we
6 considered whether it would make sense to have evidentiary
7 hearings on the other environmental issues, and we looked
8 over the list of those. Of course, we don't have the
9 contentions identified yet, but it seemed to us that it would
10 not make sense to have a piecemeal hearing on environmental
11 issues, and try to hear some of them this summer, and then
12 need for power and whatever else might remain next summer.
13 The thought there being that our experience, at least, has
14 been with hearings that if we have a hearing, and then wait
15 a year and have another hearing, what we heard before seems
16 to need updating, and it hasn't been a very fruitful process
17 to have piecemeal hearings.

18 So it was then our main suggestion that the
19 environmental hearings, at least, be postponed until next
20 year, until need for power was ripe for hearing. However,
21 then, turning to the other parts of the case, the safety
22 issues, and of course, obviously, we don't know what the
23 safety issues will be specifically yet, without having dealt
24 with the contentions, we think that side of the case, and the
25 normal prehearing procedure should proceed this summer. I have

1 in mind, for example, the development of the final impact
2 statement. I understand the draft environmental statement
3 is about to be issued, or has been issued for comment, and
4 certainly we would urge that that process continue to include
5 the issuance of the final environmental statement in due
6 course.

7 Also, we understand that the Staff is nearing the
8 time to issue another supplement to the Safety Evaluation
9 Report, and we would hope that process continues to issuance
10 of the final supplement to the Safety Evaluation Report, so
11 that the safety side of the case could be readied for
12 evidentiary hearing.

13 Another activity that we would urge should go forward
14 this summer, in the normal manner and course of events, would
15 be discovery, once we have the contentions identified, so that
16 the issues come into sharp focus, and then are ready for
17 hearing at the earliest appropriate time.

18 So we think we should, of course, take these things
19 in step, and proceed with the case in pretty much of a normal
20 schedule, with the exception of the environmental issues, as
21 I inidcated, which I think should await the availability of
22 the regional plan.

23 So we are anxious to proceed with the licensing
24 proceeding in the manner I have described, and we had no
25 thought of filing a particular motion on this, but realizing

1 that scheduling would be one subject to be discussed today,
2 this is our view of scheduling.

3 We have some specific suggestions on what might be
4 an appropriate discovery schedule, once the Board has
5 admitted, or disallowed the contentions, as the case might be,
6 and I can get into that later.

7 CHAIRMAN WOLF: Thank you.

8 Before we proceed further, I would like Counsel to
9 state their appearance for the record.

10 MR. THOMSEN: Yes. I am F. Theodore Thomsen of the
11 firm of Perkins, Coie, Stone, Olsen & Williams, in Seattle,
12 attorneys for the Applicants, and with me at counsel table is
13 David G. Powell of the firm of Lowenstein, Newman, Reis &
14 Axelrad, Washington, D.C., Associate Counsel for the
15 Applicants, and also Steven Frantz of the Lowenstein firm.

16 CHAIRMAN WOLF: Thank you.

17 MR. BLACK: Good morning, Mr. Chairman, my name is
18 Richard L. Black, and I am Counsel for the NRC Staff.

19 MR. CAVANAGH: Mr. Chairman, my name is
20 Ralph Cavanagh. I am Counsel for the National Resources
21 Defense Council, Western Office, in San Francisco, California.

22 Mr. Chairman, could I just ask if a response to the
23 presentation--

24 CHAIRMAN WOLF: I am going to ask you to respond
25 after the appearances.

PENGAD CO. BAYONNE, N. J. 07002 - FORM 740

1 MR. THATCHER: My name is Terence Thatcher. I am
2 Counsel for Petitioning Intervenors, National Wildlife
3 Federation, and Oregon Environmental Council. My office is
4 in Eugene, Oregon.

5 MS. BELL: I am Nina Bell, representing the
6 Coalition for Safe Power and our office is in Portland, Oregon,
7 and with me today is Lloyd Marbet, who is acting as an
8 assistant.

9 MR. MARBET: I am Lloyd Marbet.

10 CHAIRMAN WOLF: Now, who will speak for the
11 Coalition for Safe Power?

12 MS. BELL: I will.

13 CHAIRMAN WOLF: And tell me again who you are
14 speaking for, Mr. Cavanagh.

15 MR. CAVANAGH: The Natural Resources Defense
16 Council.

17 CHAIRMAN WOLF: You haven't been admitted as a
18 party as yet, correct?

19 MR. CAVANAGH: No, sir.

20 I believe the Staff has indicated it has no
21 objection to our admission.

22 CHAIRMAN WOLF: Ms. Bell, will you respond to
23 Mr. Thomsen's statement?

24 MS. BELL: Yes.

25 In doing so, we would like to make a formal motion

1 to defer consideration of this application.

2 CHAIRMAN WOLF: You will have to speak up; I can't
3 hear you.

4 MS. BELL: In doing so, we would like to make a
5 formal motion to defer this application -- Excuse me, are
6 the microphones on?

7 THE REPORTER: I am not sure how the PA system
8 here works.

9 MS. BELL: I will just speak loudly.

10 In responding to Mr. Thomsen's letter, we would
11 like to make a formal motion to defer consideration of this
12 application, because we believe that, number one, the application
13 is not complete, according to 10 CFR 50.34, the concept of
14 a "expedited" proceeding has been improper and fruitless,
15 and, three, uncertainties which make the Applicant unable and
16 unwilling to go forward, at least on the need for power issue,
17 cast doubt on the entire application, and proceeding will
18 cause an excessive burden to all parties.

19 Addressing the first issue, we believe that the
20 application was incomplete when it was made, and remains
21 so today. First of all, PSAR amendments keep arriving. The
22 last one we received was this Monday. The Applicants position
23 on going forward with the evidentiary hearing, as expressed
24 in its April 26 letter to the Board casts doubt on a
25 substantial part of that application. After all, if there is

PENGAD CO., BRAYONNE, N.J. 07002 FORM 749

1 no need for the plant, it will not be granted a construction
2 permit, nor will it be built.

3 On the second point, the entire basis of this
4 application, and the time schedule which has been attempted,
5 has been because the Applicant's alleged need for an
6 expedited process, the results of which have been the
7 premature filing of the application, and an inconvenience and
8 burden on all parties.

9 The Applicants have requested and received an
10 expedited review of the project application from Mr. Denton,
11 Director of Nuclear Reactor Regulation, in a meeting held
12 on July 23, 1980.

13 In a meeting on November 18, 1981, Mr. Myers from
14 Puget Sound Power & Light summarized the reasons for the
15 request, stating that need for power was the foremost. At
16 this meeting, the status of the geology and seismic review
17 was also discussed with both the Staff and the Applicant
18 agreeing that it was a "pacing" item. It was noted that the
19 site review of WPPSS II, the Washington Public Power Supply
20 System number two plant, geology and seismic review, to which
21 the Skagit/Hanford project is tied, was expected to be
22 completed in early 1982. As of this date, we are not aware
23 that this review has been completed.

24 The review schedule has been characterized by the
25 Staff as "very tight" and "extremely short." Undoubtedly

1 for this reason, Mr. Mueller, Assistant Director for
2 Environmental Technology, Division of Engineering, at the
3 NRC, commented in a memo dated August 13, 1981 to Mr. Volner,
4 Director of his Division, that "depending on the level of
5 cooperation we get, we may need your muscle."

6 The schedule milestones agreed upon by the
7 Applicant and the Staff, attached to a letter of January 23,
8 1982, from Mr. Myers, Vice-president of Puget Power, to
9 Mr. Denton of the NRC has already not been met. For example,
10 the Joint Siting Council, NRC, DEIS, has not been completed
11 and made public, an event scheduled for the first of April.

12 As late as the 16th of February, the Staff was
13 still expecting a DEIS issuance in April, and I have been
14 informed that it has just occurred. This slippage in the DEIS
15 schedule will directly affect the projected schedule for
16 hearings, as stated on Page 2 of a memo from Mr. Reagan in
17 the Nuclear Regulatory Commission, that stated that the DEIS
18 would have to be published in March of 1982, to meet a hearing
19 date in the early fall of this year.

20 The Applicant has stated that the Skagit/Hanford
21 plant will only go forward if the Northwest Power Planning
22 Council, created by the Northwest Electric Power Planning
23 Conversation Act, "regionalizes the project," by causing the
24 Bonneville Power Administration to underwrite its finances.

25 However, this report, this forecast and plan will

1 not be produced until March or April, 1983. Also important
2 is that the Act has charged the Council to put conservation
3 before nuclear power.

4 On the last point, now we have the uncertainty
5 regarding certain recent forecasts in the Northwest Power
6 Planning Council's Regional Plan due to be issued. These
7 are not the only uncertainties. Additionally there is the
8 fact expressed in the Coalition's Contention 56 that the
9 Applicant has stated publicly that it will not build the
10 plants unless they are regionalized by the Bonneville Power
11 Administration, and act depending on the Northwest Power Plan
12 due in April, '83.

13 Furthermore, the Applicant has also stated, as
14 expressed in Coalition's Contention 21, that it will not
15 go forward unless federal regulations are relaxed. There is
16 also the Washington Utilities and Transportation Commission
17 ruling of March 12, 1982 that Puget Sound Power & Light can
18 no longer include construction works in progress for the
19 Skagit Nuclear Plant in their rate base. The reason is stated
20 in their Fourth Supplemental Order, in which it says: that
21 at Pages 7 and 8 of our Second Supplemental Order, we required
22 Puget to exclude construction works in progress for rate-making
23 purposes on the Pebble Springs and Skagit/Hanford Nuclear
24 Power Plants, because "their economic feasibility, their need,
25 and their probability of construction were not demonstrated

1 on the record, and further ordered Puget to cease accruing
2 AFUDC for rate-making purposes on those two projects.

3 This belief was echoed in a motion filed by the
4 Direct Service Industries in that rate case, in which they
5 state: that Puget's attempts to justify its need for
6 additional revenue, on the basis of its plan to build
7 two billion in new plant between now and 1985, these plans
8 include construction of the Skagit Nuclear Plants, the Pebble
9 Springs Nuclear Plant, and Colstrip Plants 3 and 4. There is
10 almost no possibility that all of these plants will be built,
11 particularly between now and 1985. It is absolutely
12 unrealistic to expect Puget Power alone to finance a
13 construction program equal to the total so far invested by the
14 sponsors of the WPPSS Plants 4 and 5.

15 Moreover, Pebble Springs is functionally terminated,
16 and the status of the Skagit Plants is so precarious that they
17 have been excluded from rate-making consideration by the
18 Commissioners of Idaho and Oregon. It is likely that the
19 Oregon Public Utility Commissioner will follow suit in the
20 Portland General Electric rate hearing that is now ongoing.
21 He has already ordered that Portland General Electric abandon
22 their construction permit site certification for the
23 Pebble Springs Plants.

24 The burden placed on intervenors that have been
25 involved in this proceeding since 1976 is unfair, when the

1 Applicant does not want to go forward, and doubt has been
2 cast over its ability to go forward on the issue of need for
3 power. We have been arguing about need for power since 1974.
4 At the time of the original Skagit proceeding, the Applicant
5 stated that if WPPSS 1,2,3, and 4 were all operational on
6 or before 1982 that Skagit and Pebble Springs Units 1 would
7 have to be online this very year. Currently there is so much
8 doubt about the need for nuclear power plants in the region
9 that two Washington Public Power Supply System plants under
10 construction have been permanently shut down. Another has in
11 the last week been "mothballed" for five years, and the
12 Pebble Springs state application has been terminated.

13 In the Beaver Valley case, the Appeals Board has
14 stated that a board requires a reliance on more than just
15 hope. Given the Applicant's history of grossly overstating
16 the need for electricity, and the current situation, there
17 really is no reason to rely on Applicant's assertion that the
18 plants will still need to go forward in an expedited
19 proceeding, or at all.

20 The burden placed on all parties of going forward
21 with such uncertainties is tremendous. For Intervenors that
22 means filing interrogatories, and being the subject of
23 discovery. It means lining up witnesses for something that
24 might not take place, and paying their fees.

25 The Board must act in fairness to all parties, so

1 in summary we move that consideration of contentions,
2 discovery, et cetera, should be delayed until the Applicant
3 has completed their application on need for power.

4 CHAIRMAN WOLF: We have a question that
5 Judge Linenberger would like to ask you.

6 JUDGE LINENBERGER: I was just curious, Ms. Bell,
7 about the terminology you used. In the very early part of
8 your statement, you talk about the need for the plant, and
9 later on in the statement, you talked about regional need
10 for power. Now, under certain circumstances, those are two
11 completely seperable considerations. I don't know whether
12 you wre making that distinction or not, and can you amplify
13 on your choice of language there?

14 MS. BELL: Well, the Applicants themselves have
15 stated that the plant is a regional resource, therefore, I
16 believe that it is dependent on the regional need for power.

17 JUDGE LINENBERGER: So your terminology "need for
18 the plant" was in the context of regional resource needs?

19 MS. BELL: That is correct.

20 JUDGE LINENBERGER: Thank you.

21 JUDGE WOLF: Mr. Cavanagh, you don't represent
22 a party that has been admitted, however, we will listen, if
23 you have anything to add that is pertinent. We don't need to
24 recite the history of the problem, again.

25 MR. CAVANAGH: Thank you, Judge Wolf.

1 I would just like to endorse Ms. Bell's presentation
2 and add a few other thoughts: On the lack of urgency for
3 the NRC to invest additional resources in this project at
4 this time, at least before the Applicants have resolved the
5 fundamental uncertainties that they allude to in their own
6 letter.

7 It can't be overemphasized that this region at this
8 moment has three partially completed nuclear units in
9 mothballs, as Ms. Bell mentioned, two within a few miles of
10 the proposed site, that are awaiting restart, if and when
11 regional electricity needs so dictate.

12 Also, in terms of the urgency of pressing forward
13 now, and the supposed need for a quick decision, it is crucial
14 to pay close attention to the Washington State forecast, just
15 issued in final form in March of 1982, to which this Board
16 under its precedents must defer, over and above the
17 self-interested projections of need issued by the Applicants.
18 That forecast, as the Applicants themselves concede indicates
19 that the Skagit/Hanford units will not be needed until after
20 the turn of the century.

21 We also have received, again, in the last month,
22 the draft forecast of the Bonneville Power Administration,
23 which in terms of its projections of need over the next
24 20 years is closely similar to that of the Washington State
25 forecast, and which led Bonneville again to halt construction

1 for up to five years on the Washington Public Supply System
2 Unit 1, and that halt will bring the on-line date of that
3 plant into the period of the Skagit/Hanford Units, it is that
4 much of a delay.

5 In sum, we think it is clear that the NRC Staff was
6 entirely justified in concluding, unofficially, in a
7 February 19, 1982 report that the Skagit/Hanford plants
8 would be cancelled or deferred indefinitely, and we feel that
9 there is no justification for the NRC to expend any more of
10 its scarce resources on this application at this time.

11 The thing that particularly concerns NRDC is the
12 suggestion that you should press ahead with your environmental
13 review process at a time when fundamental uncertainties
14 identified by Applicants themselves prevent them from pressing
15 forward with the critical issues that underly that process.
16 Just to give a concrete example, through no fault of your
17 draftsmen, the draft environmental statement that I received
18 two days ago is already obsolete, because it did not and
19 could not accommodate the final Washington State forecast,
20 which I have just alluded to, and it did not and could not
21 accommodate the Bonneville draft forecast. The lowest
22 demand growth rate identified in your draft environmental
23 statement is 25 percent higher than that finally adopted in the
24 Washington State forecast, and almost 20 percent higher than
25 that of the Bonneville forecast.

1 So, in effect, you have got yourselves in a
2 situation -- the scene is in fact changing so rapidly that
3 you are shooting at a moving target now, and we are
4 concerned that any meaningful environmental review process
5 is impossible. We do not agree with Applicants that the need
6 for power from this plant is an uncertain question, given the
7 unambiguous findings of the Washington State forecast and
8 our own analyses.

9 The Applicants simply cannot have it both ways:
10 they cannot both cite fundamental uncertainties that prevent
11 them from making their environmental case and expect the
12 NRC to proceed with its own environmental review process.

13 I just ask you in closing to compare Applicants own
14 insistence that "the facts are simply not in yet," with the
15 NRC's admonition in its 1977 Seabrook Station holding:

16 "If the Staff believes that inadequate data about
17 environmental considerations is available, or that reasonable
18 alternatives have not been adequately explored, it can and
19 should decline to issue a DEIS."

20 So in sum, once again, we feel that there has been
21 no case made for the NRC continuing to invest its resources
22 or to continue an environmental review process that by
23 Applicant's own admission is simply not possible at this
24 time. If the Applicants aren't equipped to undertake it, we
25 don't believe the NRC should have to try, and we can't believe

1 there aren't better uses for your resources.

2 JUDGE WOLF: I think you ought to understand that
3 this Board does not issue any report; it is not our report.

4 MR. CAVANAGH: Right, of course, it is the Staff's.

5 JUDGE WOLF: It is the Staff's report.

6 MR. CAVANAGH: Yes, sir. Even the Staff, I imagine,
7 though, has other demands on it at this time.

8 JUDGE WOLF: I don't know about that.

9 Mr. Black?

10 MR. BLACK: At this time I do not wish to argue the
11 merits of the need for power question, nor the interrelationship
12 between this project and the mothballed or deferred WPPSS
13 projects. I think that is a question that we need not get to
14 at this point. I think the question that we need to get to
15 at this point is: What is a reasonable and fair schedule
16 with respect to this proceeding? And that question, I think,
17 has to be broken down into several components:

18 Number one, I think that we have to establish some
19 type of schedule at this prehearing conference that goes to
20 the question of pleading contentions, and finding out who the
21 parties are, and finally defining the contentions.

22 At this point, I think that we could -- at least as
23 far as the Staff is concerned, we are prepared to argue all of
24 contentions at this prehearing conference, but that indeed
25 may not be a wise use of our resources, and the Board may wish

1 to set forth a further pleading schedule whereby Staff,
2 Applicant, Parties can file further responses to the
3 contentions. That is the first thing, a schedule of
4 pleadings going to the contentions.

5 Once the contentions are defined by the Board in
6 a post-prehearing conference order, then I think at that
7 time we can see what the scope of those contentions are, and
8 establish a reasonable discovery period. Discovery, of
9 course, is always limited or defined by the scope of the
10 contentions, and I think that would be the time, rather
11 than this prehearing conference to determine what a reasonable
12 discovery schedule should look like.

13 Finally, after discovery, we should look to the
14 question of what would be a reasonable and fair hearing
15 schedule, and we must bear in mind that at least on the
16 environmental side we have a memorandum of understanding
17 with the State of Washington whereby we will conduct joint
18 hearings with the State, if indeed feasible, reasonable, and
19 in accordance with the protocol for the conduct at joint
20 hearings, which both the State and the NRC has signed.

21 So we must look at, again, the scope of the
22 contentions to define the scope of the hearing, and I think
23 it is premature at this time to decide what that hearing
24 schedule should look like, and I think that that should await
25 not only the prehearing conference order, but it should also

1 await discussions with the Staff, and the NRC, and the other
2 parties -- the Staff, the State, and the other parties, to
3 set forth a reasonable hearing schedule.

4 I think at this point it is clear to say that we
5 should not set any hearing schedule, because of the lack of
6 definition of contentions, the lack of any clear schedule on
7 discovery, and accordingly consideration of a hearing schedule
8 should be deferred until we can get a clear handle on those
9 items.

10 Another question has been raised, and that is whether
11 the Staff should expend its resources, pending resolution of
12 the uncertainties with respect to the climate here, with
13 respect to the need for power, with respect to the interaction
14 of this project with the WPPSS projects. And I would only
15 state on behalf of the Staff that certainly, if there is a
16 clear resolve on the part of the Applicants that this project
17 will not go forward, then of course the NRC would stop its
18 review as well. However, it is NRC policy that if there is
19 an application before the Staff, we will continue our review
20 in accordance with not only our resources, but the dictates
21 of the project itself. And in this particular instance, we
22 have indicated that we will go forward with our review as long
23 as there is an application before us, and to this date, there
24 is an application before us, and the Staff will continue its
25 review.

1 And the continuation of that review also will go
2 to publication of the FES. Now, we have just yesterday,
3 I believe, published or sent out the DES for comment. We will
4 go through a comment period, and we will publish an FES in
5 due course, as long as an application is before us. And when
6 I say "due course," that may reflect some question as to the
7 uncertainties.

8 If we go through this comment period, and the
9 application is withdrawn, for one reason or another, of course,
10 we would terminate that FES publication. If the application
11 has not been withdrawn, but there are still some questions
12 regarding need for power, let us say, we may decide to
13 publish an FES on all chapters except need for power, let us
14 say, and then publish a final FES on the need for power
15 question, when the regional forecast comes out in April of
16 1983, and the Staff has a reasonable amount of time to review
17 that forecast.

18 So the only thing that I would want to say on that
19 is that our reviews are going forward, and they are going
20 forward because we have a valid application before us. We
21 can only ascertain that an application is invalid, if in fact
22 it is withdrawn, and withdrawn informally by one means or
23 another, such as the Applicant says: "Please terminate your
24 review," or withdrawn informally by letter. But until that
25 time, our reviews do go forward. We do not consider it a

1 waste of resources from the standpoint that the Applicant
2 pays us licensing fees, and so it is not as if the
3 Government is footing the bill. The Applicant is footing the
4 bill. We do not second-judge the Applicant's business
5 judgment as to the viability of a project at this stage of the
6 review.

7 And in that respect, I would like to make one
8 comment with respect to something Ms. Bell indicated as to
9 the fact that an incomplete PSAR was submitted. I think that
10 just indicates that perhaps the Coalition doesn't understand
11 the nuances of the Staff review. Of course a PSAR is not
12 submitted in toto. It has to reflect staff concerns which
13 are generated through staff questions that go back to the
14 Applicant, with respect to the questions regarding certain
15 parts of the review. The Staff may have questions on all
16 aspects of the review, whether it is design components, whether
17 it is emergency planning, and even, of course, in the
18 environmental review, but we go through our process of review
19 through submitting questions and getting responses back from
20 the Applicant, and those responses back from the Applicant
21 come back through PSAR amendments, or environmental report
22 amendments, and that is an ongoing process. It does not
23 reflect the fact that the application when it was filed was
24 incomplete. The Staff would not docket that application
25 initially, if it were not complete. So even before it is

1 docketed, we go through quite a lengthy process of making
2 sure that at least their PSAR and ER submittals have enough
3 information that we can begin the process of review, and
4 after we begin the process of review, there are other submittals
5 that come in in the form of amendments, and I just wanted to
6 make that point clear. It is an ongoing process. It never
7 terminates; even after there is an operating license issued,
8 the process of Staff review continues even after that point.

9 I am trying to think if there is anything that I have
10 left out, but I think that I have given you my ideas of what
11 we should do at this point, recognizing some of the
12 uncertainties that are here.

13 I guess my main point is that we can do certain
14 things today to complete this process of defining contentions,
15 but other schedules with respect to discovery and a hearing,
16 I think should await until we actually have a definition of
17 those contentions.

18 CHAIRMAN WOLF: Thank you, Mr. Black.

19 Off the record for a moment.

20 (The discussion was held off the record.)

21 CHAIRMAN WOLF: On the record.

22 Mr. Thomsen, do you have any rebuttal statement
23 you wish to make?

24 MR. THOMSEN: Briefly, Your Honor.

25 Mr. Black, I think has ably summarized the situation

1 and the Applicant agrees with the position of the Staff.
2 I, too, do not propose to try the merits of need for power
3 this morning at a special prehearing conference. I would
4 observe only that the Washington State forecast mentioned
5 by Mr. Cavanagh has been seriously questioned. The BPA
6 forecast is now coming under question. Our own forecast
7 continued to show a need for the Skagit Units. That is also
8 true of the regional forecasts about to be issued by the
9 PNUCC.

10 Secondly, certainly we have not given up on the
11 Skagit project. We wouldn't be here if we weren't determined
12 to proceed with the licensing process. We are investing our
13 money in the licensing proceeding. We are not asking for any
14 quick decision, or placing any particular burdens on the
15 Intervenors. They are here voluntarily participating in
16 the proceeding. That necessarily means they must pay some
17 attention to whatever procedures the Board thinks are
18 appropriate.

19 I agree with Mr. Black that we should take this one
20 step at a time. I am not proposing that we set any particular
21 schedule for evidentiary hearings, nor any particular
22 schedule for discovery at this time. I agree the first step
23 is to deal with the petitions to intervene, and the contentions.

24 MS. BELL: Mr. Chairman, may I make some additional
25 brief rebuttal?

1 CHAIRMAN WOLF: Unless you have something that is
2 new, I don't want to continue this discussion. We are going
3 to have to take it under advisement and make a decision, but
4 what point do you want to make? If you can state it in one
5 or two sentences, you can go ahead.

6 MS. BELL: What I wanted to say was that what
7 nobody in the Intervenors has addressed yet is the fact that
8 safety questions and safety regulations are also going to
9 change, and in the interim, and it doesn't make sense to
10 go ahead with the safety questions, and the safety part of
11 the evidentiary hearing, when in fact the rest of the applica-
12 tion is being postponed.

13 Also, the other thing that I would like to bring
14 to the Board's attention is that 10 CFR 2.759 states that:
15 "The Commission recognizes that the public interest may be
16 served through settlement of particular issues in a
17 proceeding, or the entire proceeding. Therefore, to the
18 extent that it is not inconsistent with hearing requirements
19 in Section 189 of the Act, the fair and reasonable settlement
20 of contested initial licensing proceedings is encouraged. It
21 is expected that the presiding officer and all of the parties
22 to these proceedings will take appropriate steps to carry
23 out these proceedings."

24 The settlement that we propose is that nothing
25 should happen until a complete and final application is

1 submitted, and what we are saying is not that we should
2 debate need for power at this prehearing conference, but that
3 the Applicant's unwillingness and inability to go forward on
4 need for power essentially undermines their application.

5 CHAIRMAN WOLF: The Board will take this whole
6 question raised by the need for power issue under advisement.
7 Any party may, if they wish, submit a further statement in
8 writing regarding it.

9 MR. CAVANAGH: Within what time limit, sir?

10 CHAIRMAN WOLF: Well, I don't know that until you
11 are admitted that you have the right to submit anything at
12 this point.

13 MR. CAVANAGH: May I hope to be admitted today?

14 CHAIRMAN WOLF: We will have to see how it works
15 out. We are going to review your amended--

16 MR. CAVANAGH: But I assume a decision will be made
17 today on whether I will be permitted to intervene.

18 CHAIRMAN WOLF: I don't know whether it will or not.
19 We will have to see what comes up.

20 MS. BELL: Mr. Chairman, could you tell us the
21 time limit for submitting additional comments, and positions?

22 CHAIRMAN WOLF: I am going to in a minute.

23 Well, we think that two weeks, namely by the 19th
24 of May would be sufficient time to permit you to put in writing
25 the arguments that you have regarding this question.

1 Judge Linenberger wishes to address a couple of
2 questions to you, Mr. Thomsen.

3 MR. THOMSEN: Before that, sir, might I ask on the
4 May 19, I assume that is the date for the Coalition to file
5 a motion, and then we would have an opportunity to answer
6 that thereafter, or what is the...

7 CHAIRMAN WOLF: No, I thought that this was just
8 a statement of the arguments that have been made.

9 MR. THOMSEN: The same date for all?

10 CHAIRMAN WOLF: Well, she has made an oral motion,
11 but as regards any motion, I want them in writing, if you are
12 going to make a motion, Ms. Bell. As to that, then the
13 regular time would apply.

14 MR. THOMSEN: That is what I was concerned with.

15 CHAIRMAN WOLF: On this other matter, if you can
16 give us a concise argument regarding it, within two weeks, it
17 might be helpful.

18 Now Judge Linenberger has a couple of questions.

19 MR. BLACK: Before that is discussed, can I ask
20 just one matter of clarification? When you say "to present
21 additional views," do you mean just solely on the question
22 of whether the fact that there is such uncertainty clouding
23 the issue of need for power that in fact this application
24 cannot go forward at this time, or the application should
25 in fact be withdrawn?

1 CHAIRMAN WOLF: I don't know about that.

2 I don't know if it is to be withdrawn, Mr. Black,
3 but I think you ought to address yourself to the question
4 of whether or not it would be fruitful to go forward at this
5 time, in view of this question that has been raised about
6 need for power.

7 MR. THOMSEN: I am having a little trouble, as
8 Mr. Black is, knowing exactly what we are to address. It
9 seems to me we either get a written motion, and then have the
10 usual time to respond--

11 CHAIRMAN WOLF: Well, I think it is up to the party
12 to make the motion. I am not going to rule that the party
13 has to, or can't make the motion. That is up to the party.
14 This I want for the Board. This has nothing to do with that
15 business.

16 I don't know whether that clears it up for you, or--

17 MR. THOMSEN: Well, I am still not sure what
18 question I am addressing.

19 MR. BLACK: It doesn't clear up my problem, because
20 I don't think it is appropriate at this time to really go into
21 the merits of the need for power question. I think that--

22 CHAIRMAN WOLF: I don't want you to go into the
23 merits of it. I want you to discuss whether or not if the
24 need for power matter cannot be determined until next spring,
25 whether or not we should proceed at this time in the case.

1 MR. BLACK: With anything.

2 CHAIRMAN WOLF: With anything.

3 MR. BLACK: Including discovery?

4 CHAIRMAN WOLF: Yes.

5 MR. THOMSEN: I understand.

6 CHAIRMAN WOLF: Or you can argue that we should,
7 if that is your argument, whichever way you want to go.

8 JUDGE LINENBERGER: Mr. Thomsen, getting back to
9 your letter of April 26, 1982 that has been adverted to by
10 yourself and others so far, perhaps you can help the Board
11 understand a little better the Applicants position with
12 respect to one consideration. You indicate that it seems
13 inappropriate to Applicant to proceed with the environmental
14 phase of the hearing until the need for power question is
15 resolved in some way. I cannot tell from that whether you
16 are saying that environmental considerations associated
17 with site suitability necessarily embrace the need for power
18 question, or whether you are saying that because the need for
19 power question will be resolved very soon, and because of
20 your dislike for bifurcated hearings, therefore you would not
21 like to start environmental matters without having the need
22 for power. Which--

23 MR. THOMSEN: It is the latter. It is simply a
24 product of my judgment as to the utility of piecemeal hearings.
25 My dominant thought is need for power should be postponed, and

1 the rest is the tail on the dog. No, I don't see that need
2 for power has anything to do with site suitability at all.

3 JUDGE LINENBERGER: All right, sir.

4 Secondly, a couple of details: At the last page of
5 the same letter we are talking about, you refer by initials
6 "URS" to some entity.

7 Can you identify that entity, and tell us briefly
8 what its roll is?

9 MR. THOMSEN: Yes.

10 I don't know what the initials stand for, but it is
11 the name of a consulting firm that has been hired by the
12 State Siting Council to act as the Council's independent
13 consultant, and in particular to prepare a portion of the
14 joint NRC State Environmental Statement. So, "URS" is in
15 affect the Siting Council's staff, for the purpose of
16 preparing that portion of the impact statement that was
17 prepared by the State, and also they have been retained to
18 review the completeness of our application to the State, which
19 is the combined Application for Site Certification/Environmental
20 Report. That is another one of their jobs for the Siting
21 Council. Under the State procedures, they have to have their
22 consultant review the application for completeness, and we are
23 simply suggesting here that since that process is underway,
24 and is scheduled to be completed by about May 20 that it be
25 completed. Again, we pay the cost of it, it is directly billed

1 to us, and it seemed logical to us that that should continue,
2 and as far as I know, the State Siting Council agrees that
3 that should continue, and it will -- it is continuing.

4 JUDGE LINENBERGER: Finally, Mr. Thomsen, in the
5 closing paragraph of the same letter, you emphasize that
6 Applicants are confident that the units will be needed, and
7 indeed that they are essential to the future well-being of
8 the region, the words you used.

9 MR. THOMSEN: Yes.

10 JUDGE LINENBERGER: Let me, for the sake of
11 understanding, purposefully distort my interpretation of
12 this to say that I don't understand how this statement of
13 confidence that it is needed and necessary is consistent with
14 the statement: We had better slow down, fellows, because
15 we are not sure things are needed and necessary.

16 I think I see an inconsistency. Perhaps you could
17 comment on it?

18 MR. THOMSEN: I would be glad to explain what I
19 meant. We think that in due course, number one, that the
20 Regional Power Planning Council, in their plan to be issued
21 next spring, will show a strong indication that the Skagit
22 Units are needed, and secondly, by that time there will be
23 a consensus that the BPA forecast is simply not reliable, and
24 even more so the Washington State forecast. So we think it
25 will ultimately be clear that the Skagit Units are needed, and

1 that that will be clear by next spring, because we think our
2 own forecasts are more reliable than the others that have
3 been mentioned.

4 So we remain of the view that there is sufficient
5 probability, at least, that that will come out that way, that
6 we must maintain the Skagit option. We must protect and
7 preserve our ability to go forward with the Skagit project.
8 Of course, if we are wrong, and there is no need shown ever
9 for the Skagit Units, we won't build them. We couldn't get
10 them licensed, and the last thing we want to do is build
11 Units that aren't needed. So we are expressing confidence
12 in the fact that consensus will develop that they are needed
13 by next spring. That is all.

14 JUDGE LINENBERGER: Thank you, sir.

15 CHAIRMAN WOLF: Judge Hooper has a question for
16 you, Mr. Thomsen.

17 JUDGE HOOPER: Mr. Thomsen, can you bring the Board
18 up to speed, so to speak, about these regional plans?

19 MR. THOMSEN: Yes.

20 JUDGE HOOPER: I remember in the earlier parts of
21 the proceeding we had the Northwest Power Pool. What is the
22 relationship of the Northwest Power Pool to this new regional
23 plan that is being developed? Can you give us a little bit
24 of background on this regional plan, and its relevance to
25 your position right now?

1 MR. THOMSEN: Yes.

2 In December, 1980 -- I think that was the year --
3 the Congress passed what we call the Regional Act, a new
4 piece of federal legislation affecting the Pacific Northwest,
5 and that Act defines a region that is somewhat different
6 from what you remember we talked about as the "West Group"
7 a lot before. Now, we talk about the "Northwest Region." It
8 is a little bit larger than the West Group, encompasses a
9 little bit larger area. .

10 That federal Act, among other things, established
11 a regional -- what we call a Regional Council. Its name is
12 a little bit longer than that, Regional Conversation and
13 Planning Council, or something of that kind, but at any rate,
14 it is a Council comprised of eight people, two representatives
15 from each of four states: Washington, Idaho, Oregon, and
16 Montana. And under the federal law, one of their
17 responsibilities is to turn out a plan. That is what we
18 refer to as the "Regional Plan." And under the law, they
19 were supposed to complete that plan by next April, and that
20 is two years after they were formed that they were to complete
21 the Plan. So they were formed in April of '81, and the Plan
22 is due in April of '83.

23 They have been hiring consultants, holding public
24 hearings, getting input, making studies, to turn out this
25 Plan. The Plan is much broader than simply a demand forecast.

1 That is one part of it, but the Plan is to deal also with
2 conversation measures and renewable resources, and what makes
3 sense from the resource side of the picture, and also with
4 conversation and with the fisheries resource in the Columbia
5 River, and so on. It is quite a large undertaking. And that
6 is what is underway, and due next April, and it promises to
7 be a very significant report for the Region.

8 JUDGE LINENBERGER: Well, my next question then is:
9 To what extent will you be bound by this Plan? If the Plan
10 finds that the Skagit/Hanford Units are not needed, would
11 you automatically withdraw your application?

12 MR. THOMSEN: No, that is, in the sense that we
13 are not legally bound by it. The consequence of that --
14 Let me back up a little bit. This Regional Act also authorizes
15 the Bonneville Power Administration to purchase the output
16 of resources in this Region, but only if the resources are
17 consistent with this Plan. Now, this new authority on the
18 part of Bonneville Power Administration provides another
19 alternative method of financing generating resources in this
20 Region, and it is entirely possible that the sponsors of the
21 Skagit project, for example, will ultimately want to avail
22 themselves of this possibility, or method of financing. That
23 would not be available to them, if the Regional Plan said that
24 the Skagit Units are not needed.

25 So that is one of its main consequences. We could,

1 if we could finance them without using this BPA financing,
2 go forward, but in all likelihood we will want to try to
3 use the regional financing.

4 JUDGE LINENBERGER: All right, thank you.

5 JUDGE WOLF: Does anyone have any further statement
6 about the matter that they wish to make? If not, we will
7 move on then to another matter, namely, the Notice of the
8 Taking of Deposition of M. Terry Dana.

9 MR. THOMSEN: I think I can dispose of that.

10 The Applicants had wanted to question Mr. Dana
11 about his affidavit, and about the 70-odd contentions that
12 have been filed on his behalf now by the Coalition. Of course,
13 the Coalition objected to that. I thought that perhaps I
14 could resolve this informally by simply having a meeting with
15 Mr. Dana, and so I talked with him earlier this morning by
16 phone, and inquired whether -- I had talked to him Sunday
17 also about the possibility of meeting, and I asked him
18 whether he was willing to meet with me. He had said he wanted
19 to talk to Ms. Bell, and I assume he has.

20 At any rate, this morning he said he was not willing
21 to meet with me, and I asked him whether he was going to come
22 to this conference, and he said he was not. And I asked him
23 whether he would consider withdrawing from this proceeding,
24 and he said, "No." And I asked whether he was familiar with
25 the 70 contentions filed on his behalf. I wasn't sure about

1 that. He said, "Yes," he was. And I asked him whether he
2 would be willing to consider withdrawing any of those
3 contentions. That had been one thing I wanted to discuss with
4 him. And he said, "No." And I asked him whether he realized
5 the consequences of that, in terms of this proceeding, the
6 expense and difficulty we all have, the job, anyway, of dealing
7 with those contentions, and he said he was.

8 So in view of these responses, I concluded that it
9 would not be productive to take his deposition, so I withdraw
10 the request on that. He satisfied the points I had in mind
11 over the telephone.

12 JUDGE WOLF: Well, I don't think that I am satisfied
13 with his refusal to discuss the matter with you, and I think
14 that under those circumstances, unless he is willing to
15 respond to discovery in this matter that he will not be
16 eligible to testify here.

17 MS. BELL: Excuse me, he is not able to, or I am
18 not able to?

19 JUDGE WOLF: I say unless this person, Mr. Dana,
20 is willing to comply with the procedures of this hearing, he
21 will not be eligible to testify, if you intended to bring
22 him as a witness. I don't know whether you did or not.

23 MS. BELL: Mr. Chairman, Mr. Dana is not a witness.
24 He is a member of the Coalition for Safe Power, and as for
25 the discussion that the Applicant has had with this member of

1 ours, Mr. Dana, we were never informed that the Applicant
2 was interested in an informal discussion with him, or of
3 these two phone calls, but we are not intending to bring him
4 as a witness. He is simply our member.

5 JUDGE WOLF: Well, did I misunderstand Mr. Thomsen?
6 I thought that you had set up a date for taking this person's
7 deposition, is that correct?

8 MR. THOMSEN: Yes, I had in the Notice suggested
9 that it be taken last evening, but then the Coalition objected
10 to the taking of any deposition. So I thought then maybe at
11 least we could have an informal discussion. And they were
12 suggesting that I was trying to harrass Mr. Dana by the taking
13 of -- and of -- e, I thought: Well, let us have a private
14 meeting then, just Ms. Bell, and whoever he wanted there,
15 off the record sort of discussion, and Sunday he said: Well,
16 he would talk to Ms. Bell about that, and think it over, and
17 this morning he said he would rather not meet with me, even
18 informally. So I went on to ask him the questions, and in
19 view of the answers I got, I decided to withdraw the request.

20 MS. BELL: Mr. Chairman, it seems that the
21 Applicant has had an informal discussion with Mr. Dana over
22 the telephone, and since he has withdrawn the request to
23 depose Mr. Dana, it seems the question is moot.

24 CHAIRMAN WOLF: Well, I understand that, and
25 of course it is up to him how he handles it, but I am not

1 prepared to accept that conduct on the part of a person who
2 is standing as the basis for your Intervention here. I think
3 he has a duty to this Board to respond and be cooperative, and
4 I will take this under advisement, and we will discuss it at
5 a later time.

6 I don't believe that discovery is harassment. That
7 might have been so back around the period of the Civil War,
8 but the procedures in the courts have long passed that time,
9 and I think that any time there is a request for discovery,
10 I think the parties have to respond. If there is any
11 harassment, you can bring it to me, and we will see that it is
12 eliminated, but the mere fact that they are asked to appear
13 for discovery is not harassment, in my judgment.

14 We will take up next, Ms. Bell, your motion for
15 extension of time by the Coalition for Safe Power, dated
16 April 20th, 1982.

17 MS. BELL: What do you request from me?

18 CHAIRMAN WOLF: Are you still standing by that
19 motion? Do you want to--

20 MS. BELL: Yes, we are still standing by the motion,
21 and in fact since the motion was filed, we still received an
22 additional amendment to the Preliminary Safety Analysis
23 Report, and of course the Staff has also apparently filed
24 their DES, so--

25 CHAIRMAN WOLF: Well, you may receive amendments

1 all during the hearings, possibly. I don't understand your
2 position on that. If any new matter comes up, you understand
3 how you can bring that before the Board, I am sure, and you
4 can bring that before the Board at any time, whether it is this
5 month, or in three or four months. If there is some new matter
6 in some report that is being made, you can do that. I don't
7 think it gives you the right to ask for an extension fo time.

8 MS. BELL: We asked for an extension of time to
9 file contentions on the entire Preliminary Safety Analysis
10 Report. We had received Amendment 23, which was the change
11 of site from Skagit to Hanford, and it is just simply pages,
12 and there were times where you would pick up a section to
13 read a section through, and you would end up in the middle of
14 a sentence. And the reason this was was because we had never
15 received an original Preliminary Safety Analysis Report in
16 the Skagit proceeding. The Applicant told us that they were
17 not willing to provide this to us.

18 The only alternative we would have had, would be to
19 drive all the way from Portland to Richland, to read about
20 15 volumes.

21 CHAIRMAN WOLF: We read the motion. We understand
22 that. What are you saying to us now? I don't understand.
23 I don't think that we can delay everything, waiting the next
24 amendment to some report. There may or may not be further
25 amendments.

1 Mr. Black, are you finished making all amendments?

2 MR. BLACK: I hope not. Our review would be sorely
3 deficient in that respect, I think.

4 I think that there is ample case law, and I was
5 just looking through my notes, but there is a Commission
6 Decision that is directly on point with respect to a similar
7 motion that was filed for additional time to file contentions.
8 And the Commission simply stated that there is a provision
9 in the Regulations that takes care of that, and that it
10 the provisions at 10 CFR, Section 2.714, which is the
11 late-filed contention provisions, which you have to establish
12 good cause, and address four additional factors. And I think
13 that is the sum and substance of this whole motion, that of
14 course the Coalition has the right to file additional
15 contentions upon the receipt of new information. No one has
16 ever denied that right, nor ever will. And there is a
17 provision in the Regulations that allows that. And our
18 response to this motion is simply that it is premature, and
19 that there is a provision in the Regulations for the
20 Coalition to file additional contentions, and on good-cause
21 requirements, and therefore I think it would be very easy to
22 dispose of this contention by denying it, saying it is
23 premature, and of course they have the right to file additional
24 contentions upon good cause shown.

25 MS. BELL: Mr. Chairman, I will withdraw the motion.

1 CHAIRMAN WOLF: Anything further, Ms. Bell?

2 MS. BELL: Yes, I will withdraw the motion.

3 CHAIRMAN WOLF: You understand, if you do have some
4 matter, the rules provide an opportunity for you to present
5 them, if you can show good cause, so I don't think that you
6 are missing anything by withdrawing the motion.

7 I would like to take up next the amendments filed
8 by the Coalition for Safe Power, the contentions it has
9 included in them.

10 MR. BLACK: Mr. Chairman?

11 CHAIRMAN WOLF: Yes.

12 MR. BLACK: If I may speak for one second,
13 Mr. Cavanagh indicated to me earlier that he had a time
14 problem today, and I stated to him that I thought his
15 Amended Petition and Supplement to his Amended Petition was
16 an easy matter to dispose of, and I thought that it would
17 perhaps be a better use of our time if we could go to
18 NRDC's Petition to Intervene, and then take up the National
19 Wildlife Federation's Petition, and then finally get into the
20 Coalition, and perhaps that would be well suited to
21 Mr. Cavanagh's purposes, as well.

22 CHAIRMAN WOLF: Does anyone have any objection to
23 doing that?

24 We will then move over to the Amended Petition to
25 Intervene of the National Resources Defense Council, represented

1 by Mr. Cavanagh.

2 Is that correct, Mr. Cavanagh?

3 MR. CAVANAGH: Yes, sir.

4 CHAIRMAN WOLF: And you have filed a supplement to
5 the Amended Petition, as well as an Amended Petition to
6 Intervene.

7 MR. CAVANAGH: That is correct.

8 CHAIRMAN WOLF: So if you could briefly state just
9 how the Amended Petition, and the Supplement bring you within
10 the requirements of the Rule regarding standing, if we could
11 move forward on that.

12 MR. CAVANAGH: We addressed in our Amended Petition
13 both the standard for intervention as a right, and the
14 standard for intervention as a matter of the Commission's
15 discretion.

16 On the former head, intervention as a right, we
17 introduced an affidavit by an NRDC member living within
18 20 air miles of the proposed site, who indicated that he
19 authorized NRDC to represent his interests in this proceeding,
20 and that he had health, safety, and recreational interests
21 implicated in the decision of the Board.

22 On the discretionary intervention side, we detailed
23 NRDC's extensive expertise in the need for power and electricity
24 forecasting area, and in particular cited the qualifications
25 of our senior scientist, Dr. David Goldstein, who would be

1 appearing as an expert witness for NRDC, and would be in a
2 position to enlighten the Board on some of the issues we
3 have been discussing already today.

4 In our Supplement to the Petition, we identified
5 four contentions, all in the basic area of need for power from
6 this facility, and the availibility of alternatives to it
7 that are cost-effective, and environmentally preferable.
8 Those contentions went respectively to the need for power from
9 the facility in the Northwest region, the availability of
10 markets for the power outside the region, the reasonableness
11 of Applicant's deman forecasts, and the availability of
12 alternatives to the project, and the adequacy of analysis of
13 those alternatives in the Applicant's documentation.

14 So those are th four contentions going to the need
15 for power, availability of alternatives questions, and the
16 basis for intervention goes to both a member within 20 air
17 miles of the facility, and expertise that we believe meets
18 the discretionary standards that the Board has established.

19 CHAIRMAN WOLF: Ms. Bell, do you want to comment on
20 the Amended Petition, and the Supplement to the Amended
21 Petition by the Natural Resources Defense Council?

22 MS. BELL: Mr. Chairman, we support the Amended
23 Petition of the Natural Resources Defense Council.

24 CHAIRMAN WOLF: Thank you.

25 Mr. Thomsen, do you have any comment on the

1 two papers that I have just named?

2 MR. THOMSEN: I just want to confirm for the record
3 that we did early this morning distribute to the Board and
4 parties our written comment on the NRDC Supplement.

5 CHAIRMAN WOLF: We haven't had a chance to look at
6 that yet.

7 MR. THOMSEN: I realize that, but I just wanted
8 to indicate that, and I have asked Mr. Frantz to summarize
9 our position on the NRDC and the other Petitions we will
10 be coming to. So I would like to turn the microphone over
11 to him, if I may.

12 CHAIRMAN WOLF: Mr. Frantz?

13 MR. FRANTZ: Judge Wolf, the NRDC has submitted
14 four contentions with fairly detailed and extensive bases.
15 Based upon its pleadings so far, the Applicant has no
16 objection to the admission of these contentions, and the
17 participation by the NRDC on its contentions, as indicated
18 and refined by the Supplemental Petition, and the bases supplied.

19 CHAIRMAN WOLF: Thank you.

20 Mr. Black?

21 MR. BLACK: Judge Wolf, the NRC Staff responded
22 to the Amended Petition from the NRDC on April 23rd, 1982, and
23 concluded that NRDC had adequately established standing to
24 be allowed to intervene as a matter of right in this
25 proceeding.

1 We also believe that in the Supplement to the
2 Amended Petition the four contentions advanced by NRDC in
3 the area of need for power and alternative resources had been
4 pleaded with the requisite basis and specificity pursuant to
5 10 CFR Section 2.714, and therefore, the Staff concludes that
6 these four issues should be admitted in this proceeding as
7 issues in controversy.

8 CHAIRMAN WOLF: Thank you.

9 On the basis of the discussion that has taken place,
10 and the papers that have been filed in connection therewith,
11 the Petition to Intervene by the Natural Resources Defense
12 Council is granted, and forthwith you become a party.

13 MR. CAVANAGH: Thank you.

14 CHAIRMAN WOLF: If you have other engagements, you
15 may be excused at any time you want to.

16 MR. CAVANAGH: Thank you, they are later today. I
17 will stay as long as I can.

18 MR. THATCHER: May it please the Board, I would like
19 to concur in Mr. Black's suggestion that if possible you take
20 up the intervention petition of the National Wildlife
21 Federation and the Oregon Environmental Council, which again,
22 in some respects is similar to, but has some additional
23 contentions to those filed by Natural Resources Defense
24 Council. We have similar affidavits of members, and similar
25 standing therefore to the NRDC organization. We have raised

1 certain additional matters not raised by the NRDC. Mr. Black
2 indicated that perhaps it would be appropriate to take up
3 that matter, so that all parties would be either admitted,
4 or denied admission at an early stage in this proceeding, so
5 we could all discuss the relevant portions of the proceeding.

6 CHAIRMAN WOLF: Well, I was just going to call on
7 you to fill us in a bit on the basis and the reasons why you
8 think you should be admitted, at this time, in the light
9 of the amended documents you have submitted.

10 MR. THATCHER: Thank you.

11 CHAIRMAN WOLF: Now, Mr. Thatcher, you will
12 represent the National Wildlife Federation.

13 Do you also represent the Oregon Environmental
14 Council?

15 MR. THATCHER: Yes, I do, Your Honor. We have
16 filed a joint Petition, and I am representing both parties.

17 CHAIRMAN WOLF: I wish you would address yourself
18 to that fact that there has been no showing, unless it is in
19 this Amended Petition, as to the right of the Oregon group to
20 be admitted here.

21 MR. THATCHER: The Oregon Environmental Council
22 we have included in our Amended Petition, the name of, although
23 because of mailing difficulties, and simply the fact that we
24 are a citizens' organization, and so it takes some time to
25 get our members to sign the proper papers, and get them in

1 mail to us. The Oregon Environmental Council too has members
2 that live within 50 air miles of the plant, and who are
3 concerned with the health, and safety, and environmental
4 impact of the construction of this plant, as compared to
5 alternatives. That is Mr. Doyle Hunt, whose affidavit will
6 shortly be filed with the Commission. He does live within
7 45 air miles of the proposed plant.

8 CHAIRMAN WOLF: But as of now, I take it, there is
9 no evidence of that in the record, is that correct?

10 MR. THATCHER: No, we have not yet filed the
11 affidavit. I have made the allegations in our Petition to
12 Intervene, under oath, myself, that I have spoken to
13 Mr. Hunt, and he has authorized me to represent him and the
14 Oregon Environmental Council.

15 CHAIRMAN WOLF: You will submit the affidavit, and
16 we will withhold any action on the Oregon group until we have
17 that paper in hand.

18 MR. THATCHER: Yes, sir.

19 CHAIRMAN WOLF: So you will just address yourself to
20 the National Wildlife group.

21 MR. THATCHER: The National Wildlife Federation has
22 a large membership throughout the Pacific Northwest, and for
23 purposes of establishing clearly our standing, we have already
24 filed the affidavit of Mr. Willis Hicks, and Mrs. Ruth Hicks,
25 both of whom live in Mabton, Washington. They have spoken

1 to us. They have authorized the National Wildlife Federation
2 to represent their interests. They are associate members of
3 the National Wildlife Federation. Their affidavits were
4 submitted at the same time as our Amended Petition, and they,
5 as their affidavits indicate, both live within the 50-mile
6 zone, which is considered to be the zone of interest, clear
7 zone of interest. They also hike and birdwatch, and generally
8 recreate in that area, and they have asked National Wildlife
9 Federation -- have authorized the National Wildlife Federation
10 to represent those health and safety interests.

11 As well, we have filed the affidavits of members
12 who use -- Barbara Breunig, who is a member of the National
13 Wildlife Federation, who lives in Portland, Oregon, who uses
14 and enjoys the fish and wildlife resources on the Columbia
15 River, which we believe could be adversely affected by
16 construction and operation of this plant.

17 So we have both claims of standing within the
18 50-mile zone, as well as other recreational interests that
19 might be affected by operation of this plant.

20 CHAIRMAN WOLF: Very well.

21 Mr. Frantz?

22 MR. FRANTZ: Judge Wolf, the Application has no
23 objection to the standing of the National Wildlife Federation
24 in intervening in this proceeding.

25 CHAIRMAN WOLF: Mr. Black?

1 MR. BLACK: The Staff has no objection to either
2 the National Wildlife Federation or the Oregon Energy
3 Council. We recognize that the affidavit of Mr. Hunt was
4 not attached to the Amended Petition, but based, number one,
5 on the representations of Counsel that such an affidavit
6 would be filed, we had no objection, and also we would note
7 that the Amended Petition asserts that several OEC, Oregon
8 Energy Council, members use and enjoy the Columbia River
9 fishery that could be adversely affected by this project,
10 and based upon those representations as well, we believe that
11 the Oregon Energy Council has a requisite standing to become
12 Intervenors as a matter of right in this proceeding. So in
13 summation, the NRC Staff supports both the National Wildlife
14 Federation and the Oregon Energy Council to become parties
15 to this proceeding.

16 MR. THATCHER: For the record, it should be indicated
17 that the organization is the Oregon Environmental Council.

18 CHAIRMAN WOLF: Would you say that again?

19 MR. THATCHER: Oregon Environmental Council is the
20 name of the joint Petitioner with the National Wildlife
21 Federation.

22 CHAIRMAN WOLF: Since they adopt the contentions
23 that you are submitting for the National Wildlife Federation,
24 shouldn't we think about consolidating the two in any event?

25 MR. THATCHER: The presentation for the National

1 Wildlife Federation and the Oregon Environmental Council
2 will be consolidated. We are joint Petitioners, and simply
3 we will file papers in the name of -- and conduct the
4 hearing, if the hearing is finally held, in the name of both
5 parties.

6 CHAIRMAN WOLF: What about the National Resources
7 Defense Council? Shouldn't you be consolidated with them
8 also?

9 MR. THATCHER: Well, Mr. Cavanagh and I have discussed
10 the matter of consolidation, and it is true that on the need
11 for power question we have adopted the statement of their
12 contentions. I think it would be useful if such consolidation
13 were to occur on those issues. Number one, of course we
14 recognize that NWF and the OEC have raised issues beyond those
15 raised by NRDC, and in addition, if such consolidation were
16 to take place, we would ask the permission of the Board, if
17 I am not speaking out of turn, and Mr. Cavanagh can correct
18 me if I am, that if such consolidation were to take place,
19 that either Mr. Cavanagh or I could represent all three
20 parties in those matters in which there is consolidation, if
21 there is consolidation, so that both of us need not be
22 present at the same time, if that seems to be the best way
23 to proceed.

24 Would you like to comment?

25 MR. CAVANAGH: I agree with that, Your Honor.

1 I would point out, though, that there are contentions that
2 NWF and OEC have which we have not entered. Our intervention
3 is a relatively narrow one, so we could not, of course,
4 represent their interests outside the scope of our
5 intervention.

6 CHAIRMAN WOLF: Well, since you are closely in
7 touch with one another apparently, we can withhold any final
8 statement as to consolidation until maybe the next meeting,
9 or something.

10 MR. THATCHER: Fine.

11 CHAIRMAN WOLF: But in the meantime, if you will
12 get in the affidavit for the Oregon group, we can handle that
13 then at that time.

14 In view of the discussion, and without opposition,
15 the National Wildlife Federation is admitted as a party.

16 MR. THATCHER: And you will await decision on the
17 Oregon Environmental Council until the affidavit is actually
18 submitted?

19 CHAIRMAN WOLF: Yes, if you get it in, we will
20 include it in the order that we issue as a result of this
21 hearing.

22 MR. THATCHER: Thank you, Your Honor. I will make
23 every possible effort to get it in immediately.

24 CHAIRMAN WOLF: It will be two or three weeks, I am
25 sure before we can get out an Order, perhaps longer, because

1 of other commitments we have.

2 MR. THATCHER: May I say also, Your Honor, that
3 with respect to the contentions filed by the National Wildlife
4 Federation and the Oregon Environmental Council, I understand
5 that the Applicant has objected to three of those
6 contentions. I have not seen the Staff response, but I have
7 been told informally that the Staff objects to three of those
8 contentions. I think that perhaps the best way to handle
9 that, since I was just handed the Applicant's response, is
10 to ask for the right to provide written response. I can
11 discuss it, if you wish, however. I do have some immediate
12 responses, if necessary, to talk about it today, but I do
13 believe there are responses, and indeed, in one case, one of
14 the contentions will in fact have to be amended, because the
15 contention was written before amendments to the Commission
16 Rules that occurred on March 31st. I must admit that in
17 Eugene, Oregon we get the Federal Register a couple weeks
18 late, so I am prepared to amend that contention with respect
19 to financeability, because I think the question of the
20 acquisition by the Bonneville Power Administration is in fact
21 a critical issue in this proceeding, as the Applicant
22 evidently has already said in public statements, and it may
23 very well properly be placed in the third contention of the
24 National Wildlife Federation, with respect to cost benefit
25 analysis, because the cost benefit analysis of this plant will

1 be altered, if the Bonneville Power Administration is not
2 able to acquire the output of that plant. So that sort of
3 amendment we are prepared to make.

4 We are also prepared to make arguments on their
5 objection to our concern with the fisheries impacts of the
6 resource, and to clarify our -- and I believe that they have
7 raised good questions, which we believe we will clarify with
8 respect to the issue of the disposal confidence proceeding.
9 And I believe that this would be most appropriately done by
10 us filing a written response to this substantial written
11 document that we have just been presented today.

12 CHAIRMAN WOLF: Do you have any comment to that,
13 Mr. Frantz?

14 MR. FRANTZ: Yes, Judge Wolf, we also believe that
15 the it would be prudent for the Board to defer any consideration
16 as to specific contentions until the other parties have
17 submitted their pleadings with regard to the proposed content-
18 tions to date. However, we would also like to add that if the
19 National Wildlife Federation proposes to amend the contentions
20 that they also must satisfy the requirements of
21 Section 2.714(a), with regard to late-filed contentions,
22 that the National Wildlife Federation has no right to amend
23 their contentions at this stage, without the showing of good
24 cause, and without some of the other four factors.

25 MR. THATCHER: It would be appropriate, I take it,

1 to ask the Applicant how, at this very early stage, for
2 instance, when a regulation has just been altered, how they
3 would be prejudiced by our simple amendment to include that
4 question of financeability, which has just been changed by
5 the Commission, into our cost benefit contention. I just don't
6 think that there would be any problem, but as Mr. Frantz
7 said, the best way to deal with that, I should think, would
8 be in written form.

9 CHAIRMAN WOLF: I think so, yes. If you will do that,
10 we will.

11 MR. THATCHER: Yes, we will.

12 CHAIRMAN WOLF: --include it in the Order.

13 Mr. Black, do you have any comments?

14 MR. BLACK: I think to tie this package up in a
15 nice little bundle, maybe the appropriate thing for me to do
16 at this time would be to give the Board, as well as NWF/OEC
17 our response to those three contentions that we deem
18 admissible at this time, and therefore, when they frame their
19 response, they can take the Staff's points into consideration
20 as well. And I would be willing to, at this time, indicate
21 what our objections to those three contentions are, for the
22 record, as well as for a further response from the National
23 Wildlife Federation.

24 MR. THATCHER: May I ask Your Honor if that
25 response would be in writing, or shall I take detailed notes

1 on the words that Mr. Black says today?

2 MR. BLACK: Well, what I can do is I can tell you
3 what our response is, the words will be in the transcript,
4 and I can also give you my notes. So you will have a
5 very detailed explanation.

6 MR. THATCHER: But there is no written response?

7 MR. BLACK: There is no written response, but I
8 am prepared to do it orally. The only reason that I am
9 prepared to do it orally, and not written is that -- although
10 I could do it written, I would think that in the interest of
11 saving time, since my response is short, that this would
12 be a better way to do it.

13 MS. BELL: Mr. Chairman, I would like to know if
14 this applies to the contentions of the Coalition for Safe
15 Power as well. In other words, the deferral of oral
16 discussion on contentions, and simply that we would respond
17 in writing, as would the National Wildlife Federation?

18 MR. BLACK: I think that we ought to wait until we
19 get to that. The Coalition stands on different ground, just
20 from the standpoint of the length and breadth of their
21 Petition.

22 CHAIRMAN WOLF: I agree. I think we will have to
23 ask you to take that up when we get to the Coalition's
24 Petition and contentions.

25 Very well, I take it that this would satisfy your

1 requirements, if you got the oral statement and the notes
2 from Mr. Black, is that correct?

3 MR. THATCHER: Yes, I am all ears, Your Honor.

4 MR. BLACK: Let me go ahead then.

5 CHAIRMAN WOLF: You don't receive a copy of the
6 transcript, I take it?

7 MR. THATCHER: I guess I can.

8 THE REPORTER: There is a sales form available, if
9 anyone wants one.

10 CHAIRMAN WOLF: I guess you sell them, is that
11 correct?

12 THE REPORTER: Right.

13 MR. THATCHER: We will work that out, Your Honor.

14 MR. BLACK: The NRC Staff, with respect to the
15 upplement to the Petition filed by NFW/OEC believes that
16 Contentions 1, 2, and 3 meet the specificity and bases
17 requirements of 10 CFR Section 2.714(b), and should be
18 admitted as issues in controversy in this proceeding.

19 Contentions 4, 5, and 6 are objectionable, and
20 should be denied for the following reasons:

21 No. 4, and this is a quotation: "The Applicants
22 have failed to assess fully the environmental impacts of
23 the proposal, and in particular the impacts of the project
24 on Columbia River fish and wildlife resources."

25 The alleged basis for this proposed Contention is

1 that when additional baseload thermal resources, such as
2 the proposed Skagit/Hanford Nuclear Project, are added to the
3 regional electrical system, the regional hydro projects in
4 the system will operate more as peaking units. The increased
5 use of the hydro-peaking will allegedly cause significant
6 impacts to the fish and wildlife resources along the
7 Columbia River.

8 The NRC Staff has no reason to doubt that the
9 addition of Skagit/Hanford as baseload units in the region
10 could cause hydro projects to shift to peaking, and that this
11 shift may cause some impact on fish and wildlife resources.
12 However, the program of adding additional thermal baseload
13 units to the regional resources and shifting hydro projects
14 to peaking is under the review and implementation authority
15 of the Bonneville Power Administration. Thus, any impacts
16 associated with this regional hydro-thermal program should be
17 reviewed and assessed by the BPA. In fact, it appears that
18 the BPA has assessed these impacts in its programmatic
19 environmental impact statement.

20 And this I would refer to you to the final EIS,
21 the Role of Bonneville Power Administration in the Pacific
22 Northwest Power Supply, December, 1980.

23 The Commission has held that: "Issues fully
24 addressed in a program statement need not be addressed again
25 in a subsequent impact statement concerning only a part of

1 the program."

2 I am citing United States Energy Research and
3 Development Administration Project Management Corporation
4 Tennessee Valley Authority, which is the Clinch River
5 Breeder Reactor Plant, and that can be found at CLI-76-13,
6 4 NRC 67 at 80, 1976. And accordant with that is
7 Scientists' Institute for Public Information, Inc. v. AEC,
8 481 F. 2d 1079 at 1087-1088, and at 1093, and that is a
9 D.C. Cir. 1973.

10 Accordinly, to the extent that this proposed
11 contention asserts that the Applicants have inadequately
12 assessed the impacts to fish and wildlife resources as a
13 result of BPA shifting it hydro projects to peaking, it is
14 beyond the scope of this proceeding. Consistent with
15 Clinch River, those impacts have been assessed by BPA in its
16 programmatic EIS on the regional hydro-thermal program, and
17 need not be considered here. Therefore, this contention
18 should be rejected.

19 I am going to Contention 5, which states: "The
20 acquisition of Skagit/Hanford by the Bonneville Power
21 Administration is highly unlikely; that unlikelihood is
22 crucial to determining the financeability of the project."

23 NWF/OEC asserts that "the Commission requires all
24 licensed applicants to demonstrate their financial
25 qualifications to construct and operate the plants for which

1 licenses are sought, 10 CFR, Section 50.33(f), and 10 CFR,
2 Section 50.40."

3 This assertion, and subsequently, the foundation
4 for the contention are erroneous because of a recent rule
5 change by the Commission, and I believe that the National
6 Wildlife Federation has noted that that rule change has been
7 made, and I would only refer you to 47 Fed. Req. 13570 at
8 13573-13574. In a recent Appeal Board Decision in Houston
9 Lighting and Power Co., Allens Creek Nuclear Generating
10 Station, Unit 1, ALAB-671, on March 31, 1982, which indicated
11 that the Board is foreclosed from any consideration of any
12 financial qualification issue, and particularly in this case,
13 including the acquisition of the facility by BPA under the
14 Regional Power Act, which might have been raised with regard
15 to the Applicant's financial qualifications to build
16 Skagit/Hanford.

17 Now, moving on to Contention 6, it states: "The
18 Commisison should not issue any Construction permit or
19 facility license for Skagit/Hanford, pending completion of
20 waste-disposal confidence proceeding."

21 NWF/OEC asserts in this contention that no construction
22 permits for the facility should be issued until the Commission
23 completes the waste-disposal confidence proceeding. The
24 Commission is considering the waste management question, which
25 we believe is what they are talking about here when they

1 talk about the waste-disposal confidence proceeding, in a
2 generic rulemaking proceeding. And I refer you to
3 44 Fed. Reg. 45362, August 2nd, 1979.

4 In addition, the Commission has determined that
5 licensing practices need not be altered during this
6 proceeding. And for that I would refer you to 44 Fed. Reg.
7 61372, on October 25, 1979.

8 Based upon this Commission precedent, the Appeal
9 Board has held that licensing boards are precluded from
10 withholding licensing authorization pending completion of the
11 waste management generic rulemaking. And I would refer you
12 to Virginia Electric Power Company, North Anna Nuclear Power
13 Station, Units 1 and 2, ALAB-584, 11 NRC 451 at 463-465, a
14 1980 case, and also Public Service Company of Oklahoma,
15 Black Fox Station, Units 1 and 2, ALAB-573, 10 NRC 775 at
16 800, 1979.

17 Accordingly, this contention must be rejected
18 because the Licensing Board is precluded from withholding
19 issuance of the construction permits pending completion of
20 the waste-disposal confidence proceeding.

21 And for all those reasons, I submit that
22 Contentions 4, 5, and 6 should be rejected.

23 What I just read, I will be giving to the
24 National Wildlife Federation, so they will have our response
25 to those.

1 CHAIRMAN WOLF: We will consider those objections
2 when we pass on the contentions, Mr. Black.

3 Mr. Frantz, do you have any comments at this time?

4 MR. FRANTZ: Yes.

5 In addition to the contentions mentioned -- objections
6 mentioned by Mr. Black, we would also like to point out that
7 Contention 3 of the National Wildlife Federation consists of
8 several subparts, two of which are also objectionable, even
9 though the main part of the contention, we feel, probably
10 does satisfy the Commission's regulations.

11 Subpart (b) of Contention 3 of the National Wildlife
12 Federation, which is that the Applicants have not included
13 decommissioning costs in the project cost calculations. This
14 contention is totally without basis. The Applicant has
15 considered decommissioning costs, in fact, an entire section,
16 Section 5.8 of the Application for Site Certification and
17 Environmental Report does consider the decommissioning costs
18 for Skagit/Hanford, and therefore, we feel that this
19 subpart of Contention 3 should be rejected as without basis.

20 Similarly, Subpart (d) of Contention 3 alleges that
21 the Applicant has not considered the environmental cost of
22 hydroelectric power for peaking purposes. That is really an
23 issue encompassed within Contention 4 of the National Wildlife
24 Federation. We believe that Contention 4 is not admissible.
25 In addition to the reasons mentioned by Mr. Black, we feel

1 that there is no relevance of the hydroelectric impacts
2 with the Skagit/Hanford. The premise the National Wildlife
3 Federation appears to be making that somehow the increased
4 impacts from hydroelectric power will result from the
5 construction and operation of Skagit/Hanford, there is no
6 basis for that allegation. The demands for peaking power
7 upon the systems have absolutely no relevance at all to what
8 units are constructed and operated to provide baseload power.

9 Consequently, Contention 4 should be rejected as
10 being irrelevant to this proceeding, and not required to be
11 considered in this proceeding.

12 With respect to Contention 5 regarding financing
13 of the plant, as Mr. Black has already stated, the Commission
14 has recently excluded consideration of financial
15 qualifications for electric power utilities, and therefore
16 this contention should be rejected as being contrary to the
17 Commission's rules.

18 With respect to Contention 6, which refers to the
19 waste confidence proceeding, we also agree with the Staff's
20 objections that the Commission has already ruled that these
21 issues should not be considered in individual licensing
22 proceedings, that the Commission has a generic proceeding
23 already underway which is considering these issues. Therefore,
24 Contention 6 should also be rejected.

25 CHAIRMAN WOLF: We will consider your statement

1 when we take the matter under advisement.

2 Does anyone have any other comments?

3 If not, we can move on then to the questions raised
4 by the Amended Petition by the Coalition for Safe Power.

5 Let me ask just a few questions, Ms. Bell:

6 How do you expect to -- this is aside from the
7 question of the relevance and validity of the contentions
8 you have submitted -- How do you expect to prove those
9 contentions? What is going to be your method of proof?

10 MS. BELL: We expect to provide witnesses to provide
11 direct testimony, as well as do cross-examination of the
12 Applicant's case.

13 CHAIRMAN WOLF: You will provide some witnesses,
14 though?

15 MS. BELL: Oh, yes, indeed. I don't think that we
16 could support these contentions without witnesses.

17 CHAIRMAN WOLF: And you are familiar with the
18 rules regarding written testimony, and so forth?

19 MS. BELL: Yes.

20 CHAIRMAN WOLF: Very well, since there are a great
21 number of these contentions, and since we have failed to
22 take a break all morning, I wonder if it wouldn't be well to
23 break for lunch, and take these matters up after lunch.

24 MS. BELL: Mr. Chairman, it seems that since there
25 are so many, and because this is the proceeding used for the

1 contentions for National Wildlife Federation that it would be
2 extremely burdensome to talk about all these contentions--

3 CHAIRMAN WOLF: I agree with that, but I thought
4 that we could get a few comments by the other parties, and
5 try to work out some kind of a procedure, if we can, for
6 restating some of the contentions, or correcting whatever
7 defects may appear in them. So we will try that after lunch,
8 if we may.

9 Would 1:00 o'clock be a suitable time to come back?

10 If so, we will adjourn till 1:00 o'clock.

11 (Whereupon, at 11:45 a.m., the luncheon recess was
12 taken, to return at 1:00 p.m.)

13 - - - -

AFTERNOON SESSION

1:00 p.m.

1
2
3 CHAIRMAN WOLF: Back again on the record, please.

4 Ms. Bell, in order to move forward on this, I
5 would suggest that we hear from the other parties, and then
6 you come back and rebut whatever you want to rebut, rather
7 than asking you to go through each one of the contentions at
8 this time.

9 Do you think that would help work it out, or if
10 you have another suggestion, you may make it?

11 MS. BELL: Do you mean oral rebuttal, or written?

12 CHAIRMAN WOLF: No, orally, right now, at this
13 time.

14 MS. BELL: We would prefer to have the time to
15 read the Applicant's response, which is rather lengthy, and
16 respond to each one in writing. It would be much less
17 burdenson, in a certain way, for us to do that.

18 CHAIRMAN WOLF: Well, what will that take? About
19 10 minutes, or... to read that? Are you into it already?

20 MR. BLACK: Judge Wolf, if I may speak, I spoke to
21 the Coalition at the break, as well as the Applicant, with
22 respect to how we should proceed with the Coalition's
23 Amended Petition, and it is 70-odd contentions at this stage.
24 I thought that the most practical procedure at this point,
25 instead of responding to all of the 70 contentions at this

1 point, would be to have both the Applicant and Staff note
2 for the record their general objections to these contentions.

3 CHAIRMAN WOLF: That is just what I suggested,
4 Mr. Black.

5 MR. BLACK: And then give the Coalition further
6 time to file responses in written form to those objections.
7 I think that that would be easiest, from the standpoint that
8 I haven't had a chance also to read the Applicant's responses
9 to all the 70 contentions, but I know that the Staff's
10 objection to these contentions fall within one fairly basic
11 objection as to basis and specificity. And at the break I
12 gave Ms. Bell a written write-up that we have, that I had
13 written with respect to the basic pleading requirements for
14 contentions, giving NRC case law, and what have you, and
15 also that write-up indicated what the Staff's general
16 objections were to all her contentions.

17 I would note at this time, at this point, based upon
18 her -- based upon the Coalition's Amended Petition, we do
19 object to all of the contentions, all 70 contentions, which
20 basically fall within 18 different categories, on grounds
21 primarily of basis and specificity. And I think that the
22 Applicant's objections go mainly to those grounds as well.
23 There are few contentions that are challenges to regulations
24 or somehow other grounds for objections in them, but I think
25 that the best way to do it is to note the general objections,

1 and then have the Coalition have additional time to go back
2 and reframe their contentions, and hopefully take the Staff
3 and Applicant objections to heart, and come up with a more
4 acceptable pleading, setting forth better-defined and
5 more particularized contentions.

6 CHAIRMAN WOLF: Ms. Bell, do you want to comment on
7 that suggestion?

8 MS. BELL: Well, that is what we agree with.

9 MR. FRANTZ: Judge Wolf, the Applicant also objects
10 to every contention on the grounds of specificity and basis.
11 The reasons are set forth in our response, which I believe
12 now all the parties and the Board has.

13 If the Coalition intends to file a response to
14 our objections, we would note that they are free to do so.
15 However, if they intend to amend their contentions to cite
16 new bases which were not previously supplied, or they intend
17 to raise new issues in reframing their contentions, they
18 also must satisfy the requirements of 10 CFR Section 2.714,
19 with regard to late-filed contentions.

20 CHAIRMAN WOLF: I think Ms. Bell understands that,
21 that she is bound in to the areas that she raised contentions
22 about, unless she can make a showing of good cause for going
23 into a new area.

24 MS. BELL: Right.

25 CHAIRMAN WOLF: Well, if that is true, suppose

1 Mr. Black that you -- I take it that you have covered
2 everything you want to cover in your written document, and
3 your statement just now, Mr. Frantz?

4 MR. FRANTZ: That is correct.

5 CHAIRMAN WOLF: Mr. Black, do you want to make --
6 Perhaps I ought to ask Mr. Thatcher for comments.

7 MR. THATCHER: I have no comment generally on the
8 Coalition for Safe Power's contentions.

9 CHAIRMAN WOLF: And Mr. Cavanagh?

10 MR. CAVANAGH: Nothing to add.

11 CHAIRMAN WOLF: Mr. Black, would you comment then?

12 MR. BALCK: Yes, I think for the record I would
13 just like to note what the grounds for our general objections
14 to these contentions are. And I think we do have the same
15 objections that the Applicant has noted in its written
16 response, but I would also like to perhaps give the Coalition
17 some further reasons why we do object to all their contentions.

18 I would also note that if in fact all of these
19 contentions are found inadmissible, then it follows that the
20 Coalition as a party must be dismissed, because they have
21 no further contentions in the proceeding. So I believe at
22 this point it is incumbent upon the Coalition to reframe
23 acceptable contentions.

24 I just would like to state for the record that the
25 regulations do provide that a contention must have basis as

1 well as specificity, and I point to 10 CFR Section 2.714.
2 And this requirement of basis and specificity has been upheld
3 by the Commission, as well as by the Federal Courts.

4 The purpose of the basis requirement of 10 CFR
5 Section 2.714 is to assure that the contention in question
6 does not suffer from any infirmities, and to establish
7 sufficient foundation for the contention to warrant further
8 inquiry into the subject matter in the proceeding, and to
9 put the other parties sufficiently on notice, so that they
10 will know at least generally what they have to defend against
11 or oppose.

12 From the standpoint of basis, there is sufficient
13 case law to indicate that they do not have to detail the
14 evidence which will be offered in support of this contention.
15 The do not need to go into the merits of the contention.

16 At this particular pleading stage in the proceeding,
17 however, it is incumbent upon the Petitioner to, one, set
18 forth contentions which are sufficiently detailed and
19 specific to demonstrate that the issues raised are admissible
20 and relevant to the issue of this construction permit.

21 Two, show that further inquiry is warranted.

22 Three, put the other parties on notice as to what
23 they will have to defend against or oppose.

24 And four, set forth a reasonable basis for each of
25 the contentions, recognizing that the degree of specificity

1 of bases needed will be judged on a case-by-case basis.

2 In its Amended Petition, CSP has set forth 70
3 contentions under 18 headings. The NRC Staff submits that
4 none of the contentions meet the basis and specificity
5 requirements of 10 CFR Section 2.714(b), and accordingly,
6 all of them must be rejected.

7 Initially we would note that most of the Coalition's
8 proposed contentions suffer from the same shortcoming with
9 respect to their admissibility. Simply stated, the list of
10 contentions are nothing more than a collection of disjointed,
11 generalized statements, with no rational or specific
12 assessment of how the facts apply to the Skagit/Hanford
13 project.

14 CSP has attempted a scatter-gun approach to
15 intervention. It has submitted a collection of broadly-framed
16 contentions that are not limited in any respect to matters
17 relevant and specific to this proceeding. These amorphous
18 contentions are not sufficiently detailed to, one, either
19 demonstrate a regional basis as to relevance or, two, put the
20 parties on notice as to what they will have to defend against
21 or oppose.

22 And I would just conclude by saying that this
23 Licensing Board should not admit vague contentions which are
24 lacking in specificity required by the Commission regulations,
25 and to do so would constitute a direct challenge to the

1 regulation itself, as well as to well-defined case law in
2 NRC practice.

3 So with those general objections, I think it now
4 is incumbent upon the Coalition to come forward with
5 contentions that meet the basis and specificity requirement.

6 CHAIRMAN WOLF: Ms. Bell, how soon do you think
7 you can edit and reevaluate your contentions?

8 MS. BELL: Well, we have to formulate our response
9 to the Board's question of this morning within two weeks, and
10 four weeks for the contentions would be good for us.

11 MR. FRANTZ: Excuse me, Judge Wolf, I believe the
12 typical time provide in the rules is ten days to respond to
13 a pleading. I suggest that ten days would be appropriate.

14 MR. THATCHER: Mr. Chairman, insofar as National
15 Wildlife Federation and Oregon Environmental Council must
16 also respond to certain objections, and that the Board has
17 asked that there should be a filing on this much larger and
18 generic issue of need for power within two weeks, I must
19 respectfully ask that the Board consider whether or not there
20 is any great urgency in the Coalition for Safe Power
21 responding within ten days, in spite of the fact that that
22 may be the normal time. There is a larger issue here, and
23 I must say that I don't see the urgency that they need to
24 respond in such a short period of time to a very extensive
25 filing, and they are also very extensive contentions.

1 CHAIRMAN WOLF: Yes, we are aware of that. Our
2 problem is that members of the Board are committed to various
3 things in May and June. However, I think that three weeks
4 would be ample time for you to get up a revision, Ms. Bell,
5 and that would be the 26th of May, and I would like you to
6 mail it, so that we have it on that day, if you can.

7 MS. BELL: I will try, but I can't guarantee that
8 you will all get it the same day.

9 CHAIRMAN WOLF: Well, two of us are in Washington,
10 so if you get the one to the Board on that day, that would
11 suffice. We will get in touch with Dr. Hooper, and fill him
12 in. We are just having a little trouble getting together then
13 for an evaluation, is what our problem is, within a short
14 time after that. So if you will try to do that, we would
15 appreciate it.

16 MR. BLACK: Judge Wolf, are you also contemplating
17 that Staff and Applicant will have an opportunity to respond
18 to the reframed contentions? I think that would only be fair.

19 CHAIRMAN WOLF: How many times do we have to hear
20 it, Mr. Black? You have already stated your position.

21 MR. BLACK: Well, but I think when they reframe
22 their contentions, they may come back with contentions that
23 we will have specific problems with that come outside the
24 general objection, and I think that we--

25 CHAIRMAN WOLF: I will give you a week afterwards

1 to do it. That will be the 2nd of June.

2 MR. THOMSEN: Applicant also, I assume?

3 CHAIRMAN WOLF: I beg your pardon?

4 MR. THOMSEN: Applicant also in that timeframe?

5 CHAIRMAN WOLF: Would you file them simultaneously,
6 please?

7 MR. THOMSEN: Yes.

8 MR. THATCHER: If it would please the Board, the
9 National Wildlife Federation is prepared, if this is
10 acceptable to you, to file our response to the Staff and
11 Applicant's objections to our contentions within sufficient
12 time that you will have it in your hands by May 26.

13 CHAIRMAN WOLF: Yes, that will be all right.

14 Judge Linenberger would like to make a statement to
15 Ms. Bell.

16 JUDGE LINENBERGER: Aside from the specifics of
17 the matter, the Board is going to be the one that determines
18 the fate of your contentions, and all members of this Board
19 have had experience with contentions that however voluminous
20 the bases may be, and particularized they may be, leave the
21 Board in a position that when the record is closed, it is
22 virtually a Solomonesque task to determine who has prevailed,
23 just because of the way the contention is worded. And let me
24 say more specifically here that a lot of contentions indicate
25 that something has not been done adequately. I am not

1 referring to any of your 70. They may fall in this category,
2 but that is beside the point. This is a hypothetical example,
3 but it is a realistic one also. Contentions alleged that
4 certain things have been done inadequately, and the bases
5 that are given are that insufficient analytical detail in
6 these areas supports the position of Applicant.

7 Well, when you get words such as "inadequate" and
8 "insufficient," and you come to the end of a record, it is a
9 very judgmental call as to what is adequate or not, and what
10 is sufficient or not. So please keep in mind, as you are
11 tightening up your contentions, this kind of consideration,
12 because it can -- if things are too imprecise and leave too
13 much of a judgment call, that is at best poorly supported by
14 any kind of record you or the other parties can make, you
15 jeopardize your own case in leaving it that way.

16 So keep that in mind, if you will, please. It will
17 help all of us, not just us, but you too.

18 MS. BELL: Thank you.

19 JUDGE LINENBERGER: Thank you.

20 CHAIRMAN WOLF: I assume that we will be relieved of
21 the evidence that was pleaded, and the merits, and that sort
22 of thing, in framing the contentions, or reframing them.

23 Are there any other matters that we should take up
24 now?

25 We have had a request for the opportunity to address

1 the Board by a representative of indian tribes.

2 Could you come forward? Would you state your name,
3 and address, and who you represent, and what the reason is you
4 have asked permission to speak?

5 MR. LOTHROP: My name is Rob Lothrop. I am with
6 the Columbia River Intertribal Fish Commission. Their address
7 is Suite 320, 8383 Northeast Sandy Boulevard, Portland,
8 Oregon, 97220.

9 I requested leave to speak in regard to the broad
10 issues of what -- correct me if I am wrong -- I perceive the
11 Board to take under advisement of setting its timeframe for
12 evidentiary hearings on this matter. The Columbia River
13 Intertribal Fish Commission will be submitting a Petition to
14 Intervene in this proceeding imminently.

15 The Petition will bear substantial resemblance to the
16 National Wildlife Federation and NRDC Petitions.

17 In regard to the broad timeframes which you may
18 establish, I think that it would be well on our part if you
19 were to consider the status of our Petition in considering
20 those timeframes, as well as the letter from Applicant in
21 regard to the timeframes, and its intention not to litigate in
22 a piecemeal fashion. However, Applicant is in other forms
23 aggressively pursuing environmental litigation on other matters
24 related to this proceeding, and I am not certain of the
25 exact import of their representations on their willingness to

1 defer. It is beyond me a little bit.

2 That is all I have.

3 CHAIRMAN WOLF: Well, you submit whatever papers
4 you have to submit, and we will take them under advisement
5 and give everyone the opportunity to respond to them in the
6 regular course, according to the rules.

7 MR. LOTHROP: Thank you.

8 CHAIRMAN WOLF: If there are no further matters we
9 should discuss, we will adjourn.

10 (Whereupon, at 1:30 p.m., the prehearing
11 conference adjourned.)

12 -o0o-

13

14

15

16

17

18

19

20

21

22

23

24

25

1 NUCLEAR REGULATORY COMMISSION

2 This is to certify that the attached proceedings before the
3 Nuclear Regulatory Commission

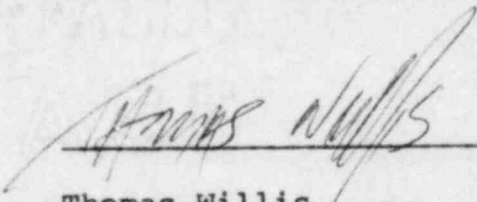
4 in the matter of: Puget Sound Power & Light Company, et al.,
5 Skagit/Hanford Nuclear Power Project,
6 Units 1 and 2

7 Date of Proceeding: May 5, 1982

8 Docket Number: STN-50-522, STN-50-523

9 Place of Proceeding: Richland, Washington

10 were held as herein appears, and that this is the original
11 transcript thereof for the file of the Commission.

12 
13 Thomas Willis
14 Official Reporter