

DOCKETED
USNRC

'83 FEB 15 11:49

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
PUGET SOUND POWER & LIGHT)	Docket Nos. STN 50-522
COMPANY, et al.)	STN 50-523
(Skagit/Hanford Nuclear Project)	February 10, 1983
Units 1 and 2)	

INTERVENORS' MOTIONS TO SUSPEND HEALTH AND
SAFETY PREHEARING SCHEDULE

The Yakima Indian Nation (YIN), the Columbia River Inter-Tribal Fish Commission (CRITFC), the National Wildlife Federation (NWF), and the Coalition for Safe Power (CSP), hereby move the Board to issue an order that the S/HNP certification and construction licensing proceedings be immediately suspended pending adoption of the final Regional Energy Plan. Additionally, Intervenor move that the evidentiary hearings on all other matters be deferred until the conclusion of evidentiary hearings, if any, on "Need for Power." This motion is made in recognition of similar requests made by the Applicant before the Board and the Washington Energy Facility Site Evaluation Council (EFSEC). Applicant's Motion to Suspend Health and Safety Prehearing Schedule. February 4, 1983.

On January 18, 1983, the Board issued an order providing a schedule of events leading to the evidentiary hearings on health and safety matters. This order was established consistent with the joint ASLB/EFSEC prehearing conference

8302160302 830210
PDR ADOCK 05000522
G PDR

DS03

summary memorandum of January 7, 1983. Pursuant to the Board's order of January 18, 1983, the Yakima Indian Nation and CRITFC filed notices, dated January 25th and January 31st respectively, of intent to file new contentions based upon information contained in the SSER. On February 4, 1983, the Applicant filed a motion to suspend the health and safety prehearing schedule.

The context of the Applicant's most recent request deserves further elaboration. However, first it should be realized that not only is the Applicant requesting the Health and Safety Prehearing Schedule to be suspended, but also that issuance of the joint EFSEC-NRC Final Environmental Statement be deferred. Applicant is also requesting that the EFSEC suspend its S/HNP certification proceeding and further processing for the S/HNP certification application. Letters of Robert V. Meyers, V.P. PSP & L to Daniel Muller, Assistant Director Environmental Tech. NRC and Nicholas D. Lewis, Chairman, EFSEC dated February 4, 1983. These suspensions and deferrals requested by the Applicant relate to one telltale event: The Draft Regional Energy Plan adopted by the Northwest Power Planning Council (NPPC) on January 26, 1983, included neither S/HNP unit. Apparently, the Applicant's intent in requesting the suspensions and deferrals, particularly with regard to completion and issuance of the FES,^{1/} is to hold matters in abeyance until the Applicant attempts to persuade the NPPC to alter its plan and include S/HNP as a "needed" resource. Certainly the Applicant has the right to provide comments to the NPPC, pursuant to statutorily prescribed processes, 16 U.S.C. 839b (4)(d)(1), however, the intervenors have endured the irony long enough.

^{1/} The Applicant states that the FES schedule was based upon an assumption "[a]s was noted by EFSEC" that the draft Regional Energy Plan would include the two S/HNP units among the resource options covered by the regional plan. Letter of Robert V. Meyers, V.P. PSP & L, to Nicholas D. Lewis and Daniel Miller dated February 4, 1983. However, neither the EFSEC letter of January 12, nor the minutes of the January 10 regular EFSEC meeting reflect this "assumption".

Both the Applicant and Intervenors have recognized since at least May 5th, 1982, that the need for power issue was likely to be dispositive of the outcome of these hearings and that the Regional Energy Plan would have substantial bearing on this matter. (Pre-Hearing Conference at Richland, Washington, May 5, 1982 at Tr. 4-15). Indeed the Applicant had previously requested that hearings on environmental matters as well as need for power be deferred subsequent to publication of the Regional Energy Plan. Letter of Theodore Thompson of April 26, 1982. At the Richland hearing at least one Intervenor was convinced that

it is clear that the NRC staff was entirely justified in concluding, unofficially, in a February 19, 1982 report that the Skagit/Hanford plants would be cancelled or deferred indefinitely...

(Cavanagh, Tr. 17 (May 5, 1982)) No doubt the NRC staff as well as Mr. Cavanagh were assured in their conclusion by previous representations of the Applicant that it would not go forward with the project unless it was "regionalized" (incorporated) into the Regional Energy Plan for acquisition by the Bonneville Power Administration. (Bell, Tr. 11-12 (May 5, 1982)) Apparently, even the largest user of electricity in the Pacific Northwest, the Direct Service Industries, were skeptical of the Applicant's abilities to build the S/HNP units. (Bell Tr. 13 (May 5, 1982)).

After ten months of posturing and negotiation regarding scheduling of the S/HNP proceeding -- particularly with regard to the FES deadline ^{2/} -- the Applicants are now suggesting that previously expedited processes be delayed, because the Northwest Power Planning Council has tentatively concluded the S/HNP project is too costly and unneeded.

2/ See e.g. Letter of Robert V. Meyers, V.P. PSP & L to W.H. Regan, NRC dated July 16, 1982; memo of James Connolly, EFSEC re: minutes of the Application Review Committee dated August 2, 1982; Transmittal of FES schedule approved at August 9 Council Meeting, EFSEC dated August 10, 1982; letter of John F. Wolf, ASLB to Nicholas D. Lewis, EPSEC dated August 31, 1982; letter of F. Theodore Thomsen, Applicant, to John F. Wolf dated September 9, 1982; letter of F. Theodore Thomsen to John F. Wolf and Nicholas D. Lewis dated November 29, 1982.

Each Intervenor to this proceeding has contentions regarding need for the S/HNP which have been accepted by the Board and aptly consolidated to read:

Contention 1. The Applicants have relied upon an inflated calculation of demand for electrical energy; reliable regional energy forecasts demonstrate no need for the Skagit/HNP.

Memorandum and Order Restating Admitted Contentions, January 18, 1983. Each Intervenor has requested that the "need" question be resolved prior to expending further limited resources on processing the S/HNP applications. (Pre-Hearing Conference at Olympia, Washington, December 2, 1982, Cavanagh Tr. 98, Thatcher Tr. 100, Bjorger Tr. 100, Majkut Tr. 102, Lothrop Tr. 104, Hovis Tr. 108, Bell Tr. 118-119.) Additionally, even the Applicant desires "to minimize further expenditures in connection with S/HNP pending adoption of the final Regional Power Plan...". Letter of Robert V. Meyers, V.P. PSP & L to Nicholas D. Lewis, EFSEC dated February 4, 1983. This desire is consistent with recent statements by John Ellis, President of Puget Sound Power and Light, which appeared in the Seattle Post-Intelligencer. According to the article of Saturday, February 5, 1983, Ellis stated that not only has the S/HNP been scaled from two nuclear power plants, to a single reactor, but that the Applicant will probably abandon the project altogether if Skagit/Hanford is not included in the Regional Energy Plan. (See Attachment.)

"It would probably be time to bite the bullet" added Ellis.
"The question would be whether we as utilities can continue to carry the project if the council won't accept it. The answer is probably no."

Seattle P-I, C-2 Saturday, February 5, 1982.

In Matters of scheduling, the paramount consideration is the public interest. Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 & 2), ALAB-277, 1 NRC 539 (1975). In the present setting, both the Applicant and Intervenor are similarly interested: Minimize further expenditures

pending adoption of the final Regional Energy Plan. Intervenors respectfully suggest that the most efficacious process would be a complete suspension of the health and safety related schedule and disposition of the question of "need" prior to all other matters.

One minor difference in this motion by Intervenors and that of the Applicant, is that the Applicant proposes that new contentions be filed and ruled upon according to the Board's schedule prior to suspension of the health and safety matters. Intervenors, on the other hand, would prefer that the health and safety proceedings be suspended immediately and prior to the deadline for filing new contentions on health and safety matters. According to the Board's Prehearing Schedule (Health and Safety) the difference between Applicants and Intervenors proposals is less than twenty days. The Applicant justifies its suggestion in that several schedule events may have occurred prior to a ruling on the suspensions. Had service of Applicants motion been more timely (CRITFC obtained a copy 2/9/82 from the Coalition for Safe Power), this matter could have been handled more expeditiously. Nevertheless, Intervenors, CRITFC and YIN, recognize the ten day extension to file contentions as per suggestion of Judge Wolf, (transmitted telephonically by Lee S. Dewey, NRC staff counsel) pending the Board's consideration of Intervenors' and Applicants' motions on suspension.

In ruling upon these motions the Board may wish to consider the likelihood that S/HNP may proceed to a licensed "option" status despite the Draft Plan. Previous rulings of the Appeals Board cast doubt on the propriety of keeping an option open to build nuclear projects by obtaining construction permits. That such a timeframe be allowed "cuts against any suggestion that Congress envisioned a regulatory scheme whereby an Applicant could apply for and

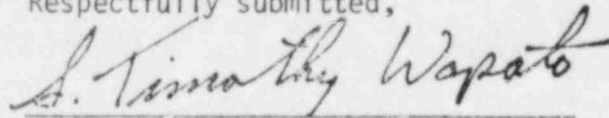
obtain a permit and then hold it in reserve until subsequently, if ever, it seemed to make good business sense to use the permit." Georgia Power Co. (Alvin W. Bogle Nuclear Plants No.s 1 & 2) ALAB-276 (June 11, 1975). Congress did not so envision.

CONCLUSION

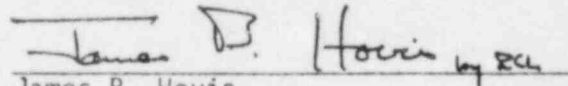
The Applicant has represented in both its May 15, 1982 quarterly report and its latest annual reports that it will not proceed with construction at Skagit/Hanford unless the Regional Power Council indicates in its plan that there is a need for the facility. (Olympia prehearing conference December 2, 1982, Cavanagh Tr. 97). Now that the Draft Regional Energy Plan has been published, the Applicant appears ready to "bite the bullet," and seeks to minimize costs associated with the licensing proceeding. Likewise Intervenors seek to minimize their costs and would request that the NRC and the ASLB recognize what the regional public has determined to be in its interest -- that the licensing proceeding be deferred until publication of the Regional Energy Plan. Wherefore Intervenors move the Board to immediately suspend to Health and Safety Prehearing Schedule including the items numbers (3) Filing of new contentions, (4) Applicants' and Staff's response to new contentions, and (5) Board ruling on contentions. Intervenors also move (severably) to defer the evidentiary hearings on all other matters until the conclusion of evidentiary hearings, if any, on "Need for Power."

Dated this 10 day of February 1983.

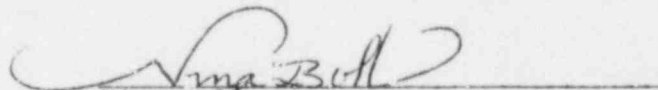
Respectfully submitted,



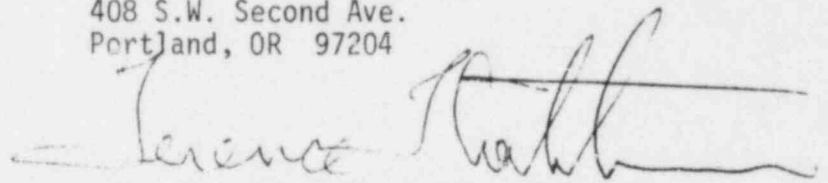
S. Timothy Wapato
Columbia River Inter-Tribal Fish Commission
2705 East Burnside, Suite 114
Portland, OR 97214



James B. Hovis
Hovis, Cockrill, Weaver, & Bjur
Attorney for Yakima Indian Nation
316 N. 3rd Street, POB 487
Yakima, WA 98907



Nina Bell
Coalition for Safe Power
Suite 527, Governor Bldg.
408 S.W. Second Ave.
Portland, OR 97204



Terrence Thatcher
National Wildlife Federation
708 Dekum Bldg.
519 S.W. Third Ave.
Portland, OR 97204

Puget Power plans only one nuclear reactor now

By Joel Connelly
P-I Reporter

The Puget Sound Power & Light Co. has scaled back its proposed Skagit-Hanford Nuclear Project from two nuclear power plants to a single reactor, utility President John Ellis said yesterday.

"We would not build that project as a twin unit; all of the equipment we have purchased is for a single reactor," Ellis told Post-Intelligencer editors yesterday.

But Ellis said Puget Power has

sought a federal license for two reactors in order to "keep open the option" of eventually building a second one.

Puget Power and three other utilities have invested \$400 million in the \$8 billion Skagit-Hanford project, first announced in 1973. Planned as twin reactors in the Skagit Valley, the nuclear project was moved to Hanford in Eastern Washington in 1980.

Ellis said the Bellevue-based utility will probably abandon the nuclear project altogether if Skagit-Hanford is

not included in the Northwest Power Planning Council's 20-year energy plan for the region.

"It would probably be time to bite the bullet," added Ellis. "The question would be whether we as utilities can continue to carry the project if the council won't accept it. The answer is probably no."

The power council's draft energy plan, adopted last week, contains no mention of the Skagit-Hanford project. A final plan is slated for adoption later this spring.

The draft plan says that the Northwest needs no nuclear plants beyond three Washington Public Power Supply System reactors now under construction.

The power council's approval is needed before costs of nuclear and coal plants can be underwritten by the Bonneville Power Administration, the federal agency that markets electricity in the Northwest.

Ellis also said he has "strong feelings" about the financial troubles of the WPPSS nuclear program.

Although an observer from the sidelines — Puget Power is not a member of WPPSS — Ellis said a default by the supply system would have a lasting negative impact on the Northwest's economy.

And the president of Washington's largest private utility had stern words for public utilities that have refused to make debt payments on WPPSS' shutdown No. 4 and 5 reactors.

"I think they're playing with dynamite," Ellis said of private utilities that have gone to court and resisted debt payments.

"The ultimate risk is far less if utilities hang in there for a while," added Ellis. "This is the only way they can get time to renegotiate the debt. They lose all flexibility in a default situation. Creditors would be seizing assets, and everyone would be suing everyone else."

Ellis said there is "no way of



John Ellis, president of Puget Power, advises public utilities not to default on their WPPSS debts.

knowing" whether a default on WPPSS' terminated reactors would "wash off" on nuclear plants still under construction.

Even though Puget Power is not a member of WPPSS, it owns part of the supply system's No. 3 nuclear plant. Private utilities own 30 percent of the reactor, which is under construction at Satsop east of Aberdeen.

WPPSS officials have said they may be forced to slow down construction at the No. 3 reactor because pending lawsuits would make it impossible to sell bonds on the reactor.

"I don't agree," Ellis said yesterday. "I feel WPPSS can get additional money, possibly through short-term financing."

Over the past few days, WPPSS officials have changed their tune, saying there are ways to avoid a slowdown at the Satsop reactor.