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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
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BRANCH

ATOMIC SAFETY AND LICENSING BOARD

**SERVED NOV 01 1982**

Before Administrative Judges

John F. Wolf, Chairman  
Frank F. Hooper  
Gustave A. Linenberger, Jr.

In the Matter of	)	Docket Nos. STN 50-522
	)	STN 50-523
PUGET SOUND POWER AND LIGHT COMPANY,	)	
<u>ET AL.</u>	)	
(Skagit/Hanford Nuclear Power Project,	)	
Units 1 and 2)	)	October 29, 1982

MEMORANDUM AND ORDER RE:  
SUPPLEMENT TO PETITION TO INTERVENE  
OF CONFEDERATED TRIBES AND BANDS OF  
YAKIMA INDIAN NATION

1. On September 9, 1982, there was filed a Supplement to Petition to Intervene of Confederated Tribes and Bands of the Yakima Indian Nation (YIN), wherein YIN presented its proposed contentions and bases for same. Thereafter, on October 14 and October 20, 1982, respectively, the Applicants and the NRC Staff filed responses thereto.

*DS02*

2. The Board accepts YIN's Contention 1.<sup>1/</sup> It is hereby consolidated with and replaces Contentions 1 and 2 of the Natural Resources Defense Council (NRDC). NRDC is hereby designated as the lead party for this consolidated contention and will therefore submit testimony, conduct cross examination, file proposed findings of fact, conclusions of law and argument. (10 CFR 2.715a)

3. The Board accepts YIN's Contention 2, excluding the phrase "environmental and".<sup>2/</sup> It is hereby consolidated with National Wildlife Federation and Oregon Environmental Council (NWF/OEC) Contention 3 as accepted and rewritten by the Board. NWF/OEC Contention 3, as rewritten, will now constitute the rewording of these consolidated contentions. NWF/OEC is hereby designated as the lead party on this contention. (10 CFR 2.715a)

4. The Board accepts YIN's Contention 3. Said contention, Contention 4 of NRDC, Contention 2 of NWF/OEC, and Contention 4 of Coalition for Safe Power (CSP) are hereby consolidated. CSP is

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1/ See supplement to YIN's Petition to Intervene Contention 1.

2/ In our Order of July 6, 1982, wherein we reworded and admitted Contention 3 of NWF/OEC, we excluded environmental costs because these had not been addressed by NWF/OEC in their discussion of bases. Since YIN incorporates those bases by reference, environmental costs are also excluded from the YIN contention.

designated as the lead party on this consolidated contention, and its Contention 4 constitutes the accepted wording. (10 CFR 2.715a)

5. The Board rejects YIN's Contention 4 for the reasons cited by NRC Staff in its response at page 4.

6. The Board finds that the first sentence of YIN's Contention 5<sup>3/</sup> represents a potentially litigable issue in this proceeding. As noted in the Board's order of July 6, 1982, at page 3 in connection with NWF/OEC's Contention 4, information to be made available later<sup>4/</sup> may well alter much of the specific information needed to properly litigate the environmental impact and cost considerations. For this reason the Board defers acceptance of the first sentence of YIN's Contention 5. The right of YIN and NWF/OEC to resubmit their contentions at a later time is recognized.

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3/ The first sentence of YIN's Contention 5 reads as follows:

"The environmental impacts of the proposed Skagit/Hanford Nuclear Project on the Columbia River Fish and Wildlife resources have not been fully assessed."

4/ The joint NRD-EFSEC final Environmental Report is currently estimated to issue December 1982; the Northwest Regional Council is scheduled to publish their regional resources analysis in April 1983.

The Board accepts as a contention the second sentence of YIN's Contention 5. A proper basis for this contention is set forth in portions of sections A through N of YIN's Supplement to Petition to Intervene following its proposed Contention 5. Thus, Contention 5 has been divided into two contentions provisionally numbered 5-I and 5-II. (See ¶ 13, infra)

7. The Board admits YIN's Contention 6 as being adequately framed and containing an acceptable basis.

8. The Board rejects YIN's Contention 7 since it is the Commission's announced policy that in individual license proceedings no consideration shall be given by a Licensing Board to the present status of permanent off-site high-level waste repository matters. (See, e.g., 42 FR 34391 (1977) and 43 FR 45362 (1979))

9. The Board rejects YIN's Contention 8 for the reasons set forth in the NRC Staff's response to said contention.

10. The Board rejects YIN's Contention 9. To the extent that Contention 9 addresses psychological stress, it is the Commission's policy that a traumatic event must have previously occurred at the site in question before the effects of psychological stress can be litigated. To the extent that the proposed contention goes to the inadequacy of the liability limit of the Price Anderson Act, such a challenge to a Federal statute is not within the Board's jurisdiction.

11. The Board finds YIN's proposed Contention 10 to be too broadly framed for the purpose of definitive litigation. This proposed contention is reworded as follows:

Sovereignty of YIN and trust responsibility of United States of America and the unique relationship between the two governments require that YIN be permitted to raise and the NRC should assist in the examination of any situation, occasioned by the granting of the S/HNP construction permit, for which YIN can support by probative evidence that any of its treaty rights have been abrogated or impaired.

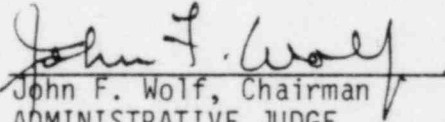
We reserve our decision as to the admissibility of the reworded proposed contention, and request that YIN, the Applicants and the NRC Staff submit briefs supporting their respective positions regarding its admissibility. Said briefs shall assume as given that YIN has prevailed in demonstrating through the introduction of probative evidence proof of the abrogation or impairment of at least one specific treaty right. These briefs shall be filed no later than December 1, 1982. The parties are advised that their briefs should not rest upon the lack of an allegation of factual dispute. Questions of law, mixed fact and law, and/or Board jurisdiction should be addressed.

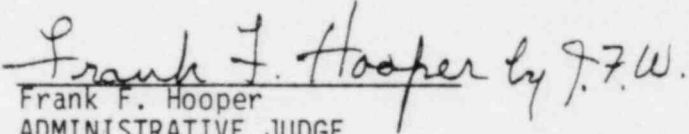
12. The Yakima Indian Nation, having submitted at least one acceptable contention, is hereby admitted as a party to this proceeding.

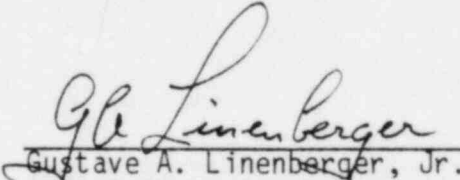
13. The Board shall publish in the near future a list of admitted contentions, renumbered sequentially, that will contain the accepted wording of each contention and identify the responsible party associated with each one.

It is so ORDERED.

THE ATOMIC SAFETY AND  
LICENSING BOARD

  
John F. Wolf, Chairman  
ADMINISTRATIVE JUDGE

  
Frank F. Hooper  
ADMINISTRATIVE JUDGE

  
Gustave A. Linenberger, Jr.  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland  
this 29th day of October 1982