September 3, 1982

SECY-82-367

ADJUDICATORY ISSUE

(Notation Vote)

For: The Commissioners

From: Martin G. Malsch
Deputy General Counsel

Subject: REVIEW OF DD-82-6, DIRECTOR'S DECISION ON 2.206 PETITION (IN THE MATTER OF WASHINGTON PUBLIC POWER SUPPLY SYSTEM)

Facility: WNP Nos. 4 and 5 50-513,509

Purpose: To inform the Commission of the denial of two petitions seeking construction permit revocation which, in our view,

5-5

Review time expires: September 16, 1982, as extended

Discussion: Ms. Nina Bell, on behalf of the Coalition for Safe Power (the Coalition), submitted two petitions to the Director, Nuclear Reactor Regulation, under 10 CFR 2.206 seeking the revocation of two of the five construction permits held by the

Contact:
Rick Parrish, OGC
X43224

104

5/29

Washington Public Power Supply System (WPPSS or the Supply System). In its petition dated November 30, 1981 (Attachment 1), the Coalition requested the Director to issue an order to show cause why the construction permit for WPPSS Nuclear Project (WNP) No. 4 should not be revoked on the basis of an alleged "material false statement" in WPPSS' July 1981 application for an extension of the construction permits for WNP Nos. 1 and 4. In a petition dated March 16, 1982 (Attachment 2), the Coalition requested that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked on the basis of the Supply System's announced intention to terminate its participation in the two projects. By Director's Decision dated June 16, 1982, Mr. Denton denied both petitions. DD-82-6 (Attachment 3).

I. Material False Statement:

The material false statement allegation flowed from the Supply System's failure to note specifically its financial difficulties as among the primary factors causing construction delays cited in support of its extension application. As evidence of the primacy of financial factors among the reasons for delay, the Coalition cites a March 1981 study conducted for WPPSS that examined options to slow the pace of construction of WNP Nos. 4 and 5 to defer costs and reduce near-term funding requirements. The Coalition also notes that in May 1981 the WPPSS Managing Director proposed a one-year moratorium on construction of WNP Nos. 4 and 5 as a means of easing WPPSS' immediate financial difficulties. On July 21, 1981, WPPSS requested a construction permit extension pursuant to 10 CFR 50.55(b), providing the following reasons as good cause for construction delay:

"Subsequent to the issuance of the construction permits delays in the construction of WNP-1 and WNP-4 have occurred. The primary factors causing these delays are as follows:

1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI-2 accident.

2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials."

DD at 2, citing letter from G.D. Bouchey, at 1-2. There was no mention of financial difficulties as a cause of delay or in relation to the extension either in the July 21 application or thereafter. The Coalition contended that the omission of this information from the extension request constitutes a material false statement under Section 186 of the Atomic Energy Act, as amended, and Commission precedent, citing Virginia Electric Power Company (North Anna Power Station, Units 1 and 2), CLI-76-22, 4 NRC 480 (1976).

After noting that the petition might be considered moot because WPPSS had withdrawn the extension application for

WNP No. 4, the Director determined that, under the circumstances of this case, "WPPSS did not make a material false statement." DD at 4.

A construction permit will be extended for a reasonable period of time upon a showing of good cause for the delay necessitating the request. 10 CFR 50.55 (b). The Director implied that WPPSS was under no obligation to inform the NRC of its financial difficulties in this context, reasoning that no particular format or detailed analysis is required for a construction permit extension request and that the applicant excludes "additional reasons that would warrant extension" at its own risk. Id. at 5-6. Moreover, WPPSS cited "construction delays" in support of its request, a factor which the staff considers "to include delays caused by, or planned to alleviate, financial constraints." Id. at 6. Finally, the staff was generally aware that WPPSS was facing difficulties in obtaining financing for construction of its five nuclear projects, a matter which had been reported in the trade press. Id.

The Director went on to note that financial difficulties did not in themselves present a safety issue relevant to this extension application, that delays due to financial difficulties could justify granting an extension, that the staff had not requested or expressed interest in information about the general subject, and that WPPSS had informed the staff of related developments concerning construction of WNP No. 4. In sum, the Director noted that the staff was not misled by the omission of information

regarding financial constraints.1/
Id. at 6-8.

We believe that

We conclude

therefore that

We question whether

Under these circumstances, we believe

We do, however, believe that

While we

believe that

5/ See June 8, 1982 Staff Requirements Memo, Chilk to Dircks.

II. Project Termination:

The Coalition's March 16, 1982 petition requested the Director to issue an order to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked on the basis of the Supply System's announced intention to terminate its participation in the two projects. Despite its decision to terminate the projects, WPPSS has retained the construction permits to facilitate their efforts to sell the unfinished plants, having committed to maintaining the plant equipment and records in proper condition during this period. As the Director notes, any transfer of construction permits would require Commission approval. DD at p. 10, f.12. The Director further noted that "termination of the projects does not itself pose any hazard to public health and safety that would require issuance of an order to show cause." DD at pp. 9-10. Accordingly, this petition was denied also.

In our view,

Martin G. Malsch
Deputy General Counsel

Attachments:
1. November 30, 1981 Petition
2. March 16, 1982 Petition
3. June 16, 1982 Director's Decision

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Thursday, September 16, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Thursday, September 9, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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ATTACHMENT I

COALITION FOR SAFE POWER
Suite 527, Governor Bldg.
408 S.W. 2nd
Portland, Or, 97204
November 30, 1981

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Show Cause Petition Pursuant to 10 CFR 2.206 (a)
Docket No. 50-460 (CPPR-174)

1. This petition is brought by the Coalition for Safe Power (Coalition) before the Director, Nuclear Reactor Regulation pursuant to 10 CFR 2.206(a). The petition alleges material false statements have been made by the Washington Public Power Supply System (WPPSS) in its letter of July 21, 1981 to the Director of the Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission (Commission) regarding the extension of construction completion dates for nuclear projects No. 1 and 4 (WNP-1&4) located near Richland, Washington.

DESCRIPTION OF PETITIONER

2. The Coalition is a non-profit citizens organization, founded in 1969, to work for safe energy. Its work includes research and education. The Coalition, through its officers and attorneys, has represented its members before the Commission, as well as state agencies, on questions of nuclear power safety and licensing, and electric utility rates. The Coalition's membership is comprised of individuals and organizations residing in Oregon and Washington.

AUTHORITY

3. Pursuant to 10 CFR 2.206(a), the Coalition requests that the Director of Nuclear Reactor Regulation institute a proceeding pursuant to 10 CFR 2.202 to suspend the WPPSS Construction Permit No. CPPR-174, for WNP-4, based on the material false statements alleged herein.

SUMMARY

4. The management and directorship of WPPSS knew, as early as March, 1981, that severe cash flow difficulties were imminent for WNP-4 & 5. It was also known to them at that time that such cash flow difficulties would effect the contruction completion dates of said units. In fact, the WPPSS Board of Directors voted on June 16, 1981, to delay WNP-4 & 5 for this very reason. On July 21, 1981, WPPSS filed a request for extension of construction completion dates for Units 1 and 4, omitting any reference to the aforementioned facts. No amendments have been filed by WPPSS to the July 21, 1981 submittal.

STATEMENT OF THE FACTS

5. On March 26, 1981, WPPSS issued an "Alternative Evaluation, WNP-4 & 5" (Attachment A). The purpose of said report was to:

> ...examine in sufficient detail the options available to Supply System managment to selectively reduce the project work at WNP-4/5 to achieve a range of cost deferrals which, in turn, would reduce the near-term forcasted funding requirements. (pg.I-1)

The study projected the results of delaying WNP-4 & 5 for six and twelve months and states:

> This reduction in project activity would have an impact on the planned fuel load and commerical operational dates...must be well understood as part of the decision process. (pg.I-1)

6. On May 29, 1981, the Managing Director of WPPSS, Robert Ferguson, asked the board of directors to slow construction on WNP-4 & 5. The primary reason given was a continuing difficulty in financing the plants. In his speech (Attachment B), Mr. Ferguson states:

> Quite frankly, funding the five projects at this $23.8 billion estimated cost level presents a very, very difficult problem in today's financial market.
>
> Completing all five projects at this budget level will require that we raise something in excess of $3 billion this year, and quite frankly, this challenges us with one of the most difficult funding programs in the United States. (pg.2)

7. Mr. Ferguson also pointed to a "lack of public confidence" which he said has put WPPSS in the position of "carrying out this funding program during a period of uncertainty in this state and region"and "has contributed to the uncertainty in the bond market". He said the lack of confidence in WPPSS stemmed from activities of the Bonneville Power Adminstration, the Pacific Northwest Utilities Coordinating Committee and the Regional Power Council:

> All of these activities are before the public right now and have created a perceived uncertainty, not only for the need for the power from 4 and 5, but with these kinds of costs whether or not the people of this region should be committed to paying $12 billion for units 4 and 5.
>
> ...the uncertainty that has been created as to the need for power impacts the Supply System dramatically in our daily operations, our credibility in the state, and in our ability to raise necessary funding. (Attachment B, pg.3)

He said:

> ...the [budget] numbers as they appear are just too large to handle without total commitment and support of the state and the region. (Attachment B, pg.2)

8. In conclusion he stated:

> If we could reach a public understanding on this issue within six months, there is a very real possibility that we can hold the schedule [a one year moratorium] and cost estimates that we have seen today. (Attachment B, pg. 5)

9. The WPPSS Board of Directors voted on June 16, 1981, to support the Managing Director's request for a one year moratorium on WNP-4 and 5.

10. On July 21, 1981, WPPSS filed a letter captioned "Washington Public Power Supply System Nuclear Projects No. 1 & 4 Extension of Construction Completion Dates". Such request listed the following primary reasons for delay in the construction of the plants:

1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in paticular those subsequent to the TMI-2 accident.

2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials.

11. WPPSS Director of Nuclear Safety, G. D. Bouchery, continues in the letter:

> ...latest construction completion dates we are requesting for the purpose of construction permit duration reflect a reasonable allowance for uncertainty, which is appropriate given the potential for continued regulatory changes and labor difficulties.

again omitting any mention of cash flow difficulties affecting the completion date of WNP-4.

12. A search of the documents contained in the Local Public Document Room and of the NRC Accession List, as of November 21, 1981, has failed to uncover any updates or revisions to the July 21, 1981 submittal.

CONCLUSIONS OF LAW

13. Section 186 of the Atomic Energy Act of 1954 as amended (Act) (42 USC 2236) provides, in part:

> (a) Any license may be revoked for any material false statement in the application of any statement of fact required under section 182...

14. North Anna, 2 NRC 498 , establishes the definition of material false statements within the meaning of Section 186 of the Act as:

> ...a communication, written or oral, likely to influence the determination of a matter, which communication is not true.

15. North Anna, supra, further establishes that ommissions or nondisclosures of material facts can contitute a violation under Section 186, saying in relevant part:

> It seems clear to this Board that a failure to include material information in a submission to, or filing before, the Commission is so critical to the Commission's need for full disclosure of information on which to base its independent safety recview that it may compromise a false and misleading statement.

and:

> we conclude that Section 186 applies not only to written and oral statements but to commissions as well.

16. Thus the failure of WPPSS to disclose the facts cited in paragraphs 5. to 12. above in its July 21, 1981 request for "Extension of Construction Completion Dates" for WNP-1 & 4 constitutes a material false statement under Section 186 of the Atomic Energy Act of 1954, as amended.

RELIEF REQUESTED

17. WHEREFORE, Petitioners pray that the Director, pursuant to 2.202(a), Order the Washington Public Power Supply System to show cause as to why the Construction Permit, No. CPPR-174, for WNP-4, should not be revoked due to material false statements made by the licensee in its July 21, 1981 submittal.

Respectfully submitted,

Nina Bell

Nina Bell
Coalition for Safe Power

cc: Robert Ferguson, WPPSS
Encls. (3)

Attachment A

ALTERNATIVE EVALUATIONS
WNP-4/5

March 26, 1981

Washington Public Power Supply System
Richland, Washington 99352

ALTERNATIVE EVALUATIONS
WNP-4/5

ABSTRACT

This report contains an analysis of potential cash flow reductions that could be achieved at WNP-4/5 by a managed work force reduction over the next 16 months. These cost deferrals would reduce the required level of financing now planned in that period for these projects, but the deferrals would also result in fuel load delays and associated project cost increases as well as additional costs for replacement power. The relative significance of these and other pertinent factors are discussed in this report.

I. INTRODUCTION

The purpose of this evaluation is to examine in sufficient detail the options available to Supply System management to selectively reduce the project work at WNP-4/5 to achieve a range of cost deferrals which, in turn, would reduce the near-term forecasted funding requirements. This reduction in project activity would have an impact on the planned fuel load and commercial operational dates and the possible cost increases which could occur must be well understood as a part of the decision process. Later operational dates could also cause impacts to the Project Participants and others in the region with respect to loss of power production and the net increases in costs which might be incurred in purchase of replacement power.

The evaluations which have been made and summarized in this report describe two periods of planned slowdown at each project -- a six-month and a twelve-month period beginning April 1981. A range of activity levels all the way down to essential shutdown of construction was examined for each situation (in all cases the engineering effort was maintained at or near current planned levels). Construction activities were examined on a contract-by-contract basis to determine the effect of various manning levels in achieving cost deferrals on each contract. The composite was then examined to determine net cash deferrals and related impacts on fuel load dates. All other significant pertinent cost elements were also examined such that the final result is an ability to track cost deferrals with fuel load delays. These fuel load delays result in increased project costs because of increased escalation and increased interest to fund the additional escalation and in extension of fixed costs including extended staffing. All three factors -- cost deferral, fuel load delay, and project cost increase -- are then correlated. Finally, the net cost increase due to purchasing replacement power is obtained to complete the analysis.

III. SUMMARY OF RESULTS

The results of this evaluation are summarized in Chart III-1, Chart III-2 and Table III-1. The charts are a cross-plot of data developed in the evaluation and indicate the cash flow reductions, the fuel load delays, and the project cost increases of either six- or twelve-month slowing down programs for each project. The weeks of fuel load delay on the abscissa are plotted against the cash flow deferral (on the left ordinate) and against the project cost increase (on the right ordinate). As an example, for a six-month program as shown in Chart III-1, given a cash flow reduction goal of $100 million for WNP-4, it can be seen that this would cause a fuel load delay of about 34 weeks. It can also be seen that a delay of 34 weeks would result in a project cost increase of about $260 million. The project cost increase is primarily due to the added escalation and associated added interest costs caused by the extended construction period. In a like manner, data for a twelve-month program is displayed on Chart III-2. The information for each project is independent of the other and it would also be possible to select a six-month program at one project and a twelve-month program at the other.

Therefore, assuming the goal is a deferral of a specified quantity of money, various combinations of events at one or both projects for the same or different periods of slowdown can be selected. The resultant fuel load delay at each project and the associated project cost increase can then be determined.

The data can also be used in the other direction; i.e., for an intentional selected fuel load delay based on a reduction in construction effort, the approximate associated cash flow deferral and project cost increase can be determined.

It is interesting to note that while the project cost increases for a given fuel load delay are essentially the same for both projects, there is a marked difference in the amount of cash flow deferrals which are achieved for the same fuel load delay at each project.

For example, on Chart III-2, for a twelve-month slowdown program which results in a fuel load delay of 30 weeks, the cash flow deferral at WNP-4 is slightly over $150 million (33% of the planned cash flow) whereas at WNP-5 the deferral is only about $70 million (17% of the planned cash flow). This difference is due to two primary reasons. First, the planned cash flow at WNP-4 is heavily dominated by construction cost (52% at WNP-4 compared to 38% at WNP-5) while prepurchase contracts are a more significant factor at WNP-5 (23% versus 7% at WNP-4). Only modest reductions (10%) in prepurchase contracts are believed possible in these slowdown scenarios, therefore, WNP-5 has less to offer in deferrals. Further, although actual construction

activity on WNP-5 was assumed to be reduced to a minimum in the extreme cases, the actual construction costs do not decrease proportionately at WNP-5 for these reasons: (1) a higher level of joint activity is planned; i.e., the WNP-3/5 haul road with half the costs flowing to WNP-5, and (2) a number of contracts are in mobilizaton and, again, these are jointly costed to both WNP-3 and WNP-5 and are not affected by a reduction in specific activity on WNP-5.

Another observation which can be made in reviewing these charts is that a given dollar deferral will have less impact on project schedules if the deferral is accomplished in the longer period program. For example, in a six-month program as shown in Chart III-1, a $100 million deferral at WNP-4 would impact the fuel load date by 34 weeks, whereas, a $100 million deferral over twelve months (Chart III-2) would impact the schedule by only 14 weeks. This heavier impact comes from two reasons: (1) in a six-month slowdown there is a seasonal effect on some work caused by pushing it into a winter period, but more significantly, (2) in extreme cases of work reduction, the remobilization delay is a heavier proportion of the total delay in a six-month program than it would be in a twelve-month program.

The data from these charts can be used to compile various possible combinations of plans as shown in Table III-1. The only information not taken directly from the charts is the Cost of Replacement Power. This information was developed by a separate analysis performed in part by R. W. Beck and Associates. In summary, it was assumed that a combination of secondary energy in the region together with firm power purchased from outside the region would be the only alternative available to replace the power lost by fuel load delays in WNP-4 and 5. The composite value derived from this analysis is $6 million per week for each project. This is a minimum value in the range of possible external purchases considered. From this cost, a maximum of $4 million per week for each project would be avoided by not operating the projects and this is associated with fuel depletion and Operating and Maintenance costs. The resultant net cost of replacement power is at least $2 million per week for each project.

The example combinations on Table III-1 indicate the total deferrals in cash flow which could be accomplished by the identified action on each project. The associated fuel load delay, project cost increase, cost of replacement power and total cost increases are shown for each combination. There is no particular significance to the specific cases shown -- they are only examples to demonstrate the way in which the data can be used and to give an overall impression of the total cost impacts associated with different levels of cost deferrals.

It should be noted here that cash flow reductions refer to actual expenses which could be deferred. The actual financing deferred is larger

because of the bond resolution requirement to set aside six-months interest from each bond sale and the Supply System policy to set aside what amounts to an additional two years of interest for each bond sale. At interest rates of 12 percent, this is equivalent to approximately 30 percent of the proceeds set aside from each sale. When financing costs are included, the net result is a need to sell at least $1.5 in bonds for every $1 available for actual construction expenses (including actual interest paid). Therefore, a $200 million cash flow reduction represents a deferral of a minimum of $300 million of borrowings.

The data developed can be used to evaluate intentional cash flow reductions in the expectation of possible lower interest rates for bond sales at a later date. For example, in a case where interest rates rose as high as 15 percent and deferral was contemplated in hopes of large changes in interest rates -- say, down to 10 percent -- the following analysis could be made and compared to the data developed in Table III-1. For each $100 million sold at 15 percent, the levelized payback over 30 years is $15.230 million/year. At 10 percent, this payback would be $10.608 million/year. The difference is $4.622 million per year for 30 years. The present value of that stream of savings depends upon the overall weighted average of borrowing on the project -- currently for WNP-4/5 this is 8.04 percent. Assuming it were 8 percent, the present value of $4.622 million per year for 30 years would be $52.0 million. (If the weighted average rose to 10 percent, the present value would be $43.6 million). Using the higher figure of $52.0 million for each $100 million of borrowing, an example case can be considered. For a $300 million deferral shown in Table III-1, it would be possible to defer $450 million in borrowing. If this deferred borrowing could be placed later at a 5 percent interest rate savings, the present worth of that amount (at the time the projects are ready for operation) would be $234 million. This possible savings must be compared to the increased cost of $932 million due to the combination of project cost increases and replacement power costs in the same time frame.

Finally, a specific evaluation was made for a total twelve-month construction shutdown at both projects where only engineering and protection of work in place continues. This is summarized in Table III-1 and would result in fuel load delays of 71 and 62 weeks at WNP-4 and WNP-5, respectively. The increased project costs would be $1,028 million and the cost of lost power would be $266 million for both projects. Costs deferred would be $394 million. Using the same assumptions as above, the combined deferral of $394 million in expenses ($590 million in borrowing) would result in a potential interest savings of $307 million. This must be compared to $1,294 million in increases costs -- the ratio here of potential costs to potential savings is approximately 4 to 1.

CHART III - 1

III-4

pg 7 of 8

12-MONTH PROGRAM
CASH FLOW REDUCTIONS (DEFERRALS)
AND PROJECT COST INCREASES
VS. WEEKS OF DELAY
CASH FLOW REDUCTION (DEFERRAL)
$ MILLION
300
250
200
150
100
50
600
500
400
300
200
100
$ MILLION
PROJECT COST INCREASE
WNP-4
WNP-4
WNP-5
WNP-5

CHART III-2

TABLE III-1

POSSIBLE COMBINATIONS

	Deferral	Fuel Load Delay	Increased Project Cost	Cost Replacement Power*	Total Cost Increase
$100M Deferral 6-Month Program	$ 75M #4	21 wks	$ 160M	$ 42M	$ 202M
	25 #5	15 wks	105	30	135
Totals	$100M		$ 265M	$ 72M	$ 337M
$150M Deferral 6-Month Program	$110M #4	39 wks	$ 300M	$ 78M	$ 378M
	40 #5	30 wks	200	60	280
Totals	$150M		$ 520M	$138M	658M
$200M Deferral 12-Month Program	$150M #4	29 wks	$ 220M	$ 58M	$ 278M
	50 #5	16 wks	125	32	157
Totals	$200M		$ 345M	$ 90M	$ 435M
$300M Deferral 12-Month Program	$200M #4	44 wks	$ 340M	$ 88M	$ 428M
	100 #5	52 wks	400	104	504
Totals	$300M		$ 740M	$192M	$ 932M
$400M Deferral 12-Month Program	$290M #4	72 wks	$ 560M	$144M	$ 704M
	110 #5	62 wks	485	124	609
Totals	$400M		$1,045M	$268M	$1,313M
12-Month Construction Shutdown - Both Projects	$285M #4	71 wks	$ 552M	$142M	$ 694M
	109 #5	62 wks	476	124	600
Totals	$394M		$1,028M	$266M	$1,294M

* - Using $6M/wk each plant power value (understated)
$4M/wk each plant fuel & O&M savings (overstated)
$2M/wk net cost of lost power - each plant (understated)

Affidavit B Pg 1 of 1

AN INFORMATION SERVICE OF THE WASHINGTON PUBLIC POWER SUPPLY SYSTEM

LINES

June 12, 1981
Vol. 1 No. 5

Ferguson recommends WNP-4/5 slowdown

Saying the decision was "pure hell" to make, Managing Director Robert Ferguson has asked the Supply System board of directors to slow down construction of units 4 and 5 for one year.

The recommendation came after Ferguson drew the bottom line on a proposed fiscal 1982 construction budget of $23.9 billion for all five nuclear power plants.

Ferguson's surprise announcement May 29 set in motion a series of high-level meetings throughout the region as board members and participants discussed and debated the recommendation.

Supply System Board President Stanton Cain said the Ferguson recommendation was just that and that the final decisions rest with the 88 Participants that are owners of the two projects and with the board of directors.

On June 10 the Supply System was scheduled to submit its detailed analysis of the budget to the board's Commmittee on Treasury, Finance, and Audits.

On the following day the committee was scheduled to make its report to either the Executive Committee or the full board.

The earliest that the board of directors could act on the slowdown would be at a special meeting of the board June 16, Cain said.

In making his recommendation, Ferguson repeated his belief that WNP-4 and WNP-5 will be needed to provide the electric power needed to ensure the economic well-being of the Pacific Northwest.

But he said it would be extremely difficult to raise the money needed to complete all five projects while people in the region are questioning the need for power from these projects.

In the next year alone, the Supply System would have to raise more than $3 billion to continue work on all five plants, far more than the Supply System has ever had to borrow before.

"The numbers as they appear are just too large to handle without the total commitment and support of the state and region," Ferguson said.

He identified several recent events that have created an atmosphere of "uncertainty" both with the public and on Wall Street.

They include a recent Bonneville Power Administration study indicating a potentially large amount of energy can be saved through conservation.

A recent energy forecast by the Pacific Northwest Utilities Conference Committee projects a decline in power demand in the region.

Finally, the Washington Legislature mandated that an independent study of the feasibility and need for WNP-4/5 be undertaken.

"We have to put that question (need for power) to bed," Ferguson told a press conference in Richland, WA. last week.

At the same press conference, Ferguson indicated he pinned his main hopes on gaining the needed regional consensus from the legislative study and from the new Regional Power Council.

"An endorsement of the council plus the study would go a long way towards relieving the uncertainty that surrounds the 4/5 issue," he said.

By law, the new regional council must come up with an energy plan for the Pacific Northwest in two years, but Ferguson expressed hope that the council would deal with th 4/5 issue sooner.

Speaking before a subcommittee of the U.S. House of Representative last week, BPA Administrator Peter Johnson urged that this study be completed in one year, "in view of the risk to the region's power supp and the extreme costs associated with the prospective moratorium."

Johnson pointed out that BPA h a legal obligation under the regior power act to meet the region's electric power requirements.

Meanwhile, Ferguson stated he committed to continuing construc tion of projects 1, 2, and 3 as quic and as economically as possible.

Inside

POWER LINES

Complete text of Ferguson's speech to board

Mr. President, Ladies and Gentlemen:

I appreciate your attending this special meeting of the board because I have a most serious subject to discuss with you that has developed just during the past two weeks.

The subject is the FY-82 Budget.

As you know. . .this is the first budget I have developed for the Supply System, and it has been a very difficult process. For that reason, I am departing from the budget presentation which you have previously experienced.

Namely, I am discussing the matter with you before presenting a formal budget which would only give you the choice to agree or disagree.

I am involving the board in the integration of budgetary policy matters with budget formulation.

The reason for this departure from past practices is that the budget as it is developing for all five of our nuclear power plants is very large.

Just last Thursday, through the development process, I drew the bottom line on the total estimated FY 82 budget for the first time. Frankly, though I strongly support the need for bringing all five plants on line at the earliest date and that the Pacific Northwest has the need for the power from all five plants, the numbers as they appear are just too large to handle without total commitment and support of the state and the region.

Why has the budget risen so dramatically?

Because the budget I will present to you is one not based on wishes, hopes or probabilities. This budget has been arrived at by going back through each of the projects and determining as objectively as possible what the realities are.

By facing the realities of plant designs and the quantities of concrete, pipe, and cable required to complete them, the time and labor required to install these materials, and realistic estimates of expected (as well as experienced) inflation and interest costs, we have developed the budget.

Comparisons were also made of construction production rates of installing these materials with other nuclear installations both in the United States and abroad.

These numbers have never been developed this accurately before.

The plant designs have not changed since I became managing director. I am just stating they were not analyzed as thoroughly before.

As an example, let me review with you the 1981 budget as it now appears as a result of this extensive review process.

In addition we have also increased our estimates using realistic numbers for inflation and consequent wage and materials cost escalation to show you our current FY-82 budget.

These are the cold, hard realities we face.

In presenting this large initial cost estimate this morning, I am at the same time presenting a caution. I am reminded of a discussion that I had with Bill Anders, former AEC commissioner, and one of the first astronauts to fly to the moon. I had at the time just been assigned the responsibility for completing the then troubled Fast Flux Test Facility at Hanford.

Bill asked me to be sure to give him a warning light if I saw signs of trouble.

This morning I am giving you a warning light.

Quite frankly, funding the five projects at this $23.8 billion estimated cost level presents a very, very difficult problem in today's financial market.

We not only have high interest rates, we have also seen a steady movement of money from the long-term bond market to the shorter-term market. This is a period of uncertainty not only for our funding but for funding of similar kinds of projects throughout the United States.

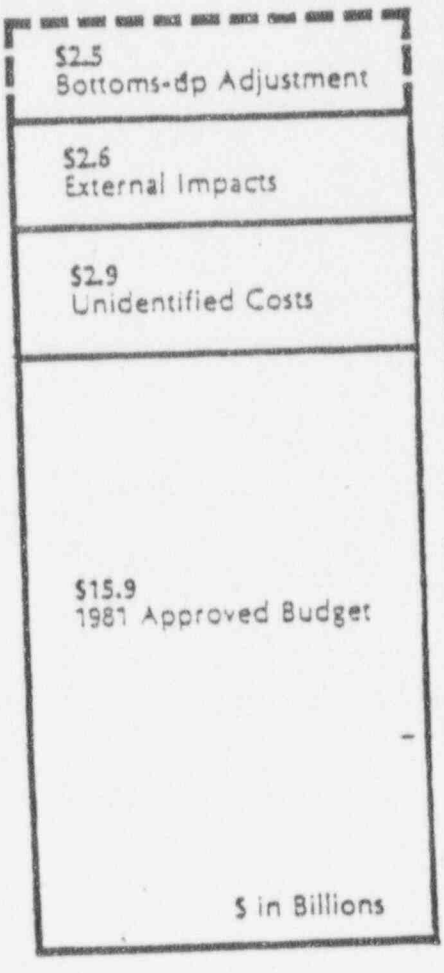
Completing all five projects at this budget level will require that we raise something in excess of $3 billion this next year, and quite frankly, this challenges us with one of the most difficult funding programs in the United States.

Moreover, we are asked to carry out this funding program during a period of uncertainty in this state and region.

As you are all aware, we suffer, whether rightly or wrongly, a lack of public confidence.

(Continued on pages 4 and 5)

1982 Budget
(Proposed)



pg 3 of 5

Ferguson speech to board...

(Continued from page 3)

Just recently the legislature mandated an independent study of the feasibility and cost effectiveness of continuing projects 4 and 5 which, as you have just seen, are estimated to cost some $12 billion.

Whether or not the state should undertake this study is not the issue. The fact that it has contributed to the uncertainty in the bond market. Because until the study is completed, about March of next year, the financial community will not really know that the people of this region recognize the need for and are committed to building these projects.

Another reality: The Bonneville Power Administration has recently published a study which indicates that potentially a great deal of energy can be saved by conservation.

The PNUCC has published a draft report which gives the impression that the electric load forecast for the region has dropped off the equivalent of the output of our projects 4 and 5.

In addition, the Regional Planning Council has just begun its data gathering which will result, some two years from now, in a regional power plan.

All of these activities are before the public right now and have created a perceived uncertainty, not only for the need for the power from 4 and 5, but with these kinds of costs (which I believe are still the lowest cost energy available) whether or not the people of this region should be committed to paying $12 billion for units 4 and 5.

Now from everything I know and believe and after analyzing the data and consulting the best experts i the field of load forecasting and resource planning, units 4 and 5 in fact be needed to provide ele power to ensure the Northwest's economic well-being.

As I have stated many times before, forecasting electric dema is not the task of the Supply Syst However, the uncertainty that ha been created as to the need for power impacts the Supply System dramatically in our daily operatic our credibility in the state, and ir our ability to raise necessary funding.

In a recent town meeting at Satsop, I was repeatedly asked qu tions about the ability of the Sup System to produce on its commit ment. There were sincere questic about the need for power.

These questions from the publi

George Hinman

4/5 issue puts uni

The office of Applied Energy Studies occupies cluster of rooms in one corner of a classroom b the campus of Washington State University in P

Under its auspices, professors and students ha undertaken a number of regional energy studie years, including preparing the data base for the of Washington Energy Profile.

None however is likely to have the long-lastin its new task which is to determine the need and of continuing to build Washington Public Power System Projects 4 and 5.

The Washington State Legislature last session that this study be undertaken by the Washingtor Research Center through its affiliate at WSU, the Applied Energy Studies.

Professor George Hinman, a physics teacher, Office and will serve as program manager for th

Graduate students and faculty members, howe not be doing this study. The law mandates that "recognized" energy experts be employed.

Hinman said he expects the program proposal ready for bid by early June and that the study co underway by mid-July. It must be completed by 1982.

are honest and real, and I believe that they need an answer.

So today I am making a very difficult recommendation. But in making this recommendation, which will invoke personal hardships, there will be some very positive end results.

The first and most positive result of implementing my recommendation will be an unequivical commitment to build projects 1, 2, and 3 with a realistic cost and schedule estimate which also has the real potential for improvement.

Also, there will be the opportunity to reduce the public's fear of committing to an obligation of some $24 billion.

What I recommend will also demonstrate the contribution of projects 4 and 5 to this state in terms of jobs, in terms of real investment for the future, and in terms the public can understand.

It will also provide an opportunity for what I consider to be one of the most important factors that has not yet been resolved, namely the kind of consensus and commitment that I believe is necessary to all of us to successfully complete projects 4 and 5.

Therefore my recommendations are as follows:

First, continue to construct, as expeditiously as possible, projects 1-2-3.

And that the board grant me authority to implement an immediate construction moratorium on WNP 4/5 for one year, while submitting a budget for FY-82 consistent with this action.

This particular action will allow us to fund projects 1-2-3 with fewer difficulties and with full concentration of effort thereby gaining the very real possibility of improving on the completion dates of these three plants.

I am painfully aware of the risks associated with this recommend tion. There is a real risk that by proceeding there will be a shor of power in this region in the fu There will also be a layoff in cor struction workers that will impac the people in this state immedia

Secondly, I recommend that t board take this opportunity and this interim one-year period to sult with involved parties (partic pants, investor-owned utilities, service industries, BPA and the regional council) regarding the region's need for power.

I would hope that some resol could be brought to this import need for power issue within six months, and no longer than one year.

And third, I request the autho to negotiate equitable cost shari with affected parties as it relates the moratorium.

(Continued on p.

energy office in the limelight

It is expected to be primarily an economic study, answering the basic questions of need, costs and schedules, Hinman said.

Managing Director Robert Ferguson's recent recommendation to impose a one-year moratorium on building of units 4 and 5 shouldn't alter the scope of the study significantly, he said.

"I see no reason not to go ahead as planned," Hinman said.

The program proposal is broken down into five parts: needs and alternatives, finance, cost and schedules, impacts of temporary power surpluses, deficits and rate changes, and power imports and exports.

The contractor chosen to do the cost-schedule module, for example, will likely interview Supply System officials, the administrative auditor, Senate inquiry investigators and others to come up with an independent estimate.

Similarly, the finance module consultant would go to the financial community to find out how interest rates and market conditions affect the Supply System's ability to continue funding the two plants.

At the conclusion of the study, the office must come up with a recommendation. The legislature left it to the office to recommend "whatever seems appropriate," Hinman said.

Hinman has been a faculty member at WSU since 1969 and has also served as director of the university radiation center and environmental research center.

Prior to coming to WSU, he spent six years working for General Atomics Corp. of San Diego, a private company that supplies reactor parts for the nuclear industry.

"I'm not anti-nuclear; I've always felt that the technolo is reasonable," Hinman said.

He added, however, that he believed the nation could get along without nuclear power if it has to.

The main issue is cost. "I see no reason not to use it unless it becomes too expensive," he said.

Hinman and the subcontractors hired to do the study w be working with a special nine-member steering committee.

Dr. Peter Shen, the Supply System Technical Director w represent the Supply System on the Committee, and Ray Foleen will represent the Participant's Committee. The other members have not yet been selected.

Story and photo by Todd Crow

pg 5 of 5

Ferguson speech to board...

(Continued from page 5)

If we could reach a public understanding on this issue within six months, there is a very real possibility that we can hold the schedule and cost estimates that we have seen today. I cannot tell you at this time what the net cost for slowing construction on 4 and 5 will be. But I must urge this body to resolve the issue of the need for projects 4 and 5 at the earliest possible date thereby making the impact on our public as small as possible.

Allow me to close by saying this presentation, and these recommendations, have been pure hell for me.

For the past 10 months, I have spent every waking hour dedicating myself to completing these projects at the earliest possible date and at the lowest possible cost. I assure you that the management staff feels as I do. And now, as each of you individually has felt the frustration of this moment, I know you will understand the saddening shock which now overwhelms me as I draw the bottom line on this cost estimate.

Reluctantly, I reached the conclusions and recommendations I have just outlined. For even now we are achieving new production records on the very projects that I propose we bring to a temporary halt.

Our new productivity records reflect the stability we have been able to bring to labor, to contracting, to engineering and to financing.

The restructured management and contracting at the Supply System is yielding new benefits. And these have been coupled with the strong support we received from the legislature. Let me say these revelations come very hard.

I cannot make the recom tion for a moratorium withc same time, saying that with support and the state and r support on the need for po we can successfully bring al plants on line within sched budget.

I cannot be less than hon you, and I must be honest v myself about this very real p

I took this job to succeed we can succeed.

Our success is not to be c from others, rather, it will b on the foundation of today by constructing real-world p ing capacity from hard, colc and data.

In this alone we will builc future.

I would hope that you co my recommendations.

Facts about Projects 4/5

Washington Public Power Supply System units 4 and 5 are being built in the state of Washington to meet power needs forecast for the Pacific Northwest by the end of this decade.

The two projects are jointly financed and backed by agreement with 88 publicly-owned utilities and the Portland-based private utility, Pacific Power and Light, known as Participants.

Each participant is responsible for making payments to the Supply System for its share of the plant costs as revenue bonds come due. Bonds sold so far for the two projects currently total $2.25 billion.

Participation in the two projects encompasses a seven-state area, with approximately 70 percent of the capability held by utilities in Washington state.

WNP-4 is located at Hanford in Eastern Washington and is designed to have a generating capacity of 1240 megawatts. It is 22 percent complete.

Construction management responsibility for the project was awarded to Bechtel Power Corp. in Oct., 1980 replacing United Engineers and Construction which continues to support engineering and some construction services. Approximately 3,300 people are employed on the project.

WNP-5 is located in Grays Harbor County, Wash., about 66 miles southwest of Seattle. Construction is 13 percent complete. Approximately 1,420 people are employed on the project.

Key dates

- June 16, Tentative date fc meeting of the Supply Sy Board of Directors.
- June 13—16, Negotiations bond issue to finance cor of WNP-4/5.
- July 24, Supply System Bo Directors approves 1982 c tion budget.
- March, 1982, Independer WNP-4/5 scheduled for cc

Attachment C Page 4

Washington Public Power Supply System
P.O. Box 968 3000 George Washington Way Richland, Washington 99352 (509) 372-5000

July 21, 1981
GO1-81-206
NS-L-GCS-81-199

Docket Nos.: 50-460
50-513

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Denton:

Subject: Washington Public Power Supply System
Nuclear Projects No. 1 & 4 (WNP-1/4)
Extension of Construction Completion Dates

The Supply System requests amendments to Construction Permit Nos. CPPR-134 and CPPR-174 for WNP-1 and WNP-4 to extend the "latest completion dates" for WNP-1 and WNP-4, pursuant to 10CRF50.55(b). Construction Permit No. CPPR-134 currently specifies January 1, 1982, as the latest date for completion of construction for WNP-1 and Construction Permit No. CPPR-174 currently specifies December 1, 1985, as the latest date for completion of construction for WNP-4. For the reasons set forth below, the Supply System submits that good cause exists to extend the latest completion date for construction permit CPPR-134 to June 1, 1986, and to extend the latest completion date for construction permit CPPR-174 to June 1, 1987.

Subsequent to the issuance of the construction permits delays in the construction of WNP-1 and WNP-4 have occurred. The primary factors causing these delays are as follows:

1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI-2 accident.

2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.

w/Checks
$1,200
FAC

Book
5.10

3. Strikes by portions of the construction work force.

4. Changes in plant design.

5. Delays in delivery of equipment and materials.

In estimating new completion dates for WNP-1 and WNP-4, the Supply System has carefully examined the impact of the delays described above on the construction schedules for both units. Also, while the official completion dates are December 1985 and December 1986 for WNP-1 and WNP-4 and while we hope to improve on these dates, the June 1, 1986 and June 1, 1987, latest construction completion dates we are requesting for the purpose of construction permit duration reflect a reasonable allowance for uncertainty which is appropriate given the potential for continued regulatory changes and labor difficulties.

Since these amendments involve no significant safety or environmental considerations, the Supply System requests that the Commission dispense with advance notice of the amendment, pursuant to Section 189(a) of the Atomic Energy Act of 1954, as amended. 42 USC 2239(a)

Accordingly, the Supply System requests, pursuant to 10CRF50.55(b) that the Nuclear Regulatory Commission amend Construction Permit No. CPPR-134 to specify June 1, 1986 as the latest date for completion of WNP-1 and amend Construction Permit No. CPPR-174 to specify June 1, 1987 as the latest date for completion of WNP-4.

The request regarding amendment of Construction Permit No. CPPR-134 is a Class II amendment, as it has no safety or environmental significance and is a matter of formality and administrative in nature. The request regarding amendment of Construction Permit No. CPPR-174 is a Class I amendment as it is a duplicate of an amendment for a second essentially identical unit at the same site where both proposed amendments are received, processed and issued at the same time. See 10CRF170.22. Enclosed, therefore, are two checks. One is in the amount of $1,200 for the Class II Amendment and the second in the amount of $400 for the Class I Amendment.

The Supply System recently filed a request with the Commission for a full refund of all fees paid to the NRC by the Supply System, and noted its intent to pay any future fees under protest until that request is resolved (see letter of R.L. Ferguson to Chairman Palladino, July 13, 1981). Accordingly, we hereby remit the fees prescribed by 10CRF170.22 under protest and subject to refund upon resolution of our request.

Very truly yours,

G. D. Bouchey, Director
Nuclear Safety

GDB:pp

Attachment - Notarization

cc: CR Bryant, Bonneville Power Administration - 399
R Hernan, Nuclear Regulatory Commission
AW Medici, United Engineers & Constructors, PA - 04U3
NS Reynolds, Debevoise & Liberman
FDCC - 899

pg 4 of 4

Subject: EXTENSION OF CONSTRUCTION COMPLETION DATES

STATE OF WASHINGTON)
) ss
COUNTY OF BENTON)

I, G. D. BOUCHEY, being duly sworn, subscribe to and say that I am the Director, Nuclear Safety, for the WASHINGTON PUBLIC POWER SUPPLY SYSTEM, the applicant herein; that I have full authority to execute this oath; that I have reviewed the foregoing; and that to the best of my knowledge, information and belief the statements made in it are true.

DATED July 21, 1981, 1981

G. D. Bouchey
G. D. BOUCHEY

On this day personally appeared before me G. D. BOUCHEY to me known to be the individual who executed the foregoing instrument and acknowledged that he signed the same as his free act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and seal this 21st day of July, 1981.

Notary Public in and for the
State of Washington

Residing at Kennewick

ATTACHMENT II

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE DIRECTOR

In the Matter of	)	
	)	
WASHINGTON PUBLIC POWER SUPPLY SYSTEM, et al.	)	Docket Nos. 50-460 50-509
	)	Permit Nos. CPPR-174 CPPR-155
(WPPSS Nuclear Projects Nos. 4 & 5)	)	

SHOW CAUSE PETITION BROUGHT PURSUANT TO 10 CFR 2.206(a) REGARDING WASHINGTON PUBLIC POWER SUPPLY SYSTEM PROJECTS 4 & 5, MARCH, 1982

Introduction

1. This petition is brought by the Coalition for Safe Power (hereinafter refered to as "Coalition") before the Director, Nuclear Reactor Regulation pursuant to Chapter 10 of the Code of Federal Regulations, Part 2.206(a). The petition alleges that the decision of the Washington Public Power Supply System (WPPSS) Board of Directors made on January 22, 1982 to terminate the projects 4 and 5 is basis upon which to revoke their respective construction permits.

Description of Petitioner

2. The Coalition is a non-profit citizens organization, founded in 1969 to work for safe energy. Its work includes research and education. The Coalition, through its officers and attorneys, has represetned its members before the Commission, as well as state agencies on questions of nuclear power safety and licensing and electric utility rates. The Coalition has been granted full party status in four proceedings before the Commission including the original application for construction permit for the Skagit Nuclear Projects, Units 1 and 2, application for construction permits of Pebble Springs Nuclear Plants, Units 1 and 2, and two license

amendments for the Trojan Nuclear Power Plant. The Coalition has also filed several Show Cause petitions before the Nuclear Regulatory Commission.

Authority

3. Pursuant to 10 CFR 2.206(a) the Coalition requests that the Director, Nuclear Reactor Regulation, institute a proceeding pursuant to 10 CFR 2.202 to revoke the WPPSS construction permits Nos. CPPR-174 and CPPR-155 based on the inability of WPPSS to raise the necessary construction funds for the projects and the concurrent decision by the Board of Directors to terminate the plants.

Statement of Facts

4. On May 29, 1981, the Managing Director of WPPSS, Robert Ferguson, asked the Board of Directors to slow construction on WNP-4 and 5 because of continuing problems in financing the projects. In his speech (Attachment A), Mr. Ferguson states:

> Quite frankly, funding the five projects at this $23.8 billior estimated cost level presents a very very difficult problem in today's financial market.
>
> Completing all five projects at this budget level will require that we raise something in excess of $3 billion this year, and quite frankly, this challenges us with one of the most difficult funding programs in the United States. (pg. 2)

5. On June 16, 1981 the WPPSS Board of Directoss voted to support the Managing Director's request for a one year moratorium on the projects. Cessation of oonstruction occured in July 1981.

6. By letter dated February 1, 1982, Mr. Robert Ferguson informed Mr. William J. Dircks, Executive Director for Operations, U.S. Nuclear Regulatory COmmission (Attachment B) that

the WPPSS Board of Directors had, on January 22, 1982, adopted a resolution terminating projects 4 and 5.

7. The NRC, in a letter from R.L. Tedesco, Assistant Director for Licensing, Division of Licensing to Mr. Ferguson, dated March 2, 1982, confirmed the intent of WPPSS to terminate the projects. (Attachment C)

8. It is common knowledge that the decision to "mothball" the projects was made due to lack of construction funds with which to complete their construction. It is also common knowledge that the ability of WPPSS to raise the necessary funds for controlled "termination" is in serious jeopardy.

Conclusions of Law

9. 42 U.S.C. §2236(a) and 10 CFR 50.100 provide that a construction permit may be revoked because of "conditions which would warrant the Commission to refuse to grant a license on an original application..."

10. 42 U.S.C. §2236(a) and 10 CFR 50.100 also provide that a construction permit may be revoked "for failure to construct... a facility in accordance with the terms of the construction permit..."

11. Thus, the inability of WPPSS to construct the projects (see para. 4,5, and 8) and the unwaivering and unequivocal intent of WPPSS to abandon the projects (see para. 6 and 7) fufill the respective conditions of the Atomic Energy Act and Chapter 10 of the COde of Federal Regulations as set forth in paragraphs 9 and 10 above.

Relief Requested

12. WHEREFORE, Petitioners pray that the Director, pursuant to 10 CFR 2.202(a), Order the Washington Public Power Supply

System to show cuase as to why Construction Permits Nos. CPPR-174 and CPPR-155, for Projects 4 and 5 respectively, should not be revoked.

Respectively submitted,

Nina Bell

Nina Bell
Coalition for Safe Power

Dated this day, the
16th of March, 1982.

AN INFORMATION SERVICE OF THE WASHINGTON PUBLIC POWER SUPPLY SYSTEM

June 12, 1981
Vol. 1 No. 5

Ferguson recommends WNP-4/5 slowdown

Saying the decision was "pure hell" to make, Managing Director Robert Ferguson has asked the Supply System board of directors to slow down construction of units 4 and 5 for one year.

The recommendation came after Ferguson drew the bottom line on a proposed fiscal 1982 construction budget of $23.9 billion for all five nuclear power plants.

Ferguson's surprise announcement May 29 set in motion a series of high-level meetings throughout the region as board members and participants discussed and debated the recommendation.

Supply System Board President Stanton Cain said the Ferguson recommendation was just that and that the final decisions rest with the 88 Participants that are owners of the two projects and with the board of directors.

On June 10 the Supply System was scheduled to submit its detailed analysis of the budget to the board's Committee on Treasury, Finance, and Audits.

On the following day the committee was scheduled to make its report to either the Executive Committee or the full board.

The earliest that the board of directors could act on the slowdown would be at a special meeting of the board June 16, Cain said.

In making his recommendation, Ferguson repeated his belief that WNP-4 and WNP-5 will be needed to provide the electric power needed to ensure the economic well-being of the Pacific Northwest.

But he said it would be extremely difficult to raise the money needed to complete all five projects while people in the region are questioning the need for power from these projects.

In the next year alone, the Supply System would have to raise more than $3 billion to continue work on all five plants, far more than the Supply System has ever had to borrow before.

"The numbers as they appear are just too large to handle without the total commitment and support of the state and region," Ferguson said.

He identified several recent events that have created an atmosphere of "uncertainty" both with the public and on Wall Street.

They include a recent Bonneville Power Administration study indicating a potentially large amount of energy can be saved through conservation.

A recent energy forecast by the Pacific Northwest Utilities Conference Committee projects a decline in power demand in the region.

Finally, the Washington Legislature mandated that an independent study of the feasibility and need for WNP-4/5 be undertaken.

"We have to put that question (need for power) to bed," Ferguson told a press conference in Richland, WA, last week.

At the same press conference, Ferguson indicated he pinned his main hopes on gaining the needed regional consensus from the legislative study and from the new Regional Power Council.

"An endorsement of the council plus the study would go a long way towards relieving the uncertainty that surrounds the 4/5 issue," he said.

By law, the new regional council must come up with an energy plan for the Pacific Northwest in two years, but Ferguson expressed hope that the council would deal with the 4/5 issue sooner.

Speaking before a subcommittee of the U.S. House of Representatives last week, BPA Administrator Peter Johnson urged that this study be completed in one year, "in view of the risk to the region's power supply and the extreme costs associated with the prospective moratorium."

Johnson pointed out that BPA has a legal obligation under the regional power act to meet the region's electric power requirements.

Meanwhile, Ferguson stated he is committed to continuing construction of projects 1, 2, and 3 as quickly and as economically as possible.

Inside

Washington Public Power Supply System
P.O. Box 968 3000 George Washington Way Richland, Washington 99352 (509) 372-5000

February 1, 1982
GO-1-82-0041

Docket Nos: 50-509
50-513

Mr. William J. Dircks
Executive Director for Operations
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Dircks:

Subject: TERMINATION OF SUPPLY SYSTEM NUCLEAR PROJECTS 4 AND 5
(WNP-4 and WNP-5)

On January 22, 1982, the Washington Public Power Supply System Board of Directors adopted a resolution terminating the Supply System's Nuclear Projects Nos. 4 and 5. Construction work on these two (2) projects essentially was halted by the Supply System in July 1981, with the intent that an extended construction delay would continue until June 30, 1983. We advised the staff of this construction deferral by letter to Mr. H. R. Denton dated October 26, 1981.

Those projects were under construction pursuant to Construction Permits CPPR-174 and CPPR-155, respectively. At the time that work was halted, WNP-4 was 24% complete and WNP-5 was 16% complete.

The Supply System has developed a plan for termination of these projects which contemplates two phases. Phase One involves efforts to sell the plants intact to a new owner. The Supply System will maintain the plant structures and equipment in a licensable condition at least through Phase One and possibly thereafter, and will comply with the conditions of the Construction Permits and the requirements of NRC regulations. We intend by and during these efforts to retain the Construction Permits. We are willing to meet with your staff to brief it on details of the efforts contemplated.

Phase Two of the termination plan will commence only after the Supply System determines, subject to the rights of the Participants and Pacific Power and Light (10% owner of WNP-5), that it is no longer prudent to expect that the projects can be sold in their entirety within a reasonable time and without unreasonable expense. No definite time period has been set for completion of the first phase and initiation of the second.

In Phase Two, plant equipment and materials will be sold or otherwise disposed of in a prudent manner, in accordance with applicable contractual and legal procedures.

With regard to WNP-4, the application for an Operating License for WNP-1 and WNP-4, including the FSAR, FER and General Information Document, was submitted to the NRC on November 25, 1981. Because we intended at that time to resume construction of WNP-4 following the extended delay, the application addressed both WNP-1 and WNP-4. Recent events dictate that the application address only WNP-1 now and until further notice.

Very truly yours,

R. L. Ferguson

R. L. Ferguson
Managing Director

GCS/sm

cc: HR Denton NRC
V Stello NRC
EG Adensam NRC
A Schwencer NRC
RH Engelken NRC Region V
NS Reynolds D&L

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAR 0 2 1982

Docket Nos: 50-509
and 50-513

Mr. Robert L. Ferguson, Managing Director
Washington Public Power Supply System
P.O. Box 966
Richland, Washington 99352

Dear Mr. Ferguson:

Subject: Termination of Washington Nuclear Projects 4 and 5

In your letter of February 1, 1982, to Mr. W. J. Dircks, you discussed the Supply System's intent to maintain the structures and equipment at Washington Nuclear Project (WNP) Nos. 4 and 5 in a licensable condition at least through the period you have termed Phase One and to comply with all existing construction permit conditions and requirements. Our preliminary assessment of this decision does not indicate that any additional near-term action other than that taken or planned is necessary at this time on the part of the Supply System.

It is our understanding that the Supply System intends to carry out the management plan presented to the Region V Office on December 10, 1981, insofar as maintaining the plant equipment and records. The NRC Resident Inspectors and Regional Inspectors intend to conduct their activities (inspection surveillance, audit) on both units in accordance with this plan until such time as the Supply System announces termination of phase one.

The staff has ceased its review of the operating license (OL) application for WNP-4 as you requested. We are continuing our acceptance review of the WNP-1 OL application. You should amend the pending application for operating licenses for WNP-1 and WNP-4 to reflect the present status of the WNP-4 project. Because the staff expects to complete its acceptance review for WNP-1 only by mid-March 1982, it may be advisable for you to await the outcome of that review and amend your application to delete WNP-4 at that time. We could then docket and notice the application for an operating license for WNP-1 only. Other aspects of the termination of WNP-4 and WNP-5 could also be discussed at that time.

Sincerely,

Frank J. Miraglia

Robert L. Tedesco, Assistant Director
for Licensing
Division of Licensing

ATTACHMENT III

OGC

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUN 16 1982

Docket Nos: 50-513
and 50-509

(10 CFR 2.206)

Ms. Nina Bell
Coalition for Safe Power
Suite 527
408 S.W. 2nd
Portland, Oregon 97204

Dear Ms. Bell:

This is in response to your petitions dated November 30, 1981, and March 16, 1982, on behalf of the Coalition for Safe Power. Both petitions have been considered under 10 CFR 2.206 of the Commission's regulations. For the reasons stated in the enclosed "Director's Decision under 10 CFR 2.206," the petitions have been denied.

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), this decision will become the final action of the Commission in twenty-five days unless the Commission determines to review the decision within that time. I also enclose a copy of a notice that is being filed with the Office of the Federal Register for publication.

Sincerely,

Harold R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. Director's Decision
2. F.R. Notice

cc: See next page

WNP

Mr. R. L. Ferguson
Managing Director
Washington Public Power Supply System
P.O. Box 968
3000 George Washington Way
Richland, Washington 99352

cc: Mr. V. Nani
United Engineers & Constructors, Inc.
30 South 17th Street
Philadelphia, Pennsylvania 19101

Nicholas S. Reynolds, Esq.
Debevoise & Liberman
1200 Seventeenth Street, N.W., Suite 700
Washington, D. C. 20036

Mr. E. G. Ward
Senior Project Manager
Babcock & Wilcox Company
P.O. Box 1260
Lynchburg, Virginia 23505

Resident Inspector/WPPSS NPS
c/o U.S. Nuclear Regulatory
Commission
P.O. Box 69
Richland, Washington 99352

Mr. R. B. Borsum
Nuclear Power Generation Division
Babcock & Wilcox
7910 Woodmont Avenue, Suite 220
Bethesda, Maryland 20814

G. E. Craig Doupe, Esq.
Washington Public Power Supply System
3000 George Washington Way
P.O. Box 968
Richland, Washington 99352

Robert Engelken, Regional Administrator
U.S. Nuclear Regulatory Commission,
Region V
1450 Maria Lane, Suite 210
Walnut Creek, California 94596

Attorney General
Temple of Justice
Olympia, Washington 98504

Chairman, Energy Facility Site
Evaluation Council
820 East Fifth Avenue
Olympia, Washington 98504

Chairman
Benton County Commissioners
County Court House
Prosser, Washington 99350

Grays Harbor County Commission
512 Bel Aire Drive
Aberdeen, Washington 98520

NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-513 & 50-509

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

WASHINGTON NUCLEAR PROJECT NOS. 4 & 5

ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied two petitions under 10 CFR 2.206 filed by the Coalition for Safe Power of Portland, Oregon. The petitions asked that the Director revoke the construction permit for WNP No. 4 on the basis of a material false statement in an application for extension of the permit and revoke the permits for WNP No. 4 and WNP No. 5 in view of the Washington Public Power Supply System's recent termination of its participation in the two projects. The petitions have been denied because no material false statement was made in the extension application and because no compelling reason exists at this time for revoking the permits.

The reasons for this denial are fully described in a "Director's Decision Under 10 CFR 2.206" which is available for public inspection in the NRC's public document rooms at 1717 H Street, N.W., Washington, D. C. 20555, the Richland Public Library, Swift & Northgate Streets, Richland, WA 99352, and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, WA 98563. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 16th day of June 1982.

FOR THE NUCLEAR REGULATORY COMMISSION

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

DD-82-6

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION
Harold R. Denton, Director

In the Matter of	)	
	)	Docket Nos. 50-509
WASHINGTON PUBLIC POWER	)	50-513
SUPPLY SYSTEM	)	(10 CFR 2.206)
(WNP Nos. 4 & 5)	)	

DIRECTOR'S DECISION UNDER 10 C.F.R. 2.206

Nina Bell, on behalf of the Coalition for Safe Power, Portland, Oregon, has filed two petitions under 10 CFR 2.206 that request certain actions with respect to two nuclear projects for which the Washington Public Power Supply System (WPPSS) holds construction permits. In its petition dated November 30, 1981, the Coalition requested that the Director of Nuclear Reactor Regulation issue an order to show cause why the construction permit for WPPSS Nuclear Project (WNP) No. 4 should not be revoked on the basis of an alleged "material false statement" in WPPSS' July 1981 application for an extension of the WNP No. 4 construction permit. The Coalition has filed another petition, dated March 16, 1982, under 10 CFR 2.206 which requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked, because WPPSS has announced its intention to terminate its participation in the two projects. For the reasons set forth in this decision, the Coalition's petitions are denied.

I. WPPSS DID NOT MAKE A "MATERIAL FALSE STATEMENT" IN ITS APPLICATION FOR EXTENSION OF THE WNP NO. 4 PERMIT.

On July 21, 1981, WPPSS submitted an application for extension of the latest completion dates for construction of WNP No. 1 and WNP No. 4. 1/ WPPSS assigned the following reasons as bases for extending the permits:

> "Subsequent to the issuance of the construction permits delays in the construction of WNP-1 and WNP-4 have occurred. The primary factors causing these delays are as follows:
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> 1. Changes in the scope of the projects including increases in the amount of material and engineering required as a result of regulatory actions, in particular those subsequent to the TMI-2 accident.
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> 2. Construction delays and lower than estimated productivity which resulted in delays in installation of material and equipment and delays in completion of systems necessitating rescheduling of preoperational testing.
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> 3. Strikes by portions of the construction work force.
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> 4. Changes in plant design.
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> 5. Delays in delivery of equipment and materials." 2/

1/ The application consists of a three page letter from G. D. Bouchey, WPPSS Director of Nuclear Safety, to H. R. Denton, Director of NRR, and an affidavit signed by Mr. Bouchey. See Attachment C to the Coalition's Petition (Nov. 31, 1981). With respect to WNP No. 1, the application requests an extension of the latest completion date under Construction Permit No.CPPR-134 from January 1, 1982, to June 1, 1986. The application requests an extension of the latest completion date for WNP No. 4 under Construction Permit No. CPPR-174 from December 1, 1985, to June 1, 1987.

2/ Letter from G.D. Bouchey, at 1-2.

On October 26, 1981, WPPSS formally advised the staff that the WPPSS Board of Directors had voted to defer further construction of WNP Nos. 4 and 5 until June 30, 1983, "because of difficulties in simultaneous financing of all five of our plants now under construction, given the current high interest rates and bond market conditions." 3/ WPPSS subsequently withdrew its July 21, 1981, application insofar as it requested an extension of the WNP No. 4 construction permit in view of its deferral of the project's construction. 4/

The Coalition claims that WPPSS made a material false statement in its July 21st application because WPPSS omitted any mention of cash flow difficulties affecting the completion date of WNP-4. The Coalition points to a study prepared for WPPSS that examined options to slow the pace of construction on WNP Nos. 4 and 5 as a way to reduce the burden of near-term funding requirements. See WPPSS, Alternative Evaluations - WNP 4/5 (March 26, 1981) (Attachment A to Coalition petition). The Coalition also notes that the WPPSS Managing Director proposed a one-year moratorium on construction of WNP Nos. 4 and 5 in May 1981 to the WPPSS Board of Directors as a way of easing WPPSS' immediate financial burdens.

3/ Letter from R.L. Ferguson, WPPSS Managing Director, to H.R. Denton, Director of NRR (Oct. 26, 1981).

4/ Letter from J.W. Shannon, WPPSS Director of Safety & Security, to H.R. Denton, Director of NRR (Dec. 31, 1981). WPPSS indicated in this letter that it might reapply for the extension of the WNP No. 4 permit after June 1983. WPPSS has since announced termination of the project. See note 10 infra.

The moratorium would also provide an opportunity to re-examine WPPSS' need to build the two projects. See Speech of Robert Ferguson, 1 Power Lines [WPPSS newsletter] at 3-6 (June 12, 1981) (Attachment B to Coalition petition). The WPPSS Board of Directors approved the one-year moratorium on construction. See Coalition Petition at 3 (Nov. 30, 1981). The Coalition charges that, by omitting any reference to the foregoing facts, WPPSS made a material false statement, because these facts indicate "cash flow difficulties" affecting the completion date for WNP No. 4. Consequently, the Coalition urges the construction permit for WNP No. 4 should be revoked for this alleged offense.

Although the Coalition's petition might otherwise be considered moot because WPPSS has withdrawn the extension application for WNP No. 4, the substance of the Coalition's petition should be addressed to dispel the notion that WPPSS committed the alleged violation. Moreover, withdrawal of the application would not in itself absolve WPPSS of responsibility for a material false statement had one been made. Under the circumstances here, WPPSS did not make a material false statement.

The Commission's authority to take enforcement action for material false statements derives from section 186 of the Atomic Energy Act of 1954, as amended:

> "Any license may be revoked for any material false statement in the application or any statement of fact required under section 182, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application . . . . " 42 U.S.C. 2236(a).

The Commission addressed the meaning of the term "material false statement" in its decision in Virginia Electric & Power Co., (North Anna Power Station, Units 1 & 2), CLI-76-22, 4 NRC 480 (1976), aff'd, 571 F.2d 1289 (4th Cir. 1978) (hereinafter VEPCO). In VEPCO, the Commission determined that material false statements encompass material omissions. 4 NRC at 489-91. Knowledge of falsity is not necessary for liability for a material false statement. 4 NRC at 486. With respect to the materiality of an omission, the Commission stated:

> "By reading material false statements to encompass omissions of material data, we do not suggest that unless all information, however trivial, is forwarded to the agency the applicant will be subject to civil penalties. An omission must be material to the licensing process to bring Section 186 into play . . . . [D]eterminations of materiality require careful, common-sense judgments of the context in which information appears and the stage of the licensing process involved. Materiality depends upon whether information has a natural tendency or capability to influence a reasonable agency expert," 4 NRC at 491.

In the context of an application for extension of a construction permit, WPPSS' omission of a specific reference to its financial burdens and its planned delay of construction to ease those burdens did not constitute a material omission.

No specific form of application is required, but the Commission's regulations indicate that good cause for extension of a permit cause may be shown by pleading

> "among other things, developmental problems attributable to the experimental nature of the facility or fire, flood, explosion, strike, sabotage, domestic violence, enemy action, an act of the elements, and other acts beyond the control of the permit holder, as a basis for extending the completion date." 10 CFR 50.55(b).

No particular analysis or detailed evaluation of the reasons supporting an extension is specified, though, of course, the applicant risks denial

of the application if the showing of cause is stated too summarily or excludes mention of additional reasons that would warrant extension.

In this instance, WPPSS briefly stated several common reasons contributing to delays in completion of WNP Nos. 1 and 4. Although WPPSS did not specifically mention financial considerations as a cause of delays in construction of WNP No. 4, WPPSS lists "construction delays" as one of the "primary factors" that caused its inability to meet the completion date and that would thereby justify an extension. Given the general state of the nuclear industry, the staff would consider "construction delays" to include delays caused by, or planned to alleviate, financial constraints. The staff has considered a number of extension applications in the past few years that have attributed delays in construction to economic conditions or financial considerations. See note 7 infra. The staff was generally aware that WPPSS was facing significant burdens in attempting to finance construction of its five nuclear projects. The financial strain and the decision by the WPPSS Board of Directors in June 1981 to slow construction of WNP Nos. 4 and 5 were reported in the trade press. 5/

Financial considerations leading to a planned reduction in construction activity do not pose in themselves a safety issue that

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5/ See, e.g., WPPSS Construction Bonds Were Downgraded Only A Bit by Standard & Poor's, 22 Nucleonics Week No. 25, at 9-10 (June 25, 1981); Last Week's Downgrading of WPPSS Construction Bonds, 22 Nucleonics Week No. 24, at 12 (June 18, 1981).

would have tended to cause the staff to look at WPPSS' application for extension in a different light. 6/ Moreover, the planned delay due to financial considerations could well have been an acceptable justification for the requested extension. Extension applications have been granted in the past when applicants have requested extension of the facility completion date on the basis of financial constraints that slowed construction schedules. 7/

This was not an instance in which, after the filing of the application, the staff had requested information about or had expressed an interest in a certain subject matter concerning the application and the applicant had failed to fully and accurately respond to the staff's request for information. And, it should be noted, the staff was informed of developments regarding construction of WNP No. 4 after WPPSS tendered the

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6/ Cf. Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants, 47 Fed. Reg. 13750, 13751 (March 31, 1982).

7/ See, e.g., Orders Extending Construction Completion Dates, 46 Fed. Reg. 62989 (Dec. 29, 1981) (Callaway plant); 46 Fed. Reg. 56264 (Nov. 16, 1981) (Waterford Station); 46 Fed. Reg. 46032 (Sept. 16, 1981) (Hope Creek Station); 46 Fed. Reg. 29804 (June 3, 1981) (Limerick Station); 44 Fed. Reg. 29547 (May 21, 1979) (North Anna Station).

Ga. Power - Vogtle. 5 NRC 261, 273-5
aff'd 5 NRC 423

application in July 1981. 8/ In view of the general state of the industry and the particular circumstances surrounding WPPSS application, the staff was not mislead by omission of a specific reference to financial constraints in the extension application. The staff does not find that WPPSS should be charged with making a "material false statement" in its July 21st application. The Coalition's petition dated November 30, 1981 is denied. 9/

8/ The NRR project manager was informed by telephone in August 1981 that WPPSS was considering more extensive deferrals of construction on WNP No. 4, and generally kept himself appraised of the situation via telephone calls, media reports and site visits (for other reasons) in September and October 1981. On the basis of the uncertainties surrounding WNP No. 4's future, NRR had not initiated any review of the extension application. After the WPPSS Board approved deferral of construction of WNP Nos. 4 and 5 until June 30, 1983, WPPSS informed NRR of the construction deferral. See supra note 3. Eventually, WPPSS withdrew the extension application. See supra note 4.

9/ Even if the omission had been found to be a "material false statement", permit revocation would not necessarily follow. Although section 186 of the Atomic Energy Act authorizes revocation for material false statements, it does not compel revocation. Rather, the Commission is empowered to impose the remedy it deems fit for the gravity of the offense, and could impose enforcement sanctions ranging from a notice of violation (10 C.F.R. 2.201) to civil penalties (10 C.F.R. 2.205) to appropriate orders (10 C.F.R. 2.202 & 2.204). Any attempted suspension or revocation of the permit would also be subject to the second chance doctrine of section 9(b) of the Administrative Procedure Act. 5 U.S.C. 558(c); see also Atomic Energy Act § 186b, 42 U.S.C. 2236(b).

II. NO COMPELLING REASONS WARRANT REVOCATION OF THE PERMITS FOR WNP NOS. 4 AND 5.

The Coalition's latest petition, dated March 16, 1982, requests that WPPSS be ordered to show cause why the construction permits for WNP Nos. 4 and 5 should not be revoked on the basis of the WPPSS Board of Directors' adoption of a resolution terminating the projects. In these particular circumstances, an order is not warranted, and, therefore, the Coalition's petition is denied.

The WPPSS Board of Directors adopted the resolution terminating the projects on January 22, 1982, and soon thereafter WPPSS informed the Executive Director for Operations of its intention to conduct a two-phase plan for termination. 10/ Initially, WPPSS intends to attempt to sell the plants to a new owner. If WPPSS finds that it is unlikely that the projects can be sold in their entirety, WPPSS may attempt to sell plant equipment and materials in some other manner. WPPSS intends to retain the construction permits at least during the first phase of its termination plan that calls for an attempted transfer of the projects to a new owner. The construction permits for WNP Nos. 4 and 5 would otherwise expire by their own terms in 1985 and 1986 respectively.

The Coalition's petition is based on WPPSS' intended termination of the project owing to financial considerations. However, termination of the projects does not itself pose any hazard to

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10/ See Letter from R.L. Ferguson, WPPSS Managing Director, to W.J. Dircks, EDO (Feb. 1, 1982) (Attachment B to Coalition petition dated March 16, 1982).

public health and safety that would require issuance of an order to show cause. 11/ Although the NRC has no interest in seeing that WPPSS salvages a portion of its investment in the projects, there is no reason for the NRC to obstruct WPPSS' efforts when public health and safety is not affected by WPPSS' actions. 12/

The staff recognizes that a similar petition under 10 C.F.R. 2.206 has been granted on one occasion. See Northern States Power Co. (Tyrone Energy Park, Unit 1), CLI-80-36, 12 NRC 523 (1980). 13/ The staff's action in that instance does not compel, however, the same result here. In Tyrone, the co-owners of the project announced no specific plans to find another owner of the project and indicated no desire to retain

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11/ See Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), CLI-78-7, 7 NRC 429, 433 (1978), aff'd sub nom. Porter County Chap. of the Izaak Walton League, Inc. v. NRC, 606 F.2d 1363 (D.C. Cir. 1979). In the recent statement of consideration concerning the Elimination of Review of Financial Qualifications of Electric Utilities in Licensing Hearings for Nuclear Power Plants, 47 Fed. Reg. 13750, 13751 (March 31, 1982), the Commission noted, "WPPSS' response (and that of most other utilities encountering financial difficulties) has been to postpone or cancel their plants, actions clearly not inimical to public health and safety under the Atomic Energy Act."

12/ Of course, any transfer of the construction permits would require the Commission's approval. See Atomic Energy Act § 184, 42 U.S.C. 2234, 10 C.F.R. 50.54(c) & 50.80.

13/ The Order to Show Cause was published at 45 Fed. Reg. 42093 (June 23, 1980); the Order Revoking Construction Permit was published at 46 Fed. Reg. 11746 (Feb. 10, 1981).

the construction permit. 14/ Moreover, the co-owners consented to revocation of the Tyrone permit. See Order Revoking Construction Permit, 46 Fed. Reg. 11746 (Feb. 10, 1981). The circumstances surrounding the termination of WPPSS' participation in WNP Nos. 4 and 5 are different. WPPSS wants to retain the permits in the hope that it may be able to transfer the projects to a new owner. Such action, subject to Commission approval, is lawful, and WPPSS' plans to preserve the present status of the plants appear reasonable. 15/ The issuance of an order to show cause is not required in these circumstances to abate some hazard to public health and safety. Although formal termination of the permits may be appropriate at some future date, no compelling reason exists to take such a step at this time.

III. CONCLUSION

WPPSS made no material false statement in its application for extension of the WNP No. 4. No substantial health and safety issue warrants issuance of an order to show cause. For these basic reasons, the Coalition for Safe Power's petitions dated November 30, 1981, and

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14/ The permittees' cancellation of the Tyrone project was based largely on the Wisconsin Public Service Commission's denial of the necessary state certificate to construct the facility.

15/ See letter from R.L. Tedesco, Ass't Director for Licensing, Division of Licensing, NRR, to R.L. Ferguson, WPPSS Managing Director (Attachment C to Coalition petition dated March 16, 1982).

March 16, 1982 are denied. As provided in 10 C.F.R. 2.206(c), a copy of this decision will be filed with the Secretary for the Commission's review.

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 16th day of June, 1982.