

In the Matter of	)	
Application No. 88-1	)	
	)	
WASHINGTON WATER POWER CO.	)	PREHEARING
CRESTON GENERATING STATION	)	CONFERENCE
	)	ORDER
A WASHINGTON CORPORATION	)	
.....)	)	

On February 15, 1983, Governor John Spellman signed a Site Certification Agreement (SCA) between the state of Washington, through the Energy Facility Site Evaluation Council and The Washington Water Power Company in which The Washington Water Power Company obtained site certification for up to four 500 MW coal-fired electric generating plants to be located near Creston, Lincoln County, Washington. The SCA contained two conditions relevant to this proceeding. They are as follows:

Attachment II - Project Management

II.A - "TWWPCo shall commence construction of the first unit within five years of the signing of this Agreement and shall commence construction of the fourth unit within 15 years of the signing of this Agreement."

Attachment V - Air Contaminant Permit

IV.B - "This permit shall be valid only if construction on the first unit commences within five years of the date of certification."

On January 25, 1988, Washington Water Power (WWP) filed an application with the Washington State Energy Facility Site Evaluation Council (Council) for an amendment to the SCA whereby the time limits contained in the above provisions would be extended for five additional years.

On March 16, 1988, a Prehearing Conference was held at Davenport, Washington, before the Council, C. Robert Wallis, Vice Chair, presiding, in which the Council and the parties proposed several issues to be addressed at the hearing to determine whether the Council should grant WWP's request for extension. WWP was represented by Jerry Boyd, Attorney, Spokane; Nancy Sloane, Assistant Attorney General, appeared as Counsel for the Environment; Rodney Reinbold, Attorney, appeared on behalf of Blue Sky Advocates, Petitioner for Intervention; Hal R. Johnson, appeared on behalf of the Lincoln County Agricultural Coalition, Petitioner for Intervention; and Philip Borst, Prosecuting Attorney, appeared on behalf of Lincoln County.

The Council entered a Proposed Prehearing Conference Order, dated April 14, 1988, in which it granted the petitioners' request for intervention subject to receipt of appropriate documentation, and established the following five issues to be addressed at the hearing:

1. What is the basis for the request by WWP for the proposed amendment?
2. What specific provisions should the Council include in conditioning of the amendment to the SCA upon review of transmission line siting prior to commencement of construction?

3. What specific provisions should the Council include in conditioning of the amendment to the SCA upon renewal of the project's air quality permit?
4. What tracking should be required of the applicant, and what review should be required by the Council prior to commencement of construction, beyond the present SCA conditions as to baseline environmental and socioeconomic conditions, the understanding of those conditions, and the effects of plant construction and operation, and the technology of plant construction and operation?
5. Matters arising under the Washington State Environmental Policy Act (SEPA), as later may be identified by the Council.

WWP excepts to the Proposed Order. It urges that the issues be limited to the five year extension of construction authorization and the five year extension of the state air quality permit, in addition to consideration of issues mandated in SEPA. It also excepts to Issue No. 2, transmission line siting, and Issue No. 3, renewal of the Air Quality Permit. Counsel for the Environment replies in support of the Proposed Order. The Council denies the exceptions and affirms the Proposed Order.

#### Limitation of Issues

WWP argues that only those issues raised in its application should be addressed in these proceedings, since the issues proposed in the order were examined at length when the SCA was executed. The Council denies this exception and affirms the proposed order. The Council has statutory authority pursuant to RCW 80.50.040 to determine the issues inherent in the application to amend the SCA.

#### Transmission Line Siting

WWP contends that the transmission line siting is not relevant to the application to amend the two provisions and that the Proposed Order misstates the commitments WWP made at the Informational Meeting with regard to the transmission line issue. It objects to that portion of the Proposed Order which states:

The Company agreed upon the record of the March 16, 1988 Informational Meeting, to a condition in the SCA requiring it to reassess transmission line siting at the time of a decision to construct, and it agreed to submission of the transmission line siting issue to the Council for its determination.

The Council denies this exception. The statement by Mr. Henriques of WWP at the Informational Meeting appears to be accurately characterized.<sup>1</sup> The Council finds no misstatement in the Proposed Order. Both statements indicate that WWP will make a reassessment of transmission line siting at the time of the decision to construct, and that the results will be submitted to the Council for its approval.

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<sup>1</sup>Mr. Henriques' statement reads as follows: "What we are proposing is that at the appropriate time, when a decision is made to construct, when the ownership of the project is known, we would then redo our transmission studies and reanalyze what is the best interest for the project, including the non-Water Power owners, plus what is in the best interest for our Company and then make a proposal to the Council for their approval."

The Proposed Order further states that arguments as to the substantive nature of transmission line siting will not be received at the hearing in this application for extension but that arguments as to the nature of the possible SCA conditions may be received. Likewise, WWP, in its exceptions, urges the Council to "avoid the temptation of reexamining the transmission line issue in these proceedings." It appears that WWP has misconceived the Proposed Order and even if the Company is not in basic agreement with the transmission line siting issue as set out in the order, under the statement of issues, WWP may present at the hearing its arguments with regard to the nature of a condition and the provisions contained therein. Substantive matters as to transmission line siting will not be addressed at the hearing in this proceeding.

#### Air Contaminant Permit

WWP also excepts to the Proposed Order's finding that the Air Contaminant Permit should be reissued only after reviewing the air quality circumstances and the abilities of technology at the time of notice of construction. WWP contends that, contrary to the finding of the Proposed Order, it only agreed to submission of a Best Available Control Technology (BACT) analysis at the time of construction. It also argues that the nonissuance of an Air Contaminant Permit, until a review of air quality circumstances at the time of notice of construction, implies that the SCA is an "illusory agreement" having no meaning.

The Council denies this exception also. WWP is currently pursuing, with the Environmental Protection Agency, an extension to the Prevention of Significant Deterioration (PSD) Permit. This permit, as well as the state's permit, was granted conditionally upon the same BACT analysis that accompanied the original SCA application. The PSD Permit is issued for 18 months only, and WWP has received three extensions to that permit since the date of the certification. In the five years since the SCA was signed, there has been no reexamination of the entire spectrum of air quality circumstances with regard to either the PSD Permit or the Air Contaminant Permit for the Creston Generating Station.

WWP, in its exceptions, prefers that the Council issue the permit without further examination, conditioned only upon WWP's submission of a new BACT analysis at the time of the decision to construct.

The Proposed Order's restatement of the issue in Section III B. 3. defines the issue to be, what provisions should the Council include in conditioning the amendment? As Counsel for the Environment states in her Reply, the question is an open-ended one allowing the parties the opportunity to address, at the hearing, the various factors it feels should or should not guide the Council when it determines whether or not to renew the projects' Air Quality Permit. The conditioning of the amendment to the SCA on these ultimate provisions does not in any way render the SCA illusory; it simply defers the air quality issue until the time of notice of construction. This process parallels the SEPA process. It also recognizes the potential for changing conditions and the responsibility of the Council and WWP toward the public in deriving answers to appropriate questions.

In summary, the Council believes the exceptions submitted by WWP should be denied and that the Proposed Order should be affirmed.

With regard to the two petitioners' requests for intervention, Mr. Reinbold of Blue Sky Advocates stated at the Prehearing Conference that the corporation may have suffered an administrative lapse. At that time, it was requested and authorized with the consent of all

parties present, that upon administrative renewal of the corporation and a direction by its board, that Mr. Reinbold seek intervention herein on its behalf. The authorization would relate back to the time of the Prehearing Conference. The Council also requested presentation of a formal statement of the group's interest in the proceeding pursuant to WAC 463-30-400. Likewise, the Lincoln County Agricultural Coalition was requested by the Council at the Prehearing Conference to restate in writing its petition to intervene. Subject to receipt of those documents, the Petitions for Intervention should be granted.

In response to the Council's request, the two groups have timely filed with the Council Petitions for Intervention. Intervenor status should be granted to the Lincoln County Agricultural Coalition and Blue Sky Advocates<sup>2</sup>.

WWP's request to present oral argument to the Council prior to the entry of the Prehearing Order should be denied. WWP makes no demonstration of how oral argument could clarify the issues in a way not already accomplished.

<sup>2</sup> On May 20, 1988, the Northwest Conservation Act Coalition filed with the Council a petition to intervene. Its petition will be addressed separately.

ORDER

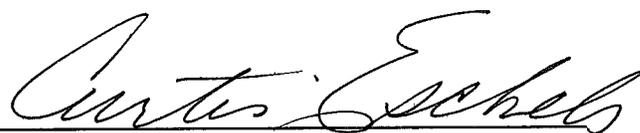
WHEREFORE, IT IS HEREBY ORDERED That the issues for resolution in this proceeding shall be, and the same are hereby, designated to be those set out in the body of this Order; and

IT IS ORDERED That the petitions of Blue Sky Advocates and Lincoln County Agricultural Coalition shall be, and the same are hereby, granted. The Lincoln County Agricultural Coalition and Blue Sky Advocates shall be, and the same are hereby, made parties to this proceeding; and

IT IS FURTHER ORDERED That the request by Washington Water Power to present oral argument prior to the entry of the Prehearing Order shall be, and the same is hereby, denied.

Dated at Lacey, Washington and effective this 23rd day of May 1988.

WASHINGTON STATE ENERGY FACILITY  
SITE EVALUATION COUNCIL

By   
Curtis Eschels  
Chairman

ATTEST:

By   
William L. Fitch  
Executive Secretary