

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 94-1

WASHINGTON PUBLIC POWER
SUPPLY SYSTEM

SATSOP COMBUSTION TURBINE
PROJECT

Council Order No. 670

ORDER FINDING INCONSISTENCY
WITH THURSTON COUNTY ZONING
ORDINANCES AND LAND USE PLANS

This matter came on regularly for hearing on October 13, 1994 in Tumwater, Washington, on November 14, 1994 and December 12, 1994 in Olympia, Washington, before Chair Frederick Adair and the members of the Energy Facility Site Evaluation Council of the State of Washington.

The parties appeared and were represented as follows:

- Thurston County: Thurston County Development Services
by Donald D. Krupp, Director
2000 Lakeridge Drive SW
Olympia, WA 98502-6045
- Applicant: Washington Public Power Supply System
by Daniel Porter, Manager Special Projects
PO Box 968
Richland, WA 99352-0968
- Applicant: Washington Public Power Supply System
by Ms. Laura Schinnell
PO Box 1223
Elma, WA 98541
- Counsel for the Environment: Thomas Young, Assistant Attorney General
Post Office Box 40116
Olympia, WA 98504-0116

SUMMARY OF LAND USE HEARING

On August 8, 1994, the Washington Public Power Supply System filed an application for an amendment to the WNP-3/5 Site Certification Agreement to construct an 454 megawatt natural gas-fired combustion turbine energy facility at the Satsop Nuclear site and a 48 mile, 20 inch natural gas supply pipeline through a portion of Thurston and Grays Harbor Counties.

Pursuant to RCW 80.50.090 and WAC 463-26-050, the Council convened a public hearing on October 13, 1994 in Tumwater, Washington to determine whether the proposed facility and natural gas pipeline is consistent with Thurston County's land use plan and zoning ordinances.

At the hearing on October 13, 1994, Donald Krupp from Thurston County appeared and testified and submitted a letter to EFSEC Chair Frederick Adair, that the county has not had sufficient time to review the application to make a determination regarding the natural gas pipeline's land use consistency. He further testified that it appeared there may be a potential conflict with the Shoreline Master Program for the Thurston Region in the vicinity of Black Lake, and that substantial mitigation may be needed where the alignment crosses other wetlands and stream corridors in Thurston County.

At the hearing on October 13, 1994, Daniel Porter of the Washington Public Power Supply System testified and submitted a letter to EFSEC Chair Frederick Adair, that there may be a question whether the natural gas pipeline is in compliance with the Thurston County Natural Environment designation in the county's Shoreline Master Program.

No testimony was heard at the hearing on November 14, 1994, and the hearing was continued until December 12, 1994.

At the hearing on December 12, 1994, Ms. Laura Schinnell representing the Supply System restated the Supply System's belief that the proposed natural gas pipeline is consistent with the Thurston County land use plans and zoning ordinances except for the portion north of Black Lake.

At the hearing on December 12, 1994, the Mr. Donald D. Krupp representing Thurston County, testified that the proposed pipeline crossing of the Black Lake Ditch north of Black Lake is not consistent with Section Eight of the Shoreline Master Program. However, he suggested other possible alignments which may be consistent with the Shoreline Master Program¹ or that an amendment to the Shoreline Master Program as an alternative if the other alignments are found infeasible.

Mr. Krupp further testified that the county does not anticipate significant land use issues with the alignment of the natural gas pipeline along existing utility corridors, the county is concerned with environmental issues such as impacts from construction staging areas, and

¹ The Shoreline Master Program is a regional land use plan as contemplated in WAC 463-26-050.

to road crossings, stream crossings, steep slopes, and wetlands. The county suggested several measures which would mitigate possible environmental impacts.

FINDINGS OF FACT

Based upon the oral and written evidence presented in this proceeding, the Council makes and enters the following findings of fact:

1. On August 8, 1994, the Washington Public Power Supply System filed with the Council an application to construct and operate a 454 megawatt electrical generation facility and 48 mile natural gas pipeline in Grays Harbor and Thurston Counties, Washington.
2. The Council convened a public land use hearing pursuant to due and proper public notice on October 13, 1994 in Tumwater, Washington. It continued the hearing on the record to November 14, 1994, and December 12, 1994 in Olympia, Washington.
3. The proposed Satsop Combustion Turbine Project's natural gas pipeline is not consistent with Thurston County's planning code, specifically that portion of the pipeline proposed for the north end of Black Lake along the Black Lake-Belmore Road where the proposed pipeline is not consistent with the county's Shoreline Master Program.
4. WAC 463-28-030 provides that application review may continue despite a finding of inconsistency with local zoning ordinances conditioned on the applicant working with the county to resolve the noncompliance and submitting regular reports to the Council regarding the status of the work to resolve the noncompliance.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Council makes and enters the following Conclusions of Law:

1. The Council has jurisdiction over the subject matter of this proceeding and the parties to it pursuant to RCW 80.50.090 and Chapter 463-26 WAC.
2. The proposed project, except for the portion of the pipeline proposed for the north end of Black Lake along the Black Lake-Belmore Road, is consistent with the Thurston County Zoning Ordinance as required by RCW 80.50.090(2).
3. The portion of the pipeline proposed to cross the Black Lake Ditch north of Black Lake along the Black Lake-Belmore Road is inconsistent with the Thurston County Shoreline Master Program.

4. The applicant may pursue an alignment change, an amendment to the county Shoreline Master Program pursuant to WAC 463-28-030, or other means to resolve inconsistencies with the county code or plan.

5. The Council may continue its review of the application during the time the applicant and the county are working to resolve the inconsistency with the Shoreline Master Program.

6. Prior to the conclusion of the Council adjudicative proceedings, any party may ask leave to reopen the land use hearing for entry and consideration of the results of the applicant and county's work to resolve any inconsistency with the Thurston County zoning codes or plans.

DETERMINATION AND ORDER

THE COUNCIL ORDERS that the proposed Satsop Combustion Turbine Project and associated natural gas pipeline as described in Application No. 94-1 of the Washington Public Power Supply System is inconsistent with the Thurston County Land Use Plans and Zoning Ordinance, specifically the portion of the pipeline proposed to cross the Black Lake Ditch at the north end of Black Lake along the Black Lake-Belmore Road.

THE COUNCIL FURTHER ORDERS that the applicant shall submit to the Council monthly reports on the status of its work with Thurston County for realignment, amendment to the Shoreline Master Program, or other means to resolve inconsistencies with the county code or plan. Upon completion of realignment, amendment to the Shoreline Master Program, or any other means or process which resolves any inconsistency with the Shoreline Master Program; any party to the land use hearing may petition the Energy Facility Site Evaluation Council to reopen the record of the land use proceeding to receive further evidence regarding the proposed project's consistency with the Thurston County Shoreline Master Program.

Any petition for reconsideration must be filed with the Energy Facility Site Evaluation Council, 925 Plum Street SE, PO Box 43172, Olympia, WA 98504-3172 within ten (10) days and must state the specific grounds upon which relief is requested.

Dated at Olympia, Washington and effective this 19th day of December 1994.

Washington State Energy Facility Site
Evaluation Council

By Frederick S. Adair

Frederick S. Adair
EFSEC Chair

Attest:

By Jason Zeller

Jason Zeller
EFSEC Manager