

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application of	)	APPLICATION NO. 80-1
	)	
WASHINGTON WATER POWER CO.	)	ORDER ON PREHEARING
Creston Generating Station	)	CONFERENCE
	)	
A Washington Corporation	)	
	)	
	)	
	)	

THESE MATTERS Having come on regularly before Patrick Biggs, Administrative Law Judge, for the Energy Facility Site Evaluation Council, at a prehearing conference held on September 20, 1982, which conference was held pursuant to notice issued on September 13, 1982, and was attended by Mr. Jerry Boyd for the applicant, Mr. Peter Eglick for Blue Sky Advocates, Mr. Robert Mack for the Washington Department of Ecology, and Mr. Thomas Hayward for the Lincoln County Agricultural Coalition, and where matters were discussed and positions of all sides were considered;

NOW, THEREFORE, the following orders are made:

1. The supplemental hearing will commence as previously scheduled at 9:15 a.m. Blue Sky Advocates will serve and file its proposed organization of witnesses and sequence by Thursday, September 30, 1982.
2. It is anticipated that Blue Sky Advocates will present for cross-examination, during the week of October 4, 1982, all four witnesses for whom testimony has been prefiled. It is anticipated further that Blue Sky Advocates will be represented by counsel during evidentiary presentations occurring during the weeks of October 4 and October 18, 1982. In the event that circumstances arise which lead to a different plan by Blue Sky Advocates, notice shall be immediately provided to the Council and all entities on the distribution list.

3. Washington Water Power's request for relief from the six-witness limitation is denied without prejudice to the applicant's right to resubmit the request on a showing of surprise or some other extraordinary unanticipated circumstance affecting the fundamental fairness of the hearing process.
4. Washington Water Power's notice of the association of Mr. Guy Gelbron, an attorney with Snell and Wilmer of Phoenix, Arizona, was provided. Blue Sky Advocate's objection to the participation of Mr. Gelbron was considered and overruled subject to reconsideration on some showing that Mr. Gelbron is legally prohibited from appearance and practice before the Council, with reference to points and authorities supporting such assertion. Participation of associated counsel for all parties shall be subject to the same limitations.

DATED at Olympia, Washington, and effective this 21st day of September, 1982.



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Patrick Biggs  
Administrative Law Judge

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application Of	)	APPLICATION NO. 80-1
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WASHINGTON WATER POWER CO.	)	ORDER ON PREHEARING
Creston Generating Station	)	CONFERENCE
	)	
A Washington Corporation	)	
.....)		

THESE MATTERS Having come on regularly before Patrick Biggs, Administrative Law Judge, for the Energy Facility Site Evaluation Council, at a prehearing conference held on August 23, 1982, which conference was held pursuant to notice issued on August 16, 1982, and was attended by Mr. Jerry Boyd for the applicant, Mr. Rodney Reinbold for Blue Sky Advocates, Mr. Robert Mack for the Washington Department of Ecology, and Mr. Thomas Bjorgen for the Planning and Community Affairs Agency, and where matters were discussed and positions of all sides were considered;

NOW, THEREFORE, the following orders are made:

1. Blue Sky Advocates' motions for the sanctions of dismissal of the application, conclusive presumption of the truth of Dr. Wayne Williams' testimony and/or the award of attorney's fees to Blue Sky Advocates are denied. These motions claim that the applicant's failure to disclose Dr. Williams' report titled "Effects of Sulfur Dioxide and Acid Precipitation on Flora and Soils Relative to the Proposed Generating Station at Creston, Washington" violated WAC 463-42-065. Pertinent facts are the following: The Application for Site Certification was filed with the Council on September 29, 1980; the final amendment to the Application was filed on January 19, 1982; a request leading to Dr. Williams' report was made by Mr. Jerry Boyd, an attorney for the applicant, in September of 1981, though no information was provided to Mr. Boyd until some time after December 10, 1981. Dr. Williams' report was received by TERA Corporation, the applicant's consultant, in November of 1981. A draft TERA report incorporating much of Dr. Williams' data was received by the applicant on or about December 22, 1981. In mid-January 1982, the TERA draft was reviewed by the applicant in detail. In late April 1982, the applicant was informed of the relationship between Dr. Williams' and TERA. The report was provided to Mr. Boyd in

July of 1982. (Affidavits of Boyd, Williams and Anderson) The applicant reviewed Dr. Williams' report, determined information in it was faulty and rejected it. Supplemental hearings on air quality issues were ordered by Judge Orris L. Hamilton, Thurston County Superior Court, by letter opinion on June 23, 1982, and final order of July 20, 1982. Governor John Spellman remanded the application for consideration of limited air quality issues by order of July 7, 1982; the Council granted intervention status to Blue Sky Advocates and reopened the contested case record for consideration of the issue of the potential effects of SO<sub>2</sub> and acid precipitation on crop yields in Lincoln County by orders issued July 12, 1982. A stipulation was reached between Washington Water Power and Blue Sky Advocates on August 3, 1982, allowing Blue Sky Advocates to sponsor Dr. Wayne Williams as its witness in the supplemental hearings. The stipulation was issued in the form of an order in the Order on Prehearing Conference of August 4, 1982.

The Council's rules recognize that an application for site certification is not a static document to be submitted at a single point in time and remain unchanged thereafter. WAC 463-42-065 describes the physical form of an application. It also states:

"Information later submitted shall be by page-for-page substitutions suitable for insertion in the application binder."

WAC 463-42-055 is immediately followed by WAC 463-42-065 which provides as follows:

It is recognized that these guidelines can only be comprehensive in a relative sense. Therefore, and in addition to the other guidelines contained herein, the Council adopts the basic guideline that an applicant for site certification must identify in the application all information known to the applicant which has a bearing on site certification.

Given the language of WAC 463-42-055, the requirements of WAC 463-42-065 cannot be read to be limited to the original application which is filed. If it were, the applicant would have no obligation to disclose "all information known" in the later submittals contemplated by WAC 463-42-055.

The Council's rules deal with both pre- and post-application studies. WAC 463-42-095 provides:

The applicant shall disclose sources of all information and data and shall identify all pre-application studies

bearing on the site and other sources of information.  
(emphasis supplied)

WAC 463-42-285 provides:

The applicant shall furnish a brief description of all present or projected schedules for additional environmental studies. The studies descriptions should outline their scope and indicate projected completion dates.  
(emphasis supplied)

Therefore, the Council's rules specifically contemplate the existence of studies conducted after the original application is filed. Such studies are to be described and their projected completion dates are to be indicated. Post-application studies may be identified in the original application or in later submittals pursuant to WAC 463-42-055. The obligation to fully disclose, contained in WAC 463-42-065, continues throughout the application process.

Had the applicant described the "Williams Report" and identified its projected completion date in accordance with WAC 463-42-285, the Council would have been aware of its existence, could have inquired as to its completion and ultimately compelled the disclosure of its results. Those opportunities were lost when the applicant failed to comply with WAC 463-42-285.

In defense of the applicant, the Council recognizes that the predecessor of WAC 463-42-285 (WAC 463-42-130), which was in effect when the original application was filed, only required the submission of reports "necessary to complete the application." Although the language of the former provision, WAC 463-42-130, was less clear than that now appearing in WAC 463-42-285, given the facts presented by this sequence, the former provision would likely require the same result. The former provision was repealed October 8, 1981 and WAC 463-42-285 was in effect prior to the final amendment to the application filed by the company. Additionally, the Council has not previously had occasion to issue an order which definitively discusses the scope and interrelationship of WAC 463-42-055, 463-42-065, 463-42-095 and WAC 463-42-285. Nonetheless, based upon the facts of this case, the applicant failed to comply with the requirements of WAC 463-42-065 and 462-42-285.

The sanctions requested by Blue Sky Advocates are nevertheless inappropriate. The policy of Chapter 80.50 RCW and the public interest it serves does not allow or require the punitive sanctions requested. First, Blue Sky Advocates request the application be dismissed. The broader public interest would be disserved by outright dismissal of the application under

these circumstances. Reliance upon RCW 80.50.130 as authority for dismissal is inappropriate as no certification has been issued. As to the second sanction, Blue Sky Advocates request a conclusive presumption of the truth of Dr. Williams' testimony. Blue Sky Advocates has not cited to the Council any rule of law or reason under which the Council is required to abandon its duty to consider and weigh the evidence presented.

By analogy, one can look to WAC 1-08-390 of the Uniform Procedural Rules. Though this rule does not apply to Council proceedings by virtue of WAC 463-30-010, even it would not require the extreme sanctions requested. Had this applicant's failure to produce Dr. William's report been shown to be "without substantial dispute and by direct, clear, and convincing evidence" to have been withheld in bad faith, WAC 1-08-390(6) would allow only the following presumption:

That evidence, with respect to a material fact which in bad faith is destroyed, eloiigned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

In this instance, the applicant did not act in bad faith. Further, the presumption to be granted, if bad faith was evident, has been given effect by circumstances. The report in question will not only "corroberate the evidence of the adversary party," it will be the evidence of Blue Sky Advocate's witness, Dr. Williams. Blue Sky Advocates, by presenting Dr. Williams as its witness, has received more than would be authorized by WAC 1-08-390(6).

The third request of Blue Sky Advocates, for attorney's fees, is denied. Blue Sky Advocates has presented no authority varying the general rule that attorney's fees are not allowed in the absence of specific statutory authority. This issue is squarely within the ruling of the United States Supreme Court in Alyeska Pipeline Serv. v. The Wilderness Society, 421 U.S. 240, 44 L.Ed. 2d 141, 95 S. Ct. 1612 (1975) which requires the denial of this claim for attorney's fees.

Although the Council has no authority to grant the sanctions requested by Blue Sky Advocates, it is far from powerless. Based upon all the evidence before it, the Council has the ultimate authority to recommend that the Governor either approve or reject the application. Where the Council recommends the approval of an application, it has the full authority to include provisions in the proposed Site Certification Agreement it finds are necessary to protect the public welfare and the quality of the environment.

Given the controversy surrounding Dr. Williams' report, the record before the Council would not be complete without the appearance and testimony of Dr. Williams. His appearance and testimony are necessary for the Council to be assured it has received all the needed evidence on the issue of the potential effects of SO<sub>2</sub> and acid rain on crop yields in Lincoln County, and in turn to assure the public that it has considered all such evidence. Therefore, under the authority of RCW 80.50.071 and WAC 463-58-030 the expenses for Dr. Williams' travel to Lacey, Washington and time actually spent testifying before the Council are reasonable and necessary expenses of processing this application and a reasonable amount will be paid by the Council to defray these expenses. Additional expenses incurred for preparation and other expenses, including attorney's fees, incurred by Dr. Williams or the parties are not reasonable and necessary within the meaning of RCW 80.50.071 and will not be paid by the Council.

Though the Council does not endorse the conduct of the applicant in withholding information about Dr. Williams' report, and has further found it a violation of provisions in the rules, any prejudice to Blue Sky Advocates or the public interest will be remedied by the presentation of Dr. Williams as a witness in the supplemental hearings. Dr. Williams will be sponsored by Blue Sky Advocates and testify on its behalf. Under these circumstances, all sanctions requested by Blue Sky Advocates are both without legal authority and violative of the policy of RCW 80.50 and are, therefore, denied.

2. Interrogatories and requests for production propounded by Blue Sky Advocates to the applicant on August 6, 1982, seek further information about the circumstances surrounding the preparation of the report of Dr. Williams. There is no information which could be presented in response to these discovery requests which would alter the determination that the requested sanctions are unauthorized and inappropriate. Further discovery and litigation of the circumstances of Dr. Williams' relations with the applicant are not relevant to the limited issue of the supplemental hearing. Violations of disclosure rules by the applicant have been determined, though the violations are not the result of bad faith and will be cured by the supplemented hearing. Under these circumstances, further discovery of the kind sought in the August 6 requests would serve no useful purpose and may serve to remove attention further from the important issues to be considered in the October hearings. For these reasons, Blue Sky Advocates' request for an order requiring the applicant to respond is denied and the applicant's request that these interrogatories and requests be quashed is granted.

3. Blue Sky Advocates' motion to reconsider the prior order excluding the issue of need for the project from the supplemental hearings was granted. Arguments for expanded scope of the supplemental hearing were considered as well as documents presented, particularly Mr. Eglick's memorandum of August 13, 1982, and the offer of proof of August 19, 1982. The request is again denied. The supplemental hearings are limited in scope to the presentation of expert testimony on the sole issue of the potential effects of SO<sub>2</sub> and acid rain on crop yields in Lincoln County.
4. As a consequence of the limited scope of the supplemental hearings, discovery requests of Blue Sky Advocates of August 10, 1982, relating to the need for the project are inappropriate. The applicant's request that interrogatories and requests seeking information on the issue of need for the project be stricken or quashed is granted.
5. As a further consequence of the limited scope of the hearings, the "Interrogatories Propounded to the Planning and Community Affairs Commission (sic)" of August 10, 1982, are inappropriate. The applicant has made no motion to quash these interrogatories. Pursuant to WAC 1-08-270, these interrogatories are quashed on the motion of the Administrative Law Judge.
6. Blue Sky Advocate's request for clarification of the order denying request for sanctions for alleged intimidation of Dr. Wayne Williams was granted and the order was clarified on the record.
7. The applicant has requested that Blue Sky Advocates be required to submit all exhibits to the distribution list. The present list has 43 addressees. Many of the persons or parties listed have no interest in the issues to be considered in the supplemental hearings. It would be unnecessarily burdensome to require the circulation of all exhibits, some of which will likely be voluminous, by Blue Sky Advocates, to the entire list. Therefore, the following requirements are set: (1) Blue Sky Advocates will submit its prefiled testimony with attached exhibits describing the qualifications, education and experience of witnesses and a brief description of other exhibits to all persons or entities on the distribution list by September 10, 1982; (2) by that date Blue Sky Advocates will submit all other exhibits to the applicant, the Washington Department of Ecology, Counsel for the Environment, the Lincoln County Agricultural Coalition and five copies to the Council; (3) 15 additional sets of exhibits, for Council members, will be submitted no later than September 27, 1982; and (4) Blue Sky Advocates shall submit sets of exhibits to any other person or entity on the distribution list which makes a request for copies after September 10, 1982.

8. Blue Sky Advocates' request for technical information--SO<sub>2</sub> frequency distribution and dose curves and current meteorological data--has been agreed to by the applicant and the information will be provided.
9. Free exchange of information and dialogue between opposing experts will be required. Exchanges made between the parties will involve only indirect participation by attorneys. It is imperative that each side fully understand the position of its opponent before the hearing commences so that time in the limited hearing may be spent testing the opponent's assertions rather than, as a threshold matter, understanding how the opposed position and analysis was developed. In this regard, resort to formal discovery motions and orders will be had only in extraordinary circumstances. When a body of technical information, in documentary form, has been exchanged, one of the parties to the exchange will, from time to time, provide notice of the event by letter addressed to the Administrative Law Judge and circulated on the distribution list. The exchanged information will be provided to any party on the distribution list by whom a request is made.

Though the ultimate opinion of expert witnesses need not be disclosed until prefiled testimony is published, any specifically requested facts, publications, or data underlying such opinion will be provided or cited (if generally and conveniently available) for the benefit of the requesting party. This order does not authorize a blanket request, i.e., "everything you considered" unless the request relates to a specifically limited point or issue where such a request is reasonable.

The above provisions on discovery and exchange of information are guidelines which require reasonable attitudes and cooperation by the parties. Dialogue between experts, hopefully with extensive utilization of telephonic communication, are encouraged. Such dialogues will be professional; seeking to educate the opposing expert on how and why opinions differ, rather than tactical; seeking to persuade or confuse an opposing expert.

A prehearing conference is scheduled by this order. Substantial cooperation, exchanges and dialogue should occur prior to that conference and the parties will report at that time on the status of discovery.

10. Requests made by the Department of Ecology and noted as agenda item 3 on the Notice of Prehearing Conference are either moot or premature and no rulings are made on those requests at this time.

11. The applicant requested that a limitation be placed on the number of attorneys representing a particular party. Ruling on this request is reserved, and such limitation will be implemented only if the division of tasks between attorneys becomes a tactical device having the effect of confusing the proceedings or gaining an unfair share of the hearing time. In any event, objections made to inquiries of a particular witness shall be made by one attorney for each witness. Arguments on particular evidentiary issues shall be made by one attorney for each issue.
12. No later than the date for prefiling testimony, parties presenting witnesses will propose the arrangement of the witnesses by witness panels or individuals. Scheduling and organization of testimony shall be made so that witnesses establishing the foundation assumptions for another witness's expert opinion will be available on a witness panel with the witness issuing the ultimate opinion. If for some reason such arrangement is not feasible, the foundation witness shall testify prior to the witness issuing the ultimate opinion.
13. A prehearing conference will be held at the Council offices on Monday, September 20, 1982. At that time, disposition will be made of any objections to the testimony of witnesses for Blue Sky Advocates. In addition, a report will be made as to the status of cooperative discovery and a judicial resolution of objections to discovery will take place. Requests for matters to be placed on the agenda for the prehearing conference will be submitted no later than Monday, September 13, 1982, and a Notice of Prehearing Conference will be issued on that day.

DATED at Olympia, Washington, and effective this 30th day of August, 1982.

  
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Patrick Biggs  
Administrative Law Judge

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application of	)	
	)	APPLICATION NO. 80-1
WASHINGTON WATER POWER CO.	)	
Creston Generating Station	)	ORDER ON PREHEARING
	)	CONFERENCE
	)	
A Washington Corporation	)	
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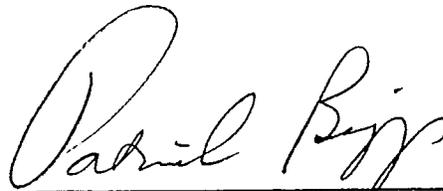
THESE MATTERS Having come on regularly before Patrick Biggs, Administrative Law Judge, for the Energy Facility Site Evaluation Council, at a prehearing conference held on July 20, 1982, which conference was held pursuant to notice duly given, and which was attended by Mr. Jerry Boyd for the applicant, Mr. Robert Mack for the Department of Ecology, Mr. Thomas Hayward for the Lincoln County Agricultural Coalition, Mr. Thomas Carr for the Counsel for the Environment, and Mr. Rodney Reinbold and Mr. Peter Eglick representing Blue Sky Advocates, and where matters were discussed and positions of all sides were considered;

NOW, THEREFORE, The following orders are made:

1. Hearings will commence on Monday, October 4, 1982, with the opening statement of Blue Sky Advocates. The applicant and each party with an interest in the issues considered in the supplemental hearings may make opening statements. Statements will be timed so as to finish all statements prior to the noon recess. The evidentiary presentation of Blue Sky Advocates will be planned for completion no later than the close of business on Friday, October 8, 1982. Hearings will recess from October 8 to October 18, and will reconvene on the 18th for rebuttal testimony, if any, by the applicant. The rebuttal testimony is allowed and will be planned so that rebuttal and any allowed surrebuttal may be concluded no later than Friday, October 22. Surrebuttal will be allowed only on formal request of a party based on a showing of need.
2. The request made by attorneys for Blue Sky Advocates to broaden the scope of the hearings to include the issue of need for power and cost-benefit approaches considering need for power as one element is denied.

3. Each party will be allowed to present a maximum of six expert witnesses. Though the witnesses may be organized in witness panels, no party shall present more than six witnesses except upon formal request based on a showing of need.
4. Testimony of witnesses will be prefiled and served on all parties on the Creston Distribution List. Attached as an exhibit to each witness's testimony will be a resume describing the witness's education, experience and credentials of expertise. Prefiled testimony of Blue Sky Advocates will be filed on or before September 10, 1982. Prefiled rebuttal testimony of Washington Water Power will be filed on or before September 27, 1982.
5. A telephone conference will occur at 10 a.m., Tuesday, August 3, 1982, on the subject of production of a report of expert witness Wayne Williams. Parties wishing to participate in the telephone conference must make arrangements with Ms. Diane Sandvik of the EFSEC Hearings Office, (206) 459-6490. Those presenting legal arguments on this issue will provide written citation of authorities to the Administrative Law Judge at the Council office by August 3, 1982.
6. A prehearing conference will be held on Monday, August 23, 1982, at 10 a.m., pursuant to a Notice to be issued. Parties should submit matters for inclusion as agenda items at that conference by Monday, August 16.

DATED at Olympia, Washington, and effective this 21st day of July, 1982.



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Patrick Biggs  
Administrative Law Judge



2. Reservation of the right to sue for breach of contract does not constitute intimidation of a witness within the meaning of RCW 9A.72.110 under the circumstances presented in this record. For this reason, as well as the agreement reached by the parties described above, the request of Blue Sky Advocates for a protective order to protect Dr. Williams from intimidation is denied.
3. Requests of Blue Sky Advocates for sanctions, with reference to CR 37(b)(2)(C) and CR 37(b)(2)(B), is denied because any basis for sanctions has been rendered moot by the agreement of the parties.
4. A prehearing conference will be held on Monday, August 23, 1982, at 10 a.m., pursuant to a Notice to be issued. Parties should submit matters for inclusion as agenda items at that conference no later than Monday, August 16.

DATED at Olympia, Washington, and effective this 4th day of August, 1982.



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Patrick Biggs  
Administrative Law Judge

*given  
Creston  
Order of H. Long*

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application of	)	
WASHINGTON WATER POWER CO.	)	APPLICATION NO. 80-1
CRESTON GENERATING STATION	)	
A Washington Corporation	)	CERTIFICATE OF SERVICE
.....	)	

The undersigned certifies that on March 1, 1982 she served the enclosed Council Notices:

1. Denial of Petition for Agency Action Filed by Coalition of Concerned Organizations
2. Denial of Motion for Reconsideration and/or Review Re: Amended Order on Prehearing Conference dated January 25, 1982
3. Denial of Motion for Reconsideration and Review of the Administrative Law Judge's Amended Order of January 25, 1982

by depositing copies thereof in the United States mail, properly stamped and addressed, as indicated on the Washington Water Power Company Distribution List Rev. 2-18-82.

Dated: March 1, 1982

*Karen J. Close*  
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 Karen J. Close  
 Administrative Clerk

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of )  
Application No. 80-1 )  
 )  
THE WASHINGTON WATER POWER CO. )  
CRESTON GENERATING STATION )  
 )  
A Washington Corporation )  
..... )

MOTION FOR RECONSIDER-  
ATION AND/OR REVIEW RE:  
AMENDED ORDER ON PRE-  
HEARING CONFERENCE DATED  
JANUARY 25, 1982

PLEASE BE ADVISED That the Washington State Energy Facility Site Evaluation Council at its regular meeting of February 22, 1982, having heard argument by Mr. Jerry Boyd, Attorney for The Washington Water Power Company, and Mr. Thomas Bjorgen, Assistant Attorney General, did deny the above motion.

Dated in Olympia, Washington this 24th day of February 1982.

By   
William L. Fitch  
Executive Secretary

*File Copy  
Creston  
Order on P/H Brief*

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application of	)	
WASHINGTON WATER POWER CO.	)	APPLICATION NO. 80-1
CRESTON GENERATING STATION	)	CERTIFICATE OF SERVICE
	)	
	)	
A Washington Corporation	)	
	)	
.....	)	
_____	)	

The undersigned certifies that on January 26, 1982, she served the enclosed:

Amended Order on Prehearing Conference Changing Portions of Order of January 14, 1982

by depositing copies thereof in the United States mail, properly stamped and addressed, as indicated on the Washington Water Power Co. Creston Generating Station Distribution List, revised 9-25-81.

DATED: January 26, 1982

*Diane Sandvik*  
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 Diane Sandvik  
 Secretary to Patrick Biggs  
 Administrative Law Judge

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application No. 80-1	)	AMENDED ORDER ON
	)	PREHEARING CONFERENCE
WASHINGTON WATER POWER CO.	)	CHANGING PORTIONS OF
CRESTON GENERATING STATION	)	ORDER OF JANUARY 14,
	)	1982
A Washington Corporation	)	
.....)	)	

THESE MATTERS Having come on regularly before Patrick Biggs, Administrative Law Judge, for the Energy Facility Site Evaluation Council, at a prehearing conference held on January 12, 1982, which conference was held pursuant to notice duly given, and which was attended by Mr. Jerry Boyd for the applicant, Mr. Robert Mack for the Department of Ecology, Mr. Thomas Bjorgen for the Planning and Community Affairs Agency and Mr. Thomas Hayward representing the Lincoln County Agricultural Coalition, and where matters were discussed and positions of all sides were considered;

NOW, THEREFORE, The following orders were made:

1. All matters of fact and law proposed by parties to be officially noticed are denied official notice excepting those matters previously admitted to the record as exhibits and those matters noticed in paragraphs 2 and 3 of this order.
2. Official notice is taken of Application No. 80-1, as amended.
3. The Draft Environmental Impact Statement and comments to it will be considered part of the contested case record as "available environmental documents" within the meaning of WAC 463-46-480(1).
4. Final arguments will commence at 1:30 p.m., February 10, 1982 and will continue to conclusion into February 11, 1982, if necessary.
5. Hearing will commence for the purpose of taking testimony from the Council's special witness panel on February 2, 1982 at 9:15 a.m. The witness panel will consist of employees of the Bonneville Power Administration who will testify on the subject of transmission lines.
6. New issues raised in the testimony of the aforementioned special witness panel will be the subject of rebuttal testimony to commence on February 4, 1982 at 1:15 p.m.

7. The parties are invited to submit briefs on new issues raised in the testimony taken on transmission lines on February 2 and 4, 1982. Such briefs must be filed by February 11, 1982.

DATED at Olympia, Washington, and effective this 25th day of January, 1982.

  
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Patrick Biggs  
Administrative Law Judge

*Creston  
Order 10/81*

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the )  
Application of )  
WASHINGTON WATER POWER CO. )  
CRESTON GENERATING STATION )  
A Washington Corporation )  
..... )

APPLICATION NO. 80-1

CERTIFICATE OF SERVICE

The undersigned certifies that on January 15, 1982 she served the enclosed:

Notice of Hearing (dated 1/14/82) to be Held on February 2 and 4, 1982

Order (dated 1/14/82) on Prehearing Conference of January 12, 1982

by depositing copies thereof in the United States mail, properly stamped and addressed, as indicated on the Washington Water Power Company Distribution List Rev. 9-25-81.

Dated: January 15, 1982

*Evelyn L. Sjoblom*  
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Evelyn L. Sjoblom, Chief  
Management Services Division

Creston

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the	)	
Application of	)	
	)	
WASHINGTON WATER POWER CO.	)	APPLICATION No. 80-1
Creston Generating Station	)	
	)	
A Washington Corporation	)	ORDER ON PREHEARING
	)	CONFERENCE
	)	
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THESE MATTERS Having come on regularly before Patrick Biggs, Administrative Law Judge, for the Energy Facility Site Evaluation Council, at a prehearing conference held on January 12, 1982, which conference was held pursuant to notice duly given, and which was attended by Mr. Jerry Boyd for the applicant, Mr. Robert Mack for the Department of Ecology, Mr. Thomas Bjorgen for the Planning and Community Affairs Agency and Mr. Thomas Hayward representing the Lincoln County Agricultural Coalition, and where matters were discussed and positions of all sides were considered;

NOW, THEREFORE, The following orders were made:

1. All matters of fact and law proposed by parties to be officially noticed are denied official notice excepting those matters previously admitted to the record as exhibits and those matters noticed in paragraphs 2 and 3 of this order.
2. Official notice is taken of Application 80-1 and such subsequent amendments as have been accepted by the Council.
3. Official notice is taken of the Draft Environmental Impact Statement and comments made thereto. Authority for notice is found in the Council's Rules that the contested case is commenced upon issuance of formal notice of hearing (WAC 463-30-080, 1981); that such hearing shall be open to consideration of the environmental impact of the proposal, together with any available environmental document (WAC 463-46-480 (1), 1976); and that the Council must initiate and conclude the contested case hearing prior to issuance of the Final Environmental Impact Statement (WAC 463-46-055, 1981).

4. Final arguments will commence at 1:30 p.m., February 10, 1982 and will continue to conclusion into February 11, 1982, if necessary.
5. Hearing will commence for the purpose of taking testimony from the Council's special witness panel on February 2, 1982 at 9:15 a.m. The witness panel will consist of employees of the Bonneville Power Administration who will testify on the subject of transmission lines.
6. New issues raised in the testimony of the aforementioned special witness panel will be the subject of rebuttal testimony to commence on February 4, 1982 at 1:15 p.m.
7. The parties are invited to submit briefs on new issues raised in the testimony taken on transmission lines on February 2 and 4, 1982. Such briefs must be filed by February 11, 1982.

DATED at Olympia, Washington, and effective this 14th day of January, 1982.



Patrick Biggs  
Administrative Law Judge

File copy  
Creston  
Order on 1/19

BEFORE THE STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the )  
Application of )  
WASHINGTON WATER POWER CO. )  
CRESTON GENERATING STATION )  
  
A Washington Corporation )  
..... )  
\_\_\_\_\_ )

APPLICATION NO. 80-1  
CERTIFICATE OF SERVICE

The undersigned certifies that on December 10, 1981, she served the enclosed:

Order on Prehearing Conference, dated December 10, 1981

by depositing copies thereof in the United States mail, properly stamped and addressed, as indicated on the Washington Water Power Company Distribution List Rev. 9-25-81.

DATED: December 10, 1981.

Diane Sandvik  
Diane Sandvik  
Secretary to Patrick Biggs  
Administrative Law Judge



well as final disposition of arguments on official notice of matters of law and fact. Positions on this issue will be served and filed by January 12, 1982 by parties not attending the conference;

5. All proposed findings of fact and conclusions of law, draft proposals for inclusion in the Site Certification Agreement, corrections to the record and any other written submittals from parties will be served and filed no later than January 22, 1982; and
6. Final arguments will commence at 9:15 a.m., January 28, 1982, and will continue to conclusion into January 29, 1982, if necessary.

DATED at Olympia, Washington, and effective this 10th day of December, 1981.

  
Patrick Biggs  
Administrative Law Judge

*Creston*

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the  
Application of

WASHINGTON WATER POWER CO.  
CRESTON GENERATING STATION,

A Washington corporation.

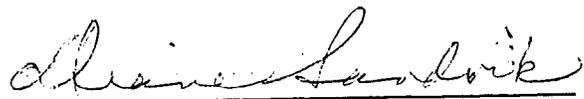
)  
)  
) APPLICATION NO. 80-1  
) CERTIFICATE OF SERVICE  
)  
)  
)

The undersigned certifies that on November 16, 1981,  
she served the enclosed:

Order Setting Schedule dated November 13, 1981

by depositing copies thereof in the United States mail,  
properly stamped and addressed, as indicated on the Washington  
Water Power Co. Creston Generating Station Distribution List,  
revised 9-25-81.

DATED: November 16, 1981

  
Diane Sandvik  
Secretary to Patrick Biggs  
Administrative Law Judge