

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2009-01
of

PREHEARING ORDER NO.2
COUNCIL ORDER NO. 844

WHISTLING RIDGE ENERGY PROJECT LLC
for

PREHEARING ORDER GRANTING
PETITION FOR INTERVENTION

WHISTLING RIDGE ENERGY PROJECT

Council Order 842 granted interventions that were timely filed according to the Council Notice of Opportunity to Intervene,¹ following a prehearing conference affording the opportunity to argue issues relevant to interventions. The Order granted intervention² to Johnny Jackson and Wilbur Slockish, representing themselves as hereditary chiefs of the Cascades and Klickitat Tribes of the Yakama Nation.

Thereafter, on August 10, 2009, the Cultural Resources Program of the Confederated Tribes and Bands of the Yakama Nation sought leave to intervene. Its petition states that the Confederated Tribes and Bands is the only organization entitled by federal law to represent the interests of the Yakama Nation. It states that the purported interventions of the Cascades and Klickitat Tribes can have no effect on the interests of the Yakama Nation and its confederated tribes.

Parties were offered the opportunity to comment on the petition for intervention. Mr. Slockish and Mr. Jackson responded, stating that they are the hereditary chiefs of the named tribes and that the proposed project is located on land constituting the homeland of the two tribes. The response indicates that they did not state that they represented the interests of the Nation or confederated tribes, and that they did not intend to do so. Several other parties filed responses; none objected to the petition.

The Cultural Committee petition should be granted. Although the petition is not timely, the petitioner had no prior indication that another petition would be presented and there is no harm to the process by the late filing; good cause is stated for failure to present a timely petition. As the Committee's petition states and all responding parties agree, the petition states a valid interest in the proceeding. The petition for intervention is therefore granted.

We reiterate the prior conclusion that the individual intervenors have stated a valid interest in the proceeding. Their statements of the basis for their personal interventions have not been disputed. Their petitions for intervention do not describe any formal organization of the groups they represent, but petitioners for intervention are not required to meet an organizational requirement.³ There being no

1 WAC 463-30-091: The council may establish a date after which petitions to intervene will not be considered except for good cause shown.

2 WAC 463-30-091: On timely application in writing to the council, intervention shall be allowed . . . , in the discretion of the council, to any person having an interest in the subject matter and whose ability to protect such interest may be otherwise impaired or impeded.

3 RCW 80.50.020(3) "Person" means an individual, partnership, joint venture, private or public corporation,

apparent overlap between the parties represented, there is no inconsistency between the petitions and therefore all parties may remain.

It is so ordered.

Dated at Olympia, Washington, and effective this Fifth day of January, 2010.

/s/

C. Robert Wallis, Administrative Law Judge

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

Notice to Parties:

Unless modified, this prehearing conference order shall control further proceedings in this matter. In accordance with WAC 463-30-270(3), any objections to this order must be filed with the Council and served on parties within ten days after the date of service of this order

association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, *however organized*.” (Emphasis added.)