

2-14-94

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 93-2

KVA RESOURCES, INC.
and CSW ENERGY, INC.

NORTHWEST REGIONAL
POWER FACILITY

Council Order No. 666

FINDING OF INCONSISTENCY
WITH LOCAL ZONING
ORDINANCE

This matter came on regularly for hearing on February 1, 1994 in Creston, Washington and on February 14, 1994 in Olympia, Washington, before Chairman Warren Bishop and the members of the Energy Facility Site Evaluation Council of the State of Washington.

The parties appeared and were represented as follows:

Lincoln County: Board of County Commissioners
by Deral D Boleneus, Chair
P.O. Box 366
Davenport, WA 99122

Applicants: KVA Resources, Inc. and CSW Energy, Inc.
by F. J. Dullanty, Jr., Attorney
1900 SeaFirst Financial Center
Spokane, WA 99201

Counsel for the Environment: Deborah Mull
Post Office Box 40117
Olympia, WA 98504-0117

MEMORANDUM

KVA Resources, Inc. (KVA) and CSW Energy, Inc. (CSW) filed an application on December 13, 1993, for certification of a proposed site near Creston in Lincoln County, Washington, to construct an 838 megawatt natural gas-fired combustion turbine energy facility.

Pursuant to RCW 80.50.090 and WAC 463-26-050, the Council convened a public hearing on February 1, 1994, in Creston, Washington, to determine whether the proposed facility is consistent with Lincoln County's land use plan and zoning ordinances.

At the hearing, representatives of Lincoln County and of the applicants appeared and testified that the location of the proposed site is now zoned agricultural and that the proposed use would be industrial, a use not permitted in agricultural zones. Both parties testified that although the proposal is inconsistent with present zoning, the applicants have submitted an application for rezoning that appears to be consistent with the county's Comprehensive Land Use Plan.

The Council will find, therefore, that the proposal is inconsistent with the county's present zoning ordinance. In light of the zoning application pending before the county, however, it is appropriate that the county or the applicant ask that the record of the land use hearing be reopened when the county has completed its action on the application, to submit the result of the application. The Council may then review its decision, considering the later information.

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 December 13, 1993, KVA Resources, Inc. and CSW Energy, Inc., filed with the Council an application to construct and operate an 838 megawatt electrical generation facility in Lincoln County near Creston, Washington.
2. The Council convened a public land use hearing pursuant to due and proper public notice on February 1, 1994 at Creston, Washington. It continued the hearing on the record to February 14, 1994 in Olympia, Washington.
3. The proposed project is not consistent with Lincoln County's present zoning ordinance.
4. WAC 463-28-030 provides that application review may continue despite a finding of inconsistency with local zoning ordinances. The applicant has made an application to the county for zoning change under WAC 463-28-030(1), and will submit regular reports to the Council regarding the status of the zoning change. The applicant has committed to notifying the Council when the county has completed action on its request.

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.

2. The proposed project is inconsistent with existing Lincoln County zoning of the proposed site. The project is consistent with the Lincoln County Comprehensive Land Use Plan.

3. The applicant may pursue a zoning change with the county pursuant to WAC 463-28-030; the Council may continue its review of the application during the zoning process; and the applicant and county may ask leave to reopen the land use hearing for entry and consideration of the results of the rezone process.

DETERMINATION AND ORDER

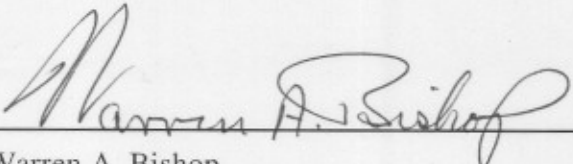
The proposed land use of the proposed Northwest Regional Power Facility project as described in Application No. 93-2 of KVA Resources, Inc. and CSW Energy, Inc. is not consistent with the Lincoln County zoning ordinance.

THE COUNCIL ORDERS that the applicant shall submit to the Council monthly reports on the status of its application to Lincoln County for rezoning. Upon completion of rezoning of the proposed NRPF site by Lincoln County, 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 Lincoln County zoning ordinance.

Dated at Olympia, Washington and effective this 14th day of February 1994.

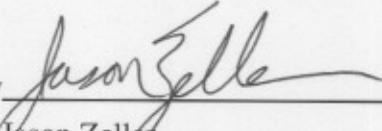
Washington State Energy Facility Site
Evaluation Council

By


Warren A. Bishop
EFSEC Chair

Attest:

By


Jason Zeller
EFSEC Manager