

7-11-94

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. 668

FINDING OF CONSISTENCY
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 on July 11, 1994 in Olympia 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:

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
P.O. 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.

On February 14, 1994, the Council found, that the proposal was inconsistent with the county's present zoning ordinance. In light of the zoning application pending before the county, however, the Council found it would be 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 would then review its decision, considering the later information.

By letter of May 25, 1994, and at the June 13, 1994 regular Council meeting, the applicant requested the Council to reconsider and revise its finding of inconsistency and presented copies of Lincoln County Ordinance No. 94-02 amending the Lincoln County Zoning Map and approving a conditional use of the proposed NRPF site. By letter dated June 10, 1994, Deral D. Boleneus, Chairman of the County Board of Commissioners furnished the Council with a copy of the Ordinance Amending the Lincoln County Zoning Map.

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. Based on the testimony presented at the land use hearing the Council issued Administrative Order No. 666 finding the Northwest Regional Power Facility inconsistent with the Lincoln County zoning ordinance. The Council ordered the applicant to submit monthly reports of the status of its application to Lincoln County for rezoning, and upon completion of rezoning, any party to the land use hearing may petition the 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.

4. By letters and reports to the Council the applicant did provide monthly reports on the status of the application for rezoning to Lincoln County.

5. By letter dated May 25, 1994 the applicants notified the Council that Lincoln County had adopted Ordinance No. 94-02 that granted conditional use of the proposed NRPF site for industrial use upon certification by the Energy Facility Site Evaluation Council and requested the Council revise Order No. 666 to reflect the change in the County's zoning ordinance.

6. By letter dated June 11, 1994 Lincoln County confirmed that Ordinance No. 94-02 had been approved.

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

3. On May 16, 1994 the applicant obtained a zoning change with the county pursuant to WAC 463-28-030; the Council continued its review of the application during the zoning process; and the applicant asked for entry and consideration of the results of the rezone process.

4. With the action by Lincoln County the proposed Northwest Regional Power Facility is now consistent with local land use and zoning ordinances.

5. Because of the county's action the Council rescinds Administrative Order No 666 finding the project inconsistent with the local zoning ordinances.

DETERMINATION AND ORDER

WHEREFORE, IT IS HEREBY ORDERED 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 hereby deemed to be consistent with Lincoln County zoning regulations and land use plans and Administrative Order No. 666 rescinded.

Dated at Olympia, Washington and effective this 11 th day of July 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