

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2001-02

STARBUCK POWER COMPANY, LLC

STARBUCK POWER PROJECT

COUNCIL ORDER NO. 774

Prehearing Order No. 1

ADDITIONAL SUSPENSION OF  
ADJUDICATIVE PROCEEDING

**Findings**

On August 27, 2001, Starbuck Power Company, LLC, (SPC or Applicant) submitted an Application for Site Certification for the Starbuck Power Project, No. 2001-02, to the Energy Facility Site Evaluation Council (EFSEC or Council).

On December 27, 2001, EFSEC issued a Notice of Adjudicative Proceeding, a Notice of Opportunity to File Petitions for Intervention, and a Notice of Intent to Hold Prehearing Conference. EFSEC received notices of appearance/petitions for intervention from the following state agencies and organizations: Washington Utilities and Transportation Commission; Washington Department of Community, Trade and Economic Development; the Washington Department of Fish and Wildlife; Columbia County; and the Columbia Rural Electric Association, Inc. On January 31, 2002, EFSEC also received a Preliminary Statement of Issues by the Counsel for the Environment. On February 12, 2002, EFSEC issued a Notice of Prehearing Conference, and Notice of Schedule for Responses to Petitions for Intervention. On February 26, 2002, SPC submitted the Applicant's Response to Petitions to Intervene.

On February 27, 2002, counsel for SPC requested in writing that the Council suspend review of the Starbuck Power Project Application for Site Certification No. 2001-02, for a period of six months.

On March 6, 2002, EFSEC issued a notice of cancellation of the initial prehearing conference, scheduled for March 15, 2002.

On March 11, 2002, at the Regular EFSEC Council Meeting, EFSEC granted SPC's request to suspend the review of Application No. 2001-02 for a period of six months. The applicant was to inform the Council regarding the status of the project no later than September 11, 2002.

On September 3, 2002, SPC requested a second 6 month suspension of the review of Application No. 2001-02. The Council acted to approve this second request at the regular Council meeting on September 9, 2002, extending the suspension through March 11, 2003.

On January 17, 2003, SPC requested a third 6 month suspension of the review of Application No. 2001-02. The Council considered the request at the February 10, 2003 Council meeting, and heard both from Mr. Michael Elmer representing SPC, and Mr. Ronald Lavigne, Counsel for the Environment.

### **Conclusions**

RCW 80.50.100 (1) requires the Council to report to the governor its recommendation as to the approval or rejection of an application for certification within twelve months of receipt by the Council, or at such later time as is mutually agreed by the Council and the Applicant. On March 10, 2003, the Council approved the Applicant's third request for suspension of the proceedings in this matter. Pursuant to RCW 80.50.100 (1) the Council grants an additional extension through March 11, 2005 on the following conditions:

- 1) The Applicant must request any resumption of the proceedings in writing, prior to March 11, 2005. A request for resumption must indicate that the Applicant is financially capable of funding all reasonable and necessary costs associated with additional proceedings and review of Application No. 2001-02.
- 2) Such a request must include a certification to the effect that all information in the Application for Site Certification is current and up to date, and that no environmental conditions or regulatory requirements have changed since submittal of the Application in August 2001 that could affect the validity of the information or proposals for mitigation presented in the Application currently before the Council. The applicant shall serve this certification on all parties to the tentative service list at the same time the certification is submitted to the Council.
- 3) If any environmental conditions or regulatory requirements have changed since the submittal of the Application in August 2001, in addition to the request for resumption of the Council's proceedings, the Applicant shall submit information describing the environmental or regulatory changes that have occurred, the impact of the changes on the information or proposals for mitigation presented in the Application, and as applicable, revisions to the Application. The applicant shall serve this additional information, and revisions to the Application as applicable, on all parties to the tentative service list at the same time the information is submitted to the Council. Service to the tentative service list does not preclude additional distribution of revisions to the Application required by EFSEC laws and rules.

- 4) If the Council does not receive a request to resume the proceeding prior to March 11, 2005, the Council will take action to terminate all proceedings and review of Application No. 2001-02 undertaken pursuant to Council laws and rules.

The Council will notify parties to the tentative service list of future Council action connected with this adjudicative proceeding.

The council requests that parties to the tentative service list notify the Council of any future changes to representation or mailing addresses until such time that the Council takes further action on this proceeding.

**Notice to Parties:**

Any objection to the provisions of this order must be filed within ten days after the date of service of this order, pursuant to WAC 463-30-270(3). Unless modified, this prehearing conference order shall control further proceedings in this case.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this \_\_\_\_\_ day of March, 2003

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James O. Luce, EFSEC Chair