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October 5, 1979

Robert M. Lazo, Esq.
Acting Chairman
Atomic Safety and Licensing
Board Panel
U. S. Nuclear Regulatory
Commission
Washington, D.C. 20555



In the Matter of Washington Public Power Supply System
(WPPSS Nuclear Project No. 2)
Docket No. 50-397-OL

Dear Dr. Lazo:

On July 26, 1978, the Nuclear Regulatory Commission published a Notice of Opportunity for Hearing in the captioned matter. 43 Fed. Reg. 32338 (1978). In response thereto, a Petition for Leave to Intervene dated August 28, 1978, was filed by two individual petitioners on their own behalf and on behalf of a group calling itself the "Hanford Conversion Project."

On January 25, 1979, the Atomic Safety and Licensing Board ("Board") established to rule on petitions for leave to intervene conducted a prehearing conference in which the Applicant, NRC Staff, the petitioners for intervention, and the State of Washington participated. Thereafter, on March 6, 1979, the Board issued its "Order Subsequent to the Prehearing Conference on January 25, 1979," in which it concluded that the petitioners had failed to demonstrate sufficient interest in support of intervention as a matter of right, and that the petitioners had not provided sufficient justification to support the granting of intervention as a matter of discretion. Accordingly, the Board

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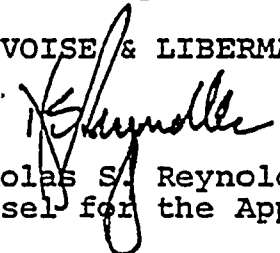
denied the petition to intervene. However, since the course of potential appellate review remained available, the Board in its Order did not direct that the proceedings be terminated.

Petitioners did not appeal the Order of the Board denying intervention within the time prescribed in 10 C.F.R. §2.714a. Further, the Atomic Safety and Licensing Appeal Board ("Appeal Board") has not to date initiated a sua sponte review of the Board's Order. Since seven months have elapsed since the Board's Order was issued, we assume that no sua sponte appellate review will occur. This assumption is supported by the Appeal Board's reference to the WNP-2 Order in Houston Lighting and Power Company (South Texas Project, Units 1 and 2), ALAB-549, NRC, (May 18, 1979) (slip opinion, at 7).

From the foregoing, it is clear that while the instant proceeding has been completed, it has not been officially terminated. Since neither the Appeal Board nor the Licensing Board has jurisdiction in this proceeding, it is appropriate and we request that the Chairman of the Licensing Board Panel take such actions as are necessary to terminate the proceeding.

Respectfully submitted,

DEBEVOISE & LIBERMAN


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