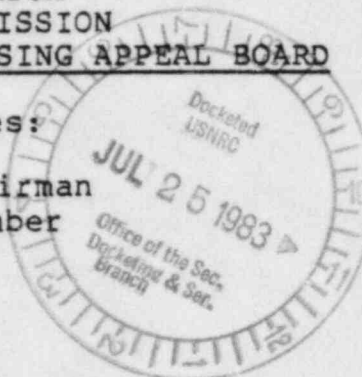


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Alan S. Rosenthal, Chairman
Howard A. Wilber, Member



In the Matter of)
)
ARIZONA PUBLIC SERVICE COMPANY,)
et al.)
)
(Palo Verde Nuclear Generating)
Station, Units 2 and 3)
)

Docket Nos. STN 50-529
STN 50-530

WEST VALLEY AGRICULTURAL PROTECTION COUNCIL, INC.'S
MOTION SEEKING STAY OF DECISION PERMITTING HEARING
TO PROCEED WITH INADEQUATE EIS

On December 30, 1982, the Atomic Safety and Licensing Board granted West Valley Agricultural Protection Council, Inc.'s ("West Valley's") Petition to Intervene and reopened the record in the operating license proceedings for Units 2 and 3 of the Palo Verde Nuclear Generating Station ("PVNGS"). The Board agreed with West Valley's assertion that the potential effects of aerosol salt deposition on area crops presents a significant and serious environmental question which neither the Final Environmental Statement on the Construction Permit ("FES-CP") nor the Final Environmental Statement-Operating License ("FES-OL") (collectively referred to as EIS) adequately address. See Memorandum and Order at 9, 13. The Board accordingly admitted West Valley's contention number 3 ("the salt deposition from the PVNGS will reduce the productivity of

DSO3

agricultural lands owned by West Valley members"). The Board deferred ruling on West Valley's remaining contentions and other relief sought pending a prehearing conference.

Shortly thereafter, West Valley filed a motion seeking a declaration that the EIS was inadequate and for discovery prior to the preparation of a new hearing on the Board holding a hearing on

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agricultural lands owned by West Valley members"). The Board deferred ruling on West Valley's remaining contentions and other relief sought pending a prehearing conference.

Shortly thereafter, West Valley filed a motion seeking a declaration that the EIS was inadequate and for continuance of the proceeding. While West Valley agreed to proceed with some discovery prior to the preparation of a new or supplemental EIS, it objected to the Board holding a hearing on its contentions until a valid EIS had been prepared.

On July 11, 1983, four months after the hearing on West Valley's motion, the Board denied West Valley's motion on the grounds that (a) any defects in the EIS could be cured by a hearing; (b) it could not tell whether the EIS was inadequate until a hearing had been held; and (c) it did not have the power to order the preparation of a new EIS.

The Board's ruling finds no support in law. The Board itself, in its opinion granting West Valley's petition to intervene, found the EIS inadequate. In such a situation, a hearing cannot proceed until the NRC staff prepares an adequate EIS.

Failure to grant West Valley's motion will cause it irreparable injury because it will ensure that an impartial full analysis of the potential harm caused by the PVNGS will never be performed by any party, in particular, by the NRC staff in accordance with the procedures mandated by the National Environmental Policy Act, 42 U.S.C. §4321 et seq.

West Valley thus requests that this Appeals Board, pursuant to 10 C.F.R. §2.788, stay any hearing in this proceeding pending certification of an appeal from the Board ruling and the completion by the NRC staff of an adequate EIS.

Respectuflly submitted,

Dated: _____

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