

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

92 JUL 27 P1:15

In the Matter of

TEXAS UTILITIES ELECTRIC CO.,
et al.,

(Comanche Peak Steam Electric
Station, Unit 2)

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)
)
) Docket No. 50-446
) Construction Permit Amendment
) Unit 2
)
)
)

PETITION TO INTERVENE AND REQUEST FOR HEARING
OF B. IRENE ORR, D.I. ORR, JOSEPH J. MACKTAL, JR.,
AND S.M.A. HASAN

Pursuant to 10 C.F.R. 2.714, petitioners B. Irene Orr, D.I. Orr, Joseph J. Macktal and S.M.A. Hasan hereby request leave to intervene in the above-captioned proceedings. Specifically, petitioners seek leave to intervene in proceedings regarding Texas Utilities Electric Company's ("TUEC") request for a 36 month extension to August 1, 1995 to construction permit No. CPPR-127, Comanche Peak Steam Electric Station ("CPSES"), Unit 2. On June 29, 1992, the NRC staff's Environmental Assessment and Finding of No Significant Impact of the proposed construction permit amendment was placed in the Federal Register.^{1/} This will be TUEC's third attempt to amend construction permit CPPR-127.

^{1/} See 57 FR 28885 (June 29, 1992) ("The proposed action would amend the construction permit [CPPR-127] by extending the latest completion construction date from August 1, 1992 to August 1, 1995").

Petitioners assert that good cause does not exist to allow TUEC to amend the construction completion date for CPSES Unit 2; and seeks intervention.

I. Petitioners have Standing to Intervene

Pursuant to §189(a) of the Atomic Energy Act ("AEA"), 42 U.S.C. 2239(a)(1), and 10 C.F.R. § 2.714(a),^{2/} petitioners have standing to intervene. Ms. B. Irene Orr and Ms. D.I. Orr reside within a 50 mile radius of the Comanche Peak Steam Electric Station, Unit 2. B. Irene Orr resides at 606 W. Grand, Comanche, Texas; D.I. Orr resides at 545 W. Meadowlark Drive, Granbury, Texas. The health, safety and personal finances of Ms. B. Irene Orr and of Ms. D.I. Orr could be affected by an order granting TUEC's request for amendment. They live, work, recreate and travel in the environs of Comanche Peak. They eat food produced in an area that would be adversely affected by normal and accidental releases of radioactive materials from the construction of Unit 2, and they are a part of the TUEC rate base.

^{2/}

42 U.S.C. 2239(a)(1) (1983) states:

The Commission shall admit any such person whose interest may be affected by the proceeding as a party to the proceeding.

10 C.F.R. § 2.714(a)(1) states:

Any person whose interest might be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene.

Joseph J. Macktal is a former employee of CPSES and is currently seeking reinstatement of his job at CPSES. The status of his reinstatement is pending before the Secretary of Labor. He has been personally harmed due to management misconduct at CPSES and this misconduct directly contributed to the delay in the construction of Unit 2. He was to be a direct fact witness in the construction permit amendment proceedings on Unit 1 and has information which is relevant to the determination of TUEC's request to amend.

S.M.A. Hasan is a former engineer employed at the CPSES who was to be a fact witness before the ASLB panel convened to adjudicate the merits of TUEC's request to amend the construction completion date of CPSES, Unit 1. Due to secret hush money dealings between TUEC's counsel and counsel for the intervenors, he was precluded from appearing as a fact witness before the then pending construction permit amendment proceedings with respect to Unit 1. Mr. Hasan maintains an interest in exposing the management misconduct at CPSES which resulted in his removal from the CPSES site and which directly contributed to the delay in the construction of Units 1 and 2. Moreover, Mr. Hasan continues to seek reinstatement at CPSES, and he has a financial interest in the granting of TUEC's amendment request.

II. Petitioners are Entitled to a Hearing

Petitioners have standing to challenge TUEC's request for a construction permit extension.^{3/} As such, pursuant to 42 U.S.C. § 2239 (a)(1), the Commission is required to "grant a hearing upon the request of any person whose interest may be affected by the proceeding."

In 1986, CASE and Meddie Gregory were granted intervenor status and an opportunity to content the issuance of a construction permit amendment for CPSES, Unit 1.^{4/} Petitioners find themselves similarly situated to that of CASE and Ms. Gregory in 1986 with respect to TUEC's request to amend the construction permit of CPSES, Unit 1. Petitioners should be allowed to intervene in TUEC's pending request to amend the construction completion date of CPSES, Unit 2.

^{3/} Petitioners will submit contentions for adjudication upon receipt of notice of a pre-hearing conference.

^{4/} Specifically, in 1986, CASE requested a hearing regarding TUEC's request to extend the CPSES construction permit for Unit 1. 23 NRC 113, 116 (1986). After the NRC issued its significant hazards determination and approved the amendment to the construction permit, the Commission referred CASE's request to be heard to the ASLB Panel for a hearing. In its March 13, 1986 order, the Commission recognized that interested parties were "entitled to a hearing on the construction permit extension." 23 NRC 113, 121 (1986) (citing Brooks v AEC, 476 924 (D.C. Cir. 1973) (per curiam). The Commission instructed the Chairman of the ASLB Panel to constitute a new licensing board to consider whether TUEC had established that "good cause" existed for the delay in construction of the CPSES. In the Matter of Texas Utilities Elec. Co., Docket No. 50-445-CPA, 23 NRC 113, 121 (1986).

WHEREFORE, petitioners request:

(1) that a hearing be convened to determine whether good cause exists for an extension of the construction permit completion date for CPSES, Unit 2; and

(2) that the Commission grant petitioners leave to intervene with respect to TUEC's request to amend the construction permit for CPSES, Unit 2.

Respectfully submitted,



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Attorneys for Petitioners

July 27, 1992

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon the
following parties on this 27th day of July, 1992:

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Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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DOCKETING & SERVICE
BRANCH

Chief Administrative Law Judge
Atomic Safety and Licensing Board Panel
Washington, D.C. 20555

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By:


Michael D. Kohn

(Docket No. 59-446)

**Texas Utilities Electric Co., et al.;
Environmental Assessment and
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an extension to the latest construction completion date specified in Construction Permit No. CPPR-127 issued to Texas Utilities Electric Company, (the applicant), for the Comanche Peak Steam Electric Station (CPSES), Unit 2, located in Somervell County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the construction permit by extending the latest construction completion date from August 1, 1991 to August 1, 1995. The proposed action is in response to Applicant's request dated February 3, 1992, as supplemented by letter dated March 16, 1992.

The Need for the Proposed Action

The Applicant states in its request that the proposed action is needed to complete the construction and preoperational testing for Unit 2. For approximately 32 months, TU Electric redirected its resources principally to Unit 1 in order to complete construction and startup of that Unit. As a result, additional time is now needed to complete the construction of Unit 2.

Environmental Impacts of the Proposed Action

The environmental impacts associated with construction of the Comanche Peak facility are associated with both units and have been previously evaluated and discussed in the NRC Staff's Final Environmental Statement (FES), issued in June 1974, which covered the construction of both units. One of the environmental impacts, groundwater withdrawal, is the subject of a construction permit condition and will be discussed further below.

Since the proposed action concerns the extension of the construction permit, the impacts involved are all non-radiological and are associated with continued construction. There are no new significant impacts associated with the proposed action. All activities will take place within the facility, will not result in impacts to previously undisturbed areas, and will not have any significant additional environmental impact. However, there are impacts that would continue during the completion of facility construction.

The FES identified four major environmental impacts due to the construction of both units. Three of the four major environmental construction impacts discussed in the FES have already occurred and are not affected by this proposed action:

- Construction-related activities have disturbed about 400 acres of rangeland and 3,228 acres of land have been used for the construction of Squaw Creek Reservoir.
- The initial set of transmission lines and the additional planned line as discussed in the FES are completed.
- Pipelines have been relocated and the railroad spur and diversion and return lines between Lake Granbury and Squaw Creek Reservoir have been completed.

The fourth major environmental impact addressed in the FES is the community impact which would continue with the extended construction of the facility. The requested extension only involves impacts previously considered, with none of these impacts greater than those previously considered. These impacts flow principally from the prolonged presence of construction workers into the surrounding communities in Hood and Somervell counties. The current work force level of approximately 6650 represent the total on-site work force (i.e., TU Electric and contract personnel supporting Unit 1 and 2 activities). This number represents a decline of 850 from the peak work force on-site at the end of the construction phase of Unit 1, and will continue to decline as the applicant implements its destaffing plan, as Unit 2 construction nears completion. It should be noted that 85 percent of the total work force are contractors and consultants who do not live in the area and, in general, use only temporary quarters during the work week, (i.e., even while they are present there are no extended impacts associated with the arrival of families or services necessary to support permanent residents). In sum, the only community impacts which would accompany this extension would be those which extend the total time the local community is affected by the present demand for public services. As such, the maintenance of the work force level for the additional months requested should not result in significant additional impacts. In addition, it should be noted that only 4500 personnel are associated full time with the Unit 2 Construction Permit extension, and the remainder are required to support the operation of Unit 1 or split their time between Units 1 and 2.

Another impact, the subject of a construction permit condition, is groundwater withdrawal. At the present time, non-potable water for construction activities is being supplied from treated lake water. The construction permit for Comanche Peak Unit 2 includes a condition that the annual average groundwater withdrawal rate not exceed 40 gallons per minute (gpm). The applicant has confirmed that current groundwater withdrawal rates are within the limit established by the construction permit. Thus, continued construction will have no significant impact on groundwater. As background, the NRC Staff's environmental impact appraisal for Amendment 2 of Construction Permit No. CPPR-126 and CPPR-127 was based upon a maximum withdrawal of 6.57×10^6 gallons during the construction period of five years at a rate of 250 gpm. For the following reasons the staff's appraisal is still unchanged for the total groundwater to be withdrawn through August 1, 1995. First, from 1975 through December 1986 approximately 4.96×10^6 gallons of groundwater had been withdrawn from the two production wells. From June 1962 through December 1986, 4.52 million (0.45×10^6) gallons of groundwater had been withdrawn from an additional well (NOSF well). Second, from January 1987 through February 1992 approximately 64.3 million (0.65×10^6) gallons of groundwater had been withdrawn from the two production wells and the NOSF well. Third, even assuming a maximum groundwater withdrawal of 40 gpm from March 1, 1992 through August 1, 1995, for all groundwater sources (this withdrawal rate is authorized by Amendment 6 to Construction Permit, CPPR-126 and CPPR-127), there would be approximately 71.88 million (0.72×10^6) gallons withdrawn. Totaling the above results in a conservative estimate of the total groundwater withdrawal of approximately 6.37×10^6 gallons for the period through August 1, 1995, which is less than the 6.57×10^6 gallons originally evaluated and authorized by the NRC staff.

As required by the construction permit, environmental monitoring has been conducted.

In the past, a number of groups have identified concerns regarding the potential environmental impacts of several closed landfills at CPSES that contain relatively small amounts of hazardous wastes. Because these landfills are pre-existing conditions, any environmental impacts from the landfills will not be attributable to the extension of the construction completion date for

Unit 2. Furthermore, any impacts from the landfills will occur regardless of whether the construction completion date is extended, and an extension will not have any adverse effect on any impacts from the landfills. Therefore, the landfills in question have no relevance to the extension of the construction completion date for Unit 2.

In conclusion, there have been no unreviewed adverse environmental impacts associated with construction and none are anticipated.

Based on its evaluation, the staff has concluded that the calculated impact of continuing to withdraw groundwater at an annual average rate of 40 gpm for the site until August 1, 1995 is negligible and does not result in any significant additional environmental impact. The staff's conclusion is substantiated by groundwater level data collected at the site during construction and periods of large water withdrawal and provided in the Applicant's supplemental letter dated March 16, 1992.

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Since this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or significant changes to those impacts described and analyzed in the original environmental impact statement. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternative to the Proposed Action

The NRC staff has considered that a possible alternative to the proposed action would be for the Commission to deny the request. If this alternative were executed, the Applicant would not be able to complete the construction of the facility, resulting in the denial of benefits to be derived from the production of electric power. This alternative would not eliminate the environmental impacts of construction which have already been incurred. If construction were not completed on CPSES Unit 2 the amount of site redress activities that could be undertaken to restore the area to its natural state would be minimal due to the operation of CPSES Unit 1. This slight environmental benefit would be much outweighed by the economic losses from denial of the use of a facility that is nearly complete. Therefore, the NRC staff has rejected this alternative.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered

in the Final Environmental Statement for the Comanche Peak Steam Electric Station.

Agencies and Persons Consulted

The NRC staff reviewed the Applicant's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for this action.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the Applicant's request for extension dated February 3, 1992, as supplemented by letter dated March 16, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 23d day of June 1992.

For the Nuclear Regulatory Commission,

Suzanne C. Black,

Director, Project Directorate IV-2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 92-15200 Filed 6-29-92; 8:45 am]

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Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on July 9-11, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on May 21, 1992.

Thursday, July 9, 1992

8:30 a.m.-8:45 a.m.: Opening Remarks by ACRS Chairman

(Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.-12 Noon: Integral System Testing for the Westinghouse AP600

(Open/Closed)—The Committee will review and report on proposed integral system testing programs for certification of the Westinghouse AP600 standard plant design. Representatives of the

NRC staff and the Westinghouse Electric Corporation will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1 p.m.-2 p.m.: Status of Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) Program

(Open)—The Committee will review and comment on the status of the ITAAC program and plans for its implementation. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

2:15 p.m.-4:45 p.m.: Severe Accident Research Program Plan

(Open)—The Committee will review and comment on proposed revision of the Severe Accident Research Program Plan (NUREG-1365, Rev. 1) to update the plan consistent with regulatory developments. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

4:45 p.m.-5:45 p.m.: Meeting with Director, NRC Office for Analysis and Evaluation of Operational Data

(Open)—The Committee will hear a briefing and hold a discussion on items of mutual interest, including use of "expert systems" in the accident management process, use of simulators at the NRC Training Center, and the status of implementation of the Energy Response Data System.

5:45 p.m.-6:15 p.m.: Future ACRS Activities

(Open)—The Committee will discuss topics proposed for consideration by the full Committee.

6:15 p.m.-8:45 p.m.: Preparation of ACRS Reports

(Open)—The Committee will discuss proposed Committee comments and recommendations regarding items considered during this meeting.

Friday, July 10, 1992

8:30 a.m.-10:30 a.m.: EPRI Requirements for Evolutionary Light-Water Reactors

(Open)—The Committee will review and report on proposed EPRI design requirements for evolutionary light-water reactors and the associated NRC staff's safety evaluation report. Representatives of the NRC staff and EPRI will participate, as appropriate.

NUCLEAR REGULATORY COMMISSION
TEXAS UTILITIES ELECTRIC COMPANY, ET AL.
COMANCHE PEAK STEAM ELECTRIC STATION, UNIT 2
DOCKET NO. 50-446
ORDER EXTENDING LATEST CONSTRUCTION COMPLETION DATE

The Texas Utilities Electric Company (TU Electric) is the holder of Construction Permit No. CPPR-127 issued by the Atomic Energy Commission on December 19, 1974, for construction of the Comanche Peak Steam Electric Station, Unit 2, a nuclear facility utilizing a Westinghouse Electric Corporation nuclear steam supply system, at the Applicant's site in Somervell County, Texas.

By letter dated February 3, 1992, as supplemented on March 16, 1992, TU Electric filed a request for extension of the latest construction completion date specified in Construction Permit No. CPPR-127 to August 1, 1995. In its justification for the extension request TU Electric stated that the estimated one-year suspension of Unit 2 construction, which began in April 1988, was necessary to allow TU Electric to concentrate its resources on the completion of Unit 1. The completion and startup of Unit 1 took longer than anticipated, forcing TU Electric to delay significant design activities on Unit 2 until June 1990, followed by the resumption of significant construction activity in January 1991.

As discussed more fully in the staff's evaluation of the requested extension, we have concluded good cause has been shown for the delay and that the requested extension is for a reasonable period. We have further concluded that the requested extension involves no significant hazards consideration, and therefore no prior public notice is required.

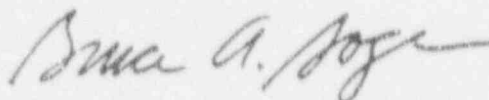
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The NRC staff has prepared an Environmental Assessment and Finding of No Significant Impact which was published in the Federal Register on June 29, 1992 (57 FR 28885). The NRC staff has concluded that this action will not have a significant impact on the quality of the human environment, and therefore, no environmental impact statement need be prepared.

For further details with respect to this action, see the applicant's request for extension dated February 3, 1992, as supplemented by letter dated March 16, 1992, and the staff's evaluation of the request, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019.

IT IS HEREBY ORDERED that the latest construction completion date for CPPR-127 be extended to August 1, 1995.

FOR THE NUCLEAR REGULATORY COMMISSION



Bruce A. Boger, Director
Division of Reactor Projects III/IV/V
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 28th day of July 1992.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

SAFETY EVALUATION OF REQUEST FOR EXTENSION
OF THE LATEST CONSTRUCTION PERMIT COMPLETION DATE
TEXAS UTILITIES ELECTRIC COMPANY, ET AL.
COMANCHE PEAK STEAM ELECTRIC STATION, UNIT 2
DOCKET NO. 50-446

1.0 INTRODUCTION

By letter dated February 3, 1992, as supplemented March 16, 1992, Texas Utilities Electric Company (TU Electric) applied for an extension of the construction completion date for Construction Permit CPPR-127 for Comanche Peak Steam Electric Station, Unit 2. TU Electric requested that the latest completion date be extended for up to three years, to August 1, 1995.

TU Electric previously requested an extension to the latest construction completion date in the 1987 - 1988 timeframe. This extension request was necessary to complete an intensive program of review and reinspection to provide evidence of the safe design and construction of Comanche Peak Steam Electric Station, Units 1 and 2. This program, along with the concentration of TU Electric resources on completing Unit 1 (necessitating a temporary suspension of Unit 2 construction), resulted in the Applicant's request to extend the latest construction completion date to August 1, 1992. As established by Commission Order on November 18, 1988, the Applicant's request was approved.

Due primarily to the unanticipated delay in completing construction and licensing efforts on Unit 1, the Applicant has requested an extension of the construction completion date for Unit 2. Pursuant to 10 CFR 50.55(b) the Applicant's request must show good cause for the extension and be for a reasonable time period. The staff has reviewed TU Electric's request based on the criterion specified in 10 CFR 50.55(b) and has provided the following evaluation.

2.0 EVALUATION

Good Cause

In their February 3, 1992, submittal TU Electric states that good cause exists to warrant the construction completion date extension request. TU Electric's previous request for an extension of the latest construction completion date was predicted based upon an estimated one-year suspension in construction, beginning in April 1988. The purpose of the suspension was to allow TU Electric to concentrate its resources on the completion of Unit 1. Unit 1 was not licensed until February 1990. As a result of concentrating on Unit 1

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construction completion, licensing, and initial power operation, TU Electric did not resume significant design activities for Unit 2 until June 1990, followed by the resumption of significant construction activity in January 1991. Thus, the period of suspension of Unit 2 work lasted much longer than originally estimated (close to three years versus the one year originally estimated). The longer period reflected the time needed to complete construction and startup of Unit 1.

In the staff's judgment, TU Electric has been assiduous in their efforts to detect and correct actual and potential violations of NRC regulations and complete the construction of the plant. Although their intensive program of review and reinspection lasted longer than predicted, it was essential to providing the requisite assurance of proper design and construction prior to Unit 1 licensing. Design and construction work on Unit 2 was appropriately deferred to allow for the knowledge gained from the reinspections and corrective action program to be applied to Unit 2.

The staff believes that neither the extent nor the complexity of the reinspections and reverifications could have been foreseen when the Applicant previously requested, and was granted, an extension of the latest construction completion date to August 1, 1992. The unanticipated prolonged suspension in the construction of Unit 2, for the purpose of reverifying design and completing Unit 1 construction and initial operation, warrants an extension of the construction permit for Unit 2. The staff, therefore, concludes that the Applicant has demonstrated good cause for the delay which warrants an extension of the construction permit for Unit 2.

Reasonableness of the Period of Time Requested

TU Electric has requested to extend the construction permit for three years, from August 1, 1992 to August 1, 1995. TU Electric states that this time period is needed to provide a period of continuous construction and testing, plus a contingency period for any unanticipated delays.

TU Electric currently estimates completion of construction in December 1992. The Applicant is maintaining relatively close to its planned construction and testing schedule. The three year extension request provides an adequate contingency period, and sets an acceptable end date where the construction permit would need to be reevaluated for environmental impacts.

The staff has evaluated TU Electric's request and agrees that the period of time requested for the extension of the latest construction completion date is reasonable.

3.0 ENVIRONMENTAL CONSIDERATION

The staff has also considered the environmental impacts of the construction permit, and has determined that the proposed action does not entail any construction activities significantly different from those that were considered in the Final Environmental Statement (FES) for Comanche Peak Units 1 and 2. The NRC staff requested and reviewed a supplemental submittal

dated March 16, 1992, which clarified groundwater usage. The staff verified that conservative estimates of groundwater use are within those limits originally evaluated and authorized by the NRC staff. The NRC staff concludes that the proposed action will not alter the conclusions reached in the FES. Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion date will have no significant impact on the environment (57 FR 28885).

4.0 CONCLUSION

The staff, based on the above evaluation, concludes that pursuant to 10 CFR 50.55(b), the applicant has shown good cause for the delay and that the requested extension is for a reasonable period of time. Since the request is merely for more time to complete construction already authorized under Construction Permit No. CPPR-127 and does not seek authorization for activities not previously authorized, it does not involve a significant increase in the probability or consequences of an accident previously evaluated, or create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety. Accordingly, the staff has concluded that the action does not involve a significant hazards consideration and no prior notice of issuance of the extension to the latest construction completion date is necessary in accordance with 10 CFR 50.92(a).

Based upon the above evaluation the staff has concluded that the issuance of an Order extending the latest completion date for construction of Comanche Peak Steam Electric Station, Unit 2 is reasonable and should be authorized. The latest completion date should be extended to August 1, 1995.

Principal Contributors: Scott Flanders
Brian Holian

Date: July 28, 1992