

WAPA AGREES TO DO IMPACT STUDY ON ITS NEW MARKETING PLAN

Deseret News, The (Salt Lake City, UT)

September 20, 1989

Author: Joseph Bauman, Environmental Specialist

Estimated printed pages: 3

The trial of a major environmental lawsuit was called off Tuesday when the Western Area Power Administration, a federal agency, capitulated to the conservationists' demands. A week before the trial was to begin, WAPA agreed it would prepare an environmental impact statement on its new power marketing criteria.

The move threw open the question of whether WAPA can deliver power at the prices promised to hundreds of towns, under contracts executed this year. The contracts were to go into effect on Oct. 1.

As environmental lawyer Wayne Petty, Salt Lake City, said at the conclusion of a hearing, "The contracts commit WAPA to delivery of a certain amount of power."

During the hearing at which the switch was announced Tuesday afternoon, U.S. District Judge J. Thomas Greene scheduled another court session for Monday. At that time, he will receive evidence about whether the contracts should remain in effect pending completion of the impact statement, or EIS.

Environmentalists charge that the operation of Glen Canyon Dam harms the downstream ecology of Grand Canyon National Park. Heavy releases of water to generate power and tremendous fluctuations in the volume of releases rip out beaches and strand fish, according to a federal study. The contracts, signed between February and April, may greatly influence the releases from Glen Canyon and possibly Flaming Gorge dams.

The capitulation was announced in a letter to Greene from WAPA Administrator William H. Clagett, based in Golden, Colo. WAPA is within the U.S. Department of Energy.

"The remaining issue in this litigation is whether Western acted properly by preparing a thorough environmental assessment" of its new marketing criteria, the letter says. "The NWF (National Wildlife Federation) contends that Western should have prepared an EIS because they believe there are some impacts."

The assessment, completed in 1985, concluded that there were no significant impacts. "However, times have changed since 1985," Clagett conceded. "The public debate over Colorado River operations has escalated, at times almost to strident levels." On July 27, the Bureau of Reclamation announced it would write an impact statement on its operations at Glen Canyon, he noted.

"Given the current controversy and public debate, it is my decision that Western should now prepare an EIS on its criteria."

The administrator wrote that power contracts will preserve electrical service to the region, while a special reopener clause approved earlier by Greene would allow contract changes, should they become necessary because of either EIS.

But according to lawyers for environmental groups involved, that's not enough. The groups believe WAPA should not be allowed to put its new operating criteria into play before the studies are finished.

If the contracts don't begin taking effect as scheduled, the settlement in an earlier suit by Utah Power & Light Co. in effect falls apart, according to the government.

Ty Cobb, representing the environmentalists, said the National Environmental Policy Act requires the preparation of an impact statement before an agency commits irrevocably to a course of conduct.

Max C. Vassenelli, representing WAPA, believes that because of the reopener clause, the agreements are not irrevocable commitments.

But Cobb said that for the environmental statement to have any validity, "that would necessarily require in our view that the contracts be enjoined."

A lawyer representing municipal customers of WAPA, utilities that benefit from cheap agency power, said the environmentalists seem to have "a disregard for the consequences that might follow" an injunction.