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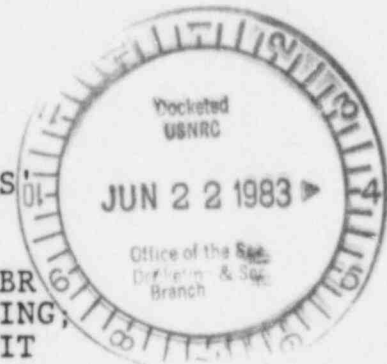
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
UNITED STATES DEPARTMENT OF ENERGY
PROJECT MANAGEMENT CORPORATION
TENNESSEE VALLEY AUTHORITY
(Clinch River Breeder Reactor Plant)

Docket No. 50-537

APPLICANTS' RESPONSE TO INTERVENORS'
MOTION TO WITHDRAW CONTENTIONS 1,
3, AND 9(c), (f) and (g) FROM
CONSIDERATION AT THE JULY, 1983, CRBR
CONSTRUCTION PERMIT EVIDENTIARY HEARING,
AND REQUEST FOR PERMISSION TO SUBMIT
A WRITTEN STATEMENT



The United States Department of Energy ("DOE") and Project Management Corporation ("PMC"), for themselves and on behalf of the Tennessee Valley Authority (the Applicants), hereby respond to Intervenor's Motion to Withdraw Contentions 1, 3, and 9(c), (f) and (g) from Consideration at the July 1983, CRBR Construction Permit Evidentiary Hearing; and Request for Permission to Submit a Written Statement, dated June 21, 1983,*/ as follows:

*/ Hereinafter, "Intervenors' Motion".

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1. Contentions 1, 3, and 9(c), (f) and (g) are the only issues which have remained in dispute between the parties for the Construction Permit hearings. Intervenors' Motion at 1; see Board Order, dated May 17, 1983 at 1-2. Since Intervenors have now moved to withdraw Contentions 1, 3, and 9(c), (f) and (g), Applicants hereby request that the Board issue an Order dismissing those contentions. See Board Order dated May 17, 1983 at 1-2.

2. Intervenors' Response to Applicants' Motions for Summary Disposition on Intervenors' Contention 9(g) and for Partial Summary Disposition on Intervenors' Contentions 9(c) and 9(f), dated June 21, 1983, submitted that Applicants' Motions should be denied on the ground that Intervenors' withdrawal of these contentions rendered the Applicants' Motions moot. On the contrary, Intervenors' withdrawal of the contentions has rendered the contentions moot, and since Intervenors have filed no answer opposing Applicants' Motions as required by 10 C.F.R. §§2.749(a) and (b), Applicants' Motions for Summary Disposition, dated May 19 and May 23, 1983, should be granted pursuant to the express terms of 10 C.F.R. §2.749(b).

3. Intervenors have not requested withdrawal as parties to the proceedings, "since they will continue to press their appeal of the February 28, 1983 Partial Initial Decision ('PID')", and if "the Appeal Board orders further proceedings , Intervenors intend to participate fully." Intervenors'

Motion at 2. Since Intervenors have no issues to raise at the Construction Permit phase of the proceedings, and since they do not intend to participate as to any matters in that phase of the proceedings, Applicants hereby request that the Board issue an Order dismissing Intervenors as parties to all future Construction Permit proceedings, without prejudice to whatever rights Intervenors may have as to the prior LWA proceedings. Applicants, of course, will retain the names of Ms. Finamore and Mr. Scherr on the service list as to all matters relating to LWA proceedings and appeals therefrom.

4. As to Intervenors' request to submit a written statement concerning the issues raised in the Construction Permit proceeding, since Intervenors now have no issues to raise and do not desire to participate in the Construction Permit proceedings, they are not entitled to party status in those proceedings. See 10 C.F.R. §2.714. The Construction Permit proceedings are now uncontested. In the discretion of the presiding officer, Intervenors may, however, be permitted to make a limited appearance by filing a written statement on Construction Permit issues. 10 C.F.R. §2.715(a).

Applicants recommend that the Board exercise its discretion to permit Intervenors to file their requested written statement, by way of a limited appearance pursuant to 10 C.F.R. §2.715(a); subject to the condition that it be filed on July 5, 1983 (the date established for filing testimony by all parties pursuant to the Board's March 29, 1983 Order). This will enable the

Board to consider matters raised in the statement in advance of the hearings, and to raise any matter from the statement which it considers appropriate with the Applicants and NRC Staff in the upcoming uncontested evidentiary hearing. Further, this will afford a reasonable opportunity for Applicants and the NRC Staff to respond to any matters raised by the Board from the statement, either in the hearings or in proposed Findings of Fact and Conclusions of Law, as appropriate.

5. As to the future course of the upcoming uncontested evidentiary hearings, Applicants recommend the following:

a. On July 5, 1983, in accordance with the Board's March 29, 1983 Order, the Applicants and NRC Staff should file written testimony which includes, as applicable to each, their respective responses to all Matters of Board Interest specifically identified in the Board's May 24, 1983 Notice of Hearing.

b. On July 5, 1983, in accordance with the Board's March 29, 1983 Order, the Applicants and Staff should file written testimony which, in addition to the responses noted in paragraph 5a. above, includes responses to the following issues:

1. Whether hypothetical core disruptive accidents (HCDA's) should be design basis accidents (DBA's) for CRBRP.
2. Whether the HCDA analyses conducted for the CRBRP are adequate. This would include testimony addressing the

energetics and core melt issues in
which the Board has expressed interest.

The Applicants believe that, in light of the interest expressed by the Board in these issues in the PID and in the May 13, 1983 Prehearing Meeting, and Applicants' and Staff's interest in obtaining a final resolution of these issues by the Board, these issues should be fully considered by the Board in the upcoming evidentiary hearings.

c. At the hearings commencing on July 18, 1983, the Applicants and NRC Staff should present witnesses to sponsor the testimony described in paragraphs 5a. and b. above and to be questioned by the Board in sequence.

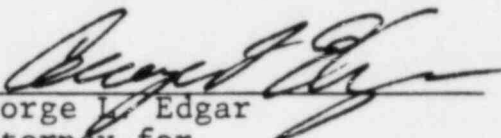
d. The Applicants and NRC Staff will be afforded the opportunity to respond to any matters raised by the Board from Intervenors' 10 C.F.R. §2.715(a) written statement, through oral testimony at the evidentiary hearing or in Proposed Findings of Fact and Conclusions of Law, as appropriate.


6. Applicants request that the Board immediately issue an Order adopting the positions and recommendations set forth above. Further, Applicants request that, after issuance of this Order, the Board promptly call a Prehearing Meeting with Applicants' and Staff counsel to discuss the scheduling of witnesses and any other matters relating to the conduct of the upcoming uncontested hearings.

7. All matters and positions presented in the foregoing paragraphs have been discussed with counsel for the NRC Staff (Mr. Turk), who indicated his concurrence and authorized the Applicants to represent that he concurs.

For the foregoing reasons, Applicants request that the Board issue an Order adopting the foregoing positions and recommendations.

Respectfully submitted,


George L. Edgar
Attorney for
Project Management Corporation


William D. Luck
Attorney for United States
Department of Energy

DATED: June 22, 1983

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NUCLEAR REGULATORY COMMISSION
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CERTIFICATE OF SERVICE

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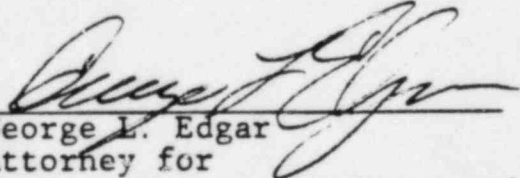
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DATED: June 22, 1983

*/ Denotes hand delivery to 1717 "H" Street, N.W., Washington, D.C.