

Docket No. 50-259

DEC 20 1973

DEC 20 1973

Tennessee Valley Authority
ATTN: Mr. James E. Watson
Manager of Power
818 Power Building
Chattanooga, Tennessee 37401

(Full power)

- Distribution:
- AEC PDR W. Miller
 - Local PDR D. Clark
 - Docket File J. Stolz
 - L:LWR 2-1 File LWR 2 Branch
 - RP Reading File Chiefs
 - Attorney, OGC ACRS (16)
 - RO (3) D. Muller
 - N. Dube
 - M. Jinks (4)
 - V. A. Moore
 - C. Hebron, F&M
 - D. Foster, F&M
 - R. Chitwood, F&M
 - A. Braitman, A&L
 - H. Smith
 - F. Williams
 - S. Kari

Gentlemen:

The Atomic Safety and Licensing Board having dismissed the proceeding relating to the licensing action in a "Memorandum and Order," dated November 27, 1973, the Atomic Energy Commission has issued Amendment No. 2 to the Facility Operating License No. DPR-33 (copy enclosed) for Tennessee Valley Authority's Browns Ferry Nuclear Plant, Unit 1, which amends the license in its entirety. The amended license authorizes operation of Unit 1 at steady state reactor core power levels not in excess of 3293 megawatts thermal in accordance with the Technical Specifications contained in Appendices A and B, as changed, attached to License No. DPR-33, dated June 26, 1973.

Amendment No. 2 also authorizes the receipt, possession, and use of 10 millicuries of Strontium-90 in the form of a sealed source in addition to the 0.01 millicurie in the form of sealed sources, not to exceed 1.2 microcuries per source, which is authorized in License No. DPR-33, dated June 26, 1973. The additional Strontium-90 sealed source will be used for portable survey instrumentation calibration verification. You have described in a letter to the Commission dated November 16, 1973, the material's usage and control and have in force for the facility Standard Protection Number BFS2 entitled "Radioactive Byproduct Materials," which supersedes Standard Practice Number 8. This document contains procedures and authorizations regarding safety, control, and accountability requirements governing the storage and use of licensed byproduct material such as Strontium-90. It is concluded therefrom that the additional byproduct material does not present a significant hazards consideration.

A related notice, which has been forwarded to the Office of the Federal Register for filing and publication, and the Board's Order are enclosed for your information.

Sincerely,

Voss A. Moore, Assistant Director
for Light Water Reactors Group
Directorate of Licensing

g

OFFICE →					
SURNAME (see next page)					
DATE →					

DEC 20 1973

Enclosures:

1. Amendment No. 2 to License No. DPR-33
2. Federal Register Notice
3. ASLB's Memorandum and Order dated 11/27/73

cc: Mr. Robert H. Marquis
 General Counsel
 629 New Sprankle Building
 Knoxville, Tennessee 37919

Dr. Cecil Thomas
 Tennessee Valley Authority
 303 Power Building
 Chattanooga, Tennessee 37401

Honorable William J. Baxley
 Attorney General
 State of Alabama
 Montgomery, Alabama 36104

Honorable Henry H. Caddell
 Assistant Attorney General
 State of Alabama
 Montgomery, Alabama 36104

Mr. Frank L. Parker
 Environmental and Water Resources
 Engineering
 Vanderbilt University
 Nashville, Tennessee 37235

Ira L. Meyers, M. D.
 State Health Officer
 State Department of Public Health
 State Office Building
 Montgomery, Alabama 36104

Mr. Thomas Lee Hammons
 Chairman, Limestone County
 Board of Revenue
 Athens, Alabama 35611

Mrs. Maude S. Miller, Librarian
 Athens Public Library

~~South and Forrest~~

OFFICE➤	Athens, Alabama 35611	L:BWR-2	OGC	L:BWR	L:RP:EP
SURNAME➤	HSmith;ew	FWilliams	JFSto	W. PLASSAR V Moore	DMu
DATE➤	11/30/73	11/ /73	12/3/73	12/13/73	12/19/73

Docket No. 50-259

Tennessee Valley Authority
ATTN: Mr. James E. Watson
Manager of Power
818 Power Building
Chattanooga, Tennessee 37401

Gentlemen:

Pursuant to the presiding Atomic Safety and Licensing Board's "Memorandum and Order," dated November 27, 1973, the Atomic Energy Commission has issued Amendment No. 2 to the Facility Operating License No. DPR-33 (copy enclosed) for Tennessee Valley Authority's Browns Ferry Nuclear Plant, Unit 1, which amends the license in its entirety. The amended license authorizes operation of Unit 1 at steady state reactor core power levels not in excess of 3893 megawatts thermal in accordance with the Technical Specifications contained in Appendices A and B, as changed, attached to License No. DPR-33, dated June 26, 1973.

Amendment No. 2 also authorizes the receipt, possession, and use of 10 millicuries of Strontium-90 in the form of a sealed source in addition to the 0.01 millicurie in the form of sealed sources, not to exceed 1.2 microcuries per source, which is authorized in License No. DPR-33, dated June 26, 1973. The additional Strontium-90 sealed source will be used for portable survey instrumentation calibration verification. You have described in a letter to the Commission dated November 16, 1973, the material's usage and control and have in force for the facility Standard Protection Number BFS2 entitled "Radioactive Byproduct Materials," which supersedes Standard Practice Number 8. This document contains procedures and authorizations regarding safety, control, and accountability requirements governing the storage and use of licensed byproduct material such as Strontium-90. It is concluded therefrom that the additional byproduct material does not present a significant hazards consideration.

A related notice, which has been forwarded to the Office of the Federal Register for filing and publication, and the Board's Order are enclosed for your information.

Sincerely,

Voss A. Moore, Assistant Director
for Boiling Water Reactors
Directorate of Licensing

Distribution:

- | | |
|------------------|------------|
| AEC PDR | S. Kari |
| Local PDR | W. Miller |
| Docket File | D. Clark |
| BWR-2 File | J. Stolz |
| RP Reading | W. Butler |
| Attorney, OGC | R. Clark |
| RO (3) | R. Ireland |
| N. Dubé | ACRS (16) |
| M. Jinks (4) | D. Muller |
| V. A. Moore | |
| C. Hebron, F&M | |
| D. Foster, F&M | |
| R. Chitwood, F&M | |
| A. Braitman, A&L | |
| H. Smith | |
| F. Williams | |

OFFICE →					
(see next page)					
SURNAME →					
DATE →					

Docket No. 50-259

Tennessee Valley Authority
ATTN: Mr. James E. Watson
Manager of Power
818 Power Building
Chattanooga, Tennessee 37401

Gentlemen:

Pursuant to the presiding Atomic Safety and Licensing Board's Orders dated November 27, 1973, the Atomic Energy Commission has issued Amendment No. 2 to the Facility Operating License No. DPR-33 (copy enclosed) for Tennessee Valley Authority's Browns Ferry Nuclear Plant, Unit 1, which amends the license in its entirety. The amended license authorizes operation of Unit 1 at steady state power levels not in excess of 3293 megawatts thermal in accordance with the Technical Specifications contained in Appendices A and B, as changed, attached to License No. DPR-33, dated June 26, 1973.

Amendment No. 2 also authorizes the receipt, possession, and use of 10 millicuries of Strontium-90 in the form of a sealed source in addition to the 0.01 millicurie in the form of sealed sources which is not to exceed 1.2 microcuries per source. The additional Strontium-90 sealed source will be used for portable survey instrumentation calibration verification. You have described in a letter to the Commission dated November 16, 1973, the material's usage and control and have in force for the facility Standard Protection Number BFS2 entitled "Radioactive Byproduct Materials," which supersedes Standard Practice Number 8. This document contains procedures and authorizations regarding safety, control, and accountability requirements governing the storage and use of licensed byproduct material such as Strontium-90. It is concluded therefrom that the additional byproduct material does not present a significant hazards consideration.

A related notice, which has been forwarded to the Office of the Federal Register for filing and publication, and the Board's Order are enclosed for your information.

Sincerely,

Voss A. Moore, Assistant Director
for Boiling Water Reactors
Directorate of Licensing

OFFICE →					
SURNAME →	(see next page)				
DATE →					

Distribution:

- | | |
|------------------|------------|
| AEC PDR | W. Miller |
| Local PDR | D. Clark |
| Docket File | J. Stolz |
| BWR-2 File | W. Butler |
| RP Reading | R. Clark |
| Attorney, OGC | R. Ireland |
| RO (3) | ACRS (16) |
| N. Dube | D. Muller |
| M. Jinks (4) | |
| V. A. Moore | |
| C. Hebron, F&M | |
| D. Foster, F&M | |
| R. Chitwood, F&M | |
| A. Braitman, A&L | |
| H. Smith | |
| F. Williams | |
| S. Kari | |

Enclosures:

1. Amendment No. 2 to License No. DPR-33
2. Federal Register Notice
3. ASLB's Order

cc: Mr. Robert H. Marquis
 General Counsel
 629 New Sprankle Building
 Knoxville, Tennessee 37919

Dr. Cecil Thomas
 Tennessee Valley Authority
 303 Power Building
 Chattanooga, Tennessee 37401

Honorable William J. Baxley
 Attorney General
 State of Alabama
 Montgomery, Alabama 36104

Honorable Henry H. Caddell
 Assistant Attorney General
 State of Alabama
 Montgomery, Alabama 36104

Mr. Frank L. Parker
 Environmental and Water Resources
 Engineering
 Vanderbilt University
 Nashville, Tennessee 37235

Ira L. Meyers, M. D.
 State Health Officer
 State Department of Public Health
 State Office Building
 Montgomery, Alabama 36104

Mr. Thomas Lee Hammons
 Chairman, Limestone County
 Board of Revenue
 Athens, Alabama 35611

Mrs. Maude S. Miller, Librarian
 Athens Public Library
 South and Forrest
 Athens, Alabama 35611

OFFICE➔	L:BWR-2	L:BWR-2	L:BWR-2	OGC	L:BWR	<i>L:RP:EP</i>
SURNAME➔	HSmith:ew	FWilliams	JFStolz		VAMoore	<i>Miller</i>
DATE➔	11/28/73	11/ /73	11/ /73	11/ /73	11/ /73	

AMENDMENT NO. 2 to

CHECKLIST FOR ISSUANCE OF FACILITY LICENSE
(FULL POWER LICENSE)

DOCKET NO. 50-259

APPLICANT Tennessee Valley Authority

FACILITY Browns Ferry Nuclear Plant, Unit 1

PROJECT MANAGER F. (Mike) Williams

LICENSING ASSISTANT Hazel Smith

DATE

Notice of Consideration of Issuance of License:
Published in FEDERAL REGISTER (37 FR 19394)
Action Date

9-20-72
10-21-72

OR

11-27-73

Initial Decision or Order
Safety Review:

6-26-72
9-21-72

L Safety Evaluation
ACRS Letter

Environmental Review:

9-1-72
9-23-72

Final Environmental Statement
Published in FEDERAL REGISTER (37 FR 20052)

Antitrust Review:
OAI Concurrences

N/A

Notifications Required by Act & Commission Rules*:
State Official
Local Official

10-15-70
12-11-70

Water Quality Certification:
Submittal by Applicant
Transmitted to EPA

N/A
N/A

License Fee: \$146,150
Amount: \$ 6,105 Paid

(99%)
(1%)

10-11-73
12-10-73

Indemnity Agreement:
OAI Concurrence

N/A
N/A

Status of Outstanding Construction Items Checked w/RO

8/9/73

Regulatory Operations Final Report: (If Available)

6/22/73

Technical Specifications:

6/20/73

RP Concurrence
EP Concurrence

undated

Public Announcement (to be released): (If Available)
(Attach Copy)

Issuance Package: OGC Concurrence

12-14-73 (ret'd to 12-18-73) RP

1. License
2. FEDERAL REGISTER Notice
3. Letter to Applicant
4. Information Report

12-14-73

12-14-73

12-14-73

Rad. Tech Spec Change (Fuel Densification) (SER 11-8-73)

11-30-73

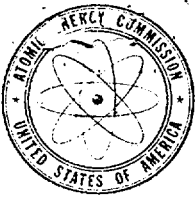
Non-Rad. Tech Spec Change (Fish Kill)

12- -73

Revised: MAY 7 1973

* Date Initial Application Forwarded

PK



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

TENNESSEE VALLEY AUTHORITY

(BROWNS FERRY NUCLEAR PLANT, UNIT 1)

DOCKET NO. 50-259

FACILITY OPERATING LICENSE

Amendment No. 2
License No. DPR-33

1. The Atomic Energy Commission (the Commission) having found that:
 - A. The application for license filed by the Tennessee Valley Authority (the licensee) complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I and all required notifications to other agencies or bodies have been duly made;
 - B. Construction of the Browns Ferry Nuclear Plant, Unit 1 (the facility) has been substantially completed in conformity with Construction Permit No. CPPR-29 and the application, as amended, the provisions of the Act and the rules and regulations of the Commission;
 - C. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission;
 - D. There is reasonable assurance: (i) that the activities authorized by this amended operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the rules and regulations of the Commission;
 - E. The licensee is technically and financially qualified to engage in the activities authorized by this amended operating license in accordance with the rules and regulations of the Commission;
 - F. The licensee has satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;
 - G. The issuance of this amended operating license will not be inimical to the common defense and security or to the health and safety of the public;

- H. After weighing the environmental, economic, technical and other benefits of the facility against environmental costs and considering available alternatives, the issuance of Facility Operating License No. DPR-33, as amended, is in accordance with 10 CFR Part 50, Appendix D, of the Commission's regulations; and
 - I. The receipt, possession, and use of source, byproduct and special nuclear material as authorized by this amended license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40, and 70, including 10 CFR Sections 30.33, 40.32, 70.23, and 70.31.
2. The Atomic Safety and Licensing Board having dismissed the proceeding relating to the licensing action in a "Memorandum and Order," dated November 27, 1973, Facility Operating License No. DPR-33 issued to the Tennessee Valley Authority on June 26, 1973 is hereby amended in its entirety to read as follows:"
- A. This amended license applies to the Browns Ferry Nuclear Plant, Unit 1, a boiling water nuclear reactor and associated equipment (the facility), owned by the Tennessee Valley Authority. The facility is located in Limestone County, Alabama, and is described in the "Final Safety Analysis Report" (Amendment 9) as supplemented and amended (Amendments 10 through 52), the licensee's Draft Environmental Statement and supplement thereto dated July 1971, and November 8, 1971, respectively, and the licensee's Final Environmental Statement dated September 1, 1972.
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Tennessee Valley Authority:
 - (1) Pursuant to Section 104b of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities," to possess, use, and operate the facility at the designated location in Limestone County, Alabama, in accordance with the procedures and limitations set forth in this amended license;
 - (2) Pursuant to the Act and 10 CFR Part 70, "Special Nuclear Material," to receive, possess, and use at any time up to 6000 kilograms of contained Uranium 235 in connection with operation of the facility;
 - (3) Pursuant to the Act and 10 CFR Part 30, "Rules of General Applicability to Licensing of Byproduct Material," to receive, possess, and use in connection with operation of the facility:
 - a. Any byproduct material with Atomic Numbers 3 through 83, up to 50 millicuries, without restriction as to the chemical or physical form, and not to exceed 10 millicuries per isotope
 - b. Cobalt-60, up to 0.8 millicurie in the form of sealed sources, not to exceed 350 microcuries per source

- c. Strontium-90, up to 0.01 millicurie in the form of sealed sources, not to exceed 1.2 microcuries per source; one sealed source not to exceed 10 millicuries
 - d. Cesium-137, up to 0.1 millicurie as sealed sources, not to exceed 5 microcuries per source
 - e. Sodium-24, up to 1000 millicuries without restriction as to chemical or physical form
 - f. Americium-241, 1 sealed source of 10 curies in the form of an Americium-Beryllium neutron source, and 1 millicurie without restriction as to the chemical or physical form
 - g. Antimony-124, not to exceed 1200 curies each of 14 Antimony-Beryllium neutron sources
 - h. Tritium, two 250 millicurie sources to be used with the Varian gas chromatograph;
- (4) Pursuant to the Act and 10 CFR Part 40, "Licensing of Source Material," to receive, possess, and use 12,250 kilograms of normal uranium in connection with operation of the facility; and
- (5) Pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.
- C. This amended license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Chapter I: Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:
- (1) Maximum Power Level
The licensee is authorized to operate the facility at steady state reactor core power levels not in excess of 3293 megawatts thermal.
 - (2) Technical Specifications
The Technical Specifications contained in Appendices A and B, as changed, attached to Facility Operating License No. DPR-33, dated June 26, 1973, are hereby incorporated in this amended license. The licensee shall operate the facility in accordance with these Technical Specifications. No changes shall be made in these Technical Specifications

unless authorized by the Commission in accordance with the provisions of Section 50.59 of 10 CFR Part 50.

- (3) In the operation of the facility, the licensee shall, pursuant to the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), comply with all applicable thermal water quality standards of the State of Alabama and the United States.
- D. This amended license is effective as of the date of issuance and shall expire at midnight on May 10, 2007.

FOR THE ATOMIC ENERGY COMMISSION

A. Giambusso

A. Giambusso, Deputy Director
for Reactor Projects
Directorate of Licensing

Date of Issuance: **DEC 20 1973**

UNITED STATES ATOMIC ENERGY COMMISSION

DOCKET NO. 50-259

TENNESSEE VALLEY AUTHORITY

(BROWNS FERRY NUCLEAR PLANT, UNIT 1)

NOTICE OF ISSUANCE OF AN AMENDMENT TO FACILITY OPERATING LICENSE

The Atomic Safety and Licensing Board having dismissed the proceeding relating to licensing action in a "Memorandum and Order," dated November 27, 1973, the Atomic Energy Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DPR-33 to the Tennessee Valley Authority (the licensee), which amends the license in its entirety and authorizes operation of the Browns Ferry Nuclear Plant, Unit 1 (the facility) at steady state reactor core power levels not in excess of 3293 megawatts thermal, in accordance with the provisions of the amended license and the Technical Specifications contained in Appendices A and B, as changed, attached to Facility Operating License No. DPR-33 dated June 26, 1973. The facility is a boiling water nuclear reactor located at the licensee's site in Limestone County, Alabama.

The amended license also authorizes the licensee to receive, possess, and use 10 millicuries of Strontium-90 in the form of a sealed source in addition to the 0.01 millicurie in the form of sealed sources, not to exceed 1.2 microcuries per source, which is authorized in License No. DPR-33, dated June 26, 1973. The additional Strontium-90 sealed source will be used for portable survey instrumentation calibration verification. The licensee has described in a letter to the Commission dated November 16, 1973, the material's usage and control and has in force for the facility Standard Practice Number BFS2 entitled "Radioactive Byproduct Materials," which

supersedes Standard Practice Number 8. This document contains procedures and authorizations regarding safety, control, and accountability requirements governing the storage and use of licensed byproduct material such as Strontium-90. It is concluded therefrom that the additional byproduct material does not present a significant hazards consideration.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amended license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations.

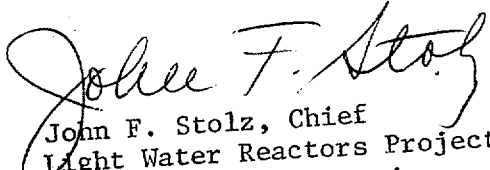
The amended license is effective as of its date of issuance and shall expire on May 10, 2007.

A copy of (1) the "Memorandum and Order," dated November 27, 1973; (2) the licensee's request for additional byproduct material dated November 16, 1973; (3) Facility Operating License No. DPR-33, as amended, complete with Technical Specifications (Appendices "A" and "B"), as changed; (4) the report of the Advisory Committee on Reactor Safeguards, dated September 21, 1972; (5) the Director of Licensing's Safety Evaluation and an Errata thereto dated June 26, 1972, and Supplements 1 through 5 thereto; (6) the Final Safety Analysis Report and amendments thereto; (7) the licensee's Draft Environmental Statement dated July 1971, and supplement thereto dated November 8, 1971; and (8) the licensee's Final Environmental Statement dated September 1, 1972, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D. C. 20545, and the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of the amended license and the Safety Evaluation may be obtained upon request addressed to the United States Atomic Energy

Commission, Regulation, Washington, D. C. 20545, Attention: Deputy
Director for Reactor Projects, Directorate of Licensing.

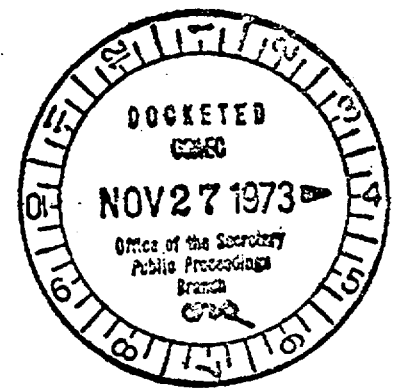
Dated at Bethesda, Maryland, this 20th day of December, 1973.

FOR THE ATOMIC ENERGY COMMISSION


John F. Stolz, Chief

Light Water Reactors Project Branch 2-1
Directorate of Licensing

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION



In the Matter of)
)
TENNESSEE VALLEY AUTHORITY) Docket Nos. 50-259
) 50-260
(Browns Ferry Nuclear Plant) 50-296
Units 1, 2 and 3))

MEMORANDUM AND ORDER

The Board, as reconstituted,^{1/} has pending before it a Motion to Dismiss the instant proceeding filed by the above-named Applicant and dated November 12, 1973, which motion is accompanied by a Notice of Withdrawal of Intervention, dated November 12th, signed by Frank L. Parker, Intervenor, a Settlement Agreement Between Frank L. Parker and Applicant, and a Brief in Support of Applicant's Motion to Dismiss. The AEC Regulatory Staff filed a Response to Applicant's Motion, dated November 23rd, in which it supports a grant of the motion.

^{1/} By Notice dated October 18, 1973, the Chairman of the Atomic Safety and Licensing Board Panel appointed the undersigned as Chairman of this Board, in light of the unavailability of the previously named Chairman to continue the conduct of this proceeding. In addition, Dr. Clark Goodman, originally a member of this Hearing Board, has retired from the Atomic Safety and Licensing Board Panel as of October 31, 1973, and is therefore no longer serving as a member of this Board.

Also pending before the Board is Applicant's Motion, filed September 7, 1973, pursuant to 10 CFR 50.57(c) for an Order authorizing the Director of Regulation to issue an operating license or amend facility operating license DPR-33, as appropriate, for testing and operation of the Browns Ferry Nuclear Plant, Unit No. 1, up to 99% of full power.

In the instant Motion to Dismiss, and accompanying Brief, the Applicant moves that the proceeding be dismissed on the grounds that a settlement agreement has been reached with the Intervenor and that he has withdrawn his intervention; that there is now no Intervenor in this proceeding, no matters in controversy and no issues to be heard by the Board; and that, where an Intervenor withdraws his intervention in a proceeding pursuant to 10 CFR Appendix D, Section C, no hearing should be held. As indicated above, the Regulatory Staff joins in the motion, citing several precedents in which motions under similiar circumstances were granted by Licensing Boards, and asserting that a grant of the motion would be appropriate in light of the settlement agreement and withdrawal of the intervention.

The Board is of the opinion that dismissal of this proceeding would be consistent with Commission Regulations,

which not only encourage settlement of controversies (see Section 2.759), but which do not contemplate a hearing on possible modification, termination or conditioning of construction permits, covered by Paragraph C of Appendix D to 10 CFR Part 50, in the absence of controversy or intervention. Since there are at present no Intervenor and no issues in controversy remaining, there is no obligation or warrant to hold a hearing, and for these reasons and on this ground, the Board is relieved of its obligation to make the findings originally called for in the Commission's Notice of Hearing, dated September 15, 1972. It is therefore concluded that the public interest would be served by accepting Intervenor's withdrawal, granting Applicant's Motion, and terminating this proceeding.

Despite the removal of the requirement for a hearing herein by reason of the withdrawal of the Intervenor, the Board is constrained, in the light of the existing record in this proceeding, to call to the attention of the Commission and the Director of Regulation an unique aspect of the case which, although resolved for now, may present some administrative problems in the future. Specifically, the Board has reference to the matters discussed at length in the Memorandum and Order of September 6, 1973 herein (RAI 73-9, pp. 682-690), dealing with the "lead agency

agreement" problem and the appropriate responsibilities of the Atomic Energy Commission and its Staff in carrying out the objectives of the National Environmental Policy Act of 1969 (NEPA) and the Commission's Regulations. The Board considers it not inappropriate to suggest that the Commission itself or the Director of Regulation may wish, at some time in the future and in relevant circumstances, to provide further guidance as to the Commission's current Regulations and practices concerning the division of responsibilities under NEPA, in situations where another government agency is the Applicant for nuclear power facilities, as in this case, so as to assure that the obligations placed upon the agency by NEPA, as interpreted by Court cases, are fully implemented in keeping with the statute.

The Board's views in this regard are set forth at length in the aforementioned Memorandum and Order of September 6th, denying the Applicant's then filed Motion for Summary Disposition, and are respectfully submitted to the Commission and/or the Director of Regulation should they desire to give further consideration to this matter at some future time.

Now turning to the above-mentioned Motion under Section 50.57(c) for an Order authorizing the Director of Regulation

to issue a license for testing, it appears that, in view of the proposed termination of this proceeding, action by the Board as contemplated by Section 50.57(c), i.e., "in case of a hearing", would no longer be required, since, after dismissal of the hearing, the Applicant could obtain its authorization directly from the Director of Regulation. However, in view of the long pendency of the request, and it appearing that the Applicant and Staff have, by their further pleadings pursuant to the directive of this Board,^{2/} responded to the matters raised in its Order of October 9, 1973 concerning this Motion, it is the Board's view that it would be more expeditious and saving of duplicative effort for the Board to grant the Motion forthwith, and thus permit the authorization to be issued more expeditiously.

^{2/} The pleadings referred to are "Applicant's Memorandum in Response to the Board's October 9 Memorandum and Order", dated October 23, 1973, accompanied by affidavit of Jack R. Calhoun, and "Response of AEC Regulatory Staff Required by Order of October 9, 1973" dated November 1, 1973.

In view of the foregoing, IT IS ORDERED:

- (1) The Applicant's Motion filed September 7, 1973, pursuant to 10 CFR 50.57(c), is GRANTED, and the Director of Regulation is authorized to make the appropriate findings specified in Section 50.57(a), and to issue an operating license or amend Facility Operating License DPR-33, as appropriate, for testing and operation of the Browns Ferry Nuclear Plant, Unit No. 1, up to 99% of full power.
- (2) Upon issuance of the aforesaid authorization by the Director of Regulation, the proceeding before this Board, designated in the Commission's Notice of Hearing herein dated September 17, 1972, will be, and it hereby is, DISMISSED.

Dr. Fred Cowan, member of the Board, joins in this Memorandum and Order.

THE ATOMIC SAFETY AND
LICENSING BOARD


Max D. Paglin, Chairman

Issued at Washington, D. C.,
this 27th day of November, 1973.