

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-327 and 50-328
	)	Docket No. 50-390
(Sequoyah Nuclear Plant, Units 1 and 2)	)	(Consolidated)
	)	
(Watts Bar Nuclear Plant, Unit 1)	)	

NRC STAFF'S ANSWER TO AMENDED REQUESTS  
FOR HEARING AND LEAVE TO INTERVENE FILED BY  
WE THE PEOPLE, INC. TENNESSEE

INTRODUCTION

Pursuant to 10 C.F.R. § 2.714(c), the staff of the Nuclear Regulatory Commission ("Staff") hereby submits its answer to the submittal dated February 21, 2002,<sup>1</sup> filed by We The People, Inc. Tennessee (WTP), amending WTP's initial requests for hearing and petitions for leave to intervene.<sup>2</sup> The Staff previously concluded that WTP had

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<sup>1</sup>We The People's Amended Petition For Request For A Hearing And Petition To Intervene (Feb. 21, 2002) (Amended Petition). According to the certificate of service, WTP effected service only by regular mail, notwithstanding that the Atomic Safety and Licensing Board's Memorandum and Order (Feb. 7, 2002) requires service by e-mail or facsimile transmission, in addition to regular mail. The Staff was not aware of WTP's Amended Petition until February 26, 2002, at which time counsel for Tennessee Valley Authority sent a copy by facsimile transmission to the Staff. The Staff is not waiving any right to object in the future to any continued noncompliance with the Board's Order with respect to appropriate methods of service.

<sup>2</sup>Letter from A. Harris (We The People, Inc. Tennessee) to Secretary to the Commission (Jan. 14, 2002), with attachments; letter from A. Harris to Secretary to the (continued...)

demonstrated standing in connection with these consolidated license amendment proceedings,<sup>3</sup> and concludes here that there is no reason to alter that conclusion.

#### BACKGROUND

Tennessee Valley Authority (TVA) is the licensee for the Sequoyah Nuclear Plant, Units 1 and 2 (Sequoyah), and the Watts Bar Nuclear Plant, Unit 1 (WB). By applications dated August 20, 2001 (for WB), and September 21, 2001 (for Sequoyah), TVA requested license amendments that would allow TVA to insert up to a certain number of tritium producing burnable absorber rods (TPBARs), which contain no fissile material, into the reactor cores. The proposed amendments are related to an agreement between TVA and the U.S. Department of Energy (DOE) under which TVA will provide certain irradiation services to DOE. DOE plans to transport the irradiated TPBARs to its Savannah River site in Georgia for defense purposes, but the transportation activities by DOE are not the responsibility of TVA and are not the subject of the pending amendment requests. On December 17, 2001, the Staff published in the *Federal Register* two separate notices of the amendment requests and of an opportunity for a hearing. 66 Fed. Reg. 65,000 (2001) and 66 Fed. Reg. 65,005 (2001). Pursuant to the notices, WTP filed hearing requests and petitions for leave to intervene with respect to both facilities. Subsequently, by an order dated January 28, 2002, issued by the Chief Administrative Judge, the proceedings were

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<sup>2</sup>(...continued)  
Commission (undated), with attachments.

<sup>3</sup>NRC Staff's Answer To Requests For Hearing And Leave To Intervene Filed By We The People, Inc. Tennessee (Feb. 4, 2002).

consolidated. As noted above, the Staff initially concluded that WTP had demonstrated standing with respect to both WB and Sequoyah.<sup>4</sup>

#### DISCUSSION

As was fully discussed in the Staff's initial answer,<sup>5</sup> WTP's initial hearing requests and intervention petitions demonstrated to the Staff's satisfaction that WTP had standing in connection with both facilities at issue. Nothing in the Amended Petition changes, withdraws, or conflicts with any of the factual assertions upon which the Staff's initial conclusion was based. Accordingly, the Staff has no reason to change its original conclusion regarding WTP's standing.<sup>6</sup>

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<sup>4</sup>TVA reached the opposite conclusion, however. See Tennessee Valley Authority's Answer To Request For A Hearing And Petition To Intervene Of We The People, Inc. Tennessee (Jan. 29, 2002) (regarding WB); Tennessee Valley Authority's Answer To Request For A Hearing And Petition To Intervene Of We The People, Inc. Tennessee (Jan. 29, 2002) (regarding Sequoyah).

<sup>5</sup>See *supra* note 3.

<sup>6</sup>The Staff's conclusion here should not be construed as any indication by the Staff as to whether the additional statements contained in the Amended Petition further establish standing or are relevant to such a finding or to these proceedings.

CONCLUSION

In consideration of the foregoing, WTP has established standing. However, leave to intervene should not be granted without the proffering of at least one valid contention for each license amendment request.<sup>7</sup>

Respectfully submitted,

**/RA/**

Steven R. Hom  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 28th day of February 2002

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<sup>7</sup>Although the two license amendment proceedings have been consolidated for the moment, the Staff submits that a valid contention must be proffered for each amendment application in order for that respective proceeding to continue.

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(Watts Bar Nuclear Plant, Unit 1) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER TO AMENDED REQUESTS FOR HEARING AND LEAVE TO INTERVENE FILED BY WE THE PEOPLE, INC. TENNESSEE" in the above-captioned consolidated proceedings have been served on the following with listed E-mail addresses or facsimile numbers by E-mail or facsimile transmission, respectively, and on all of the following by deposit in the United States mail, first class, or as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 28th day of February, 2002.

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U.S. Nuclear Regulatory Commission  
Washington, DC 20555

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***/RA/***

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