UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-390
	)	50-391
(Watts Bar Nuclear Plant,	)	
Units 1 and 2)	)	

NOTICE OF APPEARANCES FOR APPLICANT

Notice is hereby given of the appearance of the undersigned attorneys as counsel for the Applicant, Tennessee Valley Authority, in the captioned matter. In accordance with section 2.713 of the Nuclear Regulatory Commission's Rules of Practice, the following information is provided:

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Knoxville, Tennessee
February 10, 1977

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APPLICANT'S ANSWER TO PETITION TO INTERVENE
OF JEANNINE HONICKER

STATEMENT

This proceeding involves consideration of issuance of facility operating licenses to the Applicant, Tennessee Valley Authority (TVA), for the Watts Bar Nuclear Plant in Rhea County, Tennessee. In a notice published in the Federal Register on December 27, 1976, 41 Fed. Reg. 56244-45, the Nuclear Regulatory Commission (NRC) provided that any person whose interest may be affected by this proceeding may file a petition for leave to intervene by January 26, 1977, in accordance with the provisions of 10 C.F.R. § 2.714 (1976). The notice further provided that:

> [A] petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how the interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to this interest and the basis for this contention with regard to each aspect on which he desires to intervene. A petition that sets forth contention relating only to matters outside the jurisdiction of the Commission will be denied [41 Fed. Reg. 56245 (1976)].[1]

In response to this notice, a petition dated January 26, 1977, was filed by Jeannine Honicker of Nashville, Tennessee, appearing pro se.[2]

The Petitioner alleges an interest in the proceeding as a customer of the Nashville Electric Service, as a taxpayer in the State of Tennessee, and the mother of a student attending The University of

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1 Emphasis added unless otherwise noted.

2 Although appearing pro se, the Petitioner is no stranger to licensing proceedings, being an Intervenor in the proceeding on TVA's Hartsville Nuclear Plants application. See Petition for Leave to Intervene of William N. Young, et al., Tennessee Valley Authority (Hartsville Nuclear Plants, Units 1A, 1B, 2A, and 2B) Docket Nos. STN 50-518, STN 50-519, STN 50-520, and STN 50-521 (Nov. 22, 1974).

Tennessee in Knoxville. The Petition contains 57 purported contentions which are mere general conclusions, unsupported by any alleged facts.

It is TVA's position that the petition should be denied since Petitioner fails to show an interest that may be affected by this proceeding and fails wholly to allege contentions that meet the requirements of 10 C.F.R. § 2.714 (1976). Moreover, the petition should not be granted as a matter of discretion since the petition reveals no significant ability to contribute to the resolution of any significant issues of law or fact if a hearing were to be held.

ARGUMENT

I

Petitioner Has Not Shown an Interest That May Be Affected by This Proceeding.

Petitioner[3] alleges three interests: first, that she is a customer of the Nashville Electric Service; second, that she is a taxpayer in the State of Tennessee, and that any action TVA takes that adds costs to the State will increase her taxes; and third, that her

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3 Petitioner is a resident of Nashville, Tennessee, which is approximately 115 air miles from the Watts Bar Nuclear Plant (World Aeronautical Chart, U.S. Department of Commerce, NOAA, CG-20 (5th ed., Aug. 12, 1976), CG-21 (7th ed., Nov. 4, 1976)). This obviously is geographically outside the zone of interest protected by the Atomic Energy Act. Cf. Duquesne Light Co. (Beaver Valley Power Station, Unit No. 1) ALAB-109, 6 AEC 243 (1973).

son is a student in Knoxville,[4] which gives her a right to participate in any action which can endanger him.

The NRC has recently made clear that judicial concepts of standing should be applied in adjudicatory hearings. Portland General Elec. Co. (Pebble Springs Nuclear Plant, Units 1 and 2) CLI-76-___, NRCI-76/12 ___, 2 Nuc. Reg. Rep. (CCH) ¶ 30,127.01 (Dec. 23, 1976). The Commission recognized that to have standing, one must satisfy two tests. First, some injury to a protected interest that has occurred or will probably result from the action involved must be alleged, and second, an interest "arguably within the zone of interest" to be protected by the statute must be alleged. Id.

Petitioner's alleged interest based on her status as a customer of the Nashville Electric Service is not sufficient to confer standing. In Pebble Springs the petitioners alleged that their ratepayer status conferred standing. However, the Commission determined that ratepayer status is not within the "zone of interest" protected by the Atomic Energy Act. Id.[5]

Likewise, her status as a taxpayer does not confer standing, since it clearly does not pass the "zone of interest" test. The Pebble Springs decision cites Warth v. Seldin, 422 U.S. 490 (1975), as support

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4 Knoxville is approximately 50 air miles from Watts Bar Nuclear Plant (World Aeronautical Chart, U.S. Department of Commerce, NOAA, CG-20 (5th ed., Aug. 12, 1976), CG-21 (7th ed., Nov. 4, 1976)).

5 It should be pointed out that Petitioner is not a customer of TVA, but of the Nashville Electric Service.

for the "zone of interest test." In the Warth case the Supreme Court found that a general taxpayer interest was insufficient to intervene in a court proceeding. See Edlow Int'l Co. (India Export License) CLI-76-6, NRCI-76/5 563, 570, 574, 576-78 (May 7, 1976) (citing cases concerning taxpayer interests as being insufficient for standing as of right).

The fact that Petitioner's son is a student in Knoxville is an interest so remote as to provide no standing. Clearly Petitioner cannot meet the "injury in fact" test, for she has alleged no personal injury, but only asserts that she has "a right to participate in any action which can endanger him" (Petition at 1). Indeed, it is doubtful that her son could meet the standing test by residence alone.[6] The fact that Petitioner is naturally interested in her son's well-being is understandable; however, this is not within the "zone of interest" protected by section 189(a) of the Atomic Energy Act of 1954, 42 U.S.C. § 2239(a) (1970).

Parents have no standing to sue for harm to their children where the parents suffer no direct injury. See Denman v. Wertz, 372 F.2d 135, 136 (3rd Cir.), cert. denied, 389 U.S. 941 (1967) (father

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6 Edlow, supra at 571, 576-78, has placed in question the right to participate by virtue of residence, since potential injury is both speculative and remote. In addition, Petitioner's son resides at a distance too great to provide an interest even if he was a petitioner. See, e.g., Mississippi Power and Light Co. (Grand Gulf Nuclear Station, Units 1 and 2) ALAB-130, 6 AEC 423, 425 (1973) (50 miles distance precluded a health and safety interest).

had no standing to sue officials who had turned custody of his child over to his estranged wife); Tyree v. Smith, 289 F. Supp. 174, 175 (E.D. Tenn. 1968) (father has no standing to sue for deprivation of civil rights of his children).

> The complainant cannot succeed because someone else may be hurt. . . . It is the fact, clearly established, of injury to the complainant--not to others--which justifies judicial intervention [McCabe v. Atchison, T. & S.F. Ry., 235 U.S. 151, 162 (1914)].

See also Sierra Club v. Morton, 405 U.S. 727, 734, 739-40 (1972) (party must allege facts showing that the party is adversely and directly injured). A parent's right to sue for harm to a child is based on recognized tort concepts for direct injury to the parent from actual loss of the child. See, e.g., Hall v. Wooten, 506 F.2d 564, 568-69 (6th Cir. 1974); Smith v. Wickline, 396 F. Supp. 555 (W.D. Okla. 1975) (wrongful death actions); Hinton v. Hinton, 436 F.2d 211 (D.C. Cir. 1970) (interference with parent/child relationship). Petitioner suffers no direct harm giving her a cognizable interest by virtue of her subjective belief that her son may be endangered.

II

Petitioner's Contentions Wholly Fail To Meet the Requirements of § 2.714.

A. General

Section 2.714(a) of the Commission's Rules of Practice requires that a petition to intervene be accompanied by a supporting

affidavit identifying the specific aspects of the subject matter as to which intervention is sought, and "setting forth with particularity . . . the basis for his contentions with regard to each aspect on which he desires to intervene."

Before a Board may grant intervention, it must satisfy itself that at least one contention presented in the petition complies with the applicable requirements of 10 C.F.R. § 2.714 (1976). Mississippi Power and Light Co. (Grand Gulf Nuclear Station, Units 1 and 2) ALAB-130, 6 AEC 423, 424 (1973).

> Thus, a board need not pass upon all contentions to resolve the question of whether intervention will be permitted, for it is sufficient for intervention purposes that one contention has been validly presented [Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3) ALAB-125, 6 AEC 371, 372 (1973)].

The Appeal Board in the recent Wolf Creek proceedings reversed a Licensing Board decision granting a petition to intervene and said:

> The applicant is entitled to a fair chance to defend. It is therefore entitled to be told at the outset, with clarity and precision, what arguments are being advanced and what relief is being asked . . . [Kansas Gas and Elec. Co. (Wolf Creek Generating Station, Unit No. 1) ALAB-279, NRCI-75/6 559, 576 (June 30, 1975)].

In the Farley proceeding, the Atomic Safety and Licensing Appeal Board pointed out that in making an assessment of contentions, the Licensing Board's task is

> . . . to determine, from a scrutiny of what appears within the four corners of the contention as stated, whether (1) the requisite specificity exists; (2) there has been an adequate delineation of the basis for the contention . . . [Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2) ALAB-182, 7 AEC 210, 216-17 (1974)].

In addition, the intervenor must provide contentions sufficiently specific to support a conclusion that in fact a genuine issue exists. Wisconsin Elec. Power Co. (Point Beach Nuclear Plant, Unit 2) ALAB-93, 6 AEC 21, 23 (1973).

The requirement that contentions be stated with specificity and with the basis for the contentions provided, as required by section 2.714(a), has been expressly upheld by the courts. BPI v. AEC, 502 F.2d 424 (D.C. Cir. 1974).

B. Discussion of contentions

Petitioner has completely failed to state contentions with particularity and to provide the factual basis for the contentions. The 57 numbered paragraphs are largely broad, general conclusions. Not a single contention satisfies the requirements of section 2.714. As the Appeal Board said in the River Bend proceeding:

> In an operating license proceeding, unlike a construction permit proceeding, a hearing is not mandatory and, if held, is restricted to those matters which have been put into controversy by the parties and are determined by the Licensing Board to be issues in the proceeding. 10 CFR 2.760a; Cf. Omaha Public Power District (Fort Calhoun Station), ALAB-145, RAI-73-9 630 (September 13, 1973). There is, accordingly, especially strong reason in an operating license proceeding why, before granting an intervention petition and thus triggering a hearing, a licensing board should take the utmost care to satisfy itself fully that there is at least one contention advanced in the petition which, on its face, raises an issue clearly open to adjudication in the proceeding. Cf. Prairie Island, ALAB-107, supra, RAI-73-3 at 191-92. Moreover, by the time the operating license level is reached, a would-be intervenor should have much more information available to him respecting accident possibilities than was at his disposal at the inception of the construction permit proceeding [Gulf States Utils. Co. (River Bend Station, Units 1 and 2) ALAB-183, 7 AEC 222, 226 n.10 (1974)].

Accord, Cincinnati Gas & Elec. Co. (William H. Zimmer Nuclear Power Station) ALAB-305, NRCI-76/1 8 (Jan. 7, 1976)].

Paragraphs 6, 33, 34, 41, 42, 43, and 52-57

These paragraphs are not contentions at all, but merely generalized conclusions, many of them absurd on their face. For example, paragraph 6 states that "TVA is an unregulatable federal agency." None of these paragraphs meet the requirements of section 2.714.

Paragraphs 21, 22, 23, and 24

These paragraphs concern alleged accidents at Watts Bar Nuclear Plant of a severity that would require evacuation of areas up to and including the entire State of Tennessee. The effects of accidents have been considered and found acceptable. Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2) LBP-72-35, 5 AEC 230, 232, 236, 237 (1972). Petitioner has offered no reason to question the Licensing Board findings in this regard made at the construction permit hearing. To the extent that these paragraphs allude to Class 9 accidents, such accidents need not be considered. Carolina Environmental Study Group v. United States, 510 F.2d 796, 799, 800 (D.C. Cir. 1975); Gulf States Utils. Co. (River Bend Station, Units 1 and 2) ALAB-183, 7 AEC 222, 226 n.10 (1974).

Paragraphs 36, 37, 46, 47, and 48

These paragraphs consist of a series of conclusions regarding cooling tower operation. The full range of environmental effects of cooling tower operation, including possible merging of the cooling tower plume with effluents from the Watts Bar Steam Plant, were considered in the environmental statement for the project. Tennessee Valley Authority Final Environmental Statement, Watts Bar Nuclear Plant Units 1 and 2 (Nov. 9, 1972), § 2.6 (FES). The Licensing Board specifically recognized the extensive treatment given the environmental effects of the cooling towers. Watts Bar, supra at 236, 237. Petitioner's mere conclusions, devoid of any factual basis, are insufficient to question the findings of the construction permit decision.

Paragraphs 3, 4, 9, 11, 14, 15, 17, 18, 25, 26, 27, 29, 39, 40, 44, 49, and 51

These paragraphs list costs which Petitioner asserts should be included in the costs of operating Watts Bar Nuclear Plant. In the Midland proceeding, the intervenors sought to reopen the construction permit proceeding, alleging changed circumstances required the Atomic Energy Commission to reassess the National Environmental Policy Act (NEPA) cost/benefit analysis. The Commission declined to reopen on the grounds asserted, stating that:

> It is almost inevitable that particular facts may change in complex cases like this one between the close of administrative hearings, final agency action, and judicial review. This is especially true of economic costs, which always reflect the impact of inflation. If such changes were to trigger rehearings, "there would be little hope that the administrative process

> could ever be consummated in an order that would not be subject to reopening." ICC v. Jersey City, 322 U.S. 503, 514 (1944) [Consumers Power Co. (Midland Plant, Units 1 and 2) CLI-74-7, 7 AEC 147, 148 (1974)].

Thus, the Petitioner must allege sufficient factual basis to show that the construction permit NEPA cost/benefit balancing would be substantially altered by particular facts.

Paragraph 9 is a one-liner which merely states that costs of nuclear generation are greater than coal generation. This wholly conclusionary allegation obviously is not a contention.

Paragraphs 39 and 40 concern medical and burial costs of cancer victims and loss of State revenues due to victims of cancer. These paragraphs improperly require the assumption of facts and should be denied. Moreover, such remote and speculative costs need not be considered under NEPA. Trout Unlimited v. Morton, 509 F.2d 1276, 1283 (9th Cir. 1974); Sierra Club v. Morton, 379 F. Supp. 1254, 1258 (D. Colo. 1974); Ecology Action v. AEC, 492 F.2d 998, 999 (2d Cir. 1974); Carolina Environmental Study Group v. United States, 510 F.2d 796 (D.C. Cir. 1975); Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station, Unit 2) ALAB-264, NRCI-75/4R 347, 370 (Apr. 8, 1975).

Paragraphs 3, 4, and 44 state that the costs of the breeder reactor and other nuclear research, TVA exploration of uranium, and a portion of the ORNL gaseous diffusion plant be added to the costs of Watts Bar. These activities are funded independently of Watts Bar, and it is ludicrous to assess the costs to Watts Bar. For example, the

Energy Research and Development Administration has stated the cost of the breeder program which is funded independently from TVA power projects, as exceeding $14 billion. Final Environmental Statement, Liquid Metal Fast Breeder Reactor Program (Dec. 1975) (ERDA-1535), vol. 1, at I-11.

Paragraphs 11 and 14 assert that unnamed costs to the taxpayers of Tennessee should be added to Watts Bar. Section 13 of the TVA Act provides that:

> In order to render financial assistance to those States and local governments in which the power operations of the Corporation are carried on and in which the Corporation has acquired properties previously subject to State and local taxation, the [TVA] board is authorized and directed to pay to said States, and the counties therein, for each fiscal year [an amount as determined by the remainder of section 13] [16 U.S.C. § 831l (1970)].

It is clear that NRC has no authority to alter such congressionally mandated in-lieu-of-tax payments. Project Management Corp. (Clinch River Breeder Reactor Plant) LBP-76-31, NRCI-76/8 153, 159, 160 (Aug. 26, 1976). The Watts Bar Licensing Board in its cost/benefit balancing specifically accounted for TVA's in-lieu-of-tax payments, Watts Bar, supra at 238, and Petitioner has alleged nothing to question that analysis.

Paragraphs 25, 26, and 27 assert that certain costs of transporting nuclear wastes have not been considered. Transportation of these materials was discussed extensively in the Watts Bar FES and the Licensing Board found that shipments would be in accordance with applicable federal and state regulations. Watts Bar, supra at 237. Petitioner's mere

conclusory statements allege nothing to question the Board's decision, and contain no factual allegations.

Paragraphs 14, 15, 17, and 18 make the unsupported statements that the State will incur costs for radiation monitoring and development of an emergency safe drinking water plan, and that TVA has not considered these costs. There is no allegation that payments to the State under section 13 of the TVA Act, 16 U.S.C. § 831l (1970), are not sufficient to cover these costs if, indeed, they exist at all. Again, Petitioner has improperly required the assumption of facts rather than providing a basis for the contentions.

Paragraph 51 merely concludes that the costs of mitigating the effects of changes in the ecosystem have not been included in the cost/benefit analysis. This flies in the face of the Initial Decision by the Watts Bar Licensing Board, and obviously cannot qualify as a contention.

Paragraph 29 concludes that TVA has no adequate plan for dealing with low level waste and has not adequately considered the cost. This provides no basis for reassessing the Initial Decision discussion of radioactive wastes. Watts Bar, supra at 237.

Paragraphs 35 and 45

These paragraphs assert that the synergistic effects of Watts Bar have not been considered, and that the combined environmental effects of TVA's total nuclear program have not been considered. The Appeal Board, considering cumulative effects, has stated that:

> . . . NEPA and the Commission's regulations require a discussion of the environmental impact of the proposed licensing action under consideration. They do not require a discussion of the impact of future projects or, indeed, of any existing plants unless they interact or have some demonstrated relationship to or "contact" with the project under consideration [Wisconsin Elec. Power Co. (Point Beach Nuclear Plant, Unit 2) ALAB-137, 6 AEC 491, 495 (1973); footnote omitted].

See also Philadelphia Elec. Co. (Peach Bottom Atomic Power Station, Units 2 and 3) ALAB-216, RAI-74-7 13, 25-26 (July 5, 1974). Petitioner has failed to allege any synergistic action or how any could occur.

TVA prepares an environmental statement on each of its nuclear power plants, and does not propose any action on a "total nuclear program." Under NEPA, this approach is sufficient. Kleppe v. Sierra Club, 49 L. Ed. 2d 576 (1976).

Paragraphs 1, 2, 7, and 8

These paragraphs concern the consideration of alternatives, paragraph 1 listing several alternatives and 7 and 8 intimating that coal should be used rather than uranium. Alternatives to the Watts Bar Nuclear Plant were considered in the Initial Decision, and no reason has been advanced to question that decision. Watts Bar, supra at 237. Indeed, alternatives to the project are not open for consideration at the operating license stage. Both Appendix D to 10 C.F.R. Part 50, under which the environmental review of Watts Bar was done, and 10 C.F.R. § 51.21 (1976) provide that the applicant at the operating license stage

submit an environmental report which discusses the same matters as those required at the construction permit stage,

> . . . but only to the extent that they differ from those discussed or reflect new information in addition to that discussed in the final environmental impact statement prepared . . . in connection with the construction permit.

Petitioner has provided no reason to question the Licensing Board's finding at the construction permit stage.

Petitioner, as an Intervenor in the licensing proceeding on TVA's Hartsville Nuclear Plants, raised similar contentions on alternatives to the Hartsville project, including MHD, use of domestic and commercial solid waste, and use of solar power located at the ultimate user. The Licensing Board found that none of these alternatives are feasible. Tennessee Valley Authority (Hartsville Nuclear Plants, Units 1A, 1B, 2A, and 2B) LBP-76-16, NRCI-76/4 485, 508 (Apr. 20, 1976). The Appeal Board affirmed the Licensing Board's finding that these methods are not substitutes for the Hartsville plants, either individually or in combination, within the time span of the plant's projected construction period. ALAB-367, slip opinion at 19. The Appeal Board also affirmed the Licensing Board's finding that TVA has an extensive program for the conservation of electricity. ALAB-367, slip opinion at 13. It is obvious that Petitioner's contention 1(a), (b), (c), (e), and (f) have been litigated by her at Hartsville, and should not be the cause of a

hearing at Watts Bar.[7] In regard to contention 1(d) regarding building codes, TVA has no authority to impose building codes. This would be a matter for state legislatures or other authorities. It would require an amendment of the TVA Act to give TVA this ability. As the court in NRDC v. Morton stated:

> We do not suppose Congress intended an agency to devote itself to extended discussion of the environmental impact of alternatives so remote from reality as to depend on, say, the repeal of the antitrust laws [458 F.2d 827, 837 (D.C. Cir. 1972)].

In regard to paragraph 1(g), no factual basis is provided for the contention. TVA is aware of no power plant producing substantial amounts of electricity from an "energy plantation." Paragraph 2 ignores the jobs provided to well over 2,000 people at the project and the resultant benefits. FES § 2.9.

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7 It should be pointed out that, contrary to the intimation in ¶¶ 1, 2, 7, and 8, TVA has an extensive research and development program in energy technology, including the breeder reactor, energy storage, coal gasification, coal liquefaction, fluid-bed combustion, waste reprocessing to convert garbage to fuel for power stations, and the feasibility of collecting and processing wood residues from Tennessee Valley wood industries as supplemental fuel at its coal-fired power plants. TVA employees also participate in the national research efforts on advanced energy conversion techniques, including MHD, geothermal, solar energy, and energy storage. 1975 TVA Ann. Rep., vol. I, at 48; 1975 TVA Power Ann. Rep., at 18-20. These annual reports are subject to judicial notice. Illinois Cent. R.R. v. TVA, 445 F.2d 308, 310 n.4 (6th Cir. 1971); City of Tullahoma v. Coffee County, Tenn., 328 F.2d 683, 690-91 (6th Cir. 1964), cert. denied, 379 U.S. 989 (1965); United States ex rel. TVA v. An Easement & Right-of-Way, Etc. (Rogers), 246 F. Supp. 263, 269 (W.D. Ky. 1965), aff'd, 375 F.2d 120 (6th Cir. 1967).

Paragraphs 12, 13, and 16

These paragraphs merely state that the State does not have a safe drinking water plan. The Watts Bar Licensing Board considered both normal and accidental releases of radioactive liquids and found that suitable measures are planned to reduce such releases, and the environmental impacts are small. Watts Bar, supra at 236, 237. Petitioner's mere conclusory statements provide no reason for reassessment of these findings.

Paragraphs 19 and 20

These paragraphs state that additional monitoring should be done and results included in daily weather reports. Petitioner fails to allege in what manner currently planned monitoring is inadequate. Accordingly, these paragraphs do not qualify as contentions.

Paragraph 5

This paragraph makes the conclusory statement that TVA is incompetent to operate a nuclear plant. This obviously does not qualify as a contention. TVA currently has three operating licenses for the Browns Ferry Nuclear Plant, and a Licensing Board has recently found TVA technically qualified to operate the Browns Ferry plant. Tennessee Valley Authority (Browns Ferry Nuclear Plant, Units 1 and 2) LBP-76-30, NRCI-76/8 133, 151 (Aug. 20, 1976), aff'd, ALAB-351, NRCI-76/10 368 (Oct. 6, 1976).

Paragraph 10

This paragraph asserts that TVA residential customers are being forced to subsidize the nuclear industry. This obviously fails to meet the requirements of section 2.714 and is ludicrous on its face.

Paragraph 50

This paragraph makes the unsupported statement that operation can cause changes in the ecosystem, which have not been evaluated. The Watts Bar Licensing Board considered the environmental impacts of operation, Watts Bar, supra at 236, 237, and Petitioner's unfounded allegation offers no reason for reassessment.

Paragraph 43

This paragraph states that Watts Bar will cause the need for additional enrichment facilities. This obviously does not qualify as a contention. Enrichment facilities are the responsibility of the Energy Research and Development Administration (ERDA), Energy Reorganization Act of 1974, 42 U.S.C. §§ 5801 et seq. (Supp. V, 1975), and ERDA has its independent responsibility for implementing NEPA.

Paragraph 38

This paragraph makes the unsupported conclusion that TVA has not provided for decommissioning of Watts Bar. This does not qualify as a contention. As the Appeal Board said in the Vermont Yankee proceeding:

> Decommissioning will not take place for some forty years and, in our judgment, nothing would be less profitable than attempting to evaluate now what method of decommissioning will be deemed most desirable forty years from now, in light of the knowledge which will have been accumulated by that time [Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station) ALAB-179, 7 AEC 159, 178 n.32 (1974)].

Paragraph 28, 31, and 32

These paragraphs state that the operating license should be denied until the question of reprocessing and disposal of high level wastes has been resolved, that TVA has no specific plans for the Watts Bar spent fuel rods, and that operation should be denied until a definite contract for reprocessing is secured. The Commission has instituted a generic rulemaking proceeding on the Environmental Effects of the Uranium Fuel Cycle (Docket No. RM-50-3). In a Supplemental General Statement of Policy dated November 5, 1976, the Commission determined that show cause proceedings against various licensees on certain fuel cycle impact grounds would be suspended, that there is no compelling legal or policy grounds for initiating sua sponte show cause proceedings on these grounds, and that full-power operating licenses may be issued pending adoption of an interim rule on the basis of the currently effective chemical reprocessing and waste storage values of Table S-3 in 10 C.F.R. Part 51 (1976). 41 Fed. Reg. 49898 (Nov. 11, 1976). Thus, Petitioner's allegation is contrary to Commission policy and must be denied.

Paragraph 30

This paragraph states that TVA has not adequately considered alternative uses of land necessary for the storage of waste. Petitioner presumably means the low level waste referred to in paragraph 29. Storage of such wastes would be in duly licensed areas approved by NRC, and NRC would consider such alternatives as part of its normal NEPA responsibility. Additionally, the allegation does not meet the requirements for contentions in section 2.714.

III

Petitioner Has Made No Showing to Merit Discretionary Intervention.

The Commission determined in the Pebble Springs decision, supra, that a Licensing Board may permit intervention as a matter of discretion to some petitioners who do not meet judicial standing tests. Pebble Springs lists factors to consider in favor of allowing intervention and factors weighing against allowing intervention, and states that:

> Permission to intervene should prove more readily available where petitioners show significant ability to contribute on substantial issues of law or fact which will not otherwise be properly raised or presented, set forth these matters with suitable specificity to allow evaluation, and demonstrate their importance and immediacy, justifying the time necessary to consider them [Pebble Springs, supra at 27,744].

It is obvious from the petition filed and the discussion above in section II that Petitioner at least on the basis of her petition does not show any significant ability to contribute on substantial issues of

law or fact. The petition reveals that she is not a lawyer (Petition at 11). The petition clearly does not set forth any facts with specificity, nor demonstrate any matters of importance and immediacy.

Petitioner has shown no property, financial or other interest in this proceeding, and issuance of operating licenses for Watts Bar Nuclear Plant could obviously have no effect on any interest of Petitioner which is protected by either the Atomic Energy Act or NEPA. A hearing is not required at the operating license stage. To conduct a hearing on the basis of this petition would inevitably delay the issuance of operating licenses.

The petition taken as a whole is an expression of interest and concern regarding nuclear power. It is commendable when a member of the public expresses such interest. However, such general concerns have no place in a licensing proceeding. As the Appeal Board stated in the McGuire proceeding:

> If facts pertaining to the licensing of a particular nuclear power plant are at issue, an adjudicatory proceeding is the right forum. But if someone wants to advance generalizations regarding his particular views of what applicable policies ought to be, a role other than as a party to a trial-type hearing should be chosen [Duke Power Co. (William B. McGuire Nuclear Station, Units 1 & 2) ALAB-128, 6 AEC 399, 401 (1973)].

CONCLUSION

For the foregoing reason, the petition to intervene should be denied.

Respectfully submitted,

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Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that I have served the original and 20 conformed copies of the following documents on the Nuclear Regulatory Commission by depositing them in the United States mail, postage prepaid and addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Section:

Notice of Appearances for Applicant

Applicant's Answer to Petition to Intervene of Jeannine Honicker

and that I have served a copy of each of the above documents upon the persons listed below by depositing them in the United States mail, postage prepaid and addressed:

Marshall E. Miller, Esq., Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Lester Kornblith
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Atomic Safety and Licensing Appeal Board
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Ms. Jeannine Honicker
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This 10th day of February, 1977.

David G. Powell

David G. Powell
Attorney for Applicant
Tennessee Valley Authority