



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 11, 1993

Docket No. 50-390

Stephen A. Smith, D.V.M.
The Foundation
For Global Sustainability
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Dear Mr. Smith:

I did not receive a copy of your letter of June 18, 1993, until July 19, 1993, when I was given a telefaxed copy of that letter. I apologize for the delay in this response. You inquired about the licensing status of the Watts Bar plants. The specific questions you asked and responses to those questions are set forth below.

Q. Please outline the permit and licensing process specifically applied to the Watts Bar Nuclear Plant.

The licensing process for the Watts Bar plants is ongoing. The standard procedures, set forth in 10 C.F.R. Parts 2 and 50, have been and will be followed. The Tennessee Valley Authority's (TVA's) target date for issuance of a low-power operating license (OL) for Unit 1 is April 1994. No OL for either of the Watts Bar units will be issued to TVA until the NRC staff is satisfied that such operation is consistent with maintaining protection of the public's health and safety. See the Watts Bar Safety Evaluation Report NUREG-0847, and Supplements, which are in the public document room. A chronology of the licensing process to date for the Watts Bar units is as follows:

TVA filed its initial application for construction permits for Watts Bar Units 1 and 2 on May 14, 1971. An environmental report was filed by TVA on November 9, 1972. Notice of hearing on the construction permit applications was published on September 27, 1972 (37 FR 20191). No petitions to intervene were filed. Pursuant to 10 C.F.R. § 2.751a, a special pre-hearing conference was held in Dayton, Tennessee, on November 6, 1972, followed by a hearing in Dayton on November 20, 1972. The NRC staff and TVA were represented at the hearing, during which no appearances or statements were made in opposition to issuance of the construction permits for Watts Bar. On December 19, 1972, the Atomic Safety and Licensing Board (ASLB) filed its decision authorizing issuance of the construction permits to TVA. See Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), LBP-72-35, 5 AEC 230. A panel of the Atomic Safety and

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Licensing Appeal Board thereafter reviewed and affirmed the ASLB's decision on January 26, 1973. See *id.*, ALAB-97, 6 AEC 37.

On January 23, 1973, construction permits (CPs) for Units 1 and 2 were issued, with respective expiration dates of August 1, 1976, and May 1, 1977. The expiration dates of the CPs have been extended several times. The most recent extensions were issued on June 27, 1991. Unit 1's CP is now scheduled to expire on December 31, 1993. Unit 2's CP is now scheduled to expire on June 30, 1997.

TVA filed its initial application for operating licenses (OLs) for Watts Bar Units 1 and 2 on September 27, 1976. Notice of a 30-day opportunity to request intervention and a hearing in the OL proceeding, pursuant to the requirements of 10 C.F.R. § 2.714, was published on December 27, 1976 (41 FR 56244), and an ASLB panel was established. One intervention petition was filed by Jeannine Honicker. On May 25, 1977, the ASLB ruled that Ms. Honicker did not have the requisite interest necessary for standing to intervene in this NRC proceeding, and denied her intervention petition. See *Tennessee Valley Authority (Watts Bar Nuclear Power Plant, Units 1 and 2)*, LBP-77-36, 5 NRC 1292. On appeal, the decision was affirmed. See *id.*, ALAB-313, 5 NRC 1418 (1977).

Q. What is the present status of licenses granted to the Watts Bar nuclear plant? (Include TVA's submission date, time periods for public intervention/public hearings, and NRC's granting of the license.)

No operating licenses have been granted to TVA for the Watts Bar plants. TVA filed its initial application for OLs for Watts Bar Units 1 and 2 on September 27, 1976. Notice of a 30-day opportunity to request intervention and a hearing in the OL proceeding, pursuant to the requirements of 10 C.F.R. § 2.714, was published on December 27, 1976 (41 FR 56244). Any intervention petitions filed now would have to meet the requirements in 10 C.F.R. § 2.714(a)(1)(i)-(v) for nontimely petitions, in addition to the other intervention requirements in § 2.714.

Q. When does the construction permit granted to Watts Bar expire?

Unit 1's CP is now scheduled to expire on December 31, 1993. Unit 2's CP is now scheduled to expire on June 30, 1997.

Q. What is the process for renewing or extending the permit?

TVA would request such extensions pursuant to the requirements of 10 C.F.R. § 50.55(b). Under the terms of the Administrative

Procedure Act, 5 U.S.C. § 558(c) and 10 C.F.R. § 2.109, an NRC license or permit remains in effect until the application for an extension is acted upon. The NRC staff may authorize an immediately effective construction permit extension if the staff determines that no significant hazards considerations are present. Any staff decisions on 10 C.F.R. § 50.55(b) requests are published in the Federal Register, and the notice explains the procedure for requesting intervention in the permit extension proceeding pursuant to the intervention requirements of 10 C.F.R. § 2.714. Unlike an OL proceeding, the scope of litigable issues in a permit extension proceeding (if intervention is granted) is generally limited to whether the requirements of 10 C.F.R. § 50.55(b) are met.

Q. If citizens requested public hearings around TVA's request to renew the construction permit, what is the process available to them to request public hearings?

The procedure for requesting a hearing is part of the 10 C.F.R. § 2.714 process for petitioning for leave to intervene in an NRC proceeding. As in any OL or license amendment proceeding, a hearing on a request for a construction permit extension is held only if an intervenor is admitted as a party by an ASLB and the ASLB admits one or more of the intervenor's contentions.

Q. Please outline the process for meaningful public participation in the granting of the Watts Bar operating licensing from here onward?

The OL proceeding for the Watts Bar plants is uncontested, as no intervenors have yet met the requirements of 10 C.F.R. § 2.714. See Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), LBP-77-36, 5 NRC 1292, affirmed ALAB-413, 5 NRC 1418 (1977). An intervention petition now filed would have to meet the requirements for nontimely petitions in 10 C.F.R. § 2.714(a)(1)(i)-(v), in addition to the other intervention requirements in § 2.714. A request to institute a proceeding to suspend, modify or revoke an NRC license may also be made under 10 C.F.R. § 2.206.

Q. Because it has been twenty years since construction was initiated on the plant, there have been two stop work orders and a multitude of safety concerns which have been brought to the surface by both the NRC and TVA whistleblowers. In light of this information coupled with the length of time the plant has been in construction, is there any reason why the NRC cannot hold public hearings for the construction permit or operating license?

Under the requirements of the Atomic Energy Act applicable to Watts Bar, the only mandatory hearing is on the question of whether a construction permit should be issued. That hearing has already been held. As we have also stated, a notice of an opportunity for

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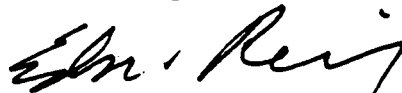
a hearing on the issuance of the operating licenses for Watts Bar was provided, and no one successfully intervened in that proceeding. At this time, a petition to intervene and to initiate a hearing would have to meet the requirements for nontimely petitions in 10 C.F.R. § 2.714(a), as the original time to intervene has expired. A determination of whether to institute a public hearing would be made on the basis of that petition and the Commission's regulations. The NRC Staff does not intend to separately initiate a hearing at this time.

Q. What is the present NRC position on construction recapture with regards to the Watts Bar Nuclear Plant?

It is presumed you are inquiring about a license amendment which would "recapture" the period spent in construction of a nuclear facility, so as to provide that an operating license issued for a shorter period is extended to expire 40 years after the facility goes into operation. See Atomic Energy Act of 1954, § 103.c, 42 U.S.C. § 2133(c). No operating license has been issued for either Watts Bar Unit. TVA has not made a request to "recapture" any portion of the construction period. Should an operating license be issued for less than 40 years and a request for "recapture" filed by TVA, the NRC staff would consider the merits of TVA's request and develop a position at that time.

I hope this letter answers your questions.

Sincerely,



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cc: Senator James Sasser
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