

July 25, 2008

G. Paul Bollwerk, III, Chair
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Anthony J. Baratta
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. William W. Sager
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

In the Matter of
TENNESSEE VALLEY AUTHORITY
(Bellefonte Nuclear Power Plant, Units 3 and 4)
Docket Nos. 52-014 and 52-015

Dear Administrative Judges:

The NRC Staff has determined that two pages (iii and iv) of the table of contents were not included in the "NRC STAFF ANSWER TO "PETITION FOR INTERVENTION AND REQUEST FOR HEARING BY THE BELLEFONTE EFFICIENCY AND SUSTAINABILITY TEAM, THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE AND THE SOUTHERN ALLIANCE FOR CLEAN ENERGY," filed on July 1st, 2008. For the convenience of the Licensing Board and participants, the NRC staff has attached to this letter the complete table of contents portion of the pleading.

Respectfully submitted,

/signed (electronically) by/
Patrick A. Moulding
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001
(301) 415-2549, Patrick.Moulding@nrc.gov

Dated at Rockville, Maryland
this 25th day of July, 2008

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	1
DISCUSSION.....	2
I. LEGAL STANDARDS	4
A. Standing to Intervene	4
B. Legal Requirements for Contentions.....	7
1. General Requirements	7
II. STANDING	10
A. Standing of BREDL.....	10
B. Standing of BEST	13
C. Standing of SACE.....	13
III. PETITIONERS' PROPOSED CONTENTIONS	15
A. PROPOSED CONTENTION ONE [MISC-A]: Whether Bellefonte Will Improve the General Welfare, Increase the Standard of Living, or Strengthen Free Competition in Private Enterprise.	15
1. Petitioners fail to demonstrate that Proposed Contention 1's [MISC-A's] attacks on the Commission's enforcement practices are within the scope of this proceeding.	18
2. Petitioners' references to "human error" raise only generalized concerns and do not identify any dispute with the Application.	19
3. Petitioners misconstrue the Energy Policy Act and fail to demonstrate that Proposed Contention 1's [MISC-A's] challenges to that statute are within the scope of the proceeding.....	19
4. Petitioners fail to demonstrate that Proposed Contention 1's [MISC-A's] attacks on the Commission's adjudicatory process are within the scope of the proceeding.	20
B. PROPOSED CONTENTION TWO [MISC-B]: The NRC Fails to Execute Constitutional Due Process and Equal Protection.	21
1. Proposed Contention 2 [MISC-B] impermissibly attacks the Commission's regulations.....	22
2. The equal protection portion of Proposed Contention 2 [MISC-B] fails to satisfy the requirements of 10 C.F.R. § 2.309(f).	22
3. The due process portion of Proposed Contention 2 [MISC-B] fails to meet § 2.309(f).	22

C.	PROPOSED CONTENTION THREE [FSAR-B]: Plant Site Geology is not Suitable for Nuclear Reactors, Geologic Issues Are Not Adequately Addressed. (Petition at 22).....	23
D.	PROPOSED CONTENTION FOUR [MISC-C]: Failure to Address Impact of Terrorist Attacks.	27
1.	Proposed Contention 4 [MISC-C] does not identify any basis for departing from Commission precedent and thus fails to meet § 2.309(f).....	28
2.	The Petitioners have stated no procedural basis in this proceeding for requesting reconsideration of prior Commission decisions.....	29
E.	PROPOSED CONTENTION FIVE [MISC-D]: The assumption and assertion that uranium fuel is a reliable source of energy is not supported in the combined operating license application submitted by TVA (the applicant) to the U.S. Nuclear Regulatory Commission.....	30
F.	PROPOSED CONTENTION SIX [MISC-E]: Whether Bellefonte Will Adequately Limit Atmospheric Emissions of Radionuclides. (Petition at 34).	33
1.	The NESHAPs for nuclear power reactors has been rescinded, and the NRC need not establish any similar standard.....	34
2.	Proposed Contention 6 [MISC-E] fails to meet the requirements of § 2.309(f).....	35
G.	PROPOSED CONTENTION SEVEN [NEPA-A]: Excessive Water Use Contrary to TVA's Purpose..	36
H.	PROPOSED CONTENTION EIGHT [NEPA-B]: Impacts on Aquatic Resources Including Fish, Benthic Invertebrates, and General Aquatic Community Structure of the Project [sic] Area, Gunter'sville Reservoir, and the Tennessee River Basin.	39
I.	PROPOSED CONTENTION NINE [NEPA-C]: Alternatives to the Proposed Action Lacking.....	45
J.	PROPOSED CONTENTION TEN [NEPA-D]: TVA's Power and Energy Requirements Forecast Fails to Evaluate Alternatives.	48
K.	PROPOSED CONTENTION ELEVEN [NEPA-E]: TVA's COLA Power Demand Forecast [sic] Fails to Justify Need for New Nuclear Reactors.	50
1.	The Petitioners fail in Proposed Contention 11 [NEPA-E] to reference sources and documents to support their position.....	51
2.	The Petitioners fail in Proposed Contention 11 [NEPA-E] to demonstrate a genuine and material dispute with the Application's analysis of the need for power.	62
L.	PROPOSED CONTENTION TWELVE [NEPA-F]: NRC Failed to Justify Need for New Units.	66
1.	Petitioners' Proposed Contention 12 [NEPA-F] raises issues outside NRC's jurisdiction and does not identify a material dispute with the Application.....	67
2.	Petitioners' Proposed Contention 12 [NEPA-F] misconstrues the NRC's licensing process and the NRC staff's review of the Application.	69

M.	PROPOSED CONTENTION THIRTEEN [MISC-F]: So-Called Low Level Radioactive Waste.....	70
1.	Proposed Contention 13 [MISC-F] is an unauthorized attack on the Commission's regulations.	72
2.	Petitioners mistakenly presume that the Application must demonstrate how the disposal of low-level radioactive waste will meet NRC regulations and that Applicants must obtain a Part 61 waste disposal license.....	72
3.	Petitioners fail to satisfy § 2.309(f)(1)(iv) and (v) with respect to Proposed Contention 13 [MISC-F].	73
N.	PROPOSED CONTENTION FOURTEEN [NEPA-L]: Waste Confidence – High Level Nuclear Waste from Irradiated Fuel.	75
O.	PROPOSED CONTENTION FIFTEEN [FSAR-C]: Global Warming Impacts Are Omitted from TVA License Application – Severe Weather and Carbon Footprint.	79
	Contention Part A	79
1.	Petitioners fail in Part A of Proposed Contention 15 [FSAR-C] to present the reasons supporting their concerns with the Application.	81
2.	Petitioners fail in Part A of Proposed Contention 15 [FSAR-C] to provide a concise statement of the facts that support their position.	84
	Contention Part B	85
1.	Petitioners fail in Part B of Proposed Contention 15 [FSAR-C] to provide a concise statement of the facts that support their position.	87
2.	Petitioners fail in Part B of Proposed Contention 15 [FSAR-C] to identify a genuine dispute with the Application on a material issue of law or fact.	87
P.	PROPOSED CONTENTION SIXTEEN [NEPA-N]: Environmental Report's Inadequate Cost Estimates and Cost Comparisons.	88
1.	The Petitioners fail in Proposed Contention 16 [NEPA-N] to reference sources and documents to support their position.....	90
2.	The Petitioners fail in Proposed Contention 16 [NEPA-N] to demonstrate a genuine and material dispute with the Application's analysis of renewable energy alternatives	93
3.	The Petitioners fail in Proposed Contention 16 [NEPA-N] to demonstrate a genuine and material dispute with the Application's analysis of the proposed action in comparison to alternatives.....	94
Q.	PROPOSED CONTENTION SEVENTEEN [NEPA-O]: Inadequacy of Environmental Report's Analysis of Human Health Impacts of Irradiated Fuel Disposal.	95
1.	Petitioners fail to demonstrate that Proposed Contention 17 [NEPA-O] is within the scope of this proceeding, because their attack on the proposed EPA standards regulating offsite releases from radioactive materials in repositories is necessarily an attack on the NRC's own proposed rulemaking.....	96
2.	Petitioners fail to provide references to the specific sources and documents on which they intend to rely, and to explain why their statements provide supporting reasons that demonstrate a dispute with the Application.	99

R.	PROPOSED CONTENTION EIGHTEEN [NEPA-P]: Inadequacy of Environmental Report's Reliance on Table S-3 Regarding Radioactive Effluents From the Uranium Fuel [sic] Cycle.	101
1.	Petitioners' challenge amounts to an impermissible attack on 10 C.F.R. § 51.51	102
2.	Petitioners fail to raise a genuine dispute on a material issue of law or fact and fail to demonstrate that the alleged shallow waste disposal issue is within the scope of this proceeding as required by 10 C.F.R. § 2.309(f)(1)(iii) and (vi).	104
3.	Petitioners have not shown that they qualify for the relief described in 10 C.F.R. § 2.802(d).	105
S.	PROPOSED CONTENTION NINETEEN [NEPA-Q]: Environmental Report's Improper Characterization of Health Effects from the Uranium Fuel Cycle as Small and Failure to Adequately Compare Them to Health Effects of Alternative Energy Sources.	107
CONCLUSION		111

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 52-014 and 52-015
	)	
Bellefonte Nuclear Power Plant	)	
(Units 3 and 4)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of NRC Staff letter dated July 25, 2008 have been served upon the following persons by Electronic Information Exchange this 25th day of July, 2008:

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: gpb@nrc.gov)

Office of the Secretary
ATTN: Docketing and Service
Mail Stop 0-16C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: HEARINGDOCKET@nrc.gov)

Administrative Judge
Dr. Anthony J. Baratta
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: ajb5@nrc.gov)

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: ocaamail@nrc.gov)

Administrative Judge
Dr. William W. Sager
Atomic Safety and Licensing Board Panel
Mail Stop – T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: wws1@nrc.gov)

Louis A. Zeller
Blue Ridge Environmental Defense League
P.O. Box 88
Glendale Springs, NC 28629
(E-mail: BREDL@skybest.com)

Sara Barczak
Southern Alliance for Clean Energy
428 Bull Street
Savannah, GA 31401
(E-mail: sara@cleanenergy.org)

Edward J. Vigluicci, Esq.
Scott A. Vance, Esq.
Tennessee Valley Authority
400 W. Summit Hill Dr., WT 6A-K
Knoxville, TN 37902
(E-mail: ejvigluicci@tva.gov
savance@tva.gov)

Steven P. Frantz, Esq.
Stephen J. Burdick, Esq.
Mauri T. Lemoncelli, Esq.
Jonathan M. Rund, Esq.
Alan H. Gutterman, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
(E-mail: sfrantz@morganlewis.com
sburdick@morganlewis.com
mlemoncelli@morganlewis.com
jrund@morganlewis.com
agutterman@morganlewis.com)

Louise Gorenflo
Bellefonte Efficiency & Sustainability Team
185 Hood Drive
Crossville, TN 38555
(E-mail: lgorenflo@gmail.com)

/signed (electronically) by/

Patrick A. Moulding
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001
(301) 415-2549, Patrick.Moulding@nrc.gov