IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE, Petitioner, v. NUCLEAR REGULATORY COMMISSION and UNITED STATES, Respondents.	No. 09-1112

PETITIONER'S STATEMENT OF ISSUES TO BE RAISED

In this case Petitioner Blue Ridge Environmental Defense League ("BREDL") seeks review of the decision of the Respondent Nuclear Regulatory Commission ("NRC") to reinstate construction permits that had previously been issued by the NRC to the Tennessee Valley Authority ("TVA") and were subsequently withdrawn and rendered void. The construction permits in question, which were issued December 24, 1974, had authorized TVA to construct two nuclear reactors – Bellefonte Units 1 and 2 – in Jackson County, Alabama.

On information and belief, the final action of the NRC was taken on January 27, 2009, in a compilation of written decision by the four individual NRC Commissioners. A copy of that document was appended to the Petition for Review

filed in this case March 30, 2009. Respondent's decision was noticed in the Federal Register on March 13, 2009; a copy of that notice is appended hereto.

(1) In so doing, the STB did not prepare an environmental impact statement. Petitioner BREDL contends that the NRC's failure to do so violated the requirements of the National Environmental Policy Act, 42 U.S.C. § 4332(2)(C) ("NEPA"). Alternatively, if only an "environmental assessment" was required by NEPA, the NRC violated NEPA by not preparing such a document before reaching the decision in question.

(2) Petitioner contends that the NRC's attempt to "reinstate" the construction permits in question is not within its statutory authority under the Atomic Energy Act, 42 U.S.C. § 2011 et seq. The NRC's action is more accurately characterized as the "granting" of construction permits under § 189(a)(1)(A) of the Act, 42 U.S.C. § 2239(a)(1)(A). However, if so characterized the NRC's action violated § 189(a)(1)(A), because the NRC failed to offer the public an opportunity for a hearing in advance of its decision.

Respectfully submitted,

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