

March 15, 2010

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-438/50-439-CP
	)	
(Bellefonte Nuclear Power Plant	)	ASLBP No. 10-896-01-CP-BD01
Units 1 and 2)	)	

NRC STAFF'S UNOPPOSED MOTION TO CORRECT THE RECORD AND  
PROPOSED CORRECTIONS TO THE TRANSCRIPT OF THE INITIAL PRE-HEARING  
CONFERENCE HELD ON MARCH 1, 2010

In accordance with the Atomic Safety and Licensing Board's ("Board") Memorandum and Order (Initial Prehearing Conference Transcript Corrections) issued on March 5, 2010 ("March 5 Order"), 10 C.F.R. §§ 2.323(a), and 2.327(d), the NRC Staff ("Staff") moves to correct the record of the initial prehearing conference held on March 1, 2010. This proposed correction consists of a statement made by Staff counsel, on page 157, line 21, in which 10 C.F.R. § 51.53(b)<sup>1</sup> was inadvertently cited as "51.95b"<sup>2</sup>. See Appendix A hereto, at 8.

In accordance with 10 C.F.R. § 2.323(b), counsel for the Staff has discussed this motion with counsel for the other participants in this proceeding. Counsels for the TVA and the Petitioners have no objection to the Staff's motion to correct the statement made by Staff counsel. Therefore, the Staff respectfully requests that the record be corrected to reflect the correct citation.

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<sup>1</sup> 10 C.F.R. § 51.53 (b) states, in part, "[e]ach applicant for a license to operate a production or utilization facility covered by § 51.20 shall submit with its application a separate document... ."

<sup>2</sup> 10 C.F.R. § 51.95(b) states, in part, that "the NRC staff will prepare a supplement to the final environmental impact statement on the construction permit for [that] facility, which will update the prior environmental review."

Also, in accordance with the Board's March 5 Order, the Staff files its proposed corrections to the transcript, and respectfully requests that the transcript be revised to incorporate the corrections identified in Appendix A, attached hereto. The Staff provided their proposed corrections to the transcript to the TVA and the Petitioners who, in turn, provided proposed corrections on March 12, 2010 and March 15, 2010, respectively. While all of the participants were unable to come to an agreement on the proposed changes, the Staff has no objections to TVA's or Petitioners' proposed changes.

Respectfully submitted,

**/Signed (electronically) by/**

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Dated at Rockville, Maryland  
this 15th day of March, 2010

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S UNOPPOSED MOTION TO CORRECT THE RECORD AND PROPOSED CORRECTIONS TO THE TRANSCRIPT OF THE INITIAL PRE-HEARING CONFERENCE HELD ON MARCH 1, 2010," dated March 15, 2010, have been served upon the following by the Electronic Information Exchange, this 15th day of March, 2010:

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**APPENDIX A**

**NRC STAFF'S PROPOSED CHANGES /CORRECTIONS TO  
TRANSCRIPT OF INITIAL PRE-HEARING CONFERENCE, MARCH 1, 2010**

<b><u>PAGE / LINE</u></b>	<b><u>DELETE</u></b>	<b><u>INSERT</u></b>
10/1	Christian	I am Christine Jochim
26/11	agreed	agree
26/18	with good cause	with good cause.
26/19	as Your Honors	As Your Honors
26/21	the reinstate	to reinstate
26/22	that's CLI-0610.	that's CLI-06-10, slip op. at 12.
26/24	Your Honor has	Your Honors have also
27/3	dissent of it in CLI-0610 and 26	dissent noted in CLI-06-10 at 26
27/4	As TVA's	It's as TVA's
27/5	stated, it is instead a	stated, it's not reopening the construction permit proceeding, it's instead a
27/9	didn't have application	did not have the application
44/18	As a result, 3-A	As a result, all of Contention 3, 3-A
44/20	good cause exist, not NRC	good cause exists for the reinstatement, not the NRC
44/22	Petitioners arguing	Petitioners argue in
45/6	permits, to terminate its	permits to terminated
45/7	subsequently established on March 13..	subsequently published in the Federal Register on March 13th.
45/10	10 C.F.R. 5121	10 C.F.R. 51.21
45/16	conduct in advance for	conduct an EIS for
45/23	Bellefonte 1	Bellefonte Units 1

<u>PAGE / LINE</u>	<u>DELETE</u>	<u>INSERT</u>
46/14	it seek a legal	it state a legal
49/20	That means	MS. BOOTE: That means
50/4	Under the ER agreement for 3 and 4, would	MS. BOOTE: Under the ER for Units 3 and 4, it would
50/5	modified as Units 1 and 2.	modified to include construction of Units 1 and 2.
53/3	into a	into our
55/6	operating license,	operating license application,
55/10	seeing the contention	seeing their potential contentions
55/14	Yes, that's right.	Yes, that's correct.
55/25	by EIS. They may not	by the EIS that the Staff performs, so they may not
60/24	to say there was no regulation applied	to clarify that I did not say there was no regulation out there that applied
61/1	does however and and that staff NEPA	does, however, and that the Staff's NEPA
61/2-3	requirements has been fulfilled in this case before any decision.	requirements have been fulfilled in this case; we evaluated it before making a decision.
61/8	Staff does not have to do EIS.	MS. BOOTE: That the Staff does not need to do EIS.
61/9	I seconded in doing an EA staff	I responded to this initially, but, to clarify, in doing an EA the staff
61/10	could after determining that an E was necessary and	could have determined that an EIS was necessary if significant new information developed.
61/11	however, it did not come to hour attention that it	However, it did not come to our attention that we

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61/12	to conducts an EIS so it is limited to that	to conduct an EIS. So, for the reinstatement of the CP, it is limited to that
61/14	it.	up.
61/17	Are you asking about why TVA are not AEs	MS. BOOTE: Are you asking about why TVA and the Staff both did EAs
65/1	propose in an operating license application, before	propose an operating license application before
65/2	staff, would evaluate whether or not to prepare the	staff, we would evaluate whether or not to prepare a supplement to the
65/4	(b) we believe	(b), I believe
78/16	David Roth for staff. Yes Your Honor	Yes, Your Honor. David Roth for Staff.
79/3-4	TVA provided in the staff's response to the RAI.	TVA provided the EA to the Staff in response to an RAI.
79/4	We provided you a number	We will provide you a ML number
79/5-6	currently will provide the number but that is currently, available in ADAMS	currently available in ADAMS
79/6	and publicly available for	and has been publicly available for quite
79/15	team for TVA,	team, whether raised by TVA,
79/18	in the license application	in the operating license application
79/21	sufficient addresses any	sufficient new struts, whether it sufficiently addresses any
79/22	of the reinstatement	of the construction permit reinstatement
80/6	because as TVA is doing in	because, as TVA has noted, and we have noted in

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80/7	no information speculation that there might been	no information; it's speculation that there might be
80/13-14	X to make a size likely qualified.	X or room X to make it seismically qualified.
80/16	cause, nevertheless, it is still insufficient to meet	cause, which the Staff do not view, nonetheless it is still insufficiently pled to meet
80/23	the employee concerns	the employees' concerns
80/24	alluded with	has noted with
80/25	As far as other	As far as how the
81/1	before you	before your Board
84/14	from a	from the
84/15	the Staff has	the Staff have
84/16	Staff is	Staff are
84/20	consider new	consider the new
84/22	whether the analysis	whether the analyses
85/5	That is correct. One avenue	Certainly, that is correct. That is one avenue
85/6	could take the scheduling	take, as Your Honors have noted in the scheduling
85/7	including 2206 to have	including a 2.206 even an operating plant could have
85/10	Pardon me, we also have what	Pardon me, Your Honors, we also have the ML number that
85/13	That's Mike Lema	That's Mike Lima
105/5	good cause is the staff would pledge is hardly	good cause as the Staff have pled is targeted
105/6	toward the Units	towards Units

<u>PAGE / LINE</u>	<u>DELETE</u>	<u>INSERT</u>
105/8	with regard to how Units	with regards to how their Units
105/10-11	TVA safety behaviors and Intervenor are in agreement, and TVA	TVA and the Intervenor are in agreement that there are changes, and TVA
105/12-13	reinstatement. Was considered	reinstatement was so it could go forward and consider
105/15	Further, I think	Further, I need to make sure
105/16-17	license stage. Petitioners state	license application stage, because I've heard Petitioners state
105/18	the NEPA power and energy and energy alternatives and	the need for power and energy alternatives at
105/21	SACE is proceedings	SACE is party to the proceeding
105/24	a need for alternative	a need for power or alternatives analysis
106/1	nobody claimed	nobody could claim
106/7	plant fit is	plant that is
106/9	demands or would	demands, or...and, pardon me, would
106/11	would not presently	would not or there presently
106/13	and – service area	and the same service area
106/14	request to bring	request in order to bring
106/17	not continue the discussion	not contain a discussion
106/18	or for power.	or need for power.
106/19	proceeding of	proceeding on
106/20	any amount of	any law or

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106/23	consideration at the discussion of Uits 3 and 4	consideration and the discussion of Units 3 and 4
106/24	for good cause.	don't go for good cause.
107/12-13	absence and the condition, direction of the contrary,	absence of the Commission direction to the contrary,
107/13	contrary. The Staff's EIS does not contain need for	contrary, the Staff's EIS does not contain need for power or
107/14	energy discussion.	energy alternative discussions.
107/19	Part 52 license	Part 50 license
108/3	it was a	in this
108/4	situation. It	situation, there
108/7	arguable	arguably
108/22	for many of	for amending of
108/22	the 309 where the	the 309 or the
108/23-24	somebody with initial	somebody had not achieved
108/24-25	did not achieve	hadn't achieved
109/7	has to get	there needs to be
109/7	to file	which would involve
115/3	the prima facial evidence, should be waived	the prima facie evidence, showing why the Commission's rules should be waived
115/4-5	alternatives which encompass	alternatives which would broadly encompass
115/6	in its own	in its OL
134/12-13	dealing with what the Commissioner wrote.	reviewing what Commissioner Svinicki wrote.

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134/13	She described a process	On page 2 of her Commission Voting Record, she described a reviewing process
134/19	voting record is	voting record makes
134/20-21	and the Commission is looking for a good cause, proceeding	the Commission is looking for a good cause proceeding
134/22	this case, so deferred	this case, the Commission has directed that's reinstated only to terminated, so a deferred
134/22	not one for good cause.	not part of the good cause.
134/24	TVA does	TVA did
135/8-9	of the testimony nation	of the termination
135/10	reinstated what administrations	reinstated what actions
135/15	program, but the fact	program, however that's not part of good cause, the fact
136/1	programs must be	programs are somehow deficient or
136/6	review and if	review. If
136/9	an order itself.	an order on its own.
136/10-11	action and the staff could,	action. The staff through its reviews may,
136/15	there is an	there is currently an
136/16-17	permit proceeding is instead	permit proceeding, instead
136/22	I believe our	I believe, as Your Honors noted before and as our
136/25	then it cannot	then whatever the item is can't
137/11	petitioner could be correct	petitioners may be entirely correct
137/12	If it is broken	If something is broken

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137/13	the fixing process, whether broken	that fixing process, whether it's broken
137/14	putting in service	putting it in service
137/15	That, again, the operating	And, again, at the operating
137/17	well-crafted intention	well-crafted contention
138/11	question, if	question, it's if
138/14	assurance, that affect	assurance. On that affect
138/17	we thing it's broken and we don't even --	we think it's broken and we don't even -- therefore
139/3	say the -- the staff in speakings that verified	say the plant has been reviewed by the Staff everywhere -- The staff had performed inspections that have verified
139/9-10	introduced to it and all	Introduced to it. All
139/11	will have	will either have
139/18	I could not	The corrective actions program, the corporate one, I could not
139/22	TVA -- and the other letter	TVA November-Quebec-Alpha-Papa-Lima-November-89-Alpha.-- And also the other letter
140/13	with text staff to verify that.	with tech staff to verify for certain.
140/17	deferred laboratories	deferred plants
145/5	Bency	Svinicki
155/3	official	initial
157/21	51.95b	10 C.F.R. § 51.53(b)
159/7	MS. JONES	MS. SUTTON
168/23	50.495	50.49(e)(5)

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169/24

in expecting

inspecting