

**No. 09-1112, consolidated with No. 10-1058**

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

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BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

Petitioner

v.

NUCLEAR REGULATORY COMMISSION and the  
UNITED STATES

Respondents

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**ORAL ARGUMENT NOT YET SCHEDULED**

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**INTERVENOR TENNESSEE VALLEY AUTHORITY'S MOTION  
TO FILE SUPPLEMENTAL ADDENDUM**

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April 26, 2011

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA

BLUE RIDGE ENVIRONMENTAL	)	
DEFENSE LEAGUE	)	
	)	
Petitioner	)	
	)	
v.	)	No. 09-1112, consolidated with
	)	No. 10-1058
NUCLEAR REGULATORY	)	
COMMISSION and the UNITED	)	
STATES	)	
	)	
Respondents	)	

**INTERVENOR TENNESSEE VALLEY AUTHORITY’S MOTION  
TO FILE A SUPPLEMENTAL ADDENDUM**

Pursuant to Rules 27 and 30, Fed. R. App. P., and D.C. Circuit Rule 30(e), intervenor Tennessee Valley Authority (TVA) moves for leave to file a Supplemental Addendum for the reasons set out below. TVA also requests leave to substitute citations to this Supplemental Addendum in our final brief in place of some of the blank “JA” (Joint Appendix) citations used in our opening brief. TVA seeks this relief for the following reasons:

1. On January 28, 2011, Petitioner Blue Ridge Environmental Defense League (BREDL) asked the parties to agree to use a Deferred Appendix in this case under Fed. R. App. P. 30(c). See Ex. 1 (Jan. 28, 2011 email from Dougherty

to counsel of record). The parties consented. BREDL did not “circulate a table of the documents that [it] intend[ed] to place into the appendix” as it promised to do in its January 28th email.

2. On March 28, 2011, TVA notified BREDL of its intent to cite to certain NRC materials in the Joint Appendix that were not included in the Certified Index. TVA indicated that the NRC had no objection to including these references. See Ex. 2 (March 28, 2011 email from Vance to Dougherty).

3. Counsel for BREDL did not respond to TVA’s March 28th notification, nor did it respond to several subsequent communications from TVA over the next month concerning the contents of the Joint Appendix.

4. On March 25, 2011, the day the Joint Appendix was to be filed pursuant to the Court’s scheduling order, counsel for BREDL informed TVA that he would not include in the Joint Appendix any of the NRC materials to which TVA had cited in its opening brief. BREDL’s views on the inclusion of materials in the Joint Appendix was not communicated to TVA or to the federal respondents in a timely fashion.

5. The documents that TVA wishes to include in its Supplemental Addendum fall into two broad categories. The first category includes NRC documents that predate both of the NRC orders BREDL seeks to have reviewed here:

- August 28, 2003, TVA letter to NRC transmitting Revision 13 to the TVA Nuclear Quality Assurance Plan removing coverage of Bellefonte Nuclear Plant (BLN)
- May 28, 2004, NRC approval of revised TVA Nuclear Quality Assurance Plan
- 1995-2005 NRC inspection reports on TVA's BLN layup program (collective)
- March 13, 2009, Revision 20 to the TVA Nuclear Quality Assurance Plan restoring coverage of BLN
- October 5, 2009, NRC Staff plan for transitioning BLN from terminated to deferred status
- December 2, 2009, NRC inspection report on BLN prior to transition from terminated to deferred status.

6. In TVA's view, the documents should be considered because they represent information that NRC could have or did rely on in making its February 18, 2009, order and January 7, 2010, decision.

7. The second category of documents that TVA seeks permission to include in its Supplemental Addendum postdate the NRC actions that BREDL seeks to challenge. However, they are relevant to TVA's and NRC's argument that BREDL's petitions should be dismissed because they seek review of nonfinal NRC orders. The documents are as follows:

- January 14, 2010, NRC approval of changing BLN's status from terminated to deferred
- April 20, 2010, final NRC ASLB decision
- April 29, 2010, NRC answer to BREDL appeal of final ASLB decision
- April 30, 2010, TVA answer to BREDL appeal of final ASLB decision
- May 2010 TVA Final Supplemental Environmental Impact Assessment for Single Nuclear Unit at Bellefonte Site

- September 29, 2010, NRC denial of BREDL appeal

8. Circuit Rule 30(e) provides: “If anything material to the appeal or petition is omitted from the appendix, the clerk, on the duly served and filed written request of any party, may allow the appendix to be supplemented.”

9. The documents that TVA wishes to include in its Supplemental Addendum are material to the appeal and should assist the Court in reaching a decision.

Based on the foregoing, TVA respectfully requests permission to file a Supplemental Addendum containing these documents.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that the foregoing document was filed electronically through the Court's ECF system on the date shown in the document's ECF stamp. Notice of this filing will be sent by operation of the Court's ECF system to all parties as indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF system.

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