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OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATION STAFF

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
YANKEE ATOMIC ELECTRIC COMPANY)	Docket No. 50-029-LA
)	
(Yankee Nuclear Power Station))	

NRC STAFF'S RESPONSE TO REQUESTS FOR HEARING

INTRODUCTION

Pursuant to 10 C.F.R. § 2.714(c), the staff of the Nuclear Regulatory Commission (Staff) hereby responds to the four requests for hearing in the above-captioned proceeding received from the New England Coalition on Nuclear Pollution (NECNP), Citizens Awareness Network (CAN), Nuclear Information and Resource Service (NIRS), and the Franklin Regional Planning Board (FRPB). *See* Letter to the Secretary of the Commission from the New England Coalition on Nuclear Pollution, February 24, 1998, (NECNP Letter); Letter to Chairman Shirley A. Jackson from Citizens Awareness Network, February 26, 1998, (CAN Letter); Letter to the Office of the Secretary from Nuclear Information and Resource Service, February 27, 1998, (NIRS Letter); and Letter to the Office of the Secretary from Franklin Regional Planning Board, February 27, 1998 (FRPB Letter). For the reasons set forth below, neither NECNP, CAN, NIRS, nor FRPB have met the standing requirements set forth in 10 C.F.R. § 2.714. Their requests for hearing should, therefore, be denied.

SECY-042

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BACKGROUND

On May 15, 1997, Yankee Atomic Electric Company (YAEC) submitted a License Termination Plan (Plan) pursuant to 10 C.F.R. § 50.82(a)(9) for its Yankee Nuclear Power Station. On August 14, 1997, pursuant to 10 C.F.R. § 50.82(a)(9)(iii), the NRC published a notice of receipt of the Plan. 62 Fed. Reg. 43559 (1997). On December 18, 1997, YAEC submitted a request for a license amendment approving the Plan. On January 28, 1998, the Staff published a Notice of G4 Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration, and Opportunity for a Hearing (Notice). *Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations, Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts.* 63 Fed. Reg. 4308-09, 4328 (1998).

The Notice provided that the request under consideration was for a license amendment approving the License Termination Plan. The Notice further provided that,

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 C.F.R. Part 2. Interested persons should consult a current copy of 10 C.F.R. 2.714.

63 Fed. Reg. at 4308.

The Commission received four timely requests for hearing from NECNP, CAN, NIRS, and FRPB. See NECNP Letter, CAN Letter, NIRS Letter, and FRPB Letter. On March 9, 1998, an Atomic Safety and Licensing Board (Board) was established to preside over the proceeding.

For the reasons set forth below, neither NECNP, CAN, NIRS, nor FRPB have met the standing requirements set forth in 10 C.F.R. § 2.714. Their requests for a hearing should, therefore, be denied. Each of the requests is discussed below.

DISCUSSION

A. Legal Requirements for Intervention

Any person or entity who requests a hearing or seeks to intervene in a Commission proceeding must demonstrate that it has standing to do so. Section 189a(1) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2239(a) (AEA), provides:

In any proceeding under this Act, for the granting, suspending, or amending of any license . . . , the Commission shall grant a hearing upon the request of *any person whose interest may be affected by the proceeding*, and shall admit any such person as a party to such proceeding.

Id.; emphasis added.

The Commission's regulations in 10 C.F.R. § 2.714(a)(2) provide that a petition to intervene, *inter alia*, "shall set forth with particularity the interest of the petitioner in the proceeding, [and] how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors set forth in [§ 2.714(d)(1)]." Pursuant to 10 C.F.R. § 2.714(d)(1), in ruling on a petition for leave to intervene or a request for hearing, the presiding officer or Licensing Board is to consider:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

Finally, a petition for leave to intervene must set forth "the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene." 10 C.F.R. § 2.714(a)(2). An "aspect" is broader than a "contention" but narrower than a general reference to the NRC's operating statutes. *Consumers Power Co.* (Midland Plant, Units 1 & 2), LBP-78-27, 8 NRC 275, 278 (1978). A Board lacks jurisdiction to consider an intervention petition in which the aspect of the proposed intervention is not within the scope of the proceeding. *Philadelphia Electric Co.* (Limerick Generating Station, Unit 1), LBP-86-9, 23 NRC 273, 277 (1986). In addition, a petitioner for leave to intervene must file a supplement with a list of contentions which the petitioner seeks to have litigated in the hearing. 10 C.F.R. § 2.714(b)(1).

In determining whether a petitioner has established the requisite interest, the Commission applies judicial concepts of standing. *Gulf States Utilities Co.* (River Bend Station, Unit 1), CLI-94-10, 40 NRC 43, 47 (1994). In order to establish standing, a petitioner must show that the proposed action will cause "injury in fact" to the petitioner's interest and that the injury is arguably within the "zone of interests" protected by the statutes governing the proceeding. *Id.* In Commission proceedings, the injury must fall within the zone of interests sought to be protected by the AEA or the National Environmental Policy Act (NEPA). *Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit 1), CLI-85-2, 21 NRC 282, 316 (1985). The alleged interest must be concrete and particularized, fairly traceable to the challenged action, and likely to be redressed by a favorable decision. *Georgia Power Company* (Vogle Electric Generating Plant, Units 1 and 2), CLI-93-16, 38 NRC 25, 32 (1993) citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

In order for an organization to establish standing, it must either demonstrate standing in its own right or claim standing through one or more individual members who have standing. *See Georgia Institute of Technology* (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995). Thus, an organization may meet the injury in fact test either (1) by showing an effect upon its organizational interests, or (2) by showing that at least one of its members would suffer injury as a result of the challenged action, sufficient to confer upon it "derivative" or "representational" standing. *Houston Lighting and Power Co.* (South Texas Project Units 1 and 2), ALAB-549, 9 NRC 644, 646-47 (1979). An organization seeking to intervene in its own right must demonstrate a palpable injury in fact to its organizational interests that is within the zone of interests protected by the AEA or NEPA. *Florida Power and Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), ALAB-952, 33 NRC 521, 528-30 (1991). Where the organization relies upon the interests of its members to confer standing upon it, the organization must show that at least one member who would possess standing in his individual capacity has authorized the organization to represent him. *Georgia Institute of Technology*, 42 NRC at 115; *Houston Lighting and Power Co.* (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 393-94, 396 (1979).

B. NECNP Has Failed to Establish Standing to Intervene

NECNP has failed to establish its standing to intervene in this proceeding, in that it has not shown an "injury in fact" to its interests or an interest of its members that is fairly traceable to the license amendment request noticed for YAEC in the *Federal Register* on January 28, 1998.

NECNP does not explicitly address standing or the requirements of 10 C.F.R. § 2.714. In its conclusion, however, NECNP states that its letter is written "on behalf of members living in the vicinity of the Yankee Nuclear Power Station." NECNP Letter at 2. Nowhere in its Letter does

NECNP provide the names of members living near the site or how those members' interests might be affected by this proceeding.¹ Further, NECNP fails to demonstrate that any of its members have authorized NECNP to represent their interests. Thus, NECNP has failed to demonstrate that it has standing in this proceeding. Its request for a hearing should, therefore, be denied.

With respect to the aspects requirement, it appears that NECNP is not challenging the Plan, which is the subject of the proceeding, but rather the Staff's proposed no significant hazards consideration determination.² Such a challenge is not permitted by the Commission's regulations and is, therefore, beyond the scope of this proceeding. *See* 10 C.F.R. § 50.58(b)(6).³ Thus, NECNP's challenge is not an appropriate aspect of this proceeding. *See* 10 C.F.R. 2.714(a)(2); *Limerick*, LBP-86-9, 23 NRC at 277.

However, to the extent that the concerns raised by NECNP to support its challenge to the Staff's proposed no significant hazards consideration determination could be considered proposed aspects, two of these concerns could arguably be appropriate aspects.⁴ The Commission's

¹ It does not appear that NECNP is asserting organizational standing.

² For example, NECNP in its relief request states that a formal, adjudicatory proceeding should be held prior to the Staff approval of the plan. NECNP Letter at 2. This would be the case if the Staff had not made its proposed no significant hazard determination. 10 C.F.R. § 50.91.

³ 10 C.F.R. § 50.58(b)(6) provides,

No petition or other request for review of or hearing on the staff's significant hazards consideration determination will be entertained by the Commission. The staff's determination is final, subject only to the Commission's discretion, on its own initiative, to review the determination.

⁴ It should be noted that even if NECNP has identified an appropriate aspect, in addition
(continued...)

regulations in 10 C.F.R. § 50.82(a)(9)(ii) require that the License Termination Plan include the following:

- (A) A site characterization;
- (B) Identification of remaining dismantlement activities;
- (C) Plans for site remediation;
- (D) Detailed plans for the final radiation survey;
- (E) A description of the end use of the site, if restricted;
- (F) An updated site-specific estimate of remaining decommissioning costs; and
- (G) A supplement to the environmental report, pursuant to § 51.53, describing any new information or significant environmental change associated with the licensee's proposed termination activities.

In Part B of its Letter, NECNP mentions three "serious concerns." NECNP Letter at 2. The first concern appears to be a challenge to the Generic Environmental Impact Statement (GEIS) as well as to YAEC's reliance on "old environmental reports." *See* NECNP Letter at 2 (concern i). To the extent that NECNP seeks to challenge the GEIS, that challenge is beyond the subject matter of this proceeding and is not an appropriate aspect. To the extent, however, that NECNP is challenging the environmental reports relied upon by YAEC, such challenges may be within the scope of this proceeding. *See* 10 C.F.R. § 50.82(a)(9)(ii)(G). The second concern raises issues related to spent fuel storage. Since spent fuel storage is not required to be discussed in the Plan, this concern is outside the scope of the proceeding and is not an appropriate aspect. The third concern relates to final site clean-up issues. This concern is arguably related to plans for site remediation and

⁴(...continued)

to demonstrating its standing to intervene in this proceeding, NECNP would still need to supplement its Letter and formulate at least one admissible contention. 10 C.F.R. § 2.714(b).

could be within the scope of this proceeding. *See* 10 C.F.R. § 50.82(a)(9)(ii)(C). It could, therefore, be found to be an appropriate aspect.⁵

For the reasons discussed above, NECNP fails to establish standing to intervene in this proceeding. Its request for a hearing should, therefore, be denied.

C. CAN Has Failed to Establish Standing to Intervene

CAN has failed to establish standing to intervene in this proceeding, in that it has not shown an “injury in fact” to its interests or an interest of its members that is fairly traceable to the license amendment request noticed for YAEC in the *Federal Register* on January 28, 1998. Although it makes no attempt to specifically address the requirements of 10 C.F.R. § 2.714(a)(2), CAN does assert that its request for a hearing is made

On behalf of Citizens Awareness Network, Inc., of Rowe, Massachusetts, many of whose members live and own property (which may be damaged by any accident at the Yankee Nuclear Power Station) well within the 10 mile evacuation zone surrounding Yankee, and downstream on the Deerfield River from the Yankee site.

CAN Letter at 7.

CAN does not identify any organizational interest that could be injured as a result of the proposed license amendment. In fact, CAN fails to identify what its organizational interests are, let alone how its interest could be affected by the outcome of this proceeding. Nor has CAN established standing through one of its members: CAN fails to identify even one member whose interest may be affected by this proceeding and has authorized CAN to represent his or her interests in this

⁵ The Staff notes, however, that if NECNP is actually challenging not site remediation implementation, but the criteria set by regulation, such a challenge would be permissible only as set forth in 10 C.F.R. § 2.758. *See Florida Power and Light Company* (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-90-4, 31 NRC 54 (1990).

proceeding. Further, although CAN asserts that many of its members live and own property that may be damaged by an accident at the Yankee Nuclear Power Station, CAN fails to demonstrate how the granting of the license amendment approving the Plan could harm its members' property. CAN, therefore, has failed to demonstrate either organizational or representational standing. Its request for a hearing should, therefore, be denied.

With respect to the aspects requirement, CAN raises several concerns in its Letter. It appears, however, that CAN is not challenging the Plan, which is the subject of the proceeding, but rather the Staff's proposed no significant hazards consideration determination.⁶ As discussed above, such a challenge is not permitted by the Commission's regulations and is, therefore, not an appropriate aspect of this proceeding. *See* 10 C.F.R. § 50.58. Thus, CAN's challenge to the Staff's proposed no significant hazards determination is not an appropriate aspect of this proceeding. *See* 10 C.F.R. § 2.714(a)(2).

Although CAN fails to label its concerns as "aspects," a review of these concerns indicates that one of them could be considered an appropriate aspect of this proceeding. CAN asserts that YAEC has not taken into account the actual level of radiation above background that will remain at the site upon license termination. CAN Letter at 5 (item 16). This issue is arguably related to

⁶ For example, CAN states in its letter that "we believe that No Significant Hazards Consideration approval of the Yankee Nuclear Power Station License Termination Plan is inappropriate." CAN Letter at 1. *See also* CAN Letter at 3 ("Approval of the plan should not be granted under No Significant Hazards Consideration."); CAN Letter at 7 (under the section entitled "Requested Relief" CAN requests that the Commission "Reject approval of the Yankee License Termination Plan under No Significant Hazards Consideration).

plans for site remediation and could be within the scope of this proceeding. *See* 10 C.F.R. § 50.82(a)(9)(ii)(C). It could, therefore, be found to be an appropriate aspect.⁷

The other issues CAN raises are beyond the scope of this proceeding and are, therefore, not appropriate aspects. CAN first argues that the Commission failed to provide the “minimum due process to the public” in this matter and that, therefore, a finding of No Significant Hazards Consideration is not appropriate for the Plan. CAN Letter at 1, 3. CAN’s due process concerns appear to relate to the conduct of the public meeting and are outside the scope of this proceeding. Further, as discussed above, the Staff’s proposed no significant hazards consideration determination is beyond the Board’s jurisdiction. *See* 10 C.F.R. § 50.58. Since, the Staff’s proposed no significant hazards consideration determination is beyond the Board’s jurisdiction, CAN’s challenge to the Staff’s determination cannot be an aspect of the proceeding.

CAN also provides a list of sixteen items that it believes YAEC has not taken into account in its Plan. CAN Letter at 3-4. Items 1-10 and 12-15 all relate to spent fuel storage. *See* CAN Letter at 4-5. Since spent fuel storage is not required by the Commission’s regulations to be included in the Plan, the failure of YAEC to take into account these items is not an aspect of this proceeding. *See* 10 C.F.R. § 50.82(a)(9)(ii). Item 11 appears to be another challenge to the Staff’s

⁷ The Staff notes, however, that if CAN is actually challenging the criteria set by regulation, such a challenge would be permissible only as set forth in 10 C.F.R. § 2.758. *See Turkey Point*, LBP-90-4, 31 NRC 54. Further, CAN is still required, in addition to demonstrating standing to intervene in this proceeding, to supplement its filing to formulate at least one admissible contention. *See* 10 C.F.R. § 2.714(b).

no significant hazards determination, as well as relating to spent fuel storage. *See* CAN Letter at 5. Again, neither issue is an appropriate aspect of this proceeding.⁸

In addition to the items discussed above, CAN states that it would violate “the letter and spirit of Part 72” to allow YAEC to build and operate an ISFSI under a Part 50 license. CAN Letter at 6. However, this is not the case. Licensees may operate ISFSI’s under a Part 50 license provided they use a certified cask. *See* 10 C.F.R. Part 72, Subpart K. A cask is certified through the rule-making process. *Id.* Thus, CAN’s assertion here is not an appropriate aspect of this proceeding.⁹

Finally, CAN asserts that since the Plan goes “outside current NRC regulations without required environmental impact studies” and includes going “outside current regulations without specific applications for license amendments” it violates the AEA and NEPA. CAN Letter at 6. CAN fails, however, to identify which regulations the Plan allegedly goes outside or even which parts of the Plan are, in CAN’s view, beyond the regulations. CAN fails, therefore, to identify an aspect of this proceeding.

As discussed above, CAN has failed to demonstrate either organizational standing or representational standing. Its request for a hearing must, therefore, be denied.¹⁰

⁸ The Staff, as discussed above, believes that item 16 could possibly be an appropriate aspect.

⁹ With respect to Part 72 licenses, CAN also appears to be asserting that YAEC should be required to obtain a Part 72 license. *See* CAN Letter at 6. But, as discussed above, a Part 50 licensee may operate an ISFSI as long as the Part 50 license is in effect. Thus, CAN’s argument here does not relate to an aspect of this proceeding.

¹⁰ CAN also asks that a hearing be offered and that it and other persons be invited to
(continued...)

D. FRPB Has Failed to Establish Standing to Intervene

FRPB has failed to establish standing to intervene in this proceeding in that it has not shown an "injury in fact" to its interests or an interest of its members that is fairly traceable to the license amendment request noticed for YAEC in the *Federal Register* on January 28, 1998. Although it makes no attempt to specifically address the requirements of 10 C.F.R. § 2.714(a)(2), the FRPB provides that it is "a broad-based coalition comprised of a representative from the Select Board and Planning Board of each of the twenty-six (26) towns of Franklin County, eighteen (18) at large members living within the County, and the members of the Franklin Regional Council of Governments Executive Committee." FRPB Letter at 2. Other than the description of the FRPB's composition, FRPB provides no information concerning what the FRPB actually does or what its or its members' interest may be and how those interests may be affected by this proceeding. Thus, FRPB has not provided sufficient information to establish standing in this proceeding. Its request for a hearing should, therefore, be denied.¹¹

¹⁰(...continued)

participate. CAN Letter at 7. Although arguably this could be considered a request for discretionary intervention, CAN has not requested permission to intervene as a matter of discretion and the Licensing Board, therefore, need not infer such a request. *Babcock and Wilcox* (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 94 n.66 (1993). In any event, such relief would be premature, as CAN has not shown that any issues it would seek to resolve in a hearing are within the scope of the noticed proposal, *i.e.* approval of the License Termination Plan.

¹¹ FRPB has not expressed interest in participation under 10 C.F.R. § 2.715(c), nor has it shown that it is an "interested state" within the meaning of that regulation.

Although FRPB does not expressly identify aspects, it identifies a number of concerns, some of which are arguably aspects of this proceeding.¹² FRPB claims that “decommissioning activities employ methodologies and techniques that are experimental, untested, and/or unproven.” FRPB Letter at 3. This claim is arguably related to the identification of remaining dismantlement activities. *See* 10 C.F.R. § 50.82(a)(9)(ii)(B). FRPB also asserts that “[m]ethods that have been used to survey and monitor the site for contamination do not incorporate appropriate random sampling and data collection methods” and that “[c]ontamination of groundwater and methodologies for sampling remain an issue.” FRPB Letter at 5. These claims may be related to plans for site remediation and plans for the final radiation survey. *See* 10 C.F.R. § 50.82(a)(9)(ii)(C) and (D). FRPB further claims that “neither YAEC nor the NRC has addressed the impact of radionuclide releases on fish due to effluent and accidental releases to the Deerfield River” and FRPB “questions the adequacy of YAEC’s sampling and testing of sediment in the Deerfield River, in the Sherman Pond Reservoir, and near the outfall pipes.” FRPB Letter at 6-7. These concerns possibly relate to supplemental environmental reports and site remediation. *See* 10 C.F.R. § 50.82(a)(9)(ii)(C) and (G). Finally, FRPB states that “[f]inal site clean-up questions remain.” FRPB Letter at 7. This assertion is arguably related to site remediation. *See* 10 C.F.R. § 50.82(a)(9)(ii)(C). Because the concerns discussed above arguably relate to the subject matter of this proceeding, it appears that they are appropriate aspects for this proceeding.¹³

¹² As discussed previously, FRPB is still required, in addition to demonstrating its standing to intervene in this proceeding, to supplement its filing to formulate at least one admissible contention. 10 C.F.R. § 2.714(b).

¹³ FRPB raises a number of complaints which are outside the scope of this proceeding or
(continued...)

As discussed above, FRPB fails to demonstrate that it has standing to intervene in this proceeding. Its request for a hearing should, therefore, be denied.

E. NIRS Has Failed to Establish Standing to Intervene

NIRS has not established its standing to intervene in this proceeding, in that it has not shown an “injury in fact” to its interests that is fairly traceable to the license amendment request for approval of YAEC’s License Termination Plan. Although NIRS does not specifically address standing, it does state that it is writing on behalf of its member, Paul Gunter, and “NIRS members living in close proximity to the Yankee Nuclear Power Station.” NIRS Letter at 1. NIRS fails to identify an organizational interest or an interest of its members that could be affected by this proceeding. NIRS, therefore, fails to establish standing in this proceeding. Its request for a hearing should, therefore, be denied.

With respect to the aspects requirement, NIRS fails to specifically discuss this requirement. It appears that NIRS is not challenging the Plan, which is the subject of the proceeding, but rather the Staff’s proposed no significant hazards consideration determination.¹⁴ As discussed

¹³(...continued)

beyond the Board’s jurisdiction. FRPB raises a concern regarding spent fuel storage. FRPB Letter at 4. As already discussed and acknowledged by FRPB, spent fuel storage is outside the scope of this proceeding. *See id.* FRPB also raises complaints regarding the public meeting held on January 13. FRPB Letter at 8-9. These complaints have no relevance to the approval of the Plan. Further, FRPB requests that the NRC provide it with \$100,000 to assist it in the adjudicatory process. *Id.* at 10. The NRC is prohibited from considering such requests. *See 5 U.S.C. § 504.* FRPB also appears to challenge the Staff’s proposed no significant hazards consideration determination. FRPB Letter at 10. As discussed above, such challenges are beyond the scope of this proceeding.

¹⁴ For example, in its relief request, NIRS states that “[f]or the reasons stated therein [attachment] and above, the NRC should not grant approval of Yankee’s LTP on a No Significant
(continued...)

previously, such a challenge is beyond the scope of this proceeding and is, therefore, not an appropriate aspect of this proceeding.

One of the concerns NIRS raises to support its challenge to the Staff's proposed no significant hazards consideration determination, however, could arguably be within the scope of this proceeding and be an appropriate aspect of this proceeding. Specifically, NIRS raises a concern regarding the levels of background radiation on the site.¹⁵ NIRS Letter at 2. This concern is arguably related to the plans for site remediation and is, therefore, within the scope of this proceeding.¹⁶ *See* 10 C.F.R. § 50.82(a)(9)(ii)(B).

The other concerns raised by NIRS, including those in the attachment to its letter, are beyond the scope of this proceeding and are therefore, not appropriate aspects. NIRS's first complaint relates to the public hearing held on January 13, 1998. NIRS Letter at 1-2. The public hearing is not relevant to the approval of the Plan and is, therefore, not an aspect of this proceeding. Next, NIRS seeks to challenge the Staff's proposed no significant hazards consideration determination. NIRS Letter at 2. As already discussed, such a challenge is beyond the scope of this proceeding. NIRS, in both its Letter and the attachment, also raises issues related to the storage of spent fuel. NIRS Letter at 2, attachment. As discussed above, spent fuel

¹⁴(...continued)
Hazards Consideration basis." NIRS Letter at 2.

¹⁵ The Staff notes, however, that if NIRS is actually challenging the criteria set by regulation, such a challenge would be permissible only as set forth in 10 C.F.R. § 2.758. *See Turkey Point*, LBP-90-4, 31 NRC 54.

¹⁶ As discussed previously, NIRS is still required, in addition to demonstrating its standing to intervene in this proceeding, to supplement its filing to provide at least one admissible contention. *See* 10 C.F.R. § 2.714(b).

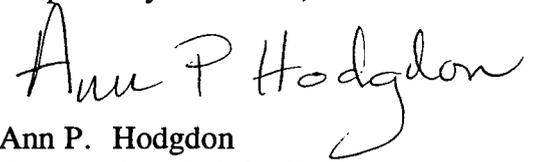
disposition is not required to be discussed in the Plan and is, therefore, beyond the scope of this proceeding.

For the reasons set forth above, NIRS has failed to establish standing to intervene in this proceeding. Its request for a hearing should, therefore, be denied.

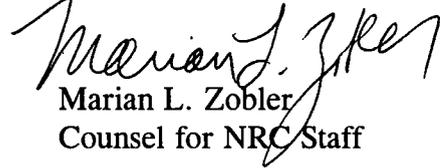
CONCLUSION

For the reasons set forth above, the requests for hearing by NECNP, CAN, FRPB, and NIRS should be denied.

Respectfully submitted,



Ann P. Hodgdon
Counsel for NRC Staff



Marian L. Zabler
Counsel for NRC Staff

Dated at Rockville, Maryland
this 16th day of March, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD '98 MAR 17 A11:54

In the Matter of)

YANKEE ATOMIC ELECTRIC COMPANY)

(Yankee Nuclear Power Station))

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

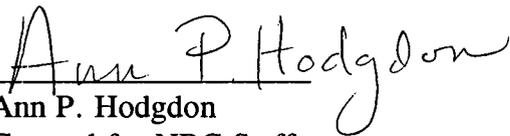
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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

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Name of Party: NRC Staff

Respectfully submitted,


Ann P. Hodgdon
Counsel for NRC Staff

Dated at Rockville, Maryland
this 16th day of March, 1998.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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(Yankee Nuclear Power Plant))

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

Docket No. 50-029-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO REQUESTS FOR HEARING" and "NOTICE OF APPEARANCE" for Ann P. Hodgdon and Marian L. Zabler in the above-captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk this 16th day of March, 1998:

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