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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 )  
 )  
(Yankee Nuclear Power Station) )

Docket No. 50-029-LA

NRC STAFF'S RESPONSE TO AMENDMENT TO FRANKLIN  
REGIONAL PLANNING BOARD'S REQUEST FOR HEARING

INTRODUCTION

Pursuant to a "Memorandum and Order" of March 25, 1998, issued by the Atomic Safety and Licensing Board (Board) designated in the above-captioned proceeding, the staff of the Nuclear Regulatory Commission (Staff) hereby responds to "Amendment to Franklin Regional Planning Board's Request for Hearing" (FRPB Amendment). As discussed below, the Franklin Regional Planning Board (FRPB) fails to establish standing to intervene in this proceeding; thus, its request for a hearing and petition for leave to intervene should be denied. In addition, FRPB's requests for funding and Commission review of the Staff's proposed no significant hazards consideration determination should be dismissed.

SECY-042

DS03

18951

BACKGROUND

On May 15, 1997, Yankee Atomic Electric Company (YAEC or Licensee) submitted a License Termination Plan (Plan) pursuant to 10 C.F.R. § 50.82(a)(9) for its Yankee Nuclear Power Station (YNPS). On August 14, 1997, pursuant to 10 C.F.R. § 50.82(a)(9)(iii), a notice of receipt of the Plan was published. 62 Fed. Reg. 43559 (1997). On December 18, 1997, YAEC submitted a request for a license amendment approving the Plan. On January 28, 1998, a Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration, and Opportunity for a Hearing (Notice) was published. *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).

On February 27, 1998, the Commission received a request for a hearing from FRPB.<sup>1</sup> Letter to the Office of the Secretary from Franklin Regional Planning Board, February 27, 1998 (FRPB Letter). YAEC filed its "Answer to Petition to Intervene and Request for Hearing of Franklin Regional Planning Board" on March 11, 1998, and on March 16, 1998, the Staff filed its response. "NRC Staff's Response to Requests for Hearing" (Staff's Response). On March 25, 1998, the Board issued its Order directing that any petitioner intending to amend its petition should file such amendment within seven days of the receipt of the Order. Order at 1. The Board further provided

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<sup>1</sup> The Commission also received requests for a hearing from the New England Coalition on Nuclear Pollution (NECNP), Citizens Awareness Network (CAN), and Nuclear Information and Resource Service (NIRS). 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).

YAEC and the Staff with five days after receipt of any amendment to file a response. *Id.* at 2.<sup>2</sup> In accordance with an extension of time granted by the Board on March 31, 1998,<sup>3</sup> FRPB filed its Amendment requesting that a hearing be granted on the License Termination Plan and petitioning for leave to intervene on April 6, 1998.<sup>4</sup> See "Motion for Extension of Filing Deadline(s)," granted March 31, 1998 (Motion).

### DISCUSSION

#### A. FRPB Fails to Establish Standing to Intervene.

The Commission's regulations 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)]." 10 C.F.R. § 2.714(a)(2). A petition for leave to intervene must also set forth "the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene." *Id.*

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

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<sup>2</sup>Also on March 25, 1998, FRPB filed "Response to Yankee Atomic Electric Company's Answer to Request for Hearing of Franklin Regional Planning Board" (March 25 Filing).

<sup>3</sup> The Motion also provided the Staff and Licensee with eight days from receipt of FRPB's amended filing to respond.

<sup>4</sup> The Motion also stated that FRPB did not expect and agreed not to require the Staff to respond to its March 25, 1998 filing. The Staff, therefore, did not respond to the March 25, 1998 filing. Further, in light of FRPB's statement in the Motion, the Staff assumes that FRPB intended to supersede its March 25, 1998 filing with its Amendment. The Staff, therefore, will not address the issues raised in the March 25, 1998, filing, but rather addresses only the FRPB Amendment.

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 Atomic Energy Act (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). An organization may establish standing either by demonstrating an injury to its organizational interests or through one of its members who has individual standing and has authorized the organization to represent his or her interest. *See Georgia Institute of Technology* (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995).

The information provided by FRPB in its Amendment is insufficient to demonstrate that it has standing to intervene either on its own behalf or as a representative of one or more of its members. FRPB asserts that it is “one of three bodies that comprises the Franklin Regional Council of Governments formed on July 1, 1997 to replace Franklin County’s previous form of county government.” FRPB Amendment at 2. According to FRPB, the two other bodies consist of “[t]he Executive Committee and the Council (representative body).” *Id.* With respect to its authority, FRPB states, that “all three bodies ‘shall jointly have and may exercise any and all authority for regional planning as may be authorized by current and future federal and state laws.’ ” *Id.* FRPB also claims that its purpose is “to protect public health, safety and welfare and the natural and cultural resources of the Regional Planning District.” *Id.* at 2-3, 6. Finally, FRPB asserts that it does “long range economic development planning. . . [and] resource conservation, preservation and development.” *Id.* at 7.

Based on the information in the FRPB Amendment, it appears that FRPB must act jointly with the other two bodies that comprise the Franklin Regional Council of Governments (FRCG). It is, therefore, unclear whether FRPB may act independently. *See* FRPB Amendment at 2. Further, since

FRPB has not provided a copy of its charter or bylaws, the Staff is unable to determine the scope of FRPB's mandate to determine whether this mandate falls within the zone of interests to be protected by the AEA or NEPA.<sup>5</sup>

FRPB provides additional information regarding its authority and mandate in its effort to participate in this proceeding as an agency of an interested county, pursuant to 10 C.F.R. § 2.715(c). *Id.* at 8. The Staff, therefore, reviewed this information to determine whether FRPB has standing pursuant to section 2.714. FRPB makes several assertions regarding its status as an independent agency and its authority, none of which demonstrate that it either has the authority to seek intervention or that it has an interest that could be affected by this proceeding. With respect to its authority, FRPB asserts that it is a "stand-alone governmental body, with its own bylaws, budget, voting rights, organization, general and specific authority and responsibility." FRPB Amendment at 9. Further, it raises and expends its own budget, is recognized by federal and state governments as a review body within the "Regional Planning Agency" through which many regional actions of FRCG must pass. *Id.* FRPB asserts that it is a governmental body, holds "joint" authority with the FRCG, and has the right to elect its own representatives to the FRCG Executive Committee. *Id.* at 8-9. Finally, FRPB provides an affidavit from a member of the Executive Committee of FRCG who states that FRPB is "representing the interests of Franklin County." Affidavit of Daniel B. Hammock, attached to FRPB Amendment (Hammock Affidavit).

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<sup>5</sup> In fact, FRPB states that its own Charter requires it to promote economic development while protecting the natural and cultural resources. FRPB Amendment at 9. As a general matter, broad economic interests with respect to economic injury to the general community are insufficient to establish standing. See *Babcock and Wilcox* (Apollo, Pennsylvania Fuel Fabrication Facility), LBP-93-4, 37 NRC 72, 78 n. 6, 94 n. 64 (1993)(Petitioners' claims regarding undefined economic injury to the local community as a whole found insufficient to confer standing).

FRPB's assertions, however, appear to be contradictory and raise further questions regarding FRPB's authority to seek intervention.<sup>6</sup> For example, although FRPB claims to be a "stand-alone governmental body," it also acknowledges that it shares joint authority with the FRCG and that it is recognized as a review body within the Regional Planning Agency. *Id.* at 8. FRPB also states that it is a "Council Agency" of FRCG. *Id.* at 9. Thus, it is not clear whether FRPB has the authority to act alone, whether it must act jointly with FRCG, or whether it may only act as a review body within FRCG. It is also not clear whether FRPB's ability to raise and expend its own budget is similarly subject to FRCG authority. Finally, it is not clear from the Hammock Affidavit how the Executive Committee of FRCG operates. Mr. Hammock states that he is one of five members on the Executive Committee of FRCG; however, it is not clear whether he may speak on behalf of the Executive Committee, or whether a majority is required. *See* Hammock Affidavit at ¶ 2. Thus, the Staff is unable to determine whether the Hammock Affidavit provides FRPB with the necessary authority to intervene in this proceeding.<sup>7</sup>

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<sup>6</sup> FRPB's authority to intervene or otherwise participate in this proceeding is further called into question by a letter to the Chairman of the Atomic Safety and Licensing Board from the Chair of the Franklin Regional Council of Governments. Letter to James P. Gleason, Chairman, Atomic Safety and Licensing Board Panel from Brad C. Councilman, Chair, Franklin Regional Council of Governments, March 26, 1998 (March 26, 1998 Letter). A copy of the March 26, 1998 Letter is attached hereto. In the March 26, 1998 Letter, the Chair of FRCG states that FRCG has not requested a hearing. The March 26, 1998 Letter also states that FRPB is an advisory board of the FRCG and implies that FRPB is acting without the approval of the FRCG. *Id.*

<sup>7</sup> The affidavit supplied in the *Advanced Medical Systems* case cited by FRPB was not in support of standing pursuant to section 2.714, but rather participation under section 2.715(c). *Advanced Medical Systems, Inc.*, LBP-95-3, 41 NRC 195 (1995). As discussed below, it is unclear whether FRPB is an agency of an interested county, the Hammock Affidavit notwithstanding.

Nor does FRPB provide any further insight into what its interests are. FRPB merely claims that it has general and specific authority and responsibilities and that its charter is to promote economic development while protecting the natural and cultural resources of its region. FRPB Amendment at 9. FRPB, however, does not explain in sufficient detail what its responsibilities are and how these responsibilities are interests that are arguably within the zone of interests to be protected by the AEA or NEPA; as discussed above, general economic interests are insufficient to establish standing.

In summary, since it is not possible to determine from the FRPB Amendment whether FRPB has the authority to seek intervention in this proceeding or what FRPB's organizational interests are, it has failed to demonstrate standing to intervene. FRPB's request for hearing and petition for leave to intervene should be denied.

FRPB also seeks, presumably in the alternative, participation in this proceeding under 10 C.F.R. § 2.715(c) as an agency of an interested county or, pursuant to the Commission's decision in *Portland General Electric Co.* (Pebble Springs Nuclear Plant, Units 1 and 2) (CLI-76-27, 4 NRC 610, 616 (1976)), discretionary intervention. *Id.* at 3-5, 8-7. As already discussed above, FRPB's status as an agency of an interested county is unclear. Further, although FRPB provides an affidavit purporting to authorize it to represent the interests of Franklin County, it is not clear whether the affiant has the authority to authorize FRPB's participation in this proceeding.<sup>8</sup>

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<sup>8</sup> Even if FRPB could participate in this proceeding under section 2.715(c), this would not cause a hearing to be held unless another petitioner is granted intervention. *Niagara Mohawk Power Corp.* (Nine Mile Point Nuclear Station, Unit 2), LBP-83-45, 18 NRC 213, 216 (1983) *citing Northern States Power Co.* (Tyronne Energy Park, Unit 1), CLI-80-36, 12 NRC 523, 527 (1980).

Nor should FRPB be granted discretionary intervention. In determining whether discretionary intervention should be permitted, the Commission has indicated that the Licensing Board should be guided by the following factors, among others:

(a) Weighing in favor of allowing intervention --

- (1) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
- (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(b) Weighing against allowing intervention --

- (4) The availability of other means whereby petitioner's interest will be protected.
- (5) The extent to which the petitioner's interest will be represented by existing parties.
- (6) The extent to which petitioner's participation will inappropriately broaden or delay the proceeding.

*Pebble Springs*, CLI-76-27, 4 NRC at 616. "Permission to intervene should prove more readily available where petitioners show *significant* ability to contribute on substantial issues of law or fact." *Id.* at 671 (*emphasis added*). Foremost among the factors listed above is whether the intervention would likely produce a valuable contribution to the NRC's decision making process on a significant safety or environmental issue appropriately addressed in the proceeding in question. *Tennessee Valley Authority* (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1422 (1977). For discretionary intervention, the burden of convincing the Licensing Board that a petitioner could make a valuable contribution lies with the petitioner. *Nuclear Engineering Co., Inc.* (Sheffield, Ill. Low-Level Radio-active Waste Disposal Site), ALAB-473, 7 NRC 737, 745 (1978).

With respect to the first factor, the extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record, FRPB states that it is "well versed in the matters at stake and is in the process of securing legal representation and expert witnesses to

assert its concerns in a proper fashion.” FRPB Amendment at 4. FRPB further asserts that its “request for funding will assure that it is represented fully and will be an important party to the process of developing a sound record.” *Id.* Although FRPB claims to be “well versed in the matters at stake” FRPB fails to demonstrate this assertion and further admits that it does not now have the expertise necessary to assert its concerns in the proper fashion. *See id.* Further, FRPB indicates that without funding from the NRC it would be unable to assist in the development of a sound record. *Id.* As discussed in more detail below, the NRC is precluded by law from providing funding to FRPB. The need for funding alone could be fatal to FRPB’s request. *See Nuclear Engineering*, ALAB-473, 7 NRC at 744 (The Appeal Board, noting the Commission’s determination not to provide financial assistance to intervenors, denied discretionary intervention to petitioners who stated that without financial assistance, their ability to intervene would be affected). In any event, FRPB has not demonstrated a *significant* ability to contribute to the development of a sound record. This factor, therefore, weighs against FRPB.

With respect to the second and third factors to be considered with regard to discretionary intervention (the nature and extent of property, financial or other interests in the proceeding and the possible effect any order might have on the petitioner's interest), it has been held that interests which do not establish a right to intervention because they are not within the "zone of interests" to be protected by the Commission should not be considered as positive factors for the purposes of granting discretionary intervention. *Detroit Edison Co.* (Enrico Fermi Atomic Power Plant, Unit 2), LBP-78-11, 7 NRC 381, 388, *aff'd*, ALAB-470, 7 NRC 473 (1978). In addressing these two factors, FRPB asserts that its purpose is to protect the health and welfare of the citizens of Franklin County and its natural resources. FRPB Amendment at 4. These are essentially the same interests FRPB

claims provide it with standing under section 2.714. *See* FRPB Amendment at 2-3, 9. As already discussed above, FRPB has not provided sufficient information to determine whether its interests are within the zone of interests protected by the AEA or NEPA; thus, FRPB was unable to demonstrate standing as of right. Similarly, here, FRPB's interests are not sufficiently defined to meet the second and third factors for discretionary intervention. Thus, these two factors weigh against granting FRPB discretionary intervention.

With respect to the fourth and fifth factors, the availability of other means whereby the petitioner's interest will be protected and the extent to which the petitioner's interest will be represented by existing parties, FRPB states that although there are other petitioners seeking intervention, their interests are broader, whereas FRPB is concerned with the people and property the FRPB is entrusted to protect. *Id.* at 4. The Staff is unable to assess whether the other petitioners seeking intervention in this proceeding will be able to protect FRPB's interests since, as of this date, no other petitioners have been admitted as parties. Thus, these factors, as well as the sixth factor, weigh in favor of FRPB's request.

A balancing of these factors indicates the FRPB should not be granted discretionary intervention. Significantly, FRPB fails to demonstrate that it could assist in the development of a sound record or that its interests are sufficient to grant discretionary standing. FRPB's request should, therefore, be denied.

In summary, FRPB fails to provide sufficient information to demonstrate that it has standing to intervene as of right. Further, FRPB has not established that it is an agency of an interested county, under 10 C.F.R. § 2.715(c), or that it should be afforded discretionary intervention. FRPB's request for a hearing and petition for leave to intervene should, therefore, be denied.

B. Aspects

FRPB in its Amendment reiterates some of the same concerns outlined in its Letter and labels them as aspects. FRPB Amendment at 7. The Staff, in its Response, stated that some of the concerns expressed by FRPB in its Letter were arguably aspects of the proceeding. Staff Response at 13. The Staff continues to believe that the concerns expressed by FRPB are arguably within the scope of this proceeding. However, FRPB's concerns are so broadly stated that the Staff is unable to say with any certainty that FRPB has, in fact, identified aspects that are within the scope of the proposed amendment. Each of the aspects identified in the Amendment is discussed below.

FRPB's first aspect is that "[d]ecommissioning activities employ methods and techniques that are experimental, untested and unproven." FRPB Amendment at 7. As stated in the Staff's Response, this aspect is arguably related to the identification of remaining dismantlement activities. *See* Staff Response at 13, *citing* 10 C.F.R. § 50.82(a)(9)(ii)(B). FRPB also asserts that "[s]urvey and monitoring of site contamination do not include appropriate random sampling and data collection methods" and that "[d]econtamination of ground water and their sampling methodologies remain at issue." FRPB Amendment at 7-8. These two aspects may be related to plans for site remediation and plans for the final radiation survey. *See* Staff Response at 13, *citing* 10 C.F.R. § 50.82(a)(9)(ii)(C) and (D). Next, FRPB states that "[t]he impacts of radiation releases [presumably associated with license termination] on the fish and the ecology of the Deerfield River have been poorly explored, if at all, by either YAEC or the NRC and that [p]oor, if any, sampling of sediments of the Deerfield River Sherman Pond, and especially near outfall pipes, has been done." FRPB Amendment at 8. These concerns could be related to supplemental environmental reports and site remediation plans that are required to be included in the License Termination Plan. *See* Staff Response at 13, *citing*

10 C.F.R. § 50.82(a)(9)(ii)(C) and (G). Finally, FRPB claims that “[q]uestions remain regarding final site cleanup.” FRPB Amendment at 8. This claim arguably relates to site remediation. *See* Staff Response at 13, *citing*, 10 C.F.R. § 50.82(a)(9)(ii)(C). Because these aspects arguably relate to the subject matter of this proceeding, they are appropriate aspects.<sup>9</sup> As discussed above, however, since FRPB has failed to demonstrate standing to intervene, its request for a hearing and petition for leave to intervene should be denied.

C. FRPB’s Request for Funding Should Be Dismissed.

In addition to seeking leave to intervene in this proceeding, FRPB also requests \$100,000 to help it intervene in this proceeding. FRPB Amendment at 10. Since the NRC is precluded by law from providing funding to intervenors, FRPB’s request should be denied.

FRPB asserts that 5 U.S.C. § 504, cited by the Staff in its Response, does not apply because it does not cover “this funding issue” but instead the section refers to the awarding of fees and other expenses in adversary adjudications. *Id.* FRPB claims that it is not requesting an adversary adjudication because, pursuant to section 2.715(c)<sup>10</sup> it is not required to take a position with respect to any issue and is only requesting a full, fair and open proceeding, not an adversarial one. *Id.*

FRPB, however, misunderstands section 504. Section 504 specifically states that “[n]one of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or to otherwise compensate, parties intervening in regulatory or adjudicatory

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<sup>9</sup> If FRPB had established standing, FRPB would still need to provide at least one acceptable contention as required by 10 C.F.R. § 2.714(b).

<sup>10</sup> If FRPB were permitted to participate in this proceeding as a party, pursuant to 10 C.F.R. § 2.714, however, it would have the same obligations as any other party admitted in this proceeding, which includes raising and litigating contentions.

proceedings funded in such Acts.” 5 U.S.C. § 504 note. Since the NRC’s appropriations come from Energy and Water Development Appropriations Acts, this section applies to NRC proceedings. *See* Pub.L. 102-377, Title IV, Oct. 2, 1992, 106 Stat. 1340-41. Thus, section 504 clearly prohibits the NRC from funding the FRPB’s participation in this proceeding. *See also, Metropolitan Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-80-19, 11 NRC 700, 702-703 (1980); *Nuclear Regulatory Commission* (Financial Assistance to Participants in Commission Proceedings), CLI-76-23, 4 NRC 494 (1976). FRPB’s request for funding must, therefore, be dismissed.<sup>11</sup>

D. FRPB’s Request For Commission Review of the Staff’s Proposed No Significant Hazards Consideration Finding Should Be Dismissed.

Finally, FRPB “strongly urges” the Commission to exercise its discretion and review the Staff’s no significant hazards consideration determination, claiming it has raised several issues that refute or negate a no significant hazards consideration. FRPB Amendment at 12. First, even though FRPB recognizes that a review of the Staff’s proposed no significant hazards consideration determination lies solely within the Commission’s discretion, FRPB claims that the Staff’s determination is still somehow within the scope of this proceeding. *Id* at 11. The scope of this proceeding, however, as stated in the *Federal Register* notice, is whether the license amendment should be granted. Further, since a review of the Staff’s no significant hazards consideration determination is solely within the Commission’s discretion, the Board designated to preside over this proceeding does not have the jurisdiction to consider the Staff’s determination. *See Vermont*

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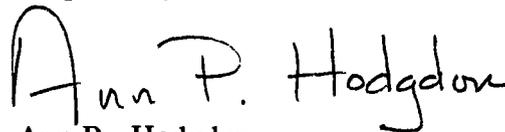
<sup>11</sup> FRPB also claims that it would be “unjust” not to fund the FRPB, that funding the FRPB could facilitate and not delay decommissioning, that substantive justice and an open and thorough review process militates for funding, and that funding for intervenors is not without precedent. FRPB Amendment at 10. None of these arguments, however, negate the fact that, as discussed above, the NRC is simply precluded by law from providing the requested funding.

*Yankee Nuclear Power Corporation*, (Vermont Yankee Nuclear Power Station), LBP-90-6, 31 NRC 85, 91 (1990), citing *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-86-12, 24 NRC 1, 6 n. 3 (1986), *reversed in part on other grounds*, *San Luis Obispo Mothers for Peace v. U.S. Nuclear Regulatory Commission*, 799 F.2d 1268 (9th Cir.1986). ("The issue of whether the proposed amendment does or does not involve a significant hazards consideration is not litigable in any hearing that might be held on the proposed amendment because, as the Commission has observed, the finding is a procedural device whose only purpose is to determine the timing of the hearing (before or after issuance of the amendment)"). Thus, the FRPB is incorrect in stating that the Staff's proposed no significant hazards consideration determination is within the scope of this proceeding. *See id.* FRPB's request, therefore, should be dismissed.

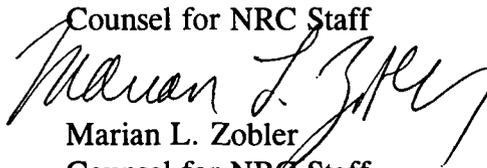
CONCLUSION

For the reasons set forth above, FRPB has failed to demonstrate standing to intervene in this proceeding. Thus, FRPB's request for a hearing and petition for leave to intervene should be denied. Further, FRPB's requests for funding and Commission review of the Staff's no significant hazards consideration should be dismissed.

Respectfully submitted,



Ann P. Hodgdon  
Counsel for NRC Staff



Marian L. Zobler  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 14th day of April, 1998

**FRANKLIN REGIONAL  
COUNCIL OF  
GOVERNMENTS**

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March 26, 1998

James P. Gleason, Chairman  
Atomic Safety and Licensing Board Panel  
Mail Stop TS F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Subject: Docket No. 98-029-LA

Dear Judge Gleason:

I have recently received a copy of your notice regarding ALPB No. 98-736-01-LA. As Chairman of the Franklin Regional Council of Governments I wish to make a clarification regarding this document.

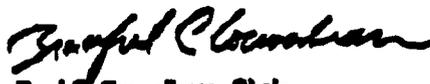
The representation that the Franklin Regional Council of Governments has requested a hearing is not correct. The petitioner is the Franklin Regional Planning Board, an advisory board to the Franklin Regional Council of Governments.

Their 2/27 letter to David Meyer at NRC (Signed by the Chair of the Planning Board) states: "The Franklin Regional Planning Board is a broad-based coalition comprised of a representative from the Selectboard and Planning Board of each of the twenty-six towns of Franklin County, eighteen at large members living within the County, and the members of the Franklin Regional Council of Governments Executive Committee."

Although offered the opportunity, the Executive Committee of the Planning Board declined to bring this matter before the Franklin Regional Council of Governments.

Thank you for your attention to this matter.

Sincerely,



Brad C. Councilman, Chair  
Franklin Regional Council of Governments

BCC:lg

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of )  
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YANKEE ATOMIC ELECTRIC COMPANY )  
)  
(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 AMENDMENT TO FRANKLIN REGIONAL PLANNING BOARD'S REQUEST FOR HEARING" 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 14th day of April, 1998:

James P. Gleason, Chairman  
Administrative Judge  
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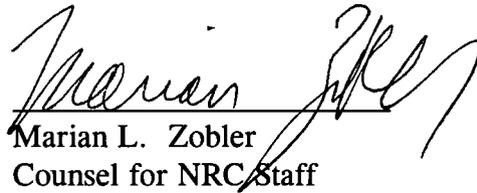
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