



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

August 19, 1998

DOCKETED
USNRC

'98 AUG 19 P12:24

OFFICE
RU
ADJUDICATOR

MEMORANDUM TO: B. Paul Cotter, Jr.
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

FROM: *John C. Hoyle*
John C. Hoyle, Secretary

SERVED AUG 19 1998

SUBJECT: PETITION FOR LEAVE TO INTERVENE SUBMITTED
BY THE NATIONAL WHISTLEBLOWER CENTER

In accordance with the Commission Order of this date (CLI-98-14), attached for appropriate action is a copy of the petition to intervene of the National Whistleblower Center with respect to the application of the Baltimore Gas and Electric Company to renew the operating license for Units 1 and 2 of the Calvert Cliffs Nuclear Power Plant (Docket Nos. 50-317 and 50-318).

Attachment: As stated

19436

**BEFORE THE
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

DOCKETED
USNRC

'98 AUG 10 10:55

_____)
In the Matter of)
)
BALTIMORE GAS)
& ELECTRIC CO.,)
et al.,)
)
(Calvert Cliffs Unit 1 and)
Unit 2))
_____)

**Docket Nos. 50-317 and 50-318
License Renewal**

FILED
'98 AUG -7 P1:09

**PETITION TO INTERVENE AND REQUEST FOR HEARING
OF THE NATIONAL WHISTLEBLOWER CENTER**

Pursuant to the notice published in the Federal Register on July 8, 1998 (Vol. 63, No. 130)(pages 36966-67), 10 C.F.R. 2.714 and the relevant provisions of the Atomic Energy Act and Energy Reorganization Act, the Administrative Procedure Act and the Constitution of the United States of America, petitioner National Whistleblower Center hereby requests leave to intervene in the above-captioned proceeding. Specifically, petitioner seeks leave to intervene in proceedings regarding Baltimore Gas & Electric's application to renew the operating license of the Calvert Cliffs Units 1 and 2 for 20 years.^{1/}

Petitioner asserts that the facility cannot safely operate past the original specified lifetime and poses an unacceptable health and safety risk to the public.

^{1/} This petition seeks leave to intervene in all proceedings directly or indirectly related to BG&E's application to renew its operating licenses for Calvert Cliffs Nuclear Power Plant Units 1 and 2, operating licenses Nos. DPR-53 and DPR-69 and all proceeding related to BG&E's application to renew said licenses filed with the NRC on April 8, 1998 and referenced in 63 Federal Register No. 130, pp. 36966-67 (July 8, 1998).

I. Petitioner has Standing to Intervene

Pursuant to §189(a) of the Atomic Energy Act ("AEA"), 42 U.S.C. 2239(a)(1), and 10 C.F.R. § 2.714(a), petitioner has standing to intervene. The National Whistleblower Center has standing to intervene as an organization through the standing of an employee-officer and a member of the Board of Directors-officer. It is enough for standing purposes that the petition is filed on behalf of a ranking official of the organization who himself or herself has the requisite personal interest to support an intervention petition. *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), LBP-95-6, 41 NRC 281 (1995); *Duke Power Co.* (Oconee-McGuire), ALAB-528, 9 NRC 146, 151 (1979).

The petitioner can demonstrate that Rev. L. William Yolton is a member of the Board of Directors and a corporate officer (Treasurer) of the National Whistleblower Center. Rev. Yolton owns property and resides within fifty miles of the Calvert Cliffs nuclear units.^{2/} The health, safety, property rights and personal finances of Rev. Yolton could be affected by the NRC granting BG&E's application for license renewal of 20 years if the plant cannot be safely operated for the full 20 year term of the renewal. Rev. Yolton lives, works, recreates and travels in the environs of Calvert Cliffs Units 1 and 2. He eats food produced in an area that would be adversely affected by normal and accidental releases of radioactive materials from the operation

^{2/} Geographic proximity to a petitioner's residence is sufficient in and of itself to satisfy the interest requirements of 10 C.F.R. §2.714. Virginia Electric Power Co. (North Anna Nuclear Power Station, Units 1 & 2), ALAB-522, 9 NRC 54, 56 (1979). Distances up to 50 miles from a nuclear plant are sufficient to place petitioner within the geographical zone of interest. Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 & 2), ASLB-413, 5 NRC 1418, 1421 n.4 (1977).

of Calvert Cliffs. Rev. Yolton has authorized the National Whistleblower Center to represent his interests regarding the issues in this licensing proceeding. *See* attached affidavit of Rev. Yolton.

The petitioner can also demonstrate that Ms. M. Joyce Claro, is an employee and corporate officer of the National Whistleblower Center. Ms. Claro owns property and resides within 50 miles of Calvert Cliffs. The health, safety, property rights and personal finances of Ms. Claro and her family could be affected by the NRC granting BG&E's application for license renewal of 20 years if the plant cannot be safely operated for the full 20 year term of the renewal. Ms. Claro and her family live, work, recreate and travel in the environs of Calvert Cliffs Units 1 and 2. They eat food produced in an area that would be adversely affected by normal and accidental releases of radioactive materials from the operation of Calvert Cliffs. Ms. Claro authorizes the National Whistleblower Center to represent her interests regarding the issues in this licensing proceeding. *See* attached affidavit of Ms. Claro.

Finally, Petitioner reserves its "unlimited right to amend" this petition and set forth additional grounds for standing "until 15 days prior to the first prehearing conference." *Georgia Power Company*, LBP-90-29, 32 NRC 89, 93 (1990). In addition, should the National Whistleblower Center be denied standing for any reason, Rev. Yolton and Ms. Claro would request that they be permitted to proceed as interveners in this proceeding in their personal capacities.

II. Petitioners are Entitled to a Hearing

Pursuant to 42 U.S.C. § 2239 (a)(1), the Commission is required to "grant a hearing upon the request of any person whose interest may be affected by the proceeding."

Petitioner reserves its “unlimited right to amend” this petition and set forth additional grounds for standing “until 15 days prior to the first prehearing conference.” *Georgia Power Company*, LBP-90-29, 32 NRC 89, 93 (1990).

III. Contentions

Petitioner contend that a genuine dispute exists as to whether Calvert Cliffs Units 1 and 2 can safely operate past the original specified lifetime. Petitioner further contends that renewal of BG&E’s operating license for a period of 20 years poses an unacceptable health and safety risk to the public.

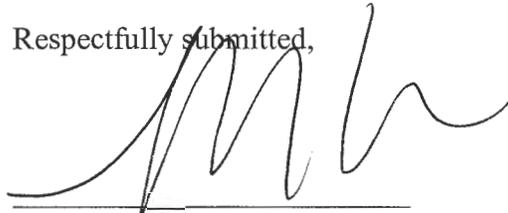
Petitioners will submit contentions and their factual basis upon receipt of a pre-hearing conference notice, or as otherwise directed by an Atomic Safety and Licensing Board panel. *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 118 (1995). Petitioner reserves its “unlimited right to amend” this petition and set forth additional contentions “until 15 days prior to the first prehearing conference.” *Georgia Power Company*, LBP-90-29, 32 NRC 89, 93 (1990).

IV Relief Requested

WHEREFORE, petitioner requests that a hearing be convened to determine whether BG&E can safely operate Calvert Cliffs Units 1 and 2 requested renewal term of 20 years, that they be granted the full right to intervene in this proceeding, and that BG&E’s operating license not be renewed until time as it is determined that Calvert Cliffs Units 1 and 2 can, in fact, be operated safely and within the bounds of law for the requested renewal term.

Petitioner reserves its "unlimited right to amend" this petition "until 15 days prior to the first prehearing conference. *Georgia Power Company*, LBP-90-29, 32 NRC 89, 93 (1990).

Respectfully submitted,



Michael D. Kohn
Stephen M. Kohn
David K. Colapinto
National Whistleblower Legal Defense and
Education Fund
3233 P Street, N.W.
Washington, D.C. 20007
(202) 342-2177

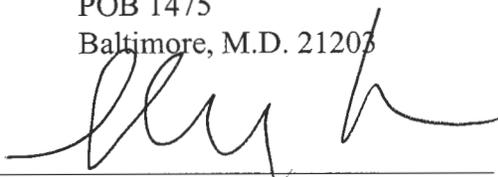
Attorneys for Petitioner
National Whistleblower Center

CERTIFICATE OF SERVICE

The original of this petition was delivered, by hand, to the NRC's Public Document Room on August 7, 1998 and was further served on that date to the following persons, by First Class Mail:

General Counsel
NRC
Washington, D.C. 20555-0001

R.F. Fleishman
General Counsel
Baltimore Gas and Electric Company
POB 1475
Baltimore, M.D. 21203


Stephen M. Kohn

1998 AUG 10 10:56

DOCKED

DOCKED

**BEFORE THE
 UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 ATOMIC SAFETY AND LICENSING BOARD**

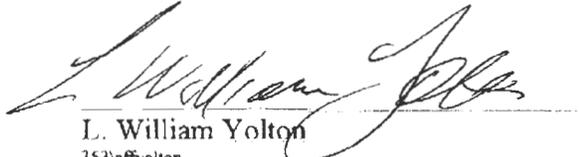
<p>In the Matter of</p> <p>BALTIMORE GAS & ELECTRIC CO., <u>et al.</u></p> <p>(Calvert Cliffs Unit 1 and Unit 2)</p>	<p>)</p>	<p>Docket Nos. 50-317 and 50-318 License Renewal</p>
---	---	---

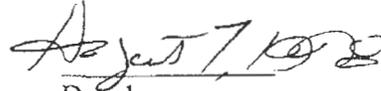
AFFIDAVIT OF L. WILLIAM YOLTON

Under the pains and penalty of perjury I hereby affirm that the following is true and correct to the best of my knowledge and belief:

1. My name L. William Yolton.
2. I am an officer and member of the Board of Directors of the National Whistleblower Center, a non-profit, tax exempt entity;
3. I own property and reside at 3825 Gibbs Street, Alexandria, Virginia, 22309-2552. Said property is located within 50 miles of Calvert Cliffs Units 1 & 2;
4. My health, safety, property rights and personal finances, and those of my family would be affected should the U.S. Nuclear Regulatory Commission grant Baltimore Gas & Electric Company's (BG&E's) application for license renewal of 20 years if the plant cannot be safely operated for the full 20 year term of the renewal;
5. My family and I live, work, recreate and travel in the environs of Calvert Cliffs Units 1 and 2. We also eat food produced in an area that would be adversely affected by normal and accidental releases of radioactive materials from the Calvert Cliffs nuclear facility;

- 6. I hereby authorize, vest, confer, grant and otherwise affirm that the National Whistleblower Center represents all of my interests pertaining to the above captioned proceeding and/or any other proceeding(s) related to the application for license renewal filed in conjunction with any and all licensing application(s) filed with respect to Calvert Cliffs Units 1 and Unit 2.


 L. William Yolton
 3531effyolton


 Dated

**BEFORE THE
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD**

_____)
In the Matter of)
)
BALTIMORE GAS)
& ELECTRIC CO.,)
et al.,)
)
(Calvert Cliffs Unit 1 and)
Unit 2))
_____)

**Docket Nos. 50-317 and 50-318
License Renewal**

AFFIDAVIT OF MARION JOYCE CLARO

Under the pains and penalty of perjury I hereby affirm that the following is true and correct to the best of my knowledge and belief:

1. My name Marion Joyce Claro.
2. I am an employee and an officer of the National Whistleblower Center, a non-profit, tax exempt entity;
3. I own property and reside at 1216 Gwynne Avenue, Churchton, MD 20733. Said property is within 50 miles of Calvert Cliffs Units 1 & 2;
4. My health, safety, property rights and personal finances, and those of my family would be affected should the U.S. Nuclear Regulatory Commission grant Baltimore Gas & Electric Company's (BG&E's) application for license renewal of 20 years if the plant cannot be safely operated for the full 20 year term of the renewal;
5. My family and I live, work, recreate and travel in the environs of Calvert Cliffs Units 1 and 2. We also eat food produced in an area that would be adversely affected by normal and accidental releases of radioactive materials from the Calvert Cliffs nuclear facility;

6. I hereby authorize, vest, confer, grant and otherwise affirm that the National Whistleblower Center represents all of my interests pertaining to the above captioned proceeding and/or any other proceeding(s) related to the application for license renewal filed in conjunction with any and all licensing application(s) filed with respect to Calvert Cliffs Units 1 and Unit 2.



Marion Joyce Claro
353\affinjc

8/7/98
Dated

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

BALTIMORE GAS & ELECTRIC COMPANY

(Calvert Cliffs Nuclear Power Plant,
Units 1 and 2)

Docket No.(s) 50-317/318

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing HOYLE MEMO TO COTTER RE PET. have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Chief Admin. Judge

B. Paul Cotter, Jr.

Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23

U.S. Nuclear Regulatory Commission
Washington, DC 20555

Stephen M. Kohn, Esq.

National Whistleblower Legal Defense
and Education Fund

3233 P Street, NW
Washington, DC 20007

R. F. Fleishman, Esq.

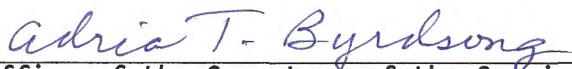
General Counsel

Baltimore Gas and Electric Company

P.O. Box 1475

Baltimore, MD 21203

Dated at Rockville, Md. this
19 day of August 1998


Office of the Secretary of the Commission