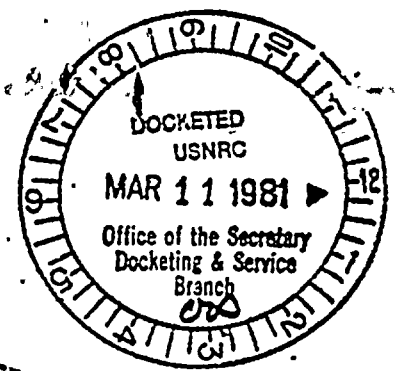




UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Atomic Safety and Licensing Board

Before Administrative Judges:
Herbert Grossman, Chairman
Elizabeth B. Johnson, Member
Dr. Quentin J. Stober, Member



SERVED MAR 11 1981

In the Matter of:

TENNESSEE VALLEY AUTHORITY

(Browns Ferry Nuclear Plant
Unit Nos. 1, 2 and 3)

Docket Nos. 50-259 OLA
50-260 OLA
50-296 OLA

(Onsite Storage of Radwaste)

March 10, 1981

ORDER SETTING SPECIAL PREHEARING CONFERENCE

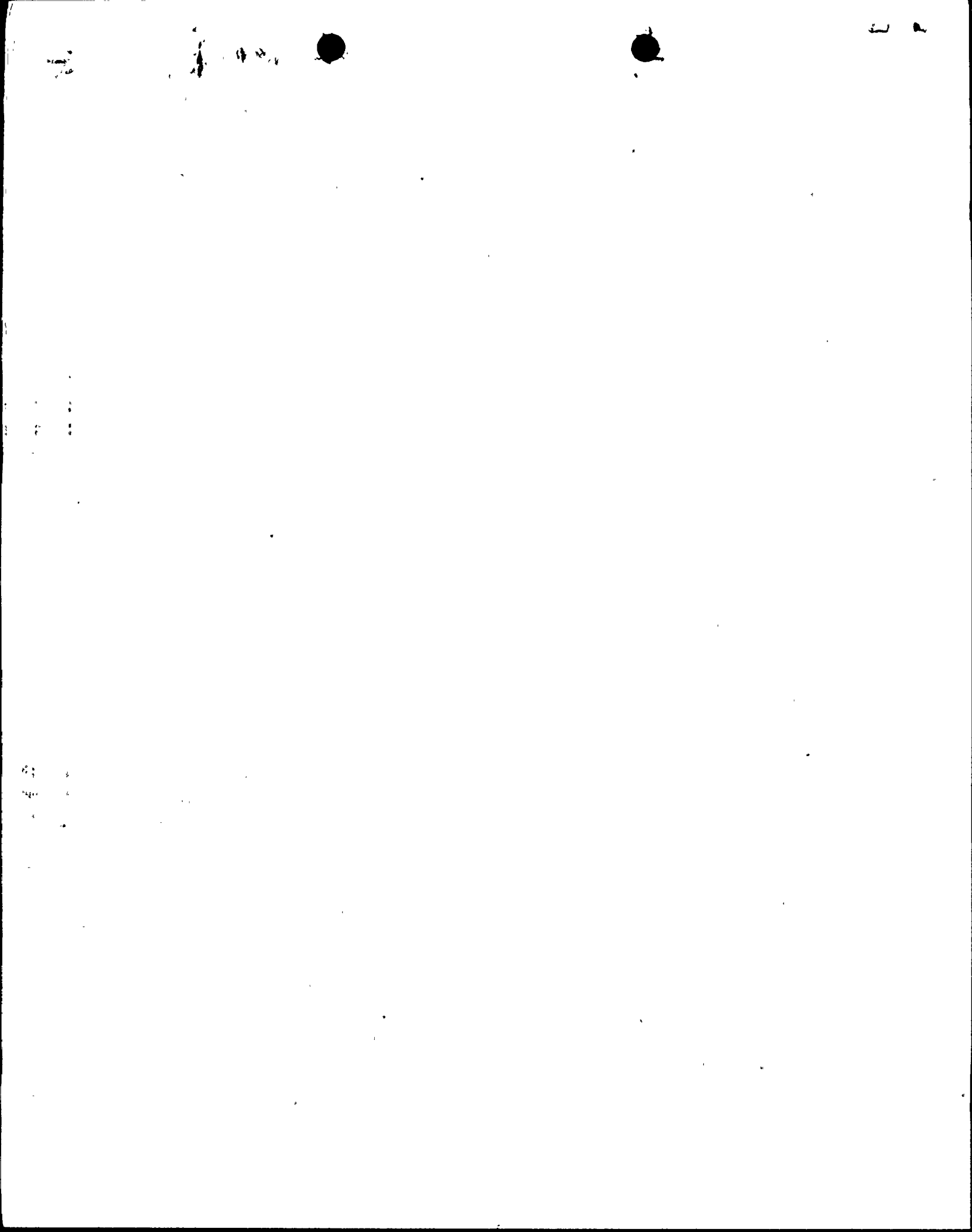
On December 11, 1980, the Nuclear Regulatory Commission published in the Federal Register a Notice of Consideration of Amendments to Facility Operating Licenses DPR-33, DPR-52 and DPR-68, issued to Tennessee Valley Authority (Licensee), for Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, located in Limestone County, Alabama. 45 Fed. Reg. 81697. The proposed amendments would authorize the Licensee to store onsite the low level radioactive waste generated by the facility for a period of five years.

The notice provided that the Licensee might file a request for a hearing and that any person whose interest might be affected by the proceeding and who wished to participate as a party in the proceeding must file a written petition for leave to intervene by January 12, 1981 in accordance

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with 10 CFR §2.714. By that date, six identical petitions were filed,^{*/} each signed by from three to five petitioners, listed alphabetically as follows: Noel M. Beck, Robert W. Beck, Gregory Robert Brough, Alice N. Colcock, David R. Curott, Uvonna J. Curott, David Ely, Hollis Fenn, Richard L. Freeman, Marjorie L. Hall, Debbie Havas, Rebecca Hudgins, Richard W. Jobe, John Martin, Betty Martin, Nancy Muse, Thomas Wayne Paul, Michael D. Pierson and Tom Thornton.

By reply dated January 27, 1981, Licensee sought denial of the petitions for leave to intervene on the grounds that petitioners lacked standing because they had no possible interests that could be affected by the proposed amendment of licenses. By responses dated January 28, 1981 (to the first five petitions received) and February 23, 1981 (to the missing sixth petition discussed in the footnote, supra), the Staff conceded petitioners' interest to intervene but denied that petitioners had met the "aspects" requirement of 10 CFR §2.714 or had yet raised the litigable contention within the scope of the proceeding that are necessary prerequisites to granting a petition to intervene and issuing a Notice of Hearing. The Staff noted, however, that 10 CFR §2.714(a)(3) permits the amendment of a petition without approval of the presiding officer at any

^{*/} A petition filed by Hollis Fenn, Rebecca Hudgins and Tom Thornton was not received until after the Staff had responded to five of the petitions on January 28, 1981. Apparently after noticing that the sixth petition was not referred to in the Staff response, a copy of the sixth petition was forwarded by petitioners to the NRC. In a follow-up telephone call placed by the NRC Staff, petitioner Hollis Fenn indicated that his original petition had been mailed at the same time as the other five petitions.

The Board has no reason to question Mr. Fenn's representation, and will treat all six petitions as timely filed.



time up to fifteen (15) days prior to the holding of the special prehearing conference and that §2.714(b) permits the filing of a supplement to the petition containing a list of contentions by that same deadline, so as to afford petitioners an opportunity to satisfy the aspect and contention requirements.

An Atomic Safety and Licensing Board was designated to rule upon interventions and requests for hearing, and to preside over the proceeding in the event that a hearing is ordered. The Board is comprised of the following Administrative Judges: Mrs. Elizabeth Johnson, Dr. Quentin J. Stober and Herbert Grossman, Esquire, who will act as Chairman.
46 Fed. Reg. 10579 (February 3, 1981).

Pursuant to the provisions of 10 CFR §2.751(a), the Board will conduct a special prehearing conference beginning at 9:30 a.m. on April 10, 1981 at the Huntsville Public Library, 108 Fountain Circle, Huntsville, Alabama 35804. All prospective parties to this proceeding, or their respective counsel, are directed to attend. At the special prehearing conference, the participants should be prepared to discuss petitioners' standing to intervene, specific issues that might be considered at an evidentiary hearing, and possible further scheduling in the proceeding.

Petitioners shall file supplements to their petitions not later than fifteen days prior to the special prehearing conference, which shall include a list of specific contentions sought to be litigated in this

proceeding. Licensee and Staff are requested to file any responses to the supplemented petitions by April 7, 1981 and deliver copies to the Board on that date.

The public is invited to attend the special prehearing conference. No oral limited appearance statements will be permitted at this conference. If a hearing is granted, opportunity to present limited appearance statements will be afforded at subsequent conferences or evidentiary hearings near the site of the facility. Written limited appearance statements may be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 or submitted at any conferences or sessions of the evidentiary hearing.

BY ORDER OF THE BOARD.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD



Herbert Grossman, Chairman
ADMINISTRATIVE JUDGE

