

June 12, 2018

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

In the Matter of)	
)	
Tennessee Valley Authority)	Docket No. 52-047-ESP
)	
(Clinch River Nuclear Site))	
_____)	

**INTERVENORS' RESPONSE TO MOTIONS TO DISMISS
CONTENTION 2 AS MOOT**

Pursuant to 10 C.F.R. §§ 2.323, Intervenors Southern Alliance for Clean Energy and Tennessee Environmental Council hereby response to motions by Tennessee Valley Authority (“TVA”) and the U.S. Nuclear Regulatory Commission (“NRC”) Staff to dismiss Intervenors’ Contention 2 (Failure to Address Consequences of Pool Fires) as moot. Tennessee Valley Authority’s Motion to Dismiss Contention 2 as Moot (Jun. 11, 2018); NRC Staff’s Motion to Dismiss Contention 2 as Moot and Answer to Intervenors’ Motion for Leave to File Contentions 4 and 5 (Jun.11, 2018).

Contention 2 asserted that TVA’s Environmental Report failed to satisfy the National Environmental Policy Act (“NEPA”) because it did not address the consequences of spent fuel pool fires. Intervenors agree that Contention 2 is moot, because the omission charged by the contention has been cured: the NRC Staff has now issued its Draft Environmental Impact Statement, which contains the analysis of spent fuel storage impacts that was missing from TVA’s Environmental Report. Intervenors have challenged the adequacy of the Staff’s analysis in their new Contention 4, now pending before the ASLB. Intervenors’ Motion for Leave to File Contention 4 (Inadequate Discussion of Environmental Impacts of Spent Fuel Pool Fires) and

Contention 5 (Impermissible Discussion of Energy Alternatives and Need for the Proposed SMR) (May 21, 2018). Intervenors have also filed a new Contention 5, challenging the inclusion of an energy alternatives discussion in the Draft EIS. *Id.*

Before dismissing Contention 2, Intervenors request the Atomic Safety and Licensing Board (“ASLB”) to rule on the admissibility of their Contentions 4 and 5. By waiting until then to dismiss Contention 2, the ASLB would avoid dismissing the entire proceeding and thereby throwing the status of Contentions 4 and 5 into doubt, including whether Intervenors must file a new hearing request and standing declarations.

Accordingly, Intervenors agree to the dismissal of Contention 2 but -- in order to preserve the continuity of this proceeding and conserve the parties’ resources -- Intervenors request the ASLB to postpone dismissing the contention until after ruling on the admissibility of Contentions 4 and 5. Undersigned counsel certifies under 10 C.F.R. § 2.323 that when Intervenors consented to TVA’s and the NRC Staff’s motions to dismiss Contention 2, she informed them that Intervenors’ consent was conditional upon their corresponding assent to this request.

Respectfully submitted,

 /signed electronically by/
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CERTIFICATE OF SERVICE

I certify that on June 12, 2018, I posted copies of the foregoing INTERVENORS' RESPONSE TO MOTIONS TO DISMISS CONTENTION 2 AS MOOT on the NRC's Electronic Information Exchange System.

 /signed electronically by/
Diane Curran