

NRC PUBLIC DOCUMENT ROOM



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE
ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)	
)	Docket Nos. 50-338 SP
VIRGINIA ELECTRIC AND POWER CO.)	50-339 SP
)	
(North Anna Power Station)	Proposed Amendment to
Units 1 and 2))	Operating License NPF-4

MOTION FOR LEAVE TO SUBMIT UNTIMELY BRIEF

Intervenors move the Atomic Safety and Licensing Appeal Board to accept the accompanying Brief on Exceptions despite the fact that it is 16 days overdue. The Appeal Board is requested to take the following considerations into account:

Since the date on which Intervenors filed their Amended Statement of Exceptions, counsel has been extensively involved in matters both before the Commission and against the Commission in federal courts. One proceeding in particular, Virginia Sunshine Alliance, et al. v. Hendrie, et al.^{1/} has demanded a

1. D.D.C., No. 79-1989; D.C. Cir., No. 79-2060.

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considerable commitment of resources in recent weeks.

Counsel provides his services in these proceedings on a pro bono basis, requiring him to hold full-time employment elsewhere. This also creates occasional conflicts.

Counsel is not assisted by co-counsel (and generally has trouble obtaining clerical support).

The delay in submitting the brief has not resulted in prejudice to the licensee on the NRC Staff. The licensee amendment sought has been issued and, to the best of Intervenor's information and belief, the licensee has begun the authorized modification of the spent fuel pool at North Anna. Intervenor is aware of no material change in circumstances during the last 16 days.

Intervenor also request that the Appeal Board weigh the importance of the issues presented on this appeal. One of the central questions raised is the effect on this proceeding of Minnesota v. NRC (D.C. Cir. 1979). Further, in Intervenor's view the ruling below falls far short of standards previously articulated by the Appeal Board concerning clarity of opinion and burden of proof on summary disposition. Counsel assures the Appeal Board that the delay in submitting this brief is not indicative of past or future performance.

Respectfully submitted,

Dated: October 26, 1979

James B. Dougherty
1416 S Street, NW
Washington, D.C. 20009
(202) 452-9600, X267
(202) 387-7269

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