

NRC PUBLIC DOCUMENT ROOM
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

10/5/78



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

VIRGINIA ELECTRIC AND POWER)
COMPANY)

(North Anna Nuclear Power Station,)
Units 1 and 2)

Docket Nos. 50-338 OL
50-339 OL

(Proposed Amendment to Facility
Operating License NPF-4 to Permit
Storage Pool Modification)

NRC STAFF RESPONSE TO MOTION TO SUPPLEMENT AMENDED
PETITION FOR LEAVE TO INTERVENE FILED BY POTOMAC ALLIANCE

On September 15, 1978, the Potomac Alliance (Alliance or Petitioner) filed a "Motion to Supplement Amended Petition for Leave to Intervene" (Motion). For the reasons set forth below, the Nuclear Regulatory Commission Staff (Staff) believes that Petitioner's motion should be granted, and that the petition to intervene, as supplemented by the instant motion, minimally satisfies the interest requirements of 10 CFR §2.714. Having earlier expressed the opinion that Petitioner had set forth at least one satisfactorily pleaded contention, the Staff recommends that the Alliance's intervention petition, as amended and supplemented, be granted.

DISCUSSION

On August 24, 1978, Petitioner filed an amendment to its June 21, 1978, petition for leave to intervene in the captioned proceeding (Amended Petition). The amended petition contained a more detailed discussion of Petitioner's alleged interests in the proceeding than that presented in

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the original intervention petition, and also asserted 29 contentions. The amended petition was accompanied by affidavits of three Alliance members residing in Richmond and Charlottesville, Virginia, authorizing the Alliance to represent their "interests" in the proceeding. The affidavits did not contain a specification of the particular interests of the affiants in the proceeding.

In its written response to the amended petition, dated September 6, 1978, the Staff retained the view expressed in its July 10, 1978 response to the original petition that Petitioner had failed to present an adequate showing of interest pursuant to the requirements of 10 CFR §2.714 so as to confer standing on the Alliance (Staff Response to Amended Petition). Specifically, the Staff stated its belief that, in order to satisfactorily comply with the interest requirement of 10 CFR §2.714, the Alliance members whose affidavits accompanied the amended petition would have to present a more particularized statement of their individual interest in the proceeding and how such interest would be affected by the proposed action. See Staff Response to Amended Petition at 2. The Staff further expressed the belief that the parallel contention requirement of 10 CFR §2.714(b) had been met with the assertion of at least one acceptably pleaded contention. Id. at 8-9. Thus, the Staff recommended that the Alliance petition be denied unless an adequate showing of interest was presented at the special pre-hearing conference (held on September 7, 1978) or within five (5) days

thereafter. Following the oral presentation of a representative of the Alliance at a prehearing conference in this matter, Staff counsel took the position that Petitioner's showing of interest remained deficient but, nonetheless, recommended that Petitioner be afforded an additional five (5) days to attempt to cure the specified deficiencies. See Transcript of Special Prehearing Conference at 68.

On September 15, 1978, Petitioner filed the instant motion to supplement. The motion is accompanied by additional affidavits of the three Alliance members whose affidavits accompanied the amended petition. The motion provides a discussion on the question of standing which references specific passages (or characterization thereof) from prior Staff pleadings in this proceeding. The Staff expresses no opinion on the implications Petitioner seeks to draw from these cited references to earlier pleadings except to note that the referenced comments contained in the Staff response to the original petition, addressed to Petitioner's identification of the aspects of the proceeding as to which intervention is sought (per the applicable requirement of 10 CFR §2.714), do not necessarily embody the Staff's position on the legal sufficiency of a contention derived from any given aspect.

Consistent with its recommendations at the special prehearing conference, the Staff believes that the motion to supplement should be granted. The Staff is of the further opinion that, on the basis of the representations

made in the affidavit of the Alliance member residing in Richmond,^{1/}
a distance of about 45 miles from the site, the Alliance has minimally
satisfied the interest requirement of 10 CFR §2.714.

In the motion to supplement, the interest of Petitioner in the proceeding is described as follows: "given the wind patterns at the facility (reference omitted), a release-of-radiation accident (a) due to unintended criticality (reference omitted) or (b) due to failure of some major component of the spent fuel pool (reference omitted), because of the expansion of inventory in the pool, might well have 'reasonable, potential effects' on the health and safety of Alliance members within a 35-mile radius (reference omitted)." Motion to Supplement at 2-3. In a supporting affidavit, the Richmond Alliance member states that living downwind of the North Anna station, she could receive a great deal of windborne radiation in the event of accidental release of radiation. She is further concerned with the possible concentration of fission products in the food chain as a result of accidental radiological releases from the plant contaminating fish and other aquatic life in the

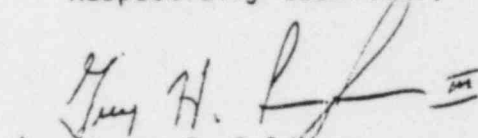
^{1/} The Staff believes that the statement of interest contained in the affidavit of the Charlottesville members of the Alliance lacks the requisite particularity to provide a basis upon which to confer standing on the Alliance.

North Anna River (Lake Anna) and portions of the Chesapeake Bay. While this representation of interest could stand greater particularization, especially with regard to the nature of the postulated accident whose preceived effects concern the affiant, the Staff believes that, given the above cited exposition of potential accidents in the motion itself and the fact that the affiant resides within the geographical zone of interest that could potentially be affected by the proposed action, this constitutes an adequate explanation of a cognizable interest in this proceeding. Cf. Gulf Utilities Co. (River Bend Station, Units 1 and 2), ALAB-183, 7 AEC 222, 226 (1974); Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-125, 6 AEC 371, 372 n.6 (1973); Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 190 (1973). The affiant also claims that an accident at the North Anna plant could eliminate recreational activities at Lake Anna, such as canoeing and camping, which the affiant engages in "frequently." Recreational usage has been recognized as an adequate personal interest which could be affected by an NRC licensing action. See Philadelphia Electric Co., et al. (Peach Bottom Atomic Power Station, Units 1 and 2), CLI-73-10, 6 AEC 173 (1973). But see Waterford, supra, 6 AEC at 372 n.6 (inadequate particularization of same).

CONCLUSION

For the foregoing reasons, the Staff believes that Petitioner's motion to supplement its amended intervention petition should be granted and that the petition, as supplemented by the instant motion, minimally satisfies the interest requirements of 10 CFR §2.714. The Staff has earlier expressed the opinion in its response to the Alliance's amended petition that Petitioner had met the corollary contention requirement of 10 CFR §2.714(b). Accordingly, the Staff recommends that the Alliance's intervention petition, as amended and supplemented, be granted.

Respectfully submitted,


for Steven C. Goldberg
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 5th day of October, 1978.

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VIRGINIA ELECTRIC AND POWER COMPANY) (Proposed Amendment to Facility
) Operating License NPF-4 to Permit
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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO MOTION TO SUPPLEMENT AMENDED PETITION FOR LEAVE TO INTERVENE FILED BY POTOMAC ALLIANCE," in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 5th day of October, 1978:

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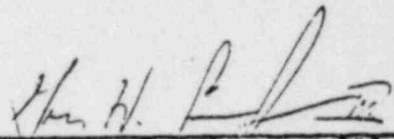
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