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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

SECRETARY
HEARING & SERVICE
BRANCH

In the Matter of)
ARIZONA PUBLIC SERVICE)
COMPANY, et al.)
)
(Palo Verde Nuclear)
Generating Station,)
Units 1, 2 and 3))

Docket Nos. STN 50-528
STN 50-529
STN 50-530

RESPONSE OF WEST VALLEY AGRICULTURAL PROTECTION
COUNCIL, INC. TO MOTION BY JOINT APPLICANTS SEEKING
EXTENSION OF TIME WITHIN WHICH TO ANSWER PETITION TO INTERVENE

Petitioner West Valley Agricultural Protection Council, Inc. ("West Valley"), hereby responds to the "Motion Seeking Extension of Time Within Which to Answer Petition to Intervene," filed on October 22, 1982, by Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, Public Service Company of New Mexico, El Paso Electric Company, and Southern California Public Power Authority ("Joint Applicants").

In their Motion, Joint Applicants claim that they have not yet received complete copies of West Valley's "Petition to Intervene and Request for Preparation of Supplemental or Revised Environmental Impact Statement, Hearing and Other Relief" ("Petition to Intervene") and related documents, and, for this reason, request a 14 day time extension from the Board.

West Valley filed its Petition to Intervene and related documents with the Commission on October 14, 1982. On that same

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date, as recited in the various certificates of service accompanying the Petition to Intervene, and the related Memorandum of Law and Notice of Appearance, complete copies of all documents filed with the Commission were mailed, first class postage prepaid, to counsel for Joint Applicants, at the addresses recited on the certificates. West Valley has no reason to believe that complete copies of these documents were not properly forwarded by the U.S. Mails to counsel for Joint Applicants.

It appears, however, that, due to some unknown cause, counsel for Joint Applicants did not receive complete copies of all of the above documents.*/ For this reason and in the interest of fairness to all parties, West Valley does not oppose an order by the Board granting Joint Applicants additional time to answer West Valley's Petition to Intervene. West Valley submits, however, that Joint Applicants should receive an extension of 10 days, rather than the 14 day extension requested in their Motion.

Grant of a 14 day extension under the circumstances presented in Joint Applicants' motion would be inconsistent with Commission rules regarding intervention. 10 C.F.R. §2.714(c) (1981) (party has 10 days to respond to petition to intervene). The sole ground for an extension presented in Joint Applicants'

*/ Complete copies of all of the above documents were delivered by hand to counsel for Joint Applicants on October 25, 1982--the date on which West Valley received Joint Applicants' Motion.

Motion is that Joint Applicants have not yet received all documents related to the Petition to Intervene. Now that this situation has been corrected and Joint Applicants have received proper service, there is no reason why Joint Applicants should receive more than the 10 day period prescribed by the rules. Since Joint Applicants have presented no further grounds for the additional extension of 4 days, their request for this additional time should be denied.

Moreover, grant of a 14 day extension to the Joint Applicants is not justified in light of the substantial information which Joint Applicants have already received. Joint Applicants acknowledge that, on October 15, 1982, their consultants received a copy of the Petition to Intervene from West Valley. This shortened version of the Petition to Intervene contained virtually all of the factual information supporting the Petition, including the extensive experts' reports and a complete summary of all of the factual information contained in each of Petitioner's 24 affidavits. Joint Applicants could have prepared most, if not all, of their answer on the basis of this information. Clearly, they do not require an additional 14 days to review those few documents that they have not already received.

Finally, Joint Applicants have not acted with reasonable diligence to remedy this situation by informal means. They were obviously aware that the Petition to Intervene had been filed--counsel for Joint Applicants telephoned counsel for West Valley on October 15, 1982, and requested that a copy be sent to

their consultants. In spite of this knowledge, Joint Applicants never telephoned West Valley to inform them that service copies of the Petition had not arrived. If such a call had been made, complete copies of all documents could have been hand delivered to counsel for Joint Applicants by the Phoenix office of Winston & Strawn within a matter of hours. In light of this lack of reasonable cooperation, Joint Applicants should not be granted a 14 day extension.

For all of the above reasons, West Valley requests that the Board deny Joint Applicants' request for a 14 day extension of their time to answer the Petition to Intervene. West Valley respectfully submits that if the Board grants any such extension, it should be limited to 10 days.

Respectfully submitted,

Dated: October 26, 1982

By Kenneth Berlin
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Response of West Valley Agricultural Protection Council, Inc. to Motion by Joint Applicants Seeking Extension of Time Within Which to Answer Petition to Intervene" have been served upon the following listed persons by deposit in the United States mail, properly addressed and with postage prepaid, this 26th day of October, 1982.

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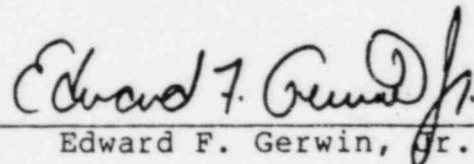
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