

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

'83 DEC -2 A10:53

In the Matter of )

PUBLIC SERVICE COMPANY OF INDIANA, INC., )  
WABASH VALLEY POWER ASSOCIATION, INC. )Docket No. 50-546  
50-547(Marble Hill Nuclear Generating )  
Station, Units 1 and 2) )APPLICANTS' RESPONSE TO THE PROVISIONAL  
CONTENTIONS OF SAVE THE VALLEY, INC.

## I.

## INTRODUCTION

On October 21, 1983, Save the Valley, Inc. ("STV") served by mail its contentions. The Licensing Board permitted Public Service Company of Indiana and Wabash Valley Power Association, Inc. ("Applicants") until November 30, 1983 to respond to STV's contentions.

At the conclusion of its contentions, STV reserved the right to submit additional contentions. Based on the Commission's decision in Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 N.R.C. 1041 (1983), STV should not be permitted to submit additional contentions. The Commission has determined that the institutional unavailability of licensing-related documents does not constitute a showing of good cause for admitting late-filed contentions when the factual predicate for such contentions is available from other

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sources early enough to provide the basis for timely-filed contentions. Id. at 1048. Any late-filed contentions by STV must be judged under the Catawba test.

## II.

### RESPONSES TO CONTENTIONS

#### Contention 1

Integrity of concrete in safety-related structures is not assured. This follows from the testimony on quality control in the "Hearings before a Subcommittee of the Committee on Government Operations, House of Representatives, Ninety-Sixth Congress, First Session, November 27 & 28, 1979".

#### Response

STV has failed to set forth a valid basis for this contention as required by 10 C.F.R. § 2.714(b) (1983). Subsequent to the hearings relied on by STV, the NRC, on May 15, 1980, prescribed a graduated rescission of its August 15, 1979 Order Confirming Suspension of Safety-Related Construction ("Confirming Order") that was intended to afford "reasonable assurance that safety-related construction activities will be conducted in accordance with requirements." Applicants complied with the graduated rescission order by improving construction and quality assurance at Marble Hill.

On March 27, 1981, the NRC confirmed that the applicants had satisfied all the required action items, but decided not to lift the order until after construction had resumed. On April 14, 1981, Save the Valley petitioned the NRC to reconsider its decision to terminate the Confirming Order, but the NRC refused to alter its decision. On June 26, 1981, Victor Stello, jr., Director of the Office of Inspection and Enforcement, refused

to reconsider the decision to terminate the order. On December 2, 1981, Richard C. De Young, Director of the Office of Inspection and Enforcement, reaffirmed Mr. Stello's decision: "Based on the results of the described program, and information known to the staff, no further action is warranted at this time to assure that the Marble Hill structures contain concrete of acceptable quality." This decision was affirmed in Save The Valley, Inc. v. U.S. Nuclear Regulatory Commission, No. 82-3148, slip op. (6th Cir. June 7, 1983). On February 12, 1982, the NRC rescinded the Confirming Order:

Based on the inspection finding by Region III, you have adequately implemented commitments made in response to the Order. I have concluded that you have substantially accomplished the requirements of the "Graduated Rescission of the Order dated August 15, 1979", and have demonstrated that there is reasonable assurance that construction performance will be acceptable. I have also concluded that the prerequisites necessary for the final rescission of the Order have been achieved. Accordingly, the final rescission of the Order is hereby confirmed.

Based on these findings by the NRC that were subsequent to the 1979 congressional hearings, STV has failed to state with reasonable specificity the basis for this contention, and, therefore, this contention must not be admitted for consideration in this proceeding.

#### Contention 2

Reverification of concrete integrity in safety-related structures resultant from the 1979 work-stoppage in these areas is called into question by alleged falsification of quality control records.

#### Response

The allegations of a former concrete inspector at Marble Hill regarding falsification of records on concrete repairs are

currently under investigation by the NRC and the applicants. Because the results of this investigation are not available but are expected in the near future, a decision on this contention should be deferred until the results become available.

### Contention 3

The integrity of electrical work performed by Commonwealth Lord - Joint Venture and other subcontractors is not assured. Specifically that proper category 1 material has not been used in hangers and other installations pursuant to and in conformity with relevant NRC and national professional installation regulations.

### Response

Applicants assure the integrity of the electrical work at Marble Hill through frequent surveillance and audits of the electrical contractor, Commonwealth Lord - Joint Venture. In addition, NRC performs inspections of Applicants' quality assurance program and the work of the electrical contractor. Any problems discovered by either Applicants or NRC are documented in either Applicants' Quality Assurance Audit Reports or NRC Inspection Reports.

The basis of this contention seems to be the result of allegations made to the NRC in January 1983, as reported on January 21, 1983 in NRC Inspection Reports 50-546/83-01 and 50-547/83-01. To determine the validity of the allegations, both the NRC and applicants commenced investigations and performed audits of the activities of the electrical contractor. The investigation was also to ensure that any necessary corrective actions would be instituted to remedy the identified problems.

In Inspection Reports 50-546/83-06 and 50-547/83-06, the NRC verified the audit findings and corrective actions before permitting the resumption of work in the electrical area. The NRC confirmed further that activities in the electrical area were acceptable in Inspection Reports 50-546/83-09 and 50-547/83-09 and in a letter to the applicants on June 15, 1983.

Because the NRC has reverified the integrity of the electrical work at Marble Hill subsequent to the relied upon allegation, STV has failed to state with reasonable specificity a basis for this contention. This contention, therefore, should not be admitted for consideration in this proceeding.

#### Contention 4

There has been non-conformity with the NRC and relevant regulations respecting the documentation of electrical work, exposed by the January, 1983 cessation of work in safety-related areas and raising important questions. (See Contention 3).

#### Response

As stated in the response to contention 3, the allegations have been resolved, and the NRC lifted the Confirmatory Action Letter on June 15, 1983. The NRC and the applicants' Quality Assurance Department are continuing to monitor the contractor to ensure that all commitments and corrective actions have been fully implemented and that the contractor continues to take all steps necessary to prevent recurrence.

Since it alleges nothing different from contention 3, this contention likewise lacks a sufficient basis to warrant its admission for consideration in this proceeding.

## Contention 5

Neither Public Service Indiana (PSI) nor the staff has presented a meaningful assessment of the risks associated with the operation of the Marble Hill facility including, and over and above, the non-compliance in safety related structures noted in Contentions 1 to 4, the staff still seems to regulate upon the basis of the Rasmussen Report although in view of the Lewis Committee findings these led NRC to withdraw official reliance on that prior report. The Commission has stated that it "does not regard as reliable the Reactor Safety Study's numerical estimate of the overall risk of reactor accident". (NRC statement of Risk Assessment and the Reactor Safety Study Report (Wash - 1400) in Light of the Risk Assessment Review Group Report, January 18, 1979.) The withdrawal of NRC's endorsement of the Reactor Safety Study and its findings leaves no technical basis for concluding that the actual risk is low enough to justify operation of Marble Hill.

## Response

The assessment of risks associated with the operation of Marble Hill was examined in the Environmental Report (ER-OL) pursuant to the directions of Regulatory Guide 4.2. The analysis of Class 9 accidents in ER-OL 7.1 followed the NRC Staff's recommendations in the Byron FES (NUREG-0848).<sup>\*/</sup> In chapter 15 of the FSAR, Applicants also analyzed design basis accidents, as directed by the Standard Review Plan, NUREG-0800. STV, therefore, has no basis for alleging that neither Applicants nor Staff have presented a meaningful assessment of the risks associated with the operation of the facility.

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<sup>\*/</sup> ER-OL 7.1.2 contains an analysis of the consequences of airborne releases from class 9 accidents. In September 1983, Applicants submitted an analysis of the consequences of liquid releases from class 9 accidents. Both analyses used the CRAC2 program, which incorporated new, rebaselined probabilities. These analyses are currently being revised to include site-specific evacuation parameters.



Further, despite STV's claim, the NRC has not used the conclusions of the Rasmussen report in its analysis of the Marble Hill facility. Instead, the rebaselined probabilities, as presented in the Bryon FES, were used as input in the CRAC2 code.

STV also contends that the withdrawal of the NRC's endorsement of the Reactor Safety Study Report (WASH-1400) has left "no technical basis for concluding that the actual risk is low enough to justify operation of Marble Hill." This assertion is misleading since the NRC still concurs with the methodology presented in WASH-1400. This methodology was incorporated in the Byron FES and other final environmental statements.

Thus, since STV has failed to articulate a sufficient basis for this contention, it should not be admitted for consideration.

#### Contention 6

There is no basis for concluding that the design of Marble Hill provides protection against so-called "Class 9" accidents. There is no basis for concluding that such accidents are not credible. The staff has conceded that the accident at Three Mile Island (TMI) falls within that classification. Therefore, there is not reasonable assurance that the Marble Hill facility could be operated without endangering the health and safety of the public. (See also Contention 5, supra.)

#### Response

In this contention, STV alleges that since there is no basis to conclude that Marble Hill was designed to withstand a Class 9 accident, there is no reasonable assurance that the facility can be operated safely. This is an inadmissible contention because it attempts to question the NRC's

regulations that do not require nuclear power plants to be designed to withstand a Class 9 accident.

The NRC's design criteria, 10 C.F.R. Part 50, App. A (1983) require only that a commercial nuclear power plant be designed to withstand Class 8 accidents or less. STV, therefore, has implicitly asserted that the NRC requirement is insufficient to protect public health and safety. Thus, this contention should not be admitted for consideration in this proceeding. See 10 C.F.R. § 2.758 (1983).

#### Contention 7

No adequate evacuation plans for Marble Hill exist. Neither on the Indiana side nor on the adjacent Kentucky region across the Ohio River from Marble Hill are there credible plans for evacuation systems. Moreover, the example of events at TMI showed the inadequacy of NRC emergency planning requirements. Plans for evacuation should be based on worst-case analysis of the potential accident consequences of a core melt with breach of containment (Contentions 1 & 2 are relevant here). Public health and safety requires that prior to the operation of Marble Hill there be in place an effective, well publicized and tested plan to evacuate the public in the event of such an accident. There is no adequate emergency plan for evacuation of Marble Hill based on a weather-dependent worst case analysis of the potential consequences of a core melt with breach of containment.

#### Response

This contention does not allege that emergency planning at Marble Hill fails to comply with applicable NRC regulations. See 10 C.F.R. §§ 50.47, 50.54, App. E. As a basis for this contention, STV maintains that NRC emergency planning requirements were demonstrated to be inadequate during the accident at TMI. It is not apparent whether this point is directed at the regulations that were in effect at the time of the TMI accident or whether it is intended to substantiate a



claim that the current regulations are insufficient. Notably, the NRC substantially revised its emergency planning regulations in 1980.

STV also states that plans for evacuation should be based on a worst-case analysis. The regulations, however, do not specify that evacuation plans be based upon a worst-case analysis, and in reality, such plans are based upon a broad spectrum of accident scenarios and possibilities.

Next, STV alleges that public health and safety require an evacuation plan be tested prior to the operation of Marble Hill. While current NRC regulations require periodic emergency preparedness drills and exercises, which will be performed prior to issuance of the full-power operating license, they do not require an actual evacuation of the plume exposure emergency planning zone.

STV's final allegation in contention 7 is that there is no adequate emergency plan for Marble Hill based on a "weather-dependent worst case analysis." This allegation, too, concerns the sufficiency of the NRC's regulations and not the applicants' emergency planning, because the applicable regulations do not require that Marble Hill's emergency plan be based upon a weather-dependent worse-case analysis.

Thus, this contention fails to provide a basis for an allegation that emergency planning at Marble Hill is inadequate. Rather, this contention attacks the sufficiency of the NRC's emergency planning regulations. Since this is the

case, this contention should not be admitted for consideration in this proceeding. See 10 C.F.R. § 2.758 (1983).

#### Contention 8

No adequate plans exist for all of the areas which could potentially be at risk in a nuclear accident. Since studies of the AEC-NRC (including WASH-740) indicate that radiation releases could impact as far as 100 miles, and in light of the fact that radiation releases, airborne and through ground water, from the accident at TMI impacted far beyond the EMZ [sic], emergency plans for Marble Hill must take account of an area within a radius of 100 miles from the plant site. This area includes, within the State of Indiana, Bloomington and Columbus, and in Kentucky, Louisville, each being substantial population centers.

#### Response

In this contention, STV asserts that there are no adequate emergency plans for areas that could be affected by Marble Hill, namely those locales within a 100 mile radius of the facility. The NRC regulations do not require emergency plans for the area within a 100 mile radius of a facility: "Generally, the plume exposure pathway EPZ for nuclear power plants shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius." 10 C.F.R. § 50.47(c)(2) (1983). This contention, therefore, is alleging that the applicable regulations are inadequate, and not that emergency planning at Marble Hill is inadequate. As such, this contention should not be admitted for consideration in this proceeding.

#### Contention 9

Common mode failures have not been adequately addressed by NRC or PSI. As one specific example, because of the nearness of the New Madrid fault with its known potential for earthquake behavior, there is a legitimate question concerning the ability

of Marble Hill to maintain its structural integrity in the event of this common mode occurrence.

Response

STV contends that common mode failures have not adequately been addressed, based on the concern that Marble Hill would not maintain its integrity in the event of an earthquake. This is an insufficient basis for this contention, because Marble Hill was designed to comply with Design Criterion 2, "Design Bases for Protection Against Natural Phenomena," which specifically provides that "[s]tructures, systems, and components important to safety shall be designed to withstand the effects of natural phenomena, such as earthquakes . . . without loss of capability to perform their safety functions." 10 C.F.R. Part 50, App. A (1983). In complying with this criterion, Applicants considered the most severe natural phenomena that have been historically reported for the site and surrounding area and with a sufficient margin for the accuracy and quantity of the data. Design Criterion 2 and Applicants' compliance therewith is discussed in FSAR 3.1.

FSAR 2.5.2.6 specifically addresses safe shutdown in the case of a New Madrid-type of earthquake. The seismic qualification of the mechanical equipment is considered in FSAR 3.9.2.2, and the seismic qualification of the electrical equipment is considered in FSAR 3.10. Further, applicants complied with Design Criterion 4, "Environmental and Missile Design Bases." See FSAR 3.1.

In light of the foregoing facts, STV has failed to allege a basis for its contention that common mode failures, such as

structural integrity during a New Madrid-type earthquake, have not adequately been addressed. Thus, this contention should not be admitted for consideration in this proceeding.

#### Contention 10

No adequate assurance has been given by PSI and NRC that the electrical systems in safety-related areas are mechanically sound. A Confirmatory Action Letter (CAL) sent to PSI by NRC, February 2, 1983, gives the public some information on the type, depth and extent of the problems verified by NRC during the special inspection they conducted January 24-28, 1983. CAL mentions that "the stop work encompasses fabrication and installation of electrical auxiliary steel; cable tray and conduit hangers; and cable tray and exposed conduit". The word 'fabrication' herein suggests, in the light of non-conformance in documentation (Contentions 3 and 4), that the quality of materials as well as of the electrical work may be unknown. We recall here that one of the major problems in the Brown's Ferry accident originated in the cable trays.

#### Response

This contention is essentially duplicative of STV's contentions 3 and 4 in which it alleges that the integrity of the electrical work at Marble Hill is not assured. This contention is merely a variation of the problems considered in contention 3 and 4 and the responses thereto.

The allegation that no adequate assurance has been provided concerning the mechanical soundness of the electrical systems in safety-related areas is unfounded. As a result of allegations made in January 1983 and the Confirmatory Action Letter of February 2, 1983, Applicants established Special Project Procedures to reverify the mechanical soundness of the electrical systems installed in safety-related areas. These procedures were reviewed and approved by the NRC. On June 15, 1983, the NRC rescinded the Confirmatory Action Letter, stating that it was satisfied that the actions taken by Applicants and

the electrical contractor were sufficient to assure the adequacy of the electrical work.

STV also seems to imply that the quality of the materials used in the electrical work is unknown. This allegation also is unfounded. Applicants were and are knowledgeable of the quality of material required and used in the electrical work at Marble Hill. On May 3, 1983, Applicants established the Special Project Procedures to verify that only Category I material was supplied and installed in Category I hangers by the electrical contractor before February 3, 1983. On May 20, 1983, Applicants established additional Special Project Procedures for identification reverification of electric cable tray hangers and riser hangers for the specific application to the electrical contractor's activities. On June 15, 1983, the NRC rescinded the Confirmatory Action Letter since the applicants had satisfactorily implemented the six-point program described in the letter.

As with its contentions 3 and 4, STV has failed to demonstrate a basis for calling into question the electrical work at Marble Hill, and thus this contention 10 should not be admitted for consideration in this proceeding.

#### Contention 11

Inherent in the nuclear fission process is the production of a high flux of neutrons. This flow of neutrons causes some transmutations to occur within the metal structures of all nuclear plants. Because this inherent problem has not been adequately addressed by NRC, the Marble Hill plant must not be allowed to operate.

#### Response

STV contends that since the NRC has failed to address adequately the inherent problem of neutron flux or pressurized thermal shock, Marble Hill should not be permitted to operate. This contention, however, contains an implicit challenge to the NRC's regulatory regime as it has addressed this problem. STV recognizes that the problem is inherent or generic, and as such, it is being addressed by the NRC on an industry-wide, as well as site specific, basis. Indeed, pressurized thermal shock is an unresolved safety issue. Despite this unresolved problem, the NRC has not precluded the licensing of new pressurized water reactors and has permitted those licensed to remain in operation. By contending that since the NRC has not adequately addressed the problem, the Marble Hill facility should not operate, STV has challenged the NRC's policy decision to permit the licensing and operation of all plants.

Since this contention challenges the sufficiency of the NRC's regulatory regime, this proceeding is not the proper forum for dealing with issue. See 10 C.F.R. § 2.758 (1983).

#### Contention 12

PSI has had in "storage" many of the safety related components of proposed reactors. These components are in some respect out of date and should not be mounted in the Marble Hill reactor units.

#### Response

In this contention, STV contends that because some safety-related components have been in storage they are "in some respect out of date." This contention is vague and unfounded. STV has not identified what components are



allegedly out of date, and it fails to state how or why such components are out of date. Because this contention lacks specificity, it is impossible to respond to it on the merits. In this contention, STV also failed to articulate any basis for concluding that components were out of date and should not be installed. The start-up program at Marble Hill will include inspection and performance testing of safety-related components to assure that they will perform their intended functions.

In light of the foregoing, this contention should not be admitted for consideration in this proceeding.

#### Contention 13

The NRC Steam Generating Status Report of February, 1982 (SECY 82-72) acknowledges that no effective solution has been found for prevention of steam generator tube degradation whence we contend that Marble Hill should not be allowed to operate.

#### Response

In this contention, STV maintains that because there is no effective solution to steam generator tube degradation, Marble Hill should not be allowed to operate. In this vague allegation, STV fails to assert that operation of the steam generators at Marble Hill will threaten the public health and safety. STV seems to be challenging the NRC's policy of permitting commercial operation despite the existence of the degradation problem. If the NRC believed that this problem would endangered public health and safety, it would have prohibited further operation of plants with steam generators until the problem was rectified.

Since STV is challenging the NRC's regulatory regime in this contention, it should not be admitted for consideration in this proceeding. See 10 C.F.R. § 2.758 (1983).

#### Contention 14

The Westinghouse D-Series models of steam generators proposed for Marble Hill have had excessive vibration problems which can impair steam generator tube integrity. These which lead to derating (at the least) of the generators, thus increase the effective cost of the plant. Further, they impair the safety of the plant, and require that such equipment not be installed at Marble Hill.

#### Response

STV has failed to provide a basis for its conclusion that excessive vibration problems in Marble Hill's Westinghouse D4 and D5 steam generators will impair the safety of the facility and that these steam generators should not be installed. The Staff concluded, pending plant-specific verification and documentation of safety analyses and implementation of the requirements noted, that the modification of the Westinghouse D-series steam generators described in NUREG-1014 was acceptable and that with the modification these steam generators could be operated safely at 100% of their design capacity. NUREG-1014 at 1-3. STV has suggested no basis or provided no evidence that the modification described in NUREG-1014 is not satisfactory or that the Staff's conclusion that these steam generators can be operated at 100% design capacity is arbitrary or capricious.

In this contention, STV states that the vibration problem could "increase the effective cost of the plant." This type of economic concern is not within the regulatory purview of the

NRC. Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-475, 7 N.R.C. 452, 457-58 (1978); Consumers Power Co. (Midland Plant, Units 1 and 2), ALAB-458, 7 N.R.C. 155, 162-63 (1978). The NRC's involvement in financial matters is limited only to determining whether the applicant has the financial capability to build and operate the facility without compromising safety because of financial pressures. Consumers Power Co., 7 N.R.C. at 162. See Public Service Company of New Hampshire (Seabrook, Units 1 and 2), CLI-78-1, 7 N.R.C. 1, 20 (1978). Thus, whether the vibration problem will increase the cost of Marble Hill should not be considered in this proceeding.

In light of NUREG-1014, there is no basis for contention 14, and, therefore, it should not be admitted for consideration in this proceeding.

#### Contention 15

It would be imprudent to license another nuclear plant to operate until the technology of decommissioning, and its cost, has been demonstrated on a large reactor, and until there is provision for ultimate disposal of its radioactive wastes.

#### Response

In this contention, STV asserts that the NRC should not license any new nuclear power plant until the technology of decommissioning has been demonstrated on a large reactor and there is a means for disposal of radioactive wastes. The NRC, however, has not required that decommissioning be demonstrated on a large reactor. Decommissioning technology is accepted as satisfactory:

A review of the documented cases of decommissioning of nuclear facilities shows that, while the facilities decommissioned were generally small and had operated for relatively short periods of time, the problems encountered tended to be common to all decommissioning undertakings. The review also shows that a wealth of experience exists within the nuclear industry regarding methods and equipment for accomplishing decommissioning, and that there are no major technical impediments to the successful decommissioning of large commercial power reactors.

Technology, Safety and Cost of Decommissioning a Reference Pressurized Water Reactor Power Station (NUREG-0130, May 1978) at 2-4 - 2-5.

There is no requirement that operating licenses cannot be granted until there exists a means for disposing of radioactive wastes generated by nuclear power plants. The NRC's regulations require that Table S-3 be incorporated in individual plant environmental reports as the basis for evaluating the environmental effects of the uranium fuel cycle, including disposal of high-level and transuranic wastes. 10 C.F.R. § 51.20(e) (1983). During the Table S-3 rulemaking, the Commission determined the following concerning waste disposal:

On the individual reactor licensing level, where the proceedings deal with fuel cycle issues only peripherally, the Commission sees no advantage in having licensing boards repeatedly weigh for themselves the effect of uncertainties on the selection of fuel cycle impacts for use in cost-benefit balancing. This is a generic question properly dealt with in the rulemaking as part of choosing what impact values should go into the fuel cycle rule. The Commission concludes, having noted that uncertainties exist, that for the limited purpose of the fuel cycle rule it is reasonable to base impacts on the assumption which the Commission believes the probabilities favor, i.e., that bedded-salt repository sites can be found which will provide effective isolation of radioactive waste from the biosphere.

44 Fed. Reg. 45362, 45369 (1979). The Table S-3 approach was upheld by the Supreme Court in Baltimore Gas and Electric Co. v. Natural Resources Defense Council, Inc., \_\_\_ U.S. \_\_\_, 103 S.Ct. 2246 (1983).

The NRC also instituted a rulemaking to reassess its degree of confidence that radioactive waste produced by nuclear facilities could be safely disposed of, to determine when any such disposal would be available, and whether such waste could be safely stored until disposal. This proceeding became known as the "waste confidence" rulemaking. The waste confidence rule has in substantial part been made final. In that rule, the Commission determined that it has reasonable assurance that one or more mined geologic repositories for commercial high level radioactive waste and spent fuel would be available by the years 2007 - 2009. The current NRC policy, therefore, is to limit considerations as to safety and environmental impacts of spent fuel storage in licensing proceedings to the period of the license in question and not to require the NRC Staff or Applicants to address the impacts of extended storage past the expiration of the license. See 48 Fed. Reg. 22730 (May 20, 1983).

Recently, the Congress has taken steps to ensure that there will be a means in place to dispose of high-level radioactive wastes that result from nuclear power generation by enacting the Nuclear Waste Policy Act of 1982, Pub. L. No. 97-425. The Act defines the federal government's responsibilities and authorities for the disposal of spent fuel

and provides that the federal government will initiate disposal of high-level wastes by January 31, 1998.

In light of the foregoing facts, STV has failed to provide a basis for its contention that Marble Hill should not be licensed until a large reactor has been decommissioned. Furthermore, the Board is precluded from considering whether Marble Hill should be licensed until a means is in place for the disposal of high-level radioactive wastes. See Baltimore Gas and Electric, 103 S.Ct. at 2246. This contention, therefore, should not be admitted for consideration in this proceeding.



III.

CONCLUSION

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For the foregoing reasons, contentions 1 and 3 through 15 should not be admitted for consideration in this proceeding, and a ruling on contention 2 should be deferred.

Respectfully submitted,

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November 30, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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In the Matter of )  
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)  
WABASH VALLEY POWER )  
ASSOCIATION, INC. )

)  
(Marble Hill Nuclear )  
Generating Station, )  
Units 1 & 2) )  
 )

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of November 1983, served copies of the foregoing document, entitled "Applicants' Response to the Provisional Contentions of Save the Valley, Inc.," by hand delivering and by mailing first class, postage prepaid and properly addressed, copies thereof to the following:

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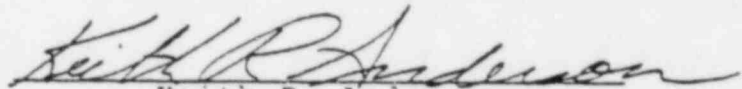
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