

11/08/84

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
NOV 13 1984

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'84 NOV 13 P1:05

In the Matter of)

UNITED STATES DEPARTMENT OF ENERGY)
PROJECT MANAGEMENT CORPORATION)
(TENNESSEE VALLEY AUTHORITY)

Docket No. 50-537-CP

(Clinch River Breeder Reactor Plant))

NRC STAFF'S RESPONSE TO
APPLICANTS' MOTION TO DISMISS PROCEEDING

On October 19, 1984, Applicants United States Department of Energy (DOE), Project Management Corporation (PMC), and the Tennessee Valley Authority (TVA) filed "Applicants' Motion to Dismiss Proceeding" ("Motion"), in which they requested that the "Board authorize revocation of the LWA, and the proceedings be dismissed without prejudice, subject to the conditions set forth in the redress plan and the Staff's letter approving that plan," referring to Attachments A and E to their Motion. For the reasons set forth below, the NRC Staff ("Staff") supports the Applicants' Motion and recommends that the Board authorize revocation of the LWA and that these proceedings be dismissed without prejudice, subject to the conditions set forth in the Applicants' final site redress plan and the Staff's letter approving that plan (see Attachments A and E to Applicants' Motion), and subject to the additional assurances contained in Attachments 2 and 3 hereto.

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In their Motion, the Applicants correctly recite the fact that their final site redress plan was submitted for Staff review by letter of March 5, 1984 (see Attachment A to Applicants' Motion), and that the Staff approved that plan, subject to certain conditions, as set forth in a letter dated June 6, 1984 (Attachment E to Applicants' Motion). ^{1/} In addition, the Applicants recite the fact that "DOE and TVA have executed a Supplemental Agreement under which DOE agreed to redress the site and obligated the funding necessary to effectuate redress," referring to Attachment F to their Motion (Motion, at 2).

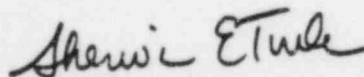
In reviewing the documents attached to Applicants' Motion, the Staff noted that certain provisions contained in the site redress plan approved by the Staff are not explicitly recited in the Supplemental Agreement executed between DOE and TVA, nor are they recited in the earlier Task Force report attached to and cited in that Agreement (Attachment F to Applicants' Motion and Exhibit B thereto). Because of these apparent inconsistencies, as set forth in Attachment 1 hereto, the Staff has sought additional assurances from DOE and TVA as to their commitment to comply with the provisions of the final site redress plan and the Staff's approval thereof. By letters dated November 6 and 7, 1984, DOE and TVA have now provided the additional assurances requested by the Staff (see Attachments 2 and 3 hereto). Both DOE and TVA state that they are committed to redress the site in accordance with their final site redress

^{1/} The Staff's letter approving the Applicants' site redress plan subject to certain conditions, attached to Applicants' Motion as Attachment E, was transmitted to the Licensing Board by letter dated June 18, 1984.

plan and the conditions stated in the Staff's approval thereof, and that the plan and the Staff's approval thereof "will be controlling" over the Supplemental Agreement and will "govern site redress" (Id.).

Based upon the additional assurances which have now been provided by DOE and TVA, as set forth in Attachments 2 and 3 hereto, the Staff does not oppose the Applicants' Motion. Accordingly, the Staff recommends that the Licensing Board authorize revocation of the LWA and that these proceedings be dismissed without prejudice, subject to the conditions set forth in the Applicants' final site redress plan and the Staff's letter approving that plan (Attachments A and E to Applicants' Motion), and subject to the additional assurances contained in Attachments 2 and 3 hereto.

Respectfully submitted,



Sherwin E. Turk
Deputy Assistant Chief
Hearing Counsel

Dated at Bethesda, Maryland
this 8th day of November 1984

DIFFERENCES BETWEEN NRC APPROVED CRBR SITE REDRESS PLAN
AND DOE/TVA/PMC SITE REDRESS PLANNING TASK FORCE REPORT

A comparison of the requirements for CRBR site redress, as stated in the CRBR Site Redress Plan (approved by NRC on 6/6/84), versus the requirements stated in the DOE/TVA/PMC CRBR Site Redress Planning Task Force Report (referenced in the August 31, 1984 agreement between DOE and TVA on redress of the CRBR site) indicate apparent differences. These differences are listed below and are all of the nature of specific commitments which appear in the NRC approved plan but are not contained in the DOE/TVA/PMC report:

NRC APPROVED PLANDOE/TVA/PMC REPORT

Pgs. 12-13, Section 5.2

- includes criteria requiring:

- | | |
|---|--------------|
| a) surface stabilization to assure erosion control, | Not Included |
| b) de-energizing and removing the on-site meteorological station. | Not Included |

Pgs. 15-17, Section 5.6

- includes commitments requiring:

- | | |
|---|--------------|
| a) grading and seeding to limit erosion and transport of sediment, | Not Included |
| b) access to the Hensley Cemetery be maintained during redress activities, | Not Included |
| c) excavation from borrow areas in such a fashion as to prevent run-off directly into the Clinch River, | Not Included |
| d) compaction of filled in areas, | Not Included |
| e) removal of foundations for temporary buildings and batch plant, | Not Included |
| f) stabilization of re-graded areas by seeding or with aggregate, | Not Included |
| g) removal of treatment ponds after site has stabilized, | Not Included |
| h) inclusion of the site in the DOE forestry management program. | Not Included |



Department of Energy

Oak Ridge Operations
P. O. Box U
Oak Ridge, Tennessee 37831

DOCKETED
11/13/84

November 6, 1984

'84 NOV 13 P1:05

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Denton:

With regard to Docket No. 50-537CP, this is to clarify and reaffirm our commitments in regard to redress of the Clinch River site. We are committed to redress the site in accordance with the final site redress plan submitted by letter dated March 5, 1984 (Attachment A to Applicant's Motion to Dismiss Proceeding, dated October 19, 1984), and the staff's letter approving that plan, dated June 6, 1984 (Attachment E to Applicant's October 19 Motion). In the event of any inconsistency between Exhibit B to Attachment F of Applicant's October 19 Motion and Attachments A and E thereto, we confirm our commitment that Attachments A and E will be controlling over Attachment F and govern site redress.

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Ahrends".

Stanley W. Ahrends
Acting Director
CRBRP Project

cc: Service List

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE 37902

Attachment 3

NOV 7 1984

'84 NOV 13 P1:05

DIRECTOR'S OFFICE
BRANCH

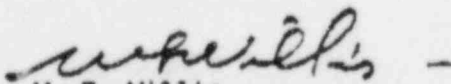
Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Docket No. 50-537CP

Dear Mr. Denton:

This is to clarify and reaffirm TVA's commitments in regard to redress of the Clinch River Breeder Reactor Project site. Applicants, including, as Coapplicant, TVA, have committed to redress of the site in accordance with the final site redress plan submitted by letter dated March 5, 1984 (Attachment A to Applicants' Motion to Dismiss Proceeding dated October 19, 1984) and the Staff's letter approving that plan dated June 6, 1984 (Attachment E to Applicants' October 19 Motion). In the event of any inconsistency between Exhibit B to Attachment F of Applicants' October 19 Motion (Supplemental Agreement between TVA and DOE dated August 31, 1984) and Attachments A and E thereto, we confirm our commitment that Attachments A and E will be controlling over Attachment F and govern site redress.

Sincerely,


W. F. Willis
General Manager

cc: Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 84 NOV 13 P1:05

In the Matter of)

UNITED STATES DEPARTMENT OF ENERGY)
PROJECT MANAGEMENT CORPORATION)
TENNESSEE VALLEY AUTHORITY)

(Clinch River Breeder Reactor Plant))

Docket No. 50-537

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO APPLICANTS' MOTION TO DISMISS PROCEEDING" 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 8th day of November, 1984.

Marshall Miller, Esq., Chairman*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Mr. Gustave A. Linenberger*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Cadet H. Hand, Jr., Director
Administrative Judge
Bodega Marine Laboratory
University of California
P. O. Box 247
Bodega Bay, CA 94923

William E. Lantrip, Esq.
City Attorney
Municipal Building
P. O. Box 1
Oak Ridge, TN 37830

William M. Leech, Jr., Attorney General
William B. Hubbard, Chief Deputy
Attorney General
Michael D. Pearigen, Assistant Attorney
General
Michael E. Terry, Esq.
450 James Robertson Parkway
Nashville, TN 37219

Lawson McGhee Public Library
500 West Church Street
Knoxville, TN 37902

R. Tenny Johnson
Leon Silverstrom
Warren E. Bergholz, Jr.
William D. Luck
U.S. Department of Energy
1000 Independence Ave., S.W.
Room 6-B-256
Washington, DC 20585

Project Management Corporation
P. O. Box U
Oak Ridge, TN 37830

George L. Edgar
Thomas A. Schmutz
Newman and Holtzinger, P.C.
Suite 1000, 1615 L Street, N.W.
Washington, DC 20036

Barbara A. Finamore
Dr. Thomas B. Cochran
S. Jacob Scherr
Natural Resources Defense
Council, Inc.
1725 Eye Street, N.W.
Washington, DC 20006

Manager of Power
Tennessee Valley Authority
819 Power Building
Chattanooga, TN 37401

Director
Clinch River Breeder Reactor
Plant Project
U.S. Department of Energy
Washington, DC 20585

Atomic Safety and Licensing Appeal
Board*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Board*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service Section*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Sherwin E Turk

Sherwin E. Turk
Counsel for NRC Staff