

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman  
Dr. John H. Buck  
Richard S. Salzman



\_\_\_\_\_)  
In the Matter of )

TENNESSEE VALLEY AUTHORITY )

(Yellow Creek Nuclear Plant, )  
Units 1 and 2) )  
\_\_\_\_\_)

Docket Nos. STN 50-566  
50-567

ORDER

November 9, 1978

Oral argument on the appeal of the NRC staff from the February 3, 1978 partial initial decision of the Licensing Board <sup>1/</sup> in this construction permit proceeding will be heard at 10:00 a.m. on Wednesday, December 6, 1978, in the Commission's public hearing room on the 5th floor of the East West Towers Building, 4350 East-West Highway, Bethesda, Maryland. The argument will be confined to the single question presented by that appeal and briefed by the parties, <sup>2/</sup>

1/ LBP-78-7, 7 NRC 215.

2/ The only parties to the appeal are the staff and the applicant, Tennessee Valley Authority.

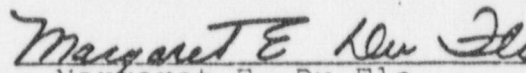
viz., whether the Licensing Board correctly held that this Commission lacks the authority to impose a condition on a limited work authorization or construction permit requiring the utility to submit a water quality monitoring program to the staff for its approval.<sup>3/</sup>

One hour is allotted to each side for the presentation of its argument. As the appellant, the staff will have the right to open and to close.

Each party shall notify the Secretary to this Board, by letter no later than November 28, of the name of the counsel who will present argument on its behalf.<sup>4/</sup>

It is so ORDERED.

FOR THE APPEAL BOARD

  
Margaret E. Du Flo  
Secretary to the  
Appeal Board

3/ See discussion, LBP-78-7, supra, 7 NRC at 229-31.

4/ This Board withheld the calendaring of oral argument on the staff's appeal until this time because of its desire to abide the event of the Licensing Board's ultimate decision on the construction permit application. Given the limited scope and non-urgency of that appeal, we thought it would be preferable to consolidate its hearing and determination with any appeal which might be taken from the ultimate decision. Because, however, the rendition of that decision is apparently being delayed because of the radon issue recently remanded by us to the Licensing Board, we have now decided to move forward with the consideration and disposition of the pending appeal. Should the ultimate decision itself produce an appeal by one of the parties, that appeal will be heard and decided separately.