

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

<p>In the Matter of Tennessee Valley Authority Sequoyah Nuclear Plant Units 1 and 2 Docket Nos. 50-327 and 50-328 License Nos. DPR-77 and DPR-79 NRC-2013-0037</p>
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September 5, 2013

REPLY OF THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

Pursuant to 10 CFR § 2.311(b)(3), the Blue Ridge Environmental Defense League (BREDL or Petitioner)¹, hereby files its reply to *Tennessee Valley Authority's Brief in Opposition to BREDL's Appeal of LBP-13-08* (TVA Brief) dated August 26, 2013. This reply opposes TVA's Brief and supports BREDL's July 30th appeal to the Commission for review of the licensing board's order regarding license renewal for TVA's Sequoyah Nuclear Plant (SQN) and the *Petition for Leave to Intervene and Request for Hearing by the Blue Ridge Environmental Defense League, Bellefonte Efficiency and Sustainability Team and Mothers Against Tennessee River Radiation* filed May 6, 2013 (BREDL Petition).

Waste Confidence, Contention B

TVA argues that the Commission's decision in *Calvert Cliffs* is inapplicable and that Petitioner's Contention B should be dismissed because it is addressed by a generic rulemaking. TVA Brief at 3. However, in CLI-12-16 the Commission recognized its obligation unequivocally: "[I]n recognition of our duties under the law, we will not issue

¹ The Blue Ridge Environmental Defense League has established standing in this proceeding. Its chapter Bellefonte Efficiency and Sustainability Team and project Mothers Against Tennessee River Radiation have not been granted standing but as parts of the League were named in previous petitions, motions and answers. We are respectfully complying with the direction of ASLBP Chairman Karlin in making this change.

licenses dependent upon the Waste Confidence Decision...until the court's remand is appropriately addressed.ö What does "appropriately addressed" mean in this context? A specific description of what must be done before the Commission resumes license issuance is provided in their order; that is, no license renewal should be made until the NRC has "disposed" the issues remanded to it by the court. CLI-12-16 at 4, footnote 6. "Disposition" in the law is defined as:

Act of disposing; transferring to the care or possession of another. The parting with, alienation of, or giving up of property. The final settlement of a matter and, with reference to decisions announced by a court, a judge's ruling is commonly referred to as disposition, regardless of level of resolution.

West's Encyclopedia of American Law, edition 2 (2008). Plainly, no final settlement of the waste confidence matter has occurred. None is expected before September 2014. And the two-year resolution of waste confidence, dated from the issuance of CLI-12-16 to completion of the rulemaking, is not assured. The history of the waste confidence issue provides examples of much longer proceedings. In response the U.S. Court of Appeals for the District of Columbia Circuit remand in *Minnesota v. NRC*, the Commission launched a "generic proceeding to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal will be available, and whether such wastes can be safely stored until they are safely disposed of."² The proceeding took five years. And the waste confidence decision which resulted posited a national nuclear waste repository available by 2009. Of course, agents other than federal courts and the NRC are involved in these decisions. So, if the Commission agrees that the scope of the waste confidence problem extends beyond generic rulemakings, then the expectation of resolution by 2014 is open

² Storage and Disposal of Nuclear Waste, 44 FR 61372 (October 25, 1979)

to question.

Certainly, licenses which are dependent on the waste confidence decision including the SQN renewal may not be issued until the court's remand is adequately addressed. In *Calvert Cliffs*, the Commission held that waste confidence contentions be held in abeyance pending our further order. Therefore, BREDL Contention B should be admitted and held in abeyance until a new waste confidence rule is in place.

Ice Condenser Reactors, Contention F

TVA incorrectly states that neither Contention F-1 nor the Gundersen Declaration so much as mentioned the two AMPs within Sequoyah's LRA both of which were consistent with the NRC's Generic Aging Lessons Learned Report... TVA Brief at 6.

In fact, the Blue Ridge Environmental Defense League's Contention F-1 states: "TVA License Extension Application for the Sequoyah Reactors' Ice Condenser Containments lacks acceptable Aging Management Plans to adequately maintain critical components of the Ice Condenser Containment for 20 years of additional operation."

In support, the Gundersen Declaration states:

19. Fairewinds thorough review of the proposed License Renewal Application for the Sequoyia reactors was unable to find any Sequoyia-specific Aging Management Plans (AMPs) addressing IC Containment aging phenomena known to have already occurred and postulated to occur in the future.

20. Due to the lack of a Sequoyia-specific AMP focused on the design and operational flaws already known and proven to exist in Ice Condenser Containments, the NRC should reject TVA's requested license extension for the two Sequoyia reactors until adequate AMPs that address significant component aging management points in question have been addressed, reviewed, and put in place.

Gundersen Declaration at 8. In proffering Contention F-1, BREDL's petition alleges that TVA's license renewal application suffers from an improper omission. Further, the Gundersen Declaration supporting Contention F-1 alleges inadequacy of the LRA and

cites particular problems in the containment at SQN and offers numerous citations of documents reviewed upon which it based its analysis.³

In LBP-13-09, the board cited *Florida Power & Light Co.*⁴ and *Duke Energy Corp.*⁵ to indicate that “Based on its language, a contention can be characterized as a contention of omission, a contention of adequacy, or both.” BREDL Contention F-1 is a contention of omission and adequacy.

Further, the GALL Report cited *supra* by TVA’s Brief and the ASLB does not

³ Gundersen Declaration Footnotes:

1 *Corrosion of Steel Containment and Containment Liner*, April 2004 <http://www.nrc.gov/reading-rm/docollections/gen-comm/info-notices/2004/in200409.pdf>

2 *Nuclear Containment Failures*, December 2, 2010, http://fairewinds.org/sites/fairewinds.org/files/reports/Fairewinds%20AP1000%20Supplemental%20Report%2012-21-2010_0.pdf

3 *Post Accident AP1000 Containment Leakage*, April 21, 2010 http://fairewinds.org/sites/fairewinds.org/files/reports/AP1000_Containment_Leakage_Report_Gundersen_Hausler_4-7-2010.pdf.pdf

4 *Assessment of the DCH Issue for Plants with Ice Condenser Containments*, September 1999, Page iii <http://pbadupws.nrc.gov/docs/ML0037/ML003712849.pdf>

5 *Application of the Active Ice Mass Management Concept to the Ice Condenser Ice Mass Technical Specification: Topical Report ICUG-001, Rev. 2.0-2*, May 2003, ML032340563, page O-2.

6 *Response to Request for Additional Information, NRC Bulletin 2003-01, Potential Impact of Debris Blockage on Emergency Sump Recirculation at Pressurized Water Reactors*, June 2005, Page 1, <http://pbadupws.nrc.gov/docs/ML0516/ML051660328.pdf>

7 *(Discussed) Hydrogen Igniter Backup Power –Generic Safety Issue-189 (Inspection Procedure 35007)* December 2012, Page 13 <http://pbadupws.nrc.gov/docs/ML1235/ML1235A073.pdf>

8 *NRC Staff to hold conference with Duke Power Company to discuss apparent violations at McGuire Nuclear Plant*, September 1997, page 1. <http://pbadupws.nrc.gov/docs/ML0037/ML003706619.pdf>

9 May 1998, DC Cook, *Corrosion of Steel Containment and Containment Liner*, April 2004, page 3. <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/2004/in200409.pdf>

10 *NRC staff sets enforcement conference with Duke Energy to discuss apparent violations at Catawba Nuclear Station*, July 1999, page 1. <http://pbadupws.nrc.gov/docs/ML0036/ML003696909.pdf>

11 *Analyses Of Containment Structures With Corrosion Damage*, Jeffery L. Cherry, Sandia National Laboratories, SAND96-0004C <http://www.osti.gov/energycitations/servlets/purl/441095-JUcbqP/webviewable/441095.pdf>

⁴ Florida Power & Light Co., (Turkey Point Generating Plant, Units 6 and 7), LBP-11-06, 73 NRC 149, 200 (2011) and LBP-11-6, 73 NRC at 200 n.53

⁵ Duke Energy Corp., CLI-02-08, 56 NRC at 383 n.45

address scoping of structures and components for license renewal. "Scoping is plant-specific, and the results depend on individual plant design and its current licensing basis." GALL Report, NUREG-1801, Rev. 2, at IX-1. TVA's LRA omits a plant-specific AMP for SQN. Gundersen Declaration at 8. In lieu of an aging *management* plan, the board accepts TVA's assertion that its Containment Inservice Inspection "IWE AMP will "evaluate...when conditions exist in accessible areas" which indicate degradation in inaccessible areas. Is mere evaluation acceptable as management? Moreover, the cited IWE exempts certain parts of the containment. GALL Report, NUREG-1801, Rev. 2, at XI S1-2.

Based on the BREDL Petition and expert declaration, the Licensing Board Panel had ample basis for admitting Contention F-1 either as a contention of omission or adequacy, or both.

Conclusion

BREDL respectfully requests that the Commission accept the LBP-13-08 Order for interlocutory review, admit Contention B and hold it in abeyance until a new waste confidence rule is in place, and reverse the board and admit Contention F-1.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that copies of the September 5, 2013
REPLY OF THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE
was served on the parties to this proceeding via Electronic Information Exchange
this 5th day of September, 2013

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Signed in Glendale Springs this day September 5, 2013



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