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RULEMAKINGS AND
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	
TENNESSEE VALLEY AUTHORITY)	Docket Nos. 50-327
)	50-328
(Sequoyah Nuclear Plant, Units 1 & 2;)	50-390
Watts Bar Nuclear Plant, Unit 1))	

RESPONSE OF TENNESSEE VALLEY AUTHORITY TO
JEANNINE HONICKER'S AMENDED PETITION TO INTERVENE

I. Introduction

Pursuant to the schedule established in the Licensing Board's Memorandum and Order of February 7, 2002,¹ and in accordance with 10 C.F.R. § 2.714(c), Tennessee Valley Authority ("TVA") hereby responds to the amended petition to intervene filed by Ms. Jeannine Honicker ("Petitioner").² The Licensing Board's Scheduling Order provided that, pursuant to 10 C.F.R. § 2.714(a)(3), Petitioner could amend her intervention petition "to address any shortcomings, or other matters, in [her] initial petition. . . ." Slip op., at 2. As discussed below, however, Petitioner has again failed to redress the numerous shortcomings in her initial petition and to demonstrate her standing to intervene in this proceeding. Despite filing a voluminous

¹ *Tennessee Valley Auth.* (Sequoyah Nuclear Plant, Units 1 and 2; Watts Bar Nuclear Plant, Unit 1), "Memorandum and Order," ASLBP No. 02-796-01-OLA, __ NRC __ (slip op., Feb. 7, 2002) ("Scheduling Order").

² "Jeannine Honicker's Amended Petition to Intervene in the Hearing for a License Amendment for TVA to Produce Tritium at Sequoyah and Watts Bar" (Feb. 14, 2002) ("Amended Petition"). On February 2, 2002, Petitioner filed a "Response to NRC Staff's Answer to Request for Hearing and Leave to Intervene." TVA considers the latter filing to have been superseded and does not herein directly address it.

Amended Petition, Petitioner has yet to identify a legally cognizable interest in this proceeding with the requisite nexus between any such interest and the proposed license amendments at issue. Nor has she demonstrated a basis for discretionary intervention. Therefore, pursuant to 10 C.F.R. § 2.714, Ms. Honicker's initial and Amended Petitions must be denied.

II. Discussion

In the interest of efficiency, TVA hereby incorporates by reference its detailed discussions of the requested license amendments at issue and the Nuclear Regulatory Commission's ("NRC" or "Commission") standing requirements, as presented in the "Background" section of its earlier answer³ to Petitioner's initial request to intervene.⁴ Commensurate with the legal standards governing standing to intervene — as well as the nature of the license amendments requested by TVA — as discussed therein, Petitioner has not demonstrated standing. Although a detailed discussion of the bases for this conclusion is provided below, they may be summarized as follows:

- The occasional "contacts" Petitioner claims to have with the areas surrounding both the Watts Bar ("WBN") and Sequoyah ("SQN") plants are legally insufficient to provide a basis for standing in this proceeding.
- The Amended Petition continues to lack the necessary explanation of, and supporting information regarding, how issuance of the proposed license

³ See "Tennessee Valley Authority's Answer to Request for a Hearing and Petition to Intervene of Jeannine Honicker" (Jan. 28, 2002) ("TVA Answer").

⁴ "Comment on: Tennessee Valley Authority: Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Considerations Determination and Opportunity for a Hearing" (Jan. 14, 2002) ("Honicker Petition").

amendments will cause her to suffer any distinct and palpable offsite radiological harm which is causally linked to the proposed amendments.

- Although Petitioner has set forth a lengthy discussion of a variety of matters, including Thermo-lag fire barriers and the so-called “egg shell” containment, she has failed to identify any aspects that are within the scope of this proceeding — as required by 10 C.F.R. § 2.714(a)(2).
- Finally, Petitioner has failed to meet her burden of demonstrating that this Board should exercise discretion to admit her as a party to this proceeding.

A. Petitioner's Intermittent *De Minimis* Contacts With the Areas Near WBN and SQN Do Not Constitute a Sufficient Basis for Standing

By her own admission, Petitioner does not qualify for standing in this proceeding based solely on her geographic proximity to either WBN or SQN, as she does not reside within 50 miles of either facility. Amended Petition, at 2. Nevertheless, she claims to “frequent the area” and, on the basis of such intermittent contacts, seeks to establish her standing. In this regard, Petitioner points to family visits both to Knoxville and to undefined locations “north of Knoxville,” shopping expeditions to Pigeon Forge, sightseeing trips to Gatlinburg, attendance at TVA board meetings, research in the TVA libraries in Knoxville and Chattanooga, ownership of rental property in Nashville, and trips of both undefined destination and purpose “between LaGrange and Knoxville.” Amended Petition, at 2-3.

As a threshold matter, Petitioner is mistaken in her blanket statement that “[s]tanding *is* granted to potential intervenors who reside within a 50 mile radius, or who frequent the area.” Amended Petition, at 1 (emphasis added). While standing may be granted on the basis of geographic proximity, it is necessary for a petitioner to further demonstrate that the license amendments at issue involve an obvious potential for offsite consequences. *See, e.g.,*

Boston Edison Co. (Pilgrim Nuclear Power Station), LBP-85-24, 22 NRC 97, 98-99 (1985), *aff'd on other grounds*, ALAB-816, 22 NRC 461 (1985); *Atlas Corp.* (Moab, Utah Facility), LBP-97-9, 45 NRC 414, 426 (1997), *aff'd*, CLI-97-8, 46 NRC 21 (1997). That is not the case here, as discussed previously and again below. The Petitioner has not provided anything to change that conclusion.

In addition, even if proximity were an adequate basis on which to presume harm, the contacts relied on by a petitioner to establish proximity, and thereby standing, must be "regular" and sufficiently specific so as to support a reasonable nexus between the petitioner and any purported radiological consequences. *Atlas Corp.*, LBP-97-9, 45 NRC at 426-27; *Houston Lighting and Power Co.* (South Texas Project, Units 1 and 2), LBP-79-10, 9 NRC 439, 456-57 (1979), *aff'd on other grounds*, ALAB-549, 9 NRC 644 (1979) (finding petitioner's fishing approximately once a month within 40 to 50 miles of the plant to be "*de minimis* and insufficient to confer standing," and that "'occasional trips' to a community 23 miles away from the site and other unspecified communities asserted to be 'near' the site [are] insufficient to confer standing," citing *Public Service Co. of Oklahoma* (Black Fox Station, Units 1 and 2), ALAB-397, 5 NRC 1143, 1150 (1977)); *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2), LBP-79-7, 9 NRC 330, 337-38 (1979) (denying intervention in part on grounds that interest in rental farm property 10 to 15 miles from site "is based primarily on speculative financial loss and does not have merit. An occasional trip (unspecified) by [petitioner] to his farm is insufficient to determine his health and safety would be endangered"); compare with *Georgia Power Co.* (Vogtle Electric Generating Plant, Units 1 and 2), CLI-93-16, 38 NRC 25, 34-35 (1993) (where petitioner found to have standing due to "regular, though intermittent, residence near the plant").

The contacts cited by the Petitioner cannot serve as the basis for standing in this proceeding. Quite simply, it would be an exercise of fancy to speculate about the nature, regularity, or duration of the purported contacts. Furthermore, it is impossible to determine how issuance of the proposed license amendments would adversely impact Petitioner's health and safety, based on these vaguely defined, occasional, and seemingly irregular trips through the 50 mile radius surrounding WBN and SQN. For these reasons, Petitioner cannot establish standing in this proceeding based on her intermittent geographic contacts.

B. Petitioner Has Yet to Demonstrate That She Suffers From Distinct and Palpable Harm Which Is Causally Linked to the Proposed License Amendments

In addition to lacking a sufficient geographic connection to either WBN or SQN, Petitioner's interest in the instant proceeding continues to suffer from the lack of a distinct and palpable harm which can be fairly traced to the license amendments at issue. *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 323 (1999); *Commonwealth Edison Co.* (Zion Nuclear Power Station, Units 1 and 2), CLI-99-4, 49 NRC 185, 188 (1999); *Yankee Atomic Elec. Co.* (Yankee Nuclear Power Station), CLI-96-1, 43 NRC 1, 6 (1996); *Georgia Inst. of Tech.* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 115 (1995); *Cleveland Elec. Illuminating Co.* (Perry Nuclear Power Plant, Unit 1), CLI-93-21, 38 NRC 87, 92 (1993); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). To confer standing, an injury must be "concrete and particularized" and "actual or imminent, not 'conjectural' or 'hypothetical.'" *Lujan*, 504 U.S. at 560 (citations omitted). Furthermore, with respect to the alleged "injury-in-fact," it is incumbent upon the petitioner to allege some "plausible chain of causation" from the licensing action at issue to the alleged injury that would or could be redressed in the proceeding. *Zion*, CLI-99-4,

49 NRC at 192. As explained below, Petitioner's alleged interests fail to satisfy this aspect of the requirements of Section 2.714.

Ms. Honicker first contends that she is "uniquely affected by the proposed action" given the "pain and suffering" that she "would endure should there be an accident or releases from routine operation, that harmed [her] son, his wife, or any of their three children. . . ." Amended Petition, at 3. Clearly, one cannot claim to be "unique" in experiencing pain and suffering when and if the harm is visited upon family members. Thus, this is a generalized grievance which does not result in distinct and palpable harm sufficient to support standing. *Metro. Edison Co.* (Three Mile Island Nuclear Station, Unit No. 1), CLI-83-25, 18 NRC 327, 332-33 (1983), citing *Transnuclear Inc.*, CLI-77-24, 6 NRC 525, 531 (1977). More importantly, Petitioner has failed to establish the required nexus between this "pain and suffering," the purported "accident or releases from routine operation," and the proposed license amendments.⁵ Ms. Honicker simply has not shown any "plausible chain of causation" from the proposed amendments to offsite radiological injury to her during her intermittent passages through the areas around WBN or SQN.

In further reference to her family, Petitioner goes on to expound upon the fact that her "[f]ear of their harm is mental anguish that can only be eliminated by the denial of the proposed amendment to allow the cogeneration of tritium at Watts Barn [sic] and/or Sequoyah." Amended

⁵ As explained in TVA's original reply to Ms. Honicker's request for standing, the tritium-producing burnable absorber rods ("TPBARs") to be inserted into the WBN and SQN reactors neither contain fissile material nor replace normal reactor fuel. TVA Answer, at 2. They will not adversely affect reactor neutronic or thermal-hydraulic performance, and their presence in the reactor cores would not have a significant effect upon the probability or consequences of previously analyzed accidents, including fuel handling accidents. *Id.*, at 2-3; see also 66 Fed. Reg. 65,000, 65,001 (Dec. 17, 2001).

Petition, at 4. In enacting the Atomic Energy Act of 1954, as amended, Congress confined NRC regulatory activities to the “physical hazards of radioactivity, rather than to psychological concerns.” *Metro. Edison Co. (Three Mile Island Nuclear Station, Unit No. 1)*, CLI-82-6, 15 NRC 407, 415 (1982). Thus, in addition to being generalized, neither actual nor imminent, and lacking a nexus to anything actually changed by the proposed amendments, this purported psychological injury is beyond the purview of NRC regulatory authority and cannot serve as a basis for injury-in-fact.

Petitioner's concerns about other hypothetical and generalized injuries also cannot serve as a legitimate basis for her standing in this proceeding. Again referring to her intermittent, vaguely-defined trips to Knoxville (*i.e.*, “my husband and I are there some of the time”), Ms. Honicker avers that she “would certainly be in harms way, personally, should there be an accident especially one that requires evacuation.” Amended Petition, at 4. In this hypothetical evacuation scenario — devoid of any shred of factual basis or any articulated connection to the proposed amendments — she and her husband would purportedly be swept “even closer to Sequoyah and Watts Bar, we could not escape the radioactive plume. We would be trapped.” *Id.* Compounding the already-high level of conjecture innate in this purported “injury,” Petitioner posits “one hug[e] traffic jam” in which she and her husband “would still be trapped” — “[e]ven if there was warning, before the plume reached Knoxville” and “if there was a football game with 100,000 more people on the already congested interstate. . . .” *Id.* This purported evacuation-related “injury” is purely hypothetical. Furthermore, no nexus is drawn to any change brought about by the proposed amendment. If this generalized grievance exists at

all, it already exists today, and no showing is made that the amendment would make it any way more likely or real.⁶

Building upon her purported intermittent contacts with Chattanooga and Knoxville, Petitioner next claims that while on such voyages, she and her husband “are more likely to eat contaminated food or drink contaminated milk if this amendment is granted.” *Id.*, at 4. Even while at home in LaGrange, Petitioner contends that the “possibility” of this injury is not eliminated, “because produce, fish, poultry, meat, and milk are shipped far from their origination point.” *Id.*, at 4-5. In order to allay these food-related concerns, Petitioner calls for the installation of an undefined “monitoring system” to “prevent the processing of food products before they are put on the open market,” or alternatively, “denial of the proposed amendment[s].” *Id.*, at 5. Again, Petitioner is doing nothing more than engaging in conjecture and hypothesizing — absent factual support in any way connected to the proposed license amendments. These purported injuries are neither “concrete and particularized,” nor “actual or imminent,” nor fairly traceable to the proposed amendment. *Lujan*, 504 U.S. at 560. Precedent also confirms that the Petitioner cannot successfully rely on these food-related concerns for standing in this proceeding. *Philadelphia Elec. Co.* (Limerick Generating Station, Units 1 and 2), LBP-82-43A, 15 NRC 1423, 1449 (1982) (holding that “allegations that the plant will cause

⁶ In conjunction with this purported evacuation-related injury, Petitioner offers several comments regarding the need for “monitoring plans” and updated “evacuation plans.” Amended Petition, at 4-5. With respect to these statements, however, no link is ever made to the proposed amendments. No plausible chain of causation is provided from the proposed insertion of the TPBARs to accidents, to radiation monitors or evacuation plans, and to the Petitioner who resides 150 miles away. Moreover, insofar as Petitioner is asking the NRC to impose new radiation monitoring and/or emergency planning requirements on the TVA facilities alone, or implying that TVA does not comply with such requirements, her request is more properly treated as one for agency action pursuant to 10 C.F.R. §§ 2.802 or 2.206.

radiologically contaminated food which [petitioner] may consume" are "too remote and too generalized to provide a basis for standing to intervene"); *Washington Public Power*, LBP-79-7, 9 NRC at 336 (while "there is a possibility that people residing in Portland may consume produce, meat products, or fish which originate within 50 miles of the site[,] . . . to allow intervention on this vague basis would make a farce of § 2.714 and the rationale in decisions pertaining to petitions to intervene").

Finally, although Petitioner does not expressly attempt to do so herein, she was denied standing in another proceeding when she attempted to piggy-back her own interests on her son's attendance at college in Knoxville. *See Tennessee Valley Auth.* (Watts Bar Nuclear Plant, Units 1 and 2), LBP-77-36, 5 NRC 1292 (1977), *aff'd*, ALAB-413, 5 NRC 1418 (1977). Ruling that a secondary interest of this nature was "too remote to establish standing," the Licensing Board further noted the "transitory nature" of her son's residence in Knoxville, and the failure to show "that he could not attempt to intervene in his own behalf." *Id.*, at 1294. The Appeal Board agreed, noting that Ms. Honicker's son was neither a minor nor suffering from a legal disability which would preclude him from intervening on his own behalf. *See Tennessee Valley Auth.* (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 (1977); *see also Detroit Edison Co.* (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-470, 7 NRC 473, 474-75 n.1 (1978). To the extent that Petitioner attempts to rely on her spouse's or family members' interests to establish her standing in this proceeding, the *Watts Bar* Licensing and Appeal Board rulings apply.

In sum, as in her original Petition, Ms. Honicker has failed to identify a distinct injury in fact to herself, which is in any way plausibly caused by the proposed amendments.

Although she feels threatened by operation of WBN and SQN, this alone does not create standing to intervene with respect to the discrete and limited license amendments here at issue.

C. Petitioner May Not Rely on Aspects Which Are Outside the Scope of This Proceeding to Establish Her Standing To Intervene

Section 2.714(a)(2) requires a petitioner to identify the “specific aspect or aspects of the subject matter of the proceeding” as to which she wishes to intervene. The purpose of this requirement is not to judge the admissibility of the issues, but to determine whether the petitioner specifies “proper aspects” for the proceeding. *Consumers Power Co.* (Midland Plant, Units 1 and 2), LBP-78-27, 8 NRC 275, 278 (1978). The requirement is satisfied by identifying “general potential effects of the licensing action or areas of concern” within the scope of the proceeding. *Vermont Yankee Nuclear Power Corp.* (Vermont Yankee Nuclear Power Station), LBP-90-6, 31 NRC 85, 89 (1990). Here, the Petitioner's aspects are clearly not within the scope of this license amendment proceeding. In her Amended Petition, Ms. Honicker lists eight “problems” that she believes should be addressed “because of the added burden that producing tritium will place on that [*i.e.*, Watts Bar] facility.” Amended Petition, at 11-14.⁷ None of the listed “problems,” however, fall within the scope of the proceeding. Thus, the purported “problems” are not likely to be redressed by a favorable decision. *See, e.g., Private Fuel Storage*, CLI-99-10, 49 NRC at 323.

The first four purported “problems” cited by Petitioner are: (1) she questions whether “the consequences of a fire in a plant with thermo-lag electrical insulation [was] considered in the 'No Significant [sic] Hazards' proposed ruling?”; (2) she poses the vague

⁷ Citing the availability of additional information since the construction of WBN, Petitioner lists eight “problems” which she believes should be addressed at “that” facility. Amended Petition, at 11. Despite this language, her subsequent discussion of the eight listed “problems” does not appear to be limited to WBN. Thus, TVA's response to these “problems” is not limited to WBN and encompasses SQN as well.

question of whether “an accident,” involving some sort of “major explosion” in some way connected to “hydrogen igniters,” “was previously evaluated?”; (3) she asks whether “the consequences of a failure of the ice condenser system [has] been considered?”; and (4) she questions whether the “possibility” of the failure of the so-called “Egg Shell” containments at WBN and SQN has “been considered in the NRC’s proposed ‘No Significant Hazards’ findings[?]” Amended Petition, at 12-13. In raising these questions, Petitioner specifically challenges the conclusion in the proposed no significant hazards consideration finding, under 10 C.F.R. § 50.92(c)(2), that the proposed amendments will not create the possibility of a new or different kind of accident. To the extent that Petitioner is seeking a hearing challenging this conclusion, however, she is raising a matter that cannot be addressed in this forum. See 10 C.F.R. § 50.58(b)(6). Furthermore, Petitioner has failed to demonstrate that any of these matters is in any way connected to operations or equipment that would be changed by the license amendments at issue.

As fully explained in TVA’s Answer to Ms. Honicker’s original petition to intervene, the fifth “problem” she cites — “the threat of crashing a fully fuelled jetliner into these reactors” — constitutes a challenge to the design basis threat of the facilities. Amended Petition, at 13; TVA Answer, at 10-11. Such a challenge is impermissible in an individual licensing proceeding, such as this, as it takes issue *not* with the proposed license amendments, but rather with the substantive content of Commission regulations — specifically 10 C.F.R. § 50.13 and 10 C.F.R. Part 73. Such issues are not properly raised here. See 10 C.F.R. § 2.758(a); *Siegel v. Atomic Energy Comm’n*, 400 F.2d 778, 783-84 (D.C. Cir. 1968); *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-01-6, 53 NRC 138, 151 (2001); *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3),

CLI-99-11, 49 NRC 328, 334 (1999); *Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-82-119A, 16 NRC 2069, 2098 (1982); *Metro. Edison Co.* (Three Mile Island Nuclear Station, Unit No. 2), ALAB-456, 7 NRC 63, 65 (1978).

Finally, Petitioner's three remaining "problems" derive from her opinion that "[t]he need for tritium has decreased since the project was started," or — alternatively — that if "the US decides to go ahead with the production of tritium, a safer alternative exists rather than producing it at any electricity producing power plant." Amended Petition, at 13-14. Further to the latter alternative, Petitioner claims that the proposed amendments violate the spirit of the Atomic Energy Act which "prohibit[s] the production of material for nuclear weapons at any electricity producing power plant." *Id.*, at 14. However, these aspects relate to matters not before the NRC. The Defense Authorization Act of 2000, signed into law on October 5, 1999, specifies that TVA is to produce tritium at WBN and SQN.⁸ Furthermore, the Department of Energy's ("DOE's") actions regarding the production of tritium are sanctioned by United States law and treaty obligations, including those concerned with nuclear nonproliferation.⁹ Thus, putting aside all questions about the accuracy of Petitioner's assertions and legal interpretations, this simply is not the proper forum in which to challenge DOE's legal obligations or the need for TVA's proposed tritium-related activities.

D. Petitioner Should Not Be Granted Discretionary Intervention

Petitioner specifically requests that the Board grant her discretionary intervenor status because her "participation will assist the NRC in not only establishing a record, but of

⁸ *National Defense Authorization Act for Fiscal Year 2000*, Pub.L.No. 106-65, § 3134, 113 Stat. 512, 927 (1999).

⁹ See "Final Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor," DOE/EIS-0288 (March 1999), at S-14 through S-15.

coming to the right decision." Amended Petition, at 6. However, the Petitioner does not in any way demonstrate how she could do that.

The Commission has delineated the following factors to be considered in the disposition of requests for discretionary intervention:

- "(a) Weighing in favor of allowing intervention —
 - (1) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
 - (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
 - (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.
- (b) Weighing against allowing intervention —
 - (1) The availability of other means whereby petitioner's interest will be protected.
 - (2) The extent to which the petitioner's interest will be represented by existing parties.
 - (3) The extent to which petitioner's participation will inappropriately broaden or delay the proceeding."

Portland Gen. Elec. Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 616 (1976). In the past, Petitioner has sought — and been denied — discretionary intervenor status for failing to meet the governing legal standards. *Tennessee Valley Auth.* (Watts Bar Nuclear Plant, Units 1 and 2), LBP-77-36, 5 NRC 1292 (1977), *aff'd*, ALAB-413, 5 NRC 1418 (1977); *Exxon Nuclear Co.* (Nuclear Fuel Recovery and Recycling Center), LBP-77-59, 6 NRC 518 (1977), *aff'd on other grounds*, ALAB-447, 6 NRC 873 (1977). In *Watts Bar*, the Licensing Board first noted that, while Ms. Honicker "is an intelligent person who takes a commendable interest in civic matters, she is not a lawyer nor possessed of scientific or technical training. She does not have available to her some type of professional assistance in connection with the evidentiary presentation. . . ." *Id.*, at 1297. The Appeal Board agreed, stating that

“[t]here is nothing before us which might suggest that this petitioner is qualified by either specialized education or pertinent experience to make a substantial contribution on one or more of the contentions which she seeks to have litigated.” *Tennessee Valley Auth.* ALAB-413, 5 NRC at 1422-23 (footnote omitted).¹⁰

The same findings continue to hold true today. According to Petitioner, her ability to “assist the NRC” in this proceeding arises from her history of attending certain “TVA Board” meetings, participating in some fashion in the Hartsville and WBN licensing proceedings, and visiting the local NRC public document room. Amended Petition, at 6-11. None of these activities, however, are reflective of any special legal, scientific, or technical expertise. Rather, they are indicative of no more than her long-standing interest in civic affairs. Indeed, the Licensing Board in *Watts Bar* looked at the nature of Ms. Honicker’s property, financial or other interests in the proceeding, and the effect of any order therein on those interests, finding Ms. Honicker to have only a “tenuous connection” to, and “generalized, undifferentiated interest” in, the proceeding. *Watts Bar*, 5 NRC at 1297.¹¹ The same conclusion holds true here for the reasons set forth above, as well as in TVA’s answer to Ms. Honicker’s

¹⁰ The Appeal Board also noted that Petitioner “does [not] profess to have expert assistance available to her.” *Watts Bar*, 5 NRC at 1423 (footnote omitted). The same, again, holds true herein.

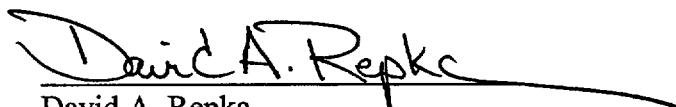
¹¹ See also *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), LBP-98-7, 47 NRC 142 (1998). In this decision, the Licensing Board denied discretionary standing to putative intervenors Scientists for Secure Waste Storage (“SSWS”). The Licensing Board found that the group’s petition “reflect[ed] a lack of knowledge, understanding, or concern about the particulars of the PFS application.” *Id.*, at 174. The Board also was concerned that the group’s more “academic” interest in the proceeding posed the risk of “broaden[ing]” the issues or otherwise delaying the proceeding. *Id.*, at 175. Additionally, the Board deemed the “generalized interests of SSWS in overseeing the record” unsuitable for finding discretionary intervention. *Id.*, at 177-78.

original petition to intervene.¹² Accordingly, the request for discretionary intervention should be denied.

III. Conclusion

For the foregoing reasons, Petitioner's amended petition to intervene in this proceeding should be denied.

Respectfully submitted,



David A. Repka
Kathryn M. Sutton
WINSTON & STRAWN
1400 L Street, NW
Washington, D.C. 20005-3502
(202) 371-5700

Edward J. Vigluicci
Harriet A. Cooper
TENNESSEE VALLEY AUTHORITY
400 West Summit Hill Drive
Knoxville, TN 37902-1499
(865) 632-7317

Counsel for Tennessee Valley Authority

Dated in Washington, D.C.
this 28th Day of February, 2002

¹² The Licensing Board in *Exxon Nuclear* also denied Ms. Honicker's intervention petition, both as of right and as a matter of discretion. With regard to discretionary intervention, the Board reviewed the test laid out by the Commission in *Portland Gen. Elec. Co.*, 4 NRC at 614-17, which in part discusses whether a petitioner "show[s] significant ability to contribute on substantial issues of law or fact which will not otherwise be properly be raised or presented, set forth these matters with suitable specificity . . . , and demonstrate their importance and immediacy, justifying the time necessary to consider them." *Exxon Nuclear*, LBP-77-59, 6 NRC at 520. The Licensing Board found Ms. Honicker failed to make such a showing. *Id.*, at 520-21.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "RESPONSE OF TENNESSEE VALLEY AUTHORITY TO JEANNINE HONICKER'S AMENDED PETITION TO INTERVENE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, this 28th day of February, 2002. Additional e-mail service has been made this same day as shown below. For the party marked by an asterisk (*) additional service has been made by overnight delivery due to lack of either e-mail or facsimile.

Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas S. Moore, Chairman
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(e-mail: tsm2@nrc.gov)

Office of the Secretary
Attn: Rulemakings and Adjudications Staff
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(e-mail: HEARINGDOCKET@nrc.gov)
(original + two copies)

Dr. Peter S. Lam
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(e-mail: psl@nrc.gov)

Office of Commission Appellate Adjudication
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Thomas S. Elleman
Atomic Safety and Licensing Board
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(e-mail: elleman@eos.ncsu.edu)

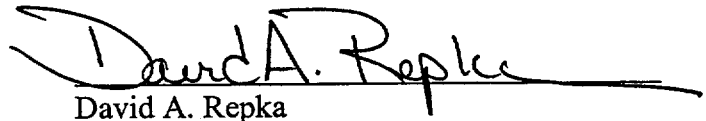
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Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Steven R. Hom, Esq.
Office of the General Counsel
Mail Stop: O-15D21
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(e-mail: srh@nrc.gov)

Donald J. Moniak
Blue Ridge Environmental Defense League
P. O. Box 3487
Aiken, SC 29802
(e-mail: donmoniak@earthlink.net)

Ann Pickel Harris *
We The People, Inc. Tennessee
341 Swing Loop Road
Rockwood, TN 37854

Jeannine Honicker
704 Camellia Dr.
LaGrange, GA 30240
(e-mail: djhonicker@msn.com)


David A. Repka
Counsel for Tennessee Valley Authority