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-----Original Message-----

From: Brian Paddock [<mailto:bpaddock@twlakes.net>]
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Comments attached in PDF.

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VIA EMAIL: Rulemaking.Comments@nrc.gov

Re: Docket ID NRC-2012-0246

Ladies and Gentlemen,

These comments concern the Draft Generic Environmental Impact Statement (DGEIS) and the related Waste Confidence Decision and Rule.

I am an attorney licensed to practice in all State Courts in Tennessee, the federal courts of the 6th Circuit and before the United State Supreme Court. I served on the Stakeholder advisory group for the Tennessee Valley Authority first Integrated Resource Plan (IRP) adopted in 2011. I have attended almost every TVA Board meeting since 2010. I subscribe to and review all the NRC documents concerning TVA nuclear operations as filed in ADAMS.

In the 2011 IRP, TVA included construction of one or more nuclear reactors at the Bellefonte (Scottsboro, AL) site to start in a specified time frame simply because the reactors otherwise could not be completed within the time allowed by (NRC restored) Construction Licenses. Since that time TVA has effectively abandoned plans to construct any reactors at Bellefonte though it has not relinquished either of the two construction licenses or the two COL licenses for AP1000 units.

This history at Bellefonte and related issues at every other TVA reactor demonstrate the inappropriateness of applying the final DGEIS to all sites and all reactors as the actual waste generation to be dealt with is unpredictable. When the time and scale of actual reactor operations and spent fuel generation is complicated by issues like the (DOE proposed) use of MOX, the use of “high burn-up” fuel, and individual reactor designs and with varying lengths of refueling cycles, it is clear that a reactor by reactor EIS should be required under any plan for long term onsite irradiated fuel storage.

This need for a site by site and reactor by reactor EIS is re-enforced by the question of the suitability of each specific site. The example within TVA's ambit is Sequoyah. TVA has contracted for cask storage of irradiated fuel at Sequoyah. It is unclear whether this processing and detention is to serve only the two reactors located there or may involve transfer of irradiated fuel from Watts Bar and/or Browns Ferry.

As I mentioned in my oral comments, at least 85% of all long distance semi-truck traffic passes through Tennessee because we are the intersection of several major North-South and East-West Interstates. We have daily truck accidents and cargo spills in our cities as well as on the open road. TVA may desire to transport irradiated fuel on the Tennessee River connection between its reactors. This presents new and different issues and risks to be analyzed and avoided. No transport of irradiated fuel should occur without adequate analysis including a separate EIS and an opportunity for public comment.

Moreover Sequoyah is still under scrutiny as to flood safety in the event of failure of one or more of TVAs upriver dams. TVA and NRC continue the checklist process for license renewal which looks only at the longevity of reactor parts and refuses to consider that these reactors are now directly adjacent to a large and fast growing (and greening) city. This is a risk and accident consequence factor that should cause both TVA and the NRC to consider decommissioning the reactors in light of the reduced need for electricity within the TVA fence that has occurred steadily over the last eight years and is projected to last into the 2020's according to TVA.

The draft regulations' attempt to bar public comments on waste disposal in license extension proceedings reinforces public suspicion that the NRC is untrustworthy in its alleged commitment to transparency and to public health and safety.

This leads to the consideration of fuel handling and storage at Browns Ferrys G.E. Mark I (Fukushima) reactors which was ignored and legally foreclosed as these reactor licenses were renewed. I believe that a risk and environmental safety analysis will show that reducing the high density wet fuel storage pools located overhead in buildings with little storm resistance (and subject to a recent station blackout caused by tornadoes) is a much more urgent problem than indefinitely long onsite storage. The refusal of the NRC to require existing wet pool storage to be returned to design level densities destroys the credibility of the DGEIS as recognizing an immediate safety concern that must be solved to allow continued operation of some reactor designs.

As I mentioned in my oral comments, NRC cannot assume the security of stored irradiated fuel. The security performance for each reactor site must be considered. TVA's abysmal lack of reactor reservation site security is a matter of record. TVA has proven unable to provide consistent security from intrusions under both systems of use of contractors and use of TVA employed staff.

Adoption of Hardened Onsite Secure Storage regulations (HOSS) would provide at least some sense of improved security from various causes of release to the environment or terrorist exploitation, but NRC has never even proposed such rules and now wants to leap to forever storage in unhardened surface locations.

The DGEIS reference to radioactive spill and leak detection is completely unsatisfactory. It ignores NRC's own records of undetected leaks and the understatement and underestimates of the volume of leaks which have been found.

Certainly the NRC has not posed any evidence that a removal and re-storage in casks at a 100 year or any other long interval is practical. The NRC is not serious about the costs of decommissioning reactors. Your present formula for financial reserves for decommissioning are tragically short of what both experience and economic forecasting has shown to be the actual costs of decommissioning. If NRC cannot regulate funds for responsible decommissioning, how can the public believe the NRC will establish and enforce adequate financial responsibility so that future owners of surface cask storage sites will repackage cask stored waste?

Certainly TVA is unlikely to exist 100 years from now. TVA is reeling from the apparently permanent decline in energy intensity and in TVA sales due to increased efficiency. As electricity costs rise, private actions to reduce consumption will increase, causing a permanent loss of demand even as population may grow. Likewise, the external investment in grid connected distributed renewable solar and the availability of inexpensive wind generated electricity are making TVA's model of centrally generation outmoded. This is true whether the generation is from coal or nuclear. Continuing to create a waste stream which must be isolated for thousands of years, long after current institutions have disappeared, is irresponsible and should be stopped as quickly as feasible.

At some point Congress will figure out that NRC's proposal is to make forever storage of high level waste a permanent public charge. A new "entitlement program" for the nuclear power industry seems unlikely.

A panel of the Court of Appeals for the D.C. Circuit has already chastised the NRC for its disregard of the Nuclear Waste Policy Act requiring a geologic depository for high level waste and its inability to calculate an appropriate fee for the fund to implement such a repository. The proposed rule and the "blinders on" approach of the DGEIS show the NRC is ignoring the statute by proposing indefinite onsite storage.

Sincerely,

/s/ Brian Paddock
Brian Paddock, Esq.