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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Marshall E. Miller, Chairman
Gustave A. Linenberger, Jr.
Dr. Cadet H. Hand, Jr.

In the Matter of

UNITED STATES DEPARTMENT OF ENERGY
PROJECT MANAGEMENT CORPORATION
TENNESSEE VALLEY AUTHORITY

(Clinch River Breeder Reactor Plant)

Docket No. 50-537

MOTION FOR EXTENSION OF TIME FOR DISCOVERY

Intervenors, Natural Resources Defense Council, Inc., and the Sierra Club, hereby move the Board to increase the time permitted for discovery by the Board's Construction Permit Scheduling Order of March 29, 1983. This is necessary because Intervenors have not had anything remotely approaching a reasonable opportunity to read, understand, analyze, and prepare appropriate discovery questions and responses on the lengthy and complex documentation that is purported by Applicants and Staff to support their positions regarding Construction Permit Contentions, particularly the basis for their view that a core

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disruptive accident need not be included in the design basis for the CRBR and that the CRBR containment design is adequate.

Applicants have had literally years to prepare their case. Staff and its consultants, through the normal PSAR review procedures, have had full access all along to the technical material produced by Applicants and the ability to ask Applicants questions regarding these materials. In contrast, Intervenorors were precluded by this Board's Order of April 22, 1982, from conducting any discovery on these issues until completion of the LWA proceeding.

This Board is well aware of the complexity and difficulty of the issues raised by the first-of-its-kind CRBR application, particularly with respect to the questions concerning the CRBR design and the probability and potential consequences of accidents beyond the CRBR design basis. The nature and scope of these difficulties is suggested in: (a) the ACRS letter of April 19, 1983, which lists a number of significant unresolved questions that the ACRS believes must be properly resolved before there is reasonable assurance that CRBR can be constructed and operated without undue risk to the health and safety of the public; and (b) Staff's analysis of the energetic behavior resulting from postulated CDAs in the CRBR, documented in T.G. Theofanous and C.R. Bell, "An Assessment of CRBR Core Disruptive Accident Energetics," LA-9716-MS, NUREG/CR-3224, March 11, 1983, and its two compendium documents, each approximately three inches thick. These are primary backup documents to the two-volume SER, which is also about three inches thick.

The Board's Scheduling Order of March 10, 1983, allowed a total of two months for discovery. Since the last date for responses was set at May 10, 1982, Intervenors had six weeks for all written discovery. During this period of time, Intervenors were required not only to prepare first-round discovery, review and analyze the documents and responses of Applicants and Staff in order to prepare second-round discovery, but also to respond to nine sets of discovery requests from Staff and Applicants. This has proven to be utterly impossible. Moreover, Staff and Applicant have impeded Intervenors' discovery efforts. Applicants refused to deliver basic documents on probabilistic risk analysis and failure mode and effects analysis requested by Intervenors within 14 days, citing the rule allowing 30 days for production of documents. Intervenors will not receive these basic documents until the day before discovery closes, thus effectively removing our opportunity to ask any questions at all concerning them.

Staff's SER was dated March 11, 1983, and received by Intervenors over a week later. More than two weeks were required just to read the SER and prepare first round discovery on a portion of it. Key underlying documentation and technical analyses, including the two compendium documents to NUREG/CR-3224 and Staff radiological calculations, totalling many hundreds of pages, probably a foot in thickness, are available to Intervenors only in the Public Document Room or in Bethesda, obviously limited to only normal working hours. Intervenors have not yet had time yet even to read these documents.

Finally, a significant part of Intervenor's time in this compressed discovery period has been taken in responding to the interrogatories of Staff and Applicants. Applicants filed interrogatories on April 1st, April 8th, April 21st, and April 25th. Staff filed four sets of interrogatories and requests for admissions on April 8th and a fifth set on April 26th. The inequity of the demands on Intervenor in this situation are illustrated by the fact that Staff, in its April 8th filing, sought admissions from NRDC as to the accuracy of Staff's underlying documentation to the SER, when that documentation was not even theoretically available to Intervenor until April 21st, 14 days after our initial discovery on the SER was filed.

Moreover, Applicants have already noticed two days of deposition of Dr. Cochran and Staff one day in the final week of discovery, which will necessitate substantial preparation on Dr. Cochran's part and which makes it impossible to provide timely responses to Staff's and Applicants' second round discovery.

The result of all this is that Intervenor has had grossly inadequate opportunity to discover the bases for Staff's and Applicants' positions and to prepare our case. Considering the magnitude and complexity of the issues involved and the fact that of the parties involved only Intervenor was denied access to this material until March 10, 1983, the current schedule must be significantly altered if this proceeding is to be other than an empty gesture.

Granting of this extension will not harm the other parties. Applicants admitted (March 7 Schedule Motion at 2) that, at the very earliest, site preparation activities will not be completed before the end of the year. Moreover, Congress has specifically prohibited the commencement of any CRBR construction activities for the remainder of this fiscal year. H.R. Rep. No. 97-980, 97th Cong., 2d Sess. 186 (1982). Under these circumstances, Intervenors see no justification for bypassing an adequate trial preparation period in the haste to begin a new round of hearings.

Intervenors therefore move the Board to adopt the following schedule and instructions:

<u>Item/Event</u>	<u>Date</u>
Responses to Staff's April 26 and Applicants' April 21 and April 25 discovery to Intervenors.	Friday May 13, 1983.
Last date for filing discovery responses (<u>i.e.</u> , discovery closed).	Friday, July 8, 1983 (two months after Intervenors receive Applicants' documentation on Contentions 1 and 3).
Applicants are directed to present documents for inspection and copying in Washington, D.C.	
Last date for filing motions for summary disposition.	Friday, July 22, 1983.
Responses to summary disposition motions.	Friday, August 12, 1983.
Proposed direct evidence to be prefiled.	Friday, August 26, 1983
Begin CP evidentiary hearing.	Monday, September 12, 1983.

Respectfully submitted,

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Dated: April 29, 1983

CERTIFICATE OF SERVICE

I hereby certify that copies of Intervenor's MOTION FOR
EXTENSION OF TIME FOR DISCOVERY were delivered this 29th day of
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