

DOCKETED
USNRC

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

'83 MAY 19 P2:12

In the Matter of)
)
U.S. DEPARTMENT OF ENERGY)
PROJECT MANAGEMENT CORPORATION) Docket No. 50-537
TENNESSEE VALLEY AUTHORITY)
)
(Clinch River Breeder Reactor Plant))

APPLICANTS' MOTION FOR
SUMMARY DISPOSITION ON
INTERVENORS' CONTENTION 9(g)

Pursuant to 10 C.F.R. §2.749, the United States Department of Energy and Project Management Corporation, for themselves and for the Tennessee Valley Authority (the Applicants), hereby file this Motion for Summary Disposition on Intervenor's Contention 9(g). */ In support of this motion, Applicants show the following:

1. Intervenor's Contention 9(g) alleges the following:

Neither Applicants nor Staff have demonstrated that Applicants' plans for coping with emergencies are adequate to meet NRC requirements.

(g) Applicants and Staff have failed to provide adequate assurance that the proposed emergency plans will meet the requirements and standards of 10 CFR 50.47(b).

*/ Applicants understand that pursuant to 10 C.F.R. §2.749(a) any other party may serve an answer supporting or opposing this motion within twenty days after service of the motion.

DS03

2. Intervenor's admit that Contention 9(g) is nothing more than a summary statement which raises no substantive issues. In the April 22, 1983 Response of Intervenor's to NRC Staff First Set of Construction Permit Interrogatories and Requests for Admissions to Natural Resources Defense Council, Inc. and the Sierra Club Concerning Contention 9 (Emergency Preparedness), Intervenor's made the following response:

Interrogatory

9-31(a) State with particularity each item of Applicants' emergency plans which NRDC contends fails to provide adequate assurance that 10 C.F.R. §50.47(b) will be met.

(b) For each item identified in NRDC's answer to Interrogatory 9-31(a), identify the planning standards of 10 C.F.R. 50.47(b) that NRDC contends the item does not satisfy.

Response

9-31 Contention 9(g) is a summary statement which tracks the language in the first full paragraph of 10 CFR 50 Appendix E.II. The substantive issues raised are covered in Contention subparts 9(c) and (f).

Id. at 12.

3. Moreover, Intervenor's concede that consideration of Contention 9(g) calls for a legal conclusion. In their April 22, 1983 response to Staff interrogatories, Intervenor's made the following statement:

Admission

9-26 The preliminary description concerning emergency preparedness in CRBR PSAR Section 13.3, as set forth in Admission 9-25, in part provides adequate assurance that the proposed emergency plans will meet the requirements of 10 C.F.R. 50.47(b).

Response

Intervenors can neither admit nor deny this statement since calls for a legal conclusion.

Id. at 24.

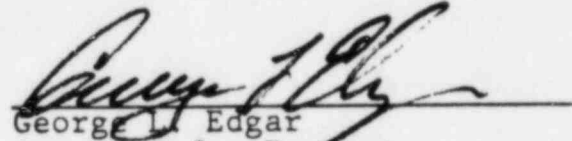
4. 10 C.F.R. §2.749(d) states:

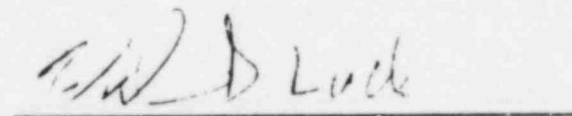
The presiding officer shall render the decision sought [for summary disposition] if the filings in the proceeding, depositions, answers to interrogatories, and admissions on file, together with the statements of the parties and the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law.

5. Since by Intervenors' own admissions, Contention 9(g) raises not substantive, but only legal issues, there is no genuine issue of material fact to be considered regarding that contention. This being the case, Applicants' respectfully request that the Board enter an Order pursuant to 10 C.F.R. §2.749 summarily disposing of Contention 9(g)

as an issue in this proceeding. A statement of material facts as to which there is no genuine issue to be heard is annexed to this motion.

Respectfully submitted,


George L. Edgar
Attorney for Project
Management Corporation


William D. Luck
Attorney for the
U.S. Department of Energy

Dated: May 19, 1983