

# HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

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(202) 328-3500 (202) 328-6918 fax

June 21, 2001

Mark Langer, Clerk  
U.S. Court of Appeals  
For the District of Columbia Circuit  
3<sup>rd</sup> and Constitution Avenues N.W.  
Washington, D.C. 20001

SUBJECT: *Request for Stay and Expedition,  
Orange County v. NRC, No. 01-1246*

Dear Mr. Langer,

On behalf of Orange County, North Carolina, I am enclosing the original and two copies of the docketing statement and other statements required by the Court's order of June 1, 2001. Copies have also been served on the parties.

Sincerely,



Diane Curran

Encl: As Stated

Cc. w/Encl.: Service list

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ENCLOSURE

# United States Court of Appeals

District of Columbia Circuit

## DOCKETING STATEMENT

### Administrative Agency Review Proceedings

(To be completed by appellant/petitioner)

1. CASE NO. 01-1246 2. DATE DOCKETED May 31, 2001

3. CASE NAME  
(lead parties only) ORANGE COUNTY, NC v. U.S. NUCLEAR REGULATORY COMM.

4. TYPE OF CASE:  Review  Appeal  Enforcement  Complaint  Tax Court

5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? YES \_\_\_\_\_ NO

If YES, cite statute: \_\_\_\_\_

#### 6. CASE INFORMATION:

a. Identify agency whose order is to be reviewed: US Nuclear Regulatory Commission

b. Give agency docket or order number(s): LBP-01-09, CLI-01-11

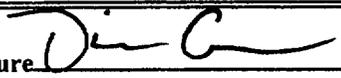
c. Give date(s) of order(s): March 1, 2001 (LBP-01-09); May 10, 2001 (CLI-01-11)

d. Has a request for rehearing or reconsideration been filed at the agency? YES \_\_\_\_\_ NO   
If so, when was it filed? \_\_\_\_\_ By whom? \_\_\_\_\_  
Has the agency acted? YES \_\_\_\_\_ NO \_\_\_\_\_ If so, when? \_\_\_\_\_

e. Are any other cases involving the same underlying agency order pending in this Court or in any other Court?  
YES  NO \_\_\_\_\_ If YES, identify case name(s), docket number(s), and court(s):  
Orange County v. NRC, No. 01-1073

f. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?  
YES \_\_\_\_\_ NO  If YES, give case name(s) and number(s) of these cases and identify court/agency:  
\_\_\_\_\_

g. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? YES \_\_\_\_\_ NO  If so, provide the name of the program and the dates of participation.  
\_\_\_\_\_

Signature  Date June 21, 2001

Name of Party (Print) Board of Commissioners of Orange County, NC

Name of Counsel for Appellant/Petitioner (Print) Diane Curran Firm Harmon, Curran et

Address 1726 M Street N.W. Suite 600, Washington DC 20036

Phone 202/328-3500 Fax No. 202/328-6918

#### ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 10 days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____	)	
ORANGE COUNTY, NORTH CAROLINA,	)	
	)	No. 01-1246
Petitioner,	)	
	)	
v.	)	
	)	
UNITED STATES NUCLEAR REGULATORY	)	
COMMISSION and the UNITED STATES	)	
OF AMERICA,	)	
	)	
Respondents	)	
_____	)	

**STATEMENT OF ISSUES TO BE RAISED**

Pursuant to the Court's order, the Board of Commissioners of Orange County (hereinafter "Orange County") hereby states that it intends to raise the following issues on this appeal of LBP-01-09 (March 1, 2001), a decision by the Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission:

1. Whether LBP-01-09 violated the hearing requirement of the Atomic Energy Act;
2. Whether LBP-01-09 violated the requirements of the National Environmental Policy Act regarding the preparation of Environmental Impact Statements;
3. Whether LBP-01-09 violated the requirements of the Atomic Energy Act and its implementing regulations for protection of public health and safety;
4. Whether LBP-01-09 violated the Administrative Procedures Act;
5. Whether LBP-01-09 was arbitrary and capricious or otherwise not in accordance with the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Diane Curran". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Diane Curran  
Harmon, Curran, Spielberg & Eisenberg, L.L.P.  
1726 M Street N.W., Suite 600  
Washington, D.C. 20036

June 21, 2001

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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ORANGE COUNTY, NORTH CAROLINA,	)	
	)	
Petitioner,	)	No. 01-1246
	)	
v.	)	
	)	
UNITED STATES NUCLEAR REGULATORY	)	
COMMISSION and the UNITED STATES	)	
OF AMERICA,	)	
	)	
Respondents	)	

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**CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

The Board of Commissioners of Orange County (hereinafter "Orange County") hereby certifies the following information required by Circuit Rule 28(a)(1):

**Parties and Amici**

The parties to this case are Orange County (Petitioner), the U.S. Nuclear Regulatory Commission (Respondent), and the United States of America (co-Respondent). In the agency proceeding of which Orange County seeks review, Carolina Power & Light Co. ("CP&L") was also a party. CP&L has moved to participate as an intervenor in this case.

**Ruling Under Review**

The ruling under review is LBP-01-09, Memorandum and Order (Denying Request for Evidentiary Hearing and Terminating Proceeding) (March 1, 2001). A copy of LBP-01-09 is attached as Exhibit 1. LBP-01-09 was rendered final by CLI-01-011, in

which the NRC Commissioners denied Orange County's administrative petition for review of LBP-01-09. CLI-01-11, Memorandum and Order (May 10, 2001).

**Related Cases**

A related case, *Orange County v. U.S. Nuclear Regulatory Commission*, No. 01-1073, is currently pending before this Court. By an order dated April 2, 2001, that case has been held in abeyance pending the outcome of the instant appeal.

Respectfully submitted,



Diane Curran  
Harmon, Curran, Spielberg & Eisenberg, L.L.P.  
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Washington, D.C. 20036

June 21, 2001

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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ORANGE COUNTY, NORTH CAROLINA,	)	
	)	
Petitioner,	)	No. 01-1246
	)	
v.	)	
	)	
UNITED STATES NUCLEAR REGULATORY	)	
COMMISSION and the UNITED STATES	)	
OF AMERICA,	)	
	)	
Respondents	)	

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**STATEMENT REGARDING USE OF DEFERRED APPENDIX**

Pursuant to the Court's order, the Board of Commissioners of Orange County (hereinafter "Orange County") hereby states that the parties to this case have agreed to the use of a deferred appendix, as permitted by F.R.A.P. 30(c)

Respectfully submitted,



Diane Curran  
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Washington, D.C. 20036

June 21, 2001

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ORANGE COUNTY, NORTH CAROLINA,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
UNITED STATES NUCLEAR REGULATORY	)	
COMMISSION and the UNITED STATES	)	No. 01-1246
OF AMERICA,	)	
	)	
Respondents	)	

**CERTIFICATE OF SERVICE**

I certify that on June 21, copies of the foregoing Docketing Statement; Statement of Issues to be Raised; Certificate as to Parties, Rulings, and Related Cases; and Statement Regarding Deferred Appendix; were served on the following by first-class mail:

Ronald Spritzer, Esq.  
Appellate Division  
Environment and Natural Resources  
U.S. Department of Justice  
P.O. Box 23795 – L’Enfant Plaza  
Washington, D.C. 20026

Charles E. Mullins, Esq.  
E. Leo Slaggie, Esq.  
John F. Cordes, Esq.  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
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ShawPittman  
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Respectfully submitted,



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