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August 2, 2001

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

SUBJECT: *Orange County v. NRC, No. 01-1073*

Dear Mr. Langer,

On behalf of Orange County, North Carolina, I am enclosing the original and four copies of the County's Response to Motions to Dismiss or Hold in Abeyance and Reply to Responses to Motion to Reactivate and Consolidate.

Sincerely,

Diane Curran

Encl: As Stated
Cc. w/Encl.: Service list

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ERIDS 000601

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 OF AMERICA, Respondents, and CAROLINA POWER & LIGHT COMPANY, Intervenor-Respondent	)	No. 01-1073

OPPOSITION TO MOTIONS TO DISMISS OR HOLD IN ABEYANCE AND REPLY TO RESPONSES TO MOTION TO REACTIVATE AND CONSOLIDATE

Both the Respondent, Nuclear Regulatory Commission ("NRC"), and the Intervenor, Carolina Power & Light ("CP&L"), have filed motions to dismiss this appeal in response to Orange County's motion to reactivate and consolidate the case with *Orange County v. NRC,* No. 01-1246.[1] They argue, variously, that the decision on appeal is not final, that it is not ripe, that it is moot, and that consolidation is not warranted.

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[1] *See* Federal Respondents' Opposition to Petitioners' Motion to Reactivate and Consolidate and Motion to Dismiss or, Alternatively, to Continue in Abeyance (July 23, 2001) ("NRC Motion"); Carolina Power & Light Company's Motion to Dismiss and Opposition to Orange County's Motion to Reactivate and Consolidate (July 23, 2001) ("CP&L Motion").

None of their arguments has merit. As an immediately effective decision by the NRC, the No Significant Hazards Determination is both final and ripe for review; nor has it been mooted. Moreover, the related nature of this appeal and the merits appeal (No. 01-1246) make consolidation appropriate.

I. THE DECISION ON APPEAL IS REVIEWABLE.

This case constitutes an appeal of the NRC Staff's No Significant Hazards Determination, issued on December 21, 2001.[2] The making of the No Significant Hazards Determination permitted the NRC Staff to issue an operating license to CP&L while a contested proceeding on the merits of the license amendment was still pending before the Atomic Safety and Licensing Board ("ASLB").

The NRC appears to concede that the No Significant Hazards Determination is final, but argues that it is not "complete" and therefore not ripe. NRC Motion at 6. CP&L argues that while the decision may be final action by the NRC Staff, it is not a final Commission action, and therefore cannot be reviewed by the Court. CP&L Motion at 6.

A. The No Significant Hazards Determination Constituted A Final Order by the Commission.

CP&L concedes that the No Significant Hazards Determination constituted a final decision by the NRC Staff, but argues that it is "not a final decision of the Commission,"

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[2] United State Nuclear Regulatory Commission, Carolina Power & Light Company, Docket No. 50-400, Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration (December 21,

and therefore is not reviewable under 28 U.S.C. § 2342(4).[3] CP&L Motion at 7. The argument has two prongs. First, CP&L argues that a final No Significant Hazards Determination by the NRC Staff does not constitute a final decision by the Commission. This argument is nonsensical. The plain language of the Atomic Energy Act and its implementing regulations shows that the authority to issue a No Significant Hazards Determination rests in the first instance with the Commission, which has merely delegated it to the NRC Staff. For instance, 42 U.S.C. § 2239(a)(2) provides that "*the Commission* may issue and make immediately effective any amendment to an operating license ... upon a determination *by the Commission* that such amendment involves no significant hazards consideration." (emphasis added) Likewise, NRC regulations at 10 C.F.R. § 50.92 provide that "[t]he *Commission* may make a *final* determination ... that a proposed amendment to an operating license .... involves no significant hazard consideration." (emphasis added). Moreover, in issuing the No Significant Hazards Determination on appeal, the NRC Staff cloaked itself with the authority of the Commission. Although the Notice of Issuance is signed by a member of the NRC Staff rather than the Commissioners, it is written as a Commission document. For example, it announces that the "Commission has issued a facility operating license to CP&L," that

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2000). The NRC Commissioners denied Orange County's petition for administrative review of the No Significant Hazards Determination in CLI-01-07, 53 NRC 113 (2001).

[3] 28 U.S.C. § 2342(4) provides that "[t]he court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of ... (4) all final orders of the [Nuclear Regulatory] Commission made reviewable by section 2239 of title 42 [the Atomic Energy Act]."

"the Commission has made appropriate findings," and that "the Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards considerations." No Significant Hazards Determination at 1, 3.

Finally, the fact that NRC regulations provide no right to seek review of the Staff's decision before the NRC Commissioners means only that the Commissioners are content to let the Staff act on its behalf, not that the Staff is a body that is independent of the Commission, as CP&L infers. CP&L Motion at 6. Thus, there is no merit to CP&L's argument that the No Significant Hazards Determination was not a final Commission order.

Second, CP&L appears to argue that there can be only one final decision on the Harris license amendment request, which they contend is the merits determination that was consummated in CLI-01-11, the Commission's decision denying review of the ASLB's merits decision (LBP-01-19). CP&L Motion at 6. In support of this argument, CP&L selectively quotes language from *City of Benton v. NRC,* 136 F.2d 824, 825 (D.C. Cir. 1998), that in an NRC licensing proceeding, "it is the order granting or denying the license that is ordinarily the final order." CP&L Motion at 6. CP&L conveniently omits a crucial distinction made in the sentence that follows the quoted excerpt: that "NRC orders that are given 'immediate effect' constitute an exception to this rule." 136 F.3d at 825-26. The issuance of the No Significant Hazards Determination, which was given

immediate effect, therefore does not constitute the "ordinary" case cited by CP&L.[4] CP&L also ignores judicial precedents in this Circuit, which clearly establish that No Significant Hazards Determinations and other immediately effective orders are appealable final orders of the NRC.[5]

In the alternative, CP&L argues that even if the No Significant Hazards Determination constituted final action on December 21, 2000, its finality was somehow superseded by CLI-01-11, the Commissioners' May 10, 2001, Memorandum and Order denying review of LBP-01-09. CP&L Motion at 6. The Commission's own jurisprudence, however, makes it clear that a No Significant Hazards Determination is beyond the jurisdiction of a proceeding on the merits of a license amendment. For instance, in *Vermont Yankee* (Vermont Yankee Nuclear Power Station), LBP-87-17, 25 NRC 838 (1987), the ASLB refused to allow the State of Vermont to challenge the basis for a proposed No Significant Hazards Determination in the merits hearing on the license amendment:

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4 *See* the Notice of Issuance of the No Significant Hazards Determination in this case, which states that the license amendment "is effective as of the date of issuance." *Id.* at 1. *See also* 42 U.S.C. § 2239(a)(2), which provides that No Significant Hazards Determinations may be made "immediately effective."

5 *See, e.g., Center for Nuclear Responsibility v. NRC,* 586 F.Supp. 579 (D.D.C. 1984), *appeal dismissed,* 781 F.2d 935 (D.C. Cir. 1985) (holding that a No Significant Hazards Determination is within the class of final orders reviewable under 28 U.S.C. § 2342(4) and 42 U..S.C. § 2239 and is reviewable only in the Court of Appeals); *Shoreham-Wading River Central School District v. NRC,* 931 F.2d 102, 105 (D.C. Cir. 1991) (immediately effective ban on refueling constitutes final and reviewable agency action); *Commonwealth of Massachusetts v. NRC,* 924 F.2d 311, 322 (D.C. Cir. 1991) (holding that Commission's order issuing operating license on immediately effective basis was final and reviewable agency action).

> [A No Significant Hazards Determination] is a procedural one stemming from the so-called *Sholly* amendments to § 189a of the Atomic Energy Act, 42 U.S.C. § 2239(a). The determination is one that can only be made by the NRC Staff or the Commission. When such a finding has been made, the NRC may make effective a proposed license amendment prior to any hearing on the request. The determination itself, however, cannot be challenged in a licensing proceeding of this type:
>
> > No petition or other request for review of or hearing on the staff's significant hazards consideration determination will be entertained by the Commission. The staff's determination is final, subject only to the Commission's discretion, on its own initiative, to review the determination.
>
> 10 C.F.R. § 50.58(b)(6) (1987); *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-86-12, 24 NRC 1, 4 (1986), *rev'd in part on other grounds, San Luis Obispo Mothers for Peace v. NRC*, 799 F.2d 1268 (9th Cir. 1986).
>
> *For this reason, we agree with the Applicant and NRC Staff that, to the extent Vermont's Contentions II.A and IIIB seek to affect the Staff's "no significant hazards consideration" determination under § § 50.91, they are beyond our jurisdiction and must be rejected on that ground.*

25 NRC at 844 (emphasis added). Clearly, although a No Significant Hazards Determination is related to a merits proceeding in the sense that it shares the same subject matter, it constitutes a different proceeding that is never subsumed into the merits proceeding. Thus, to suggest that the merits proceeding somehow swallowed up the No Significant Hazards Determination and rendered it non-final is absurd.[6]

The argument is also self-defeating. If it is indeed the case that when the NRC issued CLI-01-11 the No Significant Hazards Determination somehow became an

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[6] Of course, if a final merits decision in a proceeding before the ASLB results in the termination of a hearing, and no appeal is taken to the Court or an appeal is

interlocutory decision subordinate to the merits decision, then Orange County should be able to brief its concerns about the illegality of the No Significant Hazards Determination in the context of its appeal of the merits decision, No. 01-1246. This is exactly what Orange County seeks to do with its motion to consolidate the two cases.

B. The Decision On Appeal Is Ripe.

The NRC claims that the No Significant Hazards Determination is not ripe because, although the NRC Commissioners denied Orange County's petition for review, they left open the possibility that they might take review of the No Significant Hazards Determination on their own initiative and reverse it. NRC Motion at 6-7. Contrary to the Commission's argument, this case meets the judicial test of ripeness.

As this Court has held, "[r]ipeness depends on 'the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Burlington Northern R. Co. v. Surface Transportation Board,* 75 F.3d 685, 691 (D.C. Cir. 1996), *quoting Abbot Laboratories v. Gardner,* 387 U.S. 136, 149 (1967). This case meets both prongs of the test. [7]

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unsuccessful, then the No Significant Hazards Determination would become moot. However, it does not simply disappear, as CP&L would have it.

[7] The two cases cited by NRC, *New York State Electric & Gas Corp. v. FERC,* 177 F.3d 1037, 1040 (D.C. Cir. 1999); and *DRG Funding Corp. v. HUD,* 76 F.3d 1212, 1215 (D.C. Cir. 1996), do not support the NRC's argument. In *New York State,* the Court found that an appeal of a FERC decision establishing a legal presumption was unripe because the presumption had not yet been applied by the agency in any administrative proceeding; in fact, no such proceeding had even been requested. 177 F.2d at 1040. In contrast, in this case, the administrative action, issuance of the CP&L license amendment before completion of the hearing, has already "come to pass." *Id.* No further action is necessary to put it into effect.

The courts typically find cases fit for judicial review where "[p]urely legal" questions are involved. In addition, the courts examine whether the agency's policy has "crystallized," or whether "there may be some other material institutional advantage from deferring review." *Id.* Here, the primary issue raised in this appeal is legal: whether a decision by the ASLB precluded, as a matter of law, the issuance of a No Significant Hazards Determination. Orange County's central argument in this appeal will be that the ASLB's decision to admit for merits litigation Orange County's contention -- that the probability of a serious and previously unevaluated accident in the spent fuel pools at Harris is significant enough to warrant the preparation of an Environmental Impact Statement, *see* LBP-00-19, 52 NRC 85 (2000) -- established as a matter of law "the possibility of a new or different kind of accident from any accident previously evaluated," and thereby precluded the issuance of a No Significant Hazards Determination under 10 C.F.R. § 50.92(c)(2). *See also San Luis Obispo Mothers for Peace v. NRC*, 799 F.2d 1268 (9th Cir. 1986) (finding that NRC's own statements conceding the possibility of a new and different kind of action precluded issuance of No Significant Hazards Consideration, regardless of NRC's conclusion that the accident was unlikely).

Moreover, the agency decisionmaking process "crystallized" with the issuance of the No Significant Hazards Determination. By operation of statute and regulation, the

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DRG Funding Corp. is simply inapplicable, because it concerns the question of finality rather than ripeness. The NRC has not contested the finality of the No Significant Hazards Determination as an immediately effective decision by the Commission, and indeed the finality and reviewability of immediately effective NRC decisions is well-established in the case law. *See* cases cited in footnote 6, *supra.*

decision was immediately effective and final upon issuance. No further consideration or action was needed to complete the decisionmaking process. The regulations provided no right of administrative appeal or even the opportunity for a petition for review, and review by the Commissioners was completely discretionary. *See* 10 C.F.R. § 50.58. While the Commission subsequently speculated in CLI-01-07 that it *might* undertake review of the decision, it never made a commitment to do so, nor did it act on the additional information that it requested from the NRC Staff in CLI-01-07. Moreover, three months later, in CLI-01-11, the Commission explicitly announced that it was dropping further consideration of whether to undertake review of the No Significant Hazards Determination. 53 NRC at 381 note 1. There is nothing in the record to suggest that the Commission intends to revisit the issue.[8] The Court should not withhold review based on mere speculation that the decision might change in the future. *See Appalachian Power Co. v EPA,* 208 F.3d 1015, 1023 (D.C. Cir. 2000) ("The fact that a law may be altered in the future has nothing to do with whether it is subject to judicial review.")

Moreover, to withhold review until some unspecified time in the future when the NRC decides whether or not to take review of the No Significant Hazards Determination

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8 In its Motion before this Court, the NRC announces that if the Court vacates the ASLB's decision, "the Commission *will* at that point resume its deliberations to determine whether to rescind the Staff's action." NRC Motion at 8 (emphasis added). The NRC provides no record citation to support this new assertion, nor can any be found. In any event, even if there were some record basis for accepting the NRC's assertion, it merely amounts to a statement that the agency *might* reconsider a decision that has already been given its full effect, with legal and practical consequences for all parties involved. The Court should not withhold review based on mere speculation that the decision might change in the future.

would impose a hardship on Orange County. The immediate and unjustified issuance of the operating license amendment to CP&L has caused an injury to Orange County by allowing CP&L to make dangerous changes to the plant's operation before completion of the adjudicatory proceeding on the safety and environmental risks of the amendment. Orange County has no redress for that injury other than its recourse to this Court.

For its part, CP&L argues that the appeal is unripe because it depends on a "series of contingencies": that this Court would reverse the merits decision by the NRC; that it would vacate the decision, while leaving the license amendment in place; and that it would determine that the decision to issue the license amendment "was so infirm that the health and safety of the public was at risk and suspension of that decision was necessary." CP&L Motion at 7.

CP&L is correct that the need to resolve this appeal depends on a decision by this Court to reverse the ASLB's decision on the merits, but the other "contingencies" that it identifies are illusory. If the Court remands the merits case for a hearing, the license amendment will remain in force under the No Significant Hazards Determination. This will be the case whether or not the Court vacates the license amendment, and whether or not the Court finds that the license amendment violated the National Environmental Policy Act or NRC safety requirements. The No Significant Hazards Determination will remain in full force because the No Significant Hazards decision resulted from a separate proceeding on which the merits proceeding had no bearing.

Thus, unless the appeal of the No Significant Hazards Determination is consolidated with the merits appeal, the No Significant Hazards Determination will

operate to maintain the license amendment in force, even if the Court finds that the decision to issue the license amendment was unlawful and must be revisited. That is the very problem that Orange County seeks to address by consolidating this appeal with the merits appeal.

II. THE DECISION ON APPEAL IS NOT MOOT.

CP&L argues that this appeal has been mooted by "subsequent decisions." CP&L Motion at 7. According to CP&L, the merits decisions by the ASLB and the Commission "removed all regulatory significance from the NRC Staff's NSHC Determination." *Id.* This argument is contradicted by the NRC's Motion, which acknowledges that the No Significant Hazards Determination "will regain significance" if the Court reverses the ASLB's decision on the merits and remands the case to the agency. NRC Motion at 7. NRC Motion at 7. Thus, as aptly demonstrated by the NRC's Motion, this appeal is not moot. [9]

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[9] The NRC questions whether CP&L will need to rely on the authority of the No Significant Hazards Determination if the case is remanded, because the Court has already found that the storage of spent fuel under the amendment does not rise to the level of irreparable injury. NRC Motion at 8. This argument confuses the standard for a stay – irreparable injury that is both certain and great – with the standard for a No Significant Hazards Determination. As this Court has recognized, it is unlawful to issue a nuclear power plant operating license amendment under the No Significant Hazards exception to the NRC's prior hearing requirement if the proposed amendment would create even "the possibility" of a new or different kind of accident that has not previously been evaluated. *San Luis Obispo Mothers for Peace v. NRC,* 799 F.2d 1268, 1270 (9th Cir. 1986). The steep threshold for a No Significant Hazards Determination was intended to "ensure that the NRC Staff does not resolve doubtful or borderline cases with a finding of no significant hazards consideration." *Id.* The Court's denial of a stay in No. 01-1246 cannot be interpreted in any way to constitute a ruling on whether the standard for issuing a No Significant Hazards Determination was met in this case. For the same reasons,

III. CONSOLIDATION IS APPROPRIATE IN THESE CIRCUMSTANCES.

The NRC argues that consolidation is not appropriate because the two cases do not raise the same legal or factual questions. NRC Motion at 5. While the NRC is correct that the legal standards are different for the two cases, it provides no support for its contention that the facts are different. In reality, both cases relate to a single license amendment application for the Harris nuclear power plant, and the application of various legal standards to the factual circumstances of the application.

The Commission also argues that the outcomes of the two cases do not depend on each other, because a decision in No. 01-1246 will not "determine the result" in No. 01-1073. NRC Motion at 5. As discussed in Orange County's Motion to Consolidate, however, the outcome of the merits case (No. 01-1246) *will* affect the No Significant Hazards appeal, because if the NRC's evidentiary proceeding is remanded for further hearing, then the validity of the No Significant Hazards Determination immediately will become a contested issue between the parties.

The NRC's next claim, that the consolidation of these two cases might create confusion, is not supported by the facts. NRC Motion at 6. As the NRC concedes, the record of the instant case is "very short." *Id.* The regulatory standard for issuing a No Significant Hazards Determination, as set forth in 10 C.F.R. § 50.92, is also distinct from the standards for safety and environmental issues that are raised in the merits appeal.

CP&L's argument that the Court's denial of Orange County's stay motion has mooted this appeal is entirely without merit. *See* CP&L Motion at 8.

Thus, there is little or no possibility that the consolidation of the two cases will either mislead or confuse the Court.

Finally, the NRC argues that if the Court declines to dismiss this case it should be held in abeyance. Holding this case in abeyance would impose an undue hardship on Orange County. If this case is held in abeyance and the Court reverses the merits decision in No. 01-1246 and remands it to the agency, Orange County will be required to take a number of actions before the Court at the same time that it is preparing for a remanded hearing, including filing a motion to reactivate this appeal and a motion to stay further implementation of the license amendment pending disposition of this appeal. Moreover, given the fact that the issues raised in this appeal consist principally of legal arguments that are based on a a very short record and a common set of facts, the parties' and the Court's resources would best be conserved by consolidating the two cases and permitting Orange County to address them in a single brief.

IV. CONCLUSION

For the foregoing reasons, the Court should deny the motions to dismiss or hold in abeyance. Instead, the Court should consolidate the instant appeal with No. 01-1246 and establish a single briefing schedule.

Respectfully submitted,

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August 2, 2001

7590-01-P

UNITED STATES NUCLEAR REGULATORY COMMISSION

CAROLINA POWER & LIGHT COMPANY

DOCKET NO. 50-400

NOTICE OF ISSUANCE OF AMENDMENT TO

FACILITY OPERATING LICENSE

AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 103 to Facility Operating License No. NPF-63 issued to Carolina Power & Light Company (CP&L, the licensee), which revised the Technical Specifications (TS) for operation of the Shearon Harris Nuclear Power Plant, Unit 1 (HNP), located in Wake and Chatham Counties, North Carolina. The amendment is effective as of the date of issuance.

The amendment modified the TS to support a modification to HNP to increase the spent fuel storage capacity by adding rack modules to spent fuel pools (SFPs) C and D and placing the pools in service. Specifically, the amendment consists of: 1) a revision to TS 5.6 to identify pressurized water reactor fuel burnup restrictions, boiling water reactor fuel enrichment limits, pool capacities, heat load limitations, and nominal center-to-center distances between fuel assemblies in the racks to be installed in SFPs C and D; 2) an alternative plan in accordance with the requirements of 10 CFR 50.55a to demonstrate an acceptable level of quality and safety in completion of the component cooling water (CCW) and SFPs C and D cooling and cleanup system piping; and 3) an unreviewed safety question for additional heat load on the CCW system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the FEDERAL REGISTER on January 13, 1999 (64 FR 2237). A request for a hearing was filed on February 12, 1999, by the Board of Commissioners of Orange County, North Carolina (BCOC).

On July 12, 1999, the Atomic Safety and Licensing Board (ASLB) ruled that BCOC had standing and had submitted two admissible contentions. The two contentions related to (1) whether General Design Criterion 62 allows the use of administrative controls to prevent criticality (TC-2); and (2) the adequacy of the licensee's proposed alternative plan for the cooling system piping (TC-3). On July 29, 1999, the ASLB granted CP&L's request to hold the hearing in accordance with the hybrid hearing procedures of 10 CFR Part 2, Subpart K. On January 4, 2000, all parties filed written summaries and on January 21, 2000, the ASLB heard oral arguments related to the two admitted contentions. On May 5, 2000, the ASLB issued a decision in favor of CP&L, stating that "(1) there is no genuine and substantial dispute of fact or law that can only be resolved with sufficient accuracy by the introduction of evidence in an evidentiary hearing; and (2) contentions TC-2 and TC-3 are disposed of as being resolved in favor of CP&L."

On January 31, 2000, BCOC filed four late-filed environmental contentions that challenged the adequacy of the staff's December 21, 1999, environmental assessment related to CP&L's amendment request. On March 3, 2000, the NRC and CP&L responded to the late-filed contentions, and on March 13, 2000, BCOC submitted its reply to the responses. On August 7, 2000, the ASLB issued its Ruling on Late-filed Environmental Contentions. In its ruling, the ASLB admitted one environmental contention (EC-6) regarding the probability of occurrence of BCOC's postulated accident scenario. On November 20, 2000, all parties filed written summaries and on December 7, 2000, the ASLB heard oral arguments related to EC-6.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in

advance of the holding or completion of any required hearing, where it has determined that no significant hazards considerations are involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards considerations. The basis for this determination is contained in the Safety Evaluation related to this action. Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing will be held after issuance.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (64 FR 71514).

For further details with respect to the action see (1) the application for amendment dated December 23, 1998, as supplemented on March 15, April 5, April 30, June 14, July 23, September 3, October 15, and October 29, 1999, and April 14, and July 19, 2000. (2) Amendment No. 103 to License No. NPF-63, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 21st day of December 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

Richard P. Correia, Chief, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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 OF AMERICA, Respondents	No. 01-1073

CERTIFICATE OF SERVICE

I certify that on August 2, 2001, copies of the foregoing Opposition to Motions to Dismiss or Hold in Abeyance and Reply to Responses to Motion to Reactivate and Consolidate were served on the following by overnight mail or first-class mail as indicated below:

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