

January 7, 2002

Ann Marshall Young, Chair  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
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Washington DC, 20555

Lester S. Rubenstein  
Administrative Judge  
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Charles N. Kelber  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
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In the Matter of  
DUKE ENERGY CORPORATION  
(McGuire Nuclear Station, Units 1 and 2, and  
Catawba Nuclear Station, Units 1 and 2)  
Docket Nos. 50-369, 370, 413 and 414

Dear Administrative Judges:

This is to correct a statement made during the prehearing conference which occurred on December 18 and 19, 2001. In this proceeding, in response to a Licensing Board inquiry regarding whether a petitioner could challenge a staff determination in an environmental assessment (EA) that an environmental impact statement (EIS) is not necessary, staff counsel indicated that, to his knowledge, a petitioner cannot challenge the environmental document prepared by the Staff. Transcript at 598-99. This statement was incorrect.

A petitioner may attempt to raise a challenge to a determination by the staff in an EA and finding of no significant impact (FONSI) that an EIS is not warranted. Any such challenge would be required to meet the criteria of 10 C.F.R. § 2.714 and relevant Commission precedent regarding intervention, the admission of contentions and, as applicable, the admission of late-filed contentions.

I apologize for any inconvenience this may have caused.

Sincerely,

**/RA/**  
Antonio Fernández  
Counsel for NRC Staff

cc: Service list