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

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Before Administrative Judge:

Ann Marshall Young,
Presiding Officer

<p>In the Matter of</p> <p>DUKE ENERGY CORPORATION</p> <p>(Catawba Nuclear Station Units 1 and 2 and McGuire Nuclear Station Units 1 and 2)</p>	<p>Docket Numbers. 50-369-LR and 50-370-LR and 50-413-LR and 50-414-LR</p> <p>November 6, 2001</p>
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**DECLARATION OF DAVID A. LOCHBAUM, NUCLEAR SAFETY ENGINEER,
UNION OF CONCERNED SCIENTISTS, REGARDING AVAILABILITY OF
PUBLIC DOCUMENTS AS RELATED TO THE PROPOSED RENEWAL OF
THE CATAWBA AND MCGUIRE NUCLEAR STATION OPERATING
LICENSES**

I, David A. Lochbaum, make the following declaration:

1. My name is David A. Lochbaum. I reside in the state of Maryland.
2. I am employed by the Union of Concerned Scientists as their nuclear safety engineer. I have been so employed since October 1996. The Union of Concerned Scientists, with offices located at 1707 H Street NW Suite 600, Washington, DC 20006, is an independent nonprofit organization dedicated to advancing responsible public policies in areas where technology plays a critical role.
3. I have the following responsibilities at UCS: a) direct and coordinate nuclear safety program; b) monitor developments in nuclear industry to assess and respond to impact; c) serve as technical authority and spokesperson on nuclear issues; and d) initiate legal action to correct safety problems.

4. I graduated in June 1979 from The University of Tennessee with a bachelor of science degree in nuclear engineering.
5. After receiving my nuclear engineering degree, I went to work for the Georgia Power Company as a junior engineer at their Edwin I. Hatch Nuclear Power Plant. I held various positions in the commercial nuclear power industry for over 17 years prior to joining UCS.
6. I am the author of *Nuclear Waste Disposal Crisis* (Pennwell Books, Tulsa, January 1996) on the technical problems with spent fuel storage at reactor sites and numerous reports for UCS on nuclear safety issues.
7. I have prepared and submitted several petitions under 10 CFR 2.206 to the Nuclear Regulatory Commission (NRC) on behalf of UCS which required research comparable to that required of NIRS in this proceeding.
8. I am a member of the NRC's ADAMS Users Group, formed by the agency to facilitate improvements to the Agency-wide Document Access and Management System (ADAMS).
9. I am a frequent user of the NRC's website. The consultants hired by the NRC to redesign its website met with me last year to solicit my input on the materials used most frequently. Commissioner Jeffrey S. Merrifield arranged from me to "test-drive" the NRC's proposed redesigned website. At his request, I met with Commissioner Merrifield and his staff along with Commissioner McGaffigan on August 2, 2001, to discuss my comments on the website. At that meeting, Ms. Fran Goldberg of the NRC staff described several of the changes to the redesigned website that had been made because of my comments.
10. At the request of the Nuclear Information and Resource Service (NIRS), I prepared this declaration to document my assessment of the problems confronting members of the public and public interest groups caused by the actions taken by the NRC following the attacks of September 11th. Specifically, these actions were closing down the agency's website on or about October 10th, restoring a limited website (hereafter referred to as Weblite) on or about October 17th, and limitations on access to materials in the NRC Public Document Room. NIRS asked me to assess the impact of these NRC actions on their ability to intervene in the subject proceeding.
9. I am not questioning the NRC's decision to restrict public access to information pending review in light of September 11th. I have advocated that NRC suspend all licensing activities until its review was completed and public access—even at a modified level—restored.

11. It is my professional opinion that the actions taken by the NRC following the attacks of September 11th significantly impede NIRS in this proceeding. I base this conclusion on the following facts:

- a) Daily Event Reports (DERs) were available on the NRC's website but they are not available on Weblite or in ADAMS. DERs are reports to the NRC from its licensees made in accordance with 10 CFR 50.72/50.73. DERs may be followed by the formal submission to the NRC of Licensee Event Reports (LERs). LERs were not available on either the NRC's website or Weblite, but are available in ADAMS. DERs not being on the Weblite makes it more difficult to search for relevant experience. The LERs in ADAMS only go back to November 1999. LERs prior to November 1999 must be located using the agency's Bibliographic Retrieval Service (BRS). BRS is essentially a computerized index of the microfilm records available from the Public Document Room. The BRS index allows searches by fields such as docket number, document title, keywords, and date (or date range). BRS does not allow searches of content within documents as allowed in ADAMS. The NRC's website allowed searches of content within DERs. I have downloaded DER files since I joined UCS in 1996. I can use the advanced search function of MicrosoftTM Word to find specific content within the DER files. But content searches can only be made when the DERs are publicly available. Absent the DERs, NIRS must perform crude searches of BRS for LERs prior to November 1999. NIRS is impeded because they must (i) review more LERs than would be necessary with an effective search routine and (ii) miss relevant LERs that would have been discovered with an effective search routine.
- b) Generic correspondence (i.e., NRC Bulletins, Circulars, and Information Notices) were available on the NRC's website but they are not available on Weblite or in ADAMS. In our 2.206 petition dated April 5, 1998, and submitted to the NRC, UCS pointed out:

TVA has an operating license for [Browns Ferry] Unit 1, but the facility has not been operated since March 1985 and has been on administrative hold since June 1, 1985. The NRC has issued approximately 39 bulletins, 141 generic letters, and 1,047 information notices to its licensees while Unit 1 has been on administrative hold.

The NRC issued more than one thousand information notices between June 1, 1985, and April 5, 1998. None of these documents are available on the NRC's Weblite. I searched ADAMS on November 6, 2001, and found a grand total of thirty three (33) information notices in ADAMS—the oldest having a date of March 6, 2000. Thus, none of the 1,047 information notices cited by UCS in our 2.206 petition of April 5, 1998, are available to NIRS via ADAMS or Weblite. As described above, NIRS is impeded by being forced to use BRS to search for relevant information in NRC's generic communications.

- c) The NRC's Inspection Manual was available on the NRC's website but it is not available on Weblite. Revisions and updates to the Inspection Manual since November 1999 are available in ADAMS. A hard copy of the Inspection Manual is available for viewing in the NRC's Public Document Room within One White Flint North between the hours of 7:45am and 4:15pm Monday through Friday. Because the bulk of the effort in this proceeding is being handled out of NIRS Southeast office in Asheville, North Carolina, the NRC's elimination of its Inspection Manual from Weblite impedes NIRS' use of this material. I would hope that the NRC staff would not contend that its Inspection Manual is immaterial.

I declare under penalty of perjury that the foregoing is true and correct.

Executed November 6, 2001



David A. Lochbaum
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington, DC 20006
(202) 223-6133