

May 16, 2002

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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:

The NRC staff (Staff) is in receipt of the Board's Order (Addressing Matters Discussed at April 29, 2002, Telephone Conference and Scheduling June 18, 2002, Telephone Conference) dated May 13, 2002, and subsequent e-mails. In numbered paragraph 4 of the Order, the Board refers the parties to a March 11, 2002, Memorandum to Christopher Grimes from Richard Barrett, regarding the Evaluation of Severe Accident Mitigation Alternatives for License Renewal of McGuire, Units 1 and 2. The cited document is an internal, pre-decisional staff document that the Staff does not intend to release to the public.

At this point in the proceeding, discovery against the Staff is precluded by Commission Order. Therefore, at this time, the Staff does not intend to release this document. The Staff's obligation regarding documents is limited to the requirements imposed by the Commission relating to the case file. See CLI-01-20, 54 NRC 211, 213-214 (2001). Any publically available information relating to the Staff's analysis of the licensee's SAMAS may be found in the draft Generic Environmental Impact Statement for License Renewal of Nuclear Plants, NUREG-1437, Supplement 8.

Moreover, in our view, it is inappropriate for the Board to review internal staff documents not provided in the case file. It is further inappropriate for the Board to seek to make such documents public outside the discovery process and without invoking the proper procedure for the release of staff documents to the public.

Sincerely,

/RA/

Susan L. Uttal
Counsel for NRC Staff

cc: SECY
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