

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
DUKE ENERGY CORPORATION)	Docket Nos. 50-369, 370, 413 and 414
)	
(McGuire Nuclear Station, Units 1 and 2,)	
Catawba Nuclear Station, Units 1 and 2))	

NRC STAFF'S ANSWER TO BLUE RIDGE
ENVIRONMENTAL DEFENSE LEAGUE'S AND NUCLEAR
INFORMATION AND RESOURCE SERVICE'S AMENDED CONTENTION 2

INTRODUCTION

Pursuant to 10 C.F.R. § 2.714(c) and the Atomic Safety and Licensing Board's (Board) Order dated May 13, 2002,¹ the staff of the Nuclear Regulatory Commission (Staff) hereby responds to Blue Ridge Environmental Defense League's (BREDL) and Nuclear Information and Resource Service's (NIRS) Amended Contention 2, dated May 20, 2002 (Amended Contentions).² For the reasons set forth below, the Staff submits that the Amended Contentions do not satisfy the Commission's standards for late-filing, nor do they meet the Commission's legal standards for admissible contentions. Therefore, BREDL/NIRS's request for admission of its late-filed contentions should be denied.

BACKGROUND

On June 13, 2001, Duke Energy Corporation (Duke) submitted an application to renew the operating licenses for McGuire Nuclear Station, Units 1 and 2 (McGuire), and Catawba Nuclear Station, Units 1 and 2 (Catawba). On August 15, 2001, the NRC published a "Notice of

¹ Order (Addressing Matters Discussed at April 29, 2002, Telephone Conference and Scheduling June 18, 2002, Telephone Conference) (May 13, 2002) (May 13th Order).

² Since BREDL and NIRS filed their Amended Contentions jointly, the Staff refers to the intervenors as a single party in this response, BREDL/NIRS.

Acceptance for Docketing of the Application and Notice of Opportunity for a Hearing.” 66 Fed. Reg. 60,693 (2001). NIRS and BREDL independently filed petitions for intervention on September 14, 2001, and the Commission subsequently issued an order referring both petitions to the Board in this proceeding. See Order Referring Petitions for Intervention and Requests for Hearing to the Atomic Safety and Licensing Board Panel, CLI-01-20, 54 NRC 211 (2001). The Board later issued an order establishing November 29, 2001, as the deadline for the filing of contentions,³ and both BREDL and NIRS were admitted to this license renewal proceeding by the Board on January 24, 2002. See Memorandum and Order (Ruling on Standing and Contentions), LBP-02-04, 55 NRC 49 (2002) (Memorandum and Order).

In admitting BREDL and NIRS as parties to this proceeding, the Board rephrased and consolidated BREDL Contention 4, NIRS Contention 1.1.5, and NIRS Contention 1.1.4 into BREDL/NIRS Consolidated Contention 2,⁴ which provides:

The Duke SAMA analysis is incomplete, and insufficient to mitigate severe accidents, in that it

- (a) fails to include information from NUREG/CR-6427, and
- (b) fails to include a severe accident mitigation alternative relating to Station Blackout-Caused Accidents, namely, a dedicated electrical line from the hydroelectric generating dams adjacent to each reactor site.

Id. 55 NRC at 128. Since the admission of Consolidated Contention 2, Duke has responded to Staff requests for additional information (RAIs) by addressing information contained in NUREG/CR-

³ The deadline for filing contentions was initially set for November 6, 2001. See Order (Setting Deadlines, Schedule and Guidance for Proceeding), (October 16, 2001). Subsequent Board orders rescheduled the deadline to November 29, 2001. See Memorandum and Order (Granting Motion to Extend Time and Resetting Deadlines and Schedule for Proceedings). LBP-01-31, 54 NRC 242 (2001); Memorandum and Order (Denying Request for Additional Extension of Time), (November 9, 2001); Memorandum and Order (Granting in Part Request for Additional Extension of Time), (November 15, 2001).

⁴ The Staff and Duke independently appealed admission of BREDL/NIRS Consolidated Contention 2 on February 4, 2002. These appeals are still pending before the Commission.

6427, "Assessment of the DCH [Direct Containment Heating] Issue for Plants with Ice Condenser Containments." Duke has also evaluated the severe accident mitigation alternative (SAMA) of installing a dedicated electrical line from adjacent hydroelectric plants to Catawba and McGuire for the purpose of providing backup power to hydrogen igniters during station blackout (SBO) events.⁵ These responses were dated January 31, 2002, for McGuire and February 1, 2002, for Catawba, and were served on BREDL/NIRS on February 1, 2002.⁶

On April 29, 2002, the Board held a telephone conference call to discuss whether issues related to Consolidated Contention 2 had been resolved in light of Duke's responses to Staff RAIs. See Official Transcript of Proceedings (telephone conference) at 868. In Duke's view, its responses to the RAIs "effectively mooted" Consolidated Contention 2.⁷ *Id.* at 871. BREDL/NIRS argued (for the first time) that Consolidated Contention 2 should either be read to encompass the adequacy of Duke's discussion of NUREG/CR-6427 and the dedicated electrical line SAMA, or BREDL/NIRS should be allowed to amend Consolidated Contention 2 to encompass such concerns. *Id.* at 875, 879-880. Ultimately, the Board set a deadline of May 20, 2002, for BREDL/NIRS to file late-filed contentions "based on new information based upon Duke's responses to Staff RAIs," and a deadline of June 10, 2002, for responses from Duke and the Staff. May 13th Order at 1-2.

⁵ See Duke Energy Corporation, "Response to Requests for Additional Information in Support of the Staff Review of the Application to Renew the Facility Operating Licenses of McGuire Nuclear Station, Units 1 & 2 and Catawba Nuclear Station, Units 1 & 2," at 7, 8, 15 (January 31, 2002) (McGuire Responses); Duke Energy Corporation, "Response to Requests for Additional Information in Support of the Staff Review of the Application to Renew the Facility Operating Licenses of McGuire Nuclear Station, Units 1 & 2 and Catawba Nuclear Station, Units 1 & 2," at 6, 7, 14 (February 1, 2002) (Catawba Responses).

⁶ See Letter from David A. Repka to Ann Marshall Young, Chairman, *et al.* (February 1, 2002).

⁷Duke also asserted this position during previous telephone conferences on February 12, 2002, and April 10, 2002. See Tr. at 696, 846-47.

On May 20, 2002, BREDL/NIRS filed its Amended Contentions, noting, "The only change the Interveners intend to make to [Consolidated Contention 2] is to provide specific information about the deficiencies in Duke's discussion of NUREG/CR-6427 and the dedicated line alternative." Amended Contentions at 3. However, in addition to expanding the scope of Consolidated Contention 2, the Amended Contentions set forth eight new contentions.

DISCUSSION

A. Legal Standards for Admission of Late-Filed Contentions

The Commission's regulations provide that late-filed contentions may only be admitted after a balancing of five factors:

- (i) Good cause, if any, for failure to file on time.
- (ii) The availability of other means whereby the petitioner's interest will be protected.
- (iii) The extent to which the petitioner's participation may reasonably be expected to assist in the development of a sound record.
- (iv) The extent to which the petitioner's interest will be represented by existing parties.
- (v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

10 C.F.R. § 2.714(a)(1)(i)-(v), (b)(1). The first factor, whether good cause exists to allow the late-filed contentions, is entitled to the most weight. *State of New Jersey* (Department of Law and Public Safety), CLI-93-25, 38 NRC 289, 295 (1993). Absent a showing of good cause, the petitioner must make a compelling showing that the remaining four factors warrant admission of the late-filed contentions. *Id.*; *Commonwealth Edison Co.* (Braidwood Nuclear Power Station, Units 1 and 2), CLI-86-8, 23 NRC 241, 244 (1986). However, findings favorable to the petitioner on some or all of the remaining four factors need not outweigh the effect of inexcusable tardiness. *Public Service Co. of New Hampshire, et al.* (Seabrook Station, Units 1 and 2), LBP-89-04, 29 NRC 62, 70 (1989) *citing Nuclear Fuel Services, Inc.* (West Valley Reprocessing Plant), CLI-75-4, 1 NRC

273, 275 (1975). As the party seeking admission of its late-filed contentions, BREDL/NIRS bears the burden of showing that a balancing of the five factors weighs in favor of admitting the late-filed contentions. See *Baltimore Gas and Electric Co.* (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-25, 48 NRC 325, 347 n.9 (1998).

In evaluating the five lateness factors, two factors -- the availability of other means to protect the petitioner's interest and the ability of other parties to represent the petitioner's interest -- are less important than the other factors, and are therefore entitled to less weight. See *Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-92-12, 36 NRC 62, 74-75 (1992). With respect to the third factor (the potential contribution to the development of a sound record), petitioners must provide a "real clue about what they would say to support the contention beyond the minimal information they provide for admitting the contention," *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation) LBP-98-7, 47 NRC 142, 208-09 (1998). Stated differently, the petitioner must "set out with as much particularity as possible the precise issues it plans to cover, identify its prospective witnesses, and summarize their proposed testimony." *Braidwood*, 23 NRC at 246.

In addition to making the showing required by 10 C.F.R. § 2.714(b)(1), the party seeking admission of its late-filed contentions must also show that the late-filed contentions meet the requirements of 10 C.F.R. § 2.714(d)(2). Each contention must consist of "a specific statement of the issue of law or fact to be raised or controverted" and must be accompanied by:

1. A brief explanation of the bases of the contention;
2. A concise statement of the alleged facts or expert opinion which supports the contention . . . together with references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion;
3. Sufficient information (which may include information pursuant to paragraphs (b)(2) (i) and (ii) of this section) to show that a genuine dispute exists with the applicant on a material issue of law or fact. This showing must include references to the specific portions of the application (including

the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. On issues arising under the National Environmental Policy Act, the petitioner shall file contentions based on the applicant's environmental report. The petitioner can amend those contentions if there are data or conclusions in the NRC draft or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's document.

10 C.F.R. § 2.714(b)(2). The failure of a contention to comply with any one of these requirements is grounds for dismissing the contention. 10 C.F.R. § 2.714(d)(2)(i); *Arizona Public Service Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-91-12, 34 NRC 149, 155-56 (1991); see Rules of Practice for Domestic Licensing Proceedings -- Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168 (1989). A contention must also be dismissed where the "contention, if proven, would be of no consequence . . . because it would not entitle [the] petitioner to relief." 10 C.F.R. § 2.714(d)(2)(ii).

B. Analysis of Proffered Contentions

While BREDL/NIRS states that "[t]he only change the Interveners intend to make to [Consolidated Contention 2] is to provide specific information about the deficiencies in Duke's discussion of NUREG/CR-6427 and the dedicated line alternative," Amended Contentions at 3, BREDL/NIRS goes on to attack Duke's entire SAMA analysis by identifying eight specific deficiencies that it labels "contentions." BREDL/NIRS apparently considers these to be wholly new contentions as evidenced by the format of its pleading, which designates each as a "contention" followed by a "basis." BREDL/NIRS states that these contentions merely provide bases in support of its Amended Consolidated Contention 2, however, these are in fact new contentions because they significantly expand the scope of Consolidated Contention 2, which only provides that Duke failed to include information regarding NUREG/CR-6427 and a dedicated electrical line SAMA in its application. Many of these contentions address issues that have been apparent since Duke filed

its license renewal application on June 21, 2001, while others are based on information unrelated to NUREG/CR-6427. Therefore, the Staff treats these as new contentions; as new contentions, they must meet the requirements for late-filing and valid contentions under 10 C.F.R. § 2.714.

BREDL/NIRS's attempt to show good cause for its late-filed contentions is based entirely on an alleged ambiguity in language from the Board's January 24, 2002, Memorandum and Order. As discussed below, this argument is without merit, and, in any event, cannot justify the late-filing of eight new contentions based on information outside of the Memorandum and Order that has been available to BREDL/NIRS for several months.

1. BREDL/NIRS's Amended Consolidated Contention 2

Amended Consolidated Contention 2 provides:

The Duke SAMA analysis is incomplete, and insufficient to mitigate severe accidents, in that it fails to provide an adequate discussion of information from NUREG/CR-6427 and a dedicated electrical line from the hydroelectric generating dams adjacent to each reactor site.

BREDL/NIRS's attempt to show good cause for its late-filing relates solely to Amended Consolidated Contention 2. BREDL/NIRS argues that the Board's January 24, 2002, Memorandum and Order was ambiguous regarding the scope of Consolidated Contention 2. Specifically, BREDL/NIRS argues that it reasonably believed Consolidated Contention 2 encompassed its concerns regarding the adequacy of Duke's RAI responses. This argument fails against the clear and limiting language chosen by the Board in admitting Consolidated Contention 2:

The Duke SAMA analysis is incomplete, and insufficient to mitigate severe accidents, in that it

- (a) fails to include information from NUREG/CR-6427, and
- (b) fails to include a severe accident mitigation alternative relating to Station Blackout-Caused Accidents, namely, a dedicated electrical line from the hydroelectric generating dams adjacent to each reactor site.

Memorandum and Order, 55 NRC at 128. As the Board noted during an April 10, 2002, telephone conference, "the contention was written carefully and is quite limited in scope." Statement of Judge

Kelber, Tr. at 856. Under a plain reading of this language, Duke's RAI responses, which included information from NUREG/CR-6427 and an analysis of a dedicated electrical line SAMA, effectively rendered Consolidated Contention 2 moot nearly four months ago, yet BREDL/NIRS did nothing to amend the contention until now.

Apparently recognizing the clear and limited scope of the Board's statement of Consolidated Contention 2, BREDL/NIRS searches the Board's Memorandum and Order for language that might be read to expand the contention. BREDL/NIRS cites to the following language in the Board's January 24, 2002 Memorandum and Order: "BREDL and NIRS have provided. . . sufficient information. . . to show that a genuine dispute exists with regard to the material facts of whether and to what extent Duke's SAMA analysis should take into account the calculations and values referenced in NUREG/CR-6427 and include the alternative of a separate dedicated line. . . ." *Id.* at 127. BREDL/NIRS argues that this language led it to reasonably believe that it did not have to amend its contentions in order to challenge the adequacy with which Duke's RAI responses addressed NUREG/CR-6427 and the dedicated electrical line SAMA. Amended Contentions at 17-19.

BREDL/NIRS's belief that the scope of Consolidated Contention 2 encompassed the adequacy of Duke's discussion of NUREG/CR-6427 and the dedicated electrical line SAMA in its RAI responses was not reasonable. First, neither BREDL nor NIRS phrased their original contentions in language that would require extensive analysis or full adoption of the assumptions used in NUREG/CR-6427.⁸ Second, neither party suggested what level of consideration they

⁸See Contentions of Nuclear Information and Resource Service, Contentions 1.1.4, 1.1.5 at 15-17 (November 29, 2001); Blue Ridge Environmental Defense League Submittal of Contentions in the Matter of the Renewal of Licenses for Duke Energy Corporation McGuire Nuclear Stations 1 and 2 and Catawba Nuclear Stations 1 and 2, Contention 4 at 37-45 (November 29, 2001).

expected Duke to give to a dedicated electrical line SAMA.⁹ Third, after admitting the contention, the Board noted on April 10, 2002, that Consolidated Contention 2 was “written carefully and limited in scope.” Statement of Judge Kelber, Tr. at 856. Finally, the Board was without power to expand the scope of the parties’ original contentions. See *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349, 358-59, 362 n. 10 (2001), *reconsideration denied*, CLI-02-01, 55 NRC 1 (2002); *Statement of Policy on Conduct of Adjudicatory Proceedings*, CLI-98-12, 48 NRC 18, 22 (1998). BREDL/NIRS’s argument that it reasonably believed the Board to have expanded the scope of its original contentions, is, therefore, without merit.

Having failed to show good cause for the admission of its late-filed Amended Contention 2, BREDL/NIRS must make a compelling showing that the remaining four factors of 10 C.F.R. § 2.714(a)(1) weigh in favor of admission. See *Braidwood*, 23 NRC at 244; 10 C.F.R. § 2.714(b)(1). Regarding the second factor, BREDL/NIRS argues that it has no other means for protecting its interest in a “full and fair environmental analysis” of Duke’s license renewal applications. Amended Contentions at 19. However, BREDL/NIRS may still protect this interest through comment on the Staff’s draft environmental impact statements (DEISs) for Catawba and McGuire.¹⁰ Regarding the third factor, BREDL/NIRS’s ability to assist in the development of a sound record, BREDL/NIRS focuses primarily on what Duke’s application does not include, rather than summarizing the specific testimony it plans to present in support of its contention, and BREDL/NIRS’s claim that it will present the testimony of an expert witness experienced in safety

⁹*Id.*

¹⁰See NUREG-1437, Supplements 8 and 9, “Generic Environmental Impact Statement for License Renewal of Nuclear Plants,” (May 2002). Supplement 8 regards McGuire and Supplement 9 regards Catawba.

analyses of ice condenser plants is unsupported.¹¹ The fourth factor, the extent to which petitioner's interest will be represented by existing parties, is entitled to little weight given BREDL/NIRS's ongoing opportunity to comment on the Staff's environmental documents. Finally, the fifth factor, potential for delay or broadening of the issues, weighs against admission in this instance since Amended Consolidated Contention 2 is much broader than the original Consolidated Contention 2, would require further discovery due to its vague nature, and involves an issue which both the Staff and Duke believe has been rendered moot by Duke's RAI responses.

The deficiencies in BREDL/NIRS's attempt to meet the late-filing standards of 10 C.F.R. § 2.714(a)(1) with respect to Amended Consolidated Contention 2 are equally prevalent in BREDL/NIRS's discussion of its eight new contentions. Ultimately, BREDL/NIRS has failed to show that a balancing of the five factors of 10 C.F.R. § 2.714(a)(1) weighs in favor of admitting any of the proffered contentions. Therefore, admission of the contentions should be denied. 10 C.F.R. § 2.714(a)(1), (b)(1).

2. BREDL/NIRS's Eight New Contentions

BREDL/NIRS's eight new contentions are largely based on information that has been available since the beginning of this proceeding. BREDL/NIRS's good cause argument in support of Amended Consolidated Contention 2, which is based entirely upon an alleged ambiguity in the language of the Board's January 24, 2002, Memorandum and Order, cannot justify the late-filing of new contentions based on information that has been available to BREDL/NIRS since the

¹¹While BREDL/NIRS submitted a document entitled "Declaration of Dr. Edwin S. Lyman in Support of BREDL/NIRS Amended Contention 2" with its late-filed contentions, the Staff notes that this document fails to meet the requirements of a valid affidavit under 10 C.F.R. § 2.708(c). Furthermore, BREDL/NIRS has not specifically shown how Dr. Lyman's knowledge, skill, experience, training, or education qualify him to testify regarding SAMA analyses. Most of Dr. Lyman's Curriculum Vitae, attached to BREDL/NIRS's Amended Contentions, indicates his expertise regarding nuclear waste disposal issues; nothing indicates a particular familiarity with hydrogen control in ice condenser containments or SAMA analyses. Therefore, the information submitted does not qualify Dr. Lyman as an expert witness. See *Duke Power Company* (McGuire Nuclear Station, Units 1 and 2), ALAB-669, 15 NRC 453, 475 (1982).

application was filed. For those contentions that may be based on Duke's RAI responses, BREDL/NIRS has still had several months to file new contentions but did not until now. The prior availability of information that forms the basis for BREDL/NIRS's late-filed contentions weighs against a finding of good cause. This is because as an intervenor, BREDL/NIRS has had from the outset an "ironclad obligation to examine the publicly available documentary material pertaining to the facility in question with sufficient care to enable the petitioner to uncover any information that could serve as the foundation for a specific contention." Rules of Practice for Domestic Licensing Proceedings -- Procedural Changes in the Hearing Process, 54 Fed. Reg. 33,168 at 33,170 (Aug. 11, 1989); Memorandum and Order, 55 NRC at 65.

As discussed more fully below, the eight new contentions should not be admitted because: (1) BREDL/NIRS makes no further attempt to show good cause for its late-filing of any of the eight new contentions; (2) many of the concerns expressed in BREDL/NIRS's contentions may be addressed through comment on the Staff's DEISs; (3) BREDL/NIRS has failed to identify any expert witnesses in support of its contentions or summarize specific evidence upon which it would rely in litigating the contentions; (4) admission of eight new contentions would cause delay by requiring Duke and the Staff to litigate and engage in discovery regarding issues that should have been raised earlier; and (5) many of BREDL/NIRS's eight new contentions go beyond the scope of the Board's May 13th Order, which limited late-filed contentions to those based upon Duke's responses to Staff RAIs. May 13th Order at 1. Finally, none of the eight new contentions meet the standards for valid contentions under 10 C.F.R. § 2.714(b)(2).

Contention 1

Severe Accident Mitigation Alternatives for McGuire and Catawba should include the alternative of not renewing the McGuire and Catawba reactors.

Staff Response

Contention 1 is without any legal basis, and BREDL/NIRS cites no legal authority to support the contention. Contention 1 is contrary to the purpose and intent of a SAMA analysis, which contemplates consideration of plant design and procedural improvements that will mitigate the impact of accidents that may occur during the period of licensed operation. While a SAMA analysis may include a broader set of alternatives than those simply designed to mitigate consequences, including measures to prevent the occurrence of accidents during plant operation, the alternative of ceasing operations altogether goes beyond the scope of alternatives that are intended to be addressed in a SAMA analysis. See generally, *Limerick Ecology Action, Inc. v. U.S. Nuclear Regulatory Commission*, 869 F.2d 769 (3d Cir. 1989); Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants, 50 Fed. Reg. 32,138 (August 8, 1985). Furthermore, the Staff has considered the non-renewal alternative in its DEISs for Catawba and McGuire, and Duke has considered the non-renewal alternative in its environmental reports.¹² BREDL/NIRS provides absolutely no basis for its contention that this alternative must also be considered in Duke's SAMA analysis. Because Contention 1 lacks an adequate legal basis and fails to demonstrate a genuine dispute of material fact or law concerning the application, its admission should be denied. 10 C.F.R. § 2.714(b)(2)(iii).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. The information upon which BREDL/NIRS bases this contention has been evident since the application was filed, and BREDL/NIRS provides no justification that would warrant admission of Contention 1 over 11 months later. Admission of Contention 1 at this stage in the proceeding is unwarranted since BREDL/NIRS may address its concerns regarding the non-

¹²The Staff's consideration of the "no-action alternative" (i.e., non-renewal of Duke's operating licenses) can be found in Section 8.1 of both DEISs. Duke's consideration of the "no-action alternative" can be found in Chapters 7 and 8 of Duke's environmental reports for both Catawba and McGuire.

renewal alternative through comments on the Staff's DEISs. Given that BREDL/NIRS has failed to set forth the specific testimony and evidence upon which it intends to rely in support of the contention, BREDL/NIRS has failed to show how it will contribute to the development of a sound record if Contention 1 were admitted. Furthermore, admission of Contention 1 at this stage in the proceeding would unnecessarily broaden the issues and create undue delay by requiring the parties to litigate an issue that should have been raised 11 months ago. Finally, Contention 1 is also beyond the scope of the Board's May 13th Order, which authorized the late-filing of only those contentions based upon information contained in Duke's RAI responses. For the above reasons, admission of Contention 1 should be denied. 10 C.F.R. § 2.714(b)(1).

Contention 2

Duke has not supported its SAMA analysis by publication of its PRA [Probabilistic Risk Assessment].

Staff Response

Contention 2 lacks an adequate factual and legal basis. Nothing in the Commission's regulations requires Duke to publish its entire PRA, and BREDL/NIRS offers no legal authority in support of its contention. BREDL/NIRS offers no expert testimony to support its assertions that "it is not possible to evaluate the adequacy of the [SAMA] analysis without access to the PRA," and that "there is no way to determine whether the assumptions underlying the calculations are reasonable." Amended Contentions at 4, 5. To the extent BREDL/NIRS asserts that Duke's PRA has never been made publicly available, Contention 2 is also factually incorrect. Therefore, admission of the contention should be denied.¹³ 10 C.F.R. § 2.714(b)(2).

¹³The Staff notes that Contention 2 is more in the nature of a discovery dispute, as evidenced by the discussion between Duke and BREDL during an April 10, 2002, telephone conference. See Tr. at 851-52. Because this issue is in essence a discovery dispute, it should not be admitted as a contention.

In 1991 and 1992, Duke submitted portions of its PRA (relating to internal events) for review in response to Generic Letter 88-20, "Individual Plant Examination for Severe Accident Vulnerabilities" (November 23, 1988).¹⁴ In 1994, Duke again submitted portions of its PRA (relating to external events) for review in response to Supplement 4 to Generic Letter 88-20, "Individual Plant Examination for Severe Accident Vulnerabilities" (June 28, 1991).¹⁵ These submittals and the Staff's reviews¹⁶ are publicly available. In response to specific questions from the Staff regarding changes to Duke's PRAs since these initial submittals, Duke provided supplementary, quantitative and qualitative information regarding such changes. See McGuire Responses, Attachment 1 at 1-3; Catawba Responses, Attachment 1 at 1-3. BREDL/NIRS has not demonstrated why such information has been inadequate to ensure the reliability of Duke's PRA. Therefore, the contention fails to demonstrate a genuine dispute of material fact or law concerning the application and its admission should be denied. 10 C.F.R. § 2.714(b)(2)(iii).

¹⁴See Letter from H. B. Tucker to U.S. Nuclear Regulatory Commission, "McGuire Nuclear Station, Docket Nos: 50-369 and 50-370, Generic Letter 88-20," NUDOCS Accession No. 9111070233 (November 4, 1991); Letter from M. S. Tuckman to U.S. Nuclear Regulatory Commission, "Catawba Nuclear Station, Units 1 and 2, Docket Nos: 50-413 and 50-414, Individual Plant Examination (IPE) Submittal in Response to Generic Letter 88-20," NUDOCS Accession No. 9209240287 (September 10, 1992).

¹⁵See Letter from T.C. McMeekin to U.S. Nuclear Regulatory Commission, "McGuire Nuclear Station, Units 1 and 2, Docket Nos.: 50-369 and 50-370, "Individual Plant Examination of External Events (IPEEE) Submittal," NUDOCS Accession No. 9406140326 (June 1, 1994); Letter from D. L. Rehn to U.S. Nuclear Regulatory Commission, "Catawba Nuclear Station, Units 1 and 2, Docket Nos." 50-413 and 50-414, Individual Plant Examination of External Events (IPEEE) Submittal," NUDOCS Accession No. 9406290060 (June 21, 1994).

¹⁶ See Letter from Victor Nerses to T. C. McMeekin, "Staff Evaluation of the McGuire Nuclear Station, Units 1 and 2, Individual Plant Examination - Internal Events Only," NUDOCS Accession No. 9407110222 (June 30, 1994); Letter from Frank Rinaldi to H. B. Barron, "Review of McGuire Nuclear Station, Units 1 and 2 - Individual Plant Examination of External Events Submittal," NUDOCS Accession No. 9902230256 (February 16, 1999); Letter from Robert E. Martin to D. L. Rehn, "Safety Evaluation of Catawba Nuclear Station, Units 1 and 2, Individual Plant Examination (IPE) Submittal," NUDOCS Accession No. 9406130213 (June 7, 1994); Letter from Peter S. Tam to G. R. Peterson, "Catawba Nuclear Station - Review of Individual Plant Examination of External Events (IPEEE)," NUDOCS Accession No. 9904160252 (April 12, 1999).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. The absence of Duke's full PRA from its application has been evident to BREDL/NIRS since the time the application was filed in June, 2001,¹⁷ yet BREDL/NIRS makes no attempt to demonstrate why it could not have filed Contention 2 on time. Admission of Contention 2 at this stage in the proceeding is unwarranted since BREDL/NIRS may still protect its interest in an accurate and complete SAMA analysis by commenting on the Staff's DEISs. By merely setting forth alleged deficiencies in Duke's SAMA analysis without making a specific showing regarding the proposed facts and expert testimony upon which it intends to rely, BREDL/NIRS has failed to show how it would contribute to the development of a sound record, were this contention to be admitted. Furthermore, Admission of Contention 2 at this stage would cause undue delay and unnecessarily broaden the issues presently under consideration by requiring Duke and the Staff to litigate and engage in discovery regarding an issue that should have been raised at the outset of this proceeding. Finally, Contention 2 is also beyond the scope of the Board's May 13th Order since it is not based on any new information contained in Duke's RAI Responses. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(1).

Contention 3

Duke's RAI answers make unsupported assertions that the frequency of Station Blackout ("SBO") and other events leading to core damage and containment rupture is lower than previously predicted. Duke's failure to support these assertions violates the requirement under NEPA that an environmental analysis must take a "hard look" at environmental consequences of proposed actions and the costs and benefits of alternatives.

¹⁷Duke referred to its use of PRAs in Attachment H to the Catawba Environmental Report and in Attachment K to the McGuire Environmental report, but did not attach the full PRAs to its application.

Staff Response

BREDL/NIRS does not indicate which specific RAI responses it refers to, nor does BREDL/NIRS identify where the previous predictions it refers to can be found. These deficiencies alone are grounds for denial of the contention. See *Commonwealth Edison Co.* (Braidwood Nuclear Power Station, Units 1 and 2), LBP-85-20, 21 NRC 1732, 1741 (1985) (requiring intervenor to identify, summarize, and append specific portions of documents relied upon in support of contentions), *rev'd and remanded on other grounds*, CLI-86-8, 23 NRC 241 (1986); 10 C.F.R. § 2.714(b)(2). Contention 3 also lacks an adequate legal basis. BREDL/NIRS's citation to the National Environmental Policy Act of 1969 (NEPA) to support the proposition that Duke must take a "hard look" at the environmental consequences of its proposed actions and the costs and benefits of alternatives is inapposite, because NEPA applies only to the actions of federal agencies, not private entities. See NEPA §§ 101, 102, 42 U.S.C. §§ 4331, 4332.

Contention 3 also lacks an adequate factual basis. Duke described a number of risk reduction measures and ongoing initiatives to further reduce the risk associated with operation of Catawba and McGuire in its environmental reports. See Catawba Environmental Report, Section 2.2, Table 2-1; McGuire Environmental Report, Section 2.2, Table 2-1. Duke also explained in its RAI responses that improved diesel generator performance at McGuire accounts for the decrease in SBO frequencies calculated using Revision 2 of the McGuire PRA versus Revision 1. McGuire Responses, Attachment 1 at 1. The contention therefore fails to demonstrate a genuine dispute of material fact concerning the application and its admission should be denied. 10 C.F.R. § 2.714(b)(2).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. BREDL/NIRS fails to show good cause for its filing of Contention 3 nearly four months after Duke submitted the RAI responses upon which the contention is based. BREDL/NIRS has

failed to show how it would contribute to the further development of a sound record given that it fails to summarize any specific expert testimony or other evidence upon which it would rely in support of the contention. Admission of Contention 3 at this stage would cause delay in the proceedings given the lack of factual basis for the contention, and given that Duke and the Staff had not anticipated litigation of the issues raised by the contention. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(1).

Contention 4

Duke does not incorporate assumptions used in NUREG/CR-6427, or justify its failure to do so.

Staff Response

Contention 4 has no legal basis. Nothing in the Commission's regulations requires an applicant to adopt the assumptions and findings of a study produced by an independent contractor of the Staff, and BREDL/NIRS cites no legal authority in support of its contention. Contention 4 also lacks a factual basis to the extent it asserts that Duke fails to adequately explain its departure from the assumptions used in NUREG/CR-6427. Admission of the contention should therefore be denied. 10 C.F.R. § 2.714(b)(2).

Duke explained in its RAI responses that the primary difference between the conditional containment failure probabilities used in NUREG/CR-6427 and those used by Duke in its SAMA analysis are differences in assumptions regarding the amount of hydrogen released to containment and the probability of hydrogen ignition during SBO events. See Catawba Responses, Attachment 1 at 6; McGuire Responses, Attachment 1 at 7. Furthermore, Duke provided (in its RAI responses) the results of a sensitivity study that used the conditional containment failure probabilities of NUREG/CR-6427 in the plant-specific PRAs for Catawba and McGuire to show the impact of using the NUREG/CR-6427 values on Duke's SAMA analysis. See Catawba Responses, Attachment 1

at 7; McGuire Responses, Attachment 1 at 8. BREDL/NIRS fails to show how Duke's treatment of NUREG/CR-6427 is inadequate apart from the unsupported assertion that "Duke must do more than baldly observe the existence of the difference or an opinion that [NUREG/CR-6427] was too conservative." Amended Contentions at 9. The fact that Duke did not adopt the assumptions and findings of NUREG/CR-6427 as a baseline for its own calculations is irrelevant since there is no legal requirement for Duke to do so and since Duke addressed the effect of using the NUREG/CR-6427 values in its RAI responses. Contention 4 lacks an adequate factual and legal basis, fails to demonstrate the existence of a genuine dispute of material fact with the application, and its admission should be denied. 10 C.F.R. § 2.714(b)(2).

The Staff notes that Contention 4 is essentially a restatement of Amended Consolidated Contention 2 in that it suggests Duke did not adequately consider the assumptions and values of NUREG/CR-6427 in its SAMA analysis. As argued above, Duke's treatment of NUREG/CR-6427 in its RAI responses rendered moot Consolidated Contention 2, and BREDL/NIRS has failed to show good cause for its late-filing of Amended Consolidated Contention 2 nearly four months later. To the extent BREDL/NIRS relies on its showing of good cause for late-filing of Amended Consolidated Contention 2, the showing remains deficient for the reasons given in the Staff's Response to Amended Consolidated Contention 2.

Admission of Contention 4 at this stage in the proceeding is unwarranted since BREDL/NIRS may still protect its interest in an accurate and complete SAMA analysis by commenting on the Staff's DEISs. Because BREDL/NIRS merely points out alleged deficiencies in Duke's application without summarizing the specific testimony and evidence upon which it intends to rely in support of the contention, BREDL/NIRS has failed to show how it would assist in the development of a sound record if Contention 4 were admitted. Furthermore, admission of Contention 4 at this stage in the proceeding would cause undue delay by requiring further litigation and discovery into issues that should have been raised at the outset of this proceeding. In

summary, the five late-filing factors of 10 C.F.R. § 2.714(a)(1) weigh against admission of this contention, and its admission should be denied.

Contention 5

Duke has failed to take adequate account of uncertainties and their effect on the results of its analysis. To a significant extent, no uncertainty analysis has been performed. To the extent uncertainty analysis has been performed, Duke has not taken uncertainties into account in an adequate manner.

Staff Response

Contention 5 lacks an adequate legal basis. Nothing in the Commission's regulations requires Duke to perform a comprehensive uncertainty analysis in this instance, and BREDL/NIRS cites no legal authority in support of its contention. Admission of the contention should therefore be denied. 10 C.F.R. § 2.714(b)(2).

Contrary to BREDL/NIRS's contention, Duke performed a quantitative uncertainty analysis for Level 1 of its PRA. See Catawba Responses, Attachment 1 at 4; McGuire Responses, Attachment 1 at 5. Duke also performed a qualitative evaluation of uncertainties for Levels 2 and 3 of its PRA. *Id.* This level of uncertainty analysis is appropriate and consistent with the Staff's regulatory guidance, which suggests (but does not legally require) the use of uncertainty analyses only "where practical within the bounds of the state-of-the-art."¹⁸ NUREG/BR-0184, "Regulatory Analysis Technical Evaluation Handbook," Section 5.4 (January 1997).

Referring to the Staff's conclusion that the margin between costs and benefits of certain mitigative measures is large enough to preclude consideration of those measures, BREDL/NIRS

¹⁸Staff guidance also provides that sensitivity analyses (such as that performed by Duke using the values of NUREG/CR-6427 in its PRA) may be used in lieu of uncertainty analyses where a full uncertainty analysis would be impractical or exceedingly complicated and costly. See NUREG-BR-0058 Rev. 3, "Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission," at 21 (July 2000).

argues that, given the uncertainty analysis performed by Duke, “even a factor of three difference between cost and benefits of mitigative measures is an insufficient margin to provide assurance that an appropriate cost-benefit analysis is being presented. . .” Amended Contentions at 12-13. This argument ignores the conservatism inherent in the calculations used by Duke to arrive at a factor of three margin, namely, the costs to implement SAMAs are generally underestimated and the risk reduction associated with each SAMA is overestimated. *See generally*, Catawba DEIS Sections 5.2.4, 5.2.5; McGuire DEIS Sections 5.2.4., 5.2.5. Furthermore, BREDL/NIRS fails to show how performance of additional uncertainty analyses would change the outcome of Duke’s SAMA analysis. BREDL/NIRS therefore fails to demonstrate a genuine dispute of material fact or law regarding the application, and admission of the contention should be denied. 10 C.F.R. § 2.714(b)(2)(iii).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. The fact that Duke did not perform a full quantitative uncertainty analysis for Levels 2 and 3 of its PRA has been evident since the filing of the application in June, 2001,¹⁹ yet BREDL/NIRS fails to show good cause for its late-filing of Contention 5. Admission of Contention 5 at this stage in the proceedings is not warranted since BREDL/NIRS may still protect its interest in an accurate and complete SAMA analysis by commenting on the Staff’s DEISs. Admission of this contention would threaten to seriously delay these proceedings by requiring further litigation and discovery regarding complex uncertainty analyses whose description would require substantial expert testimony. Contention 5 is also beyond the scope of the Board’s May 13th Order since it is not based on any new information contained in Duke’s RAI Responses. Therefore, admission of Contention 5 should be denied. 10 C.F.R. § 2.714(b)(1).

¹⁹See Catawba Environmental Report, Attachment H; McGuire Environmental Report, Attachment K.

Contention 6

Even assuming that Duke's use of point estimates is acceptable, Duke's SAMA analysis understates the consequences of accidents, because it relies on assumptions that are unreasonable and unsupported.

Staff Response

As a basis for this contention, BREDL/NIRS argues that Duke's assumptions regarding the nature of radiological releases during accidents are "unrealistic and inconsistent with known experience." Amended Contentions at 13. Specifically, BREDL/NIRS notes that Duke has not specified the plume spreading factors used in its SAMA analysis, that Duke used a source term which results in a calculated population dose five times lesser than that resulting from use of the source term (RSEQ1) described in NUREG/CR-6295, "Reassessment of Selected Factors Affecting Siting of Nuclear Plants," and that the use of a 50-mile radius for purposes of calculating population dose is "technically indefensible." *Id.* at 13, 14-15.

BREDL/NIRS cites no legal authority for its arguments that plume spreading parameters must be described in Duke's application or that specific models must be used, or that Duke should use the RSEQ1 source term. Regarding the use of RSEQ1, BREDL/NIRS fails to offer any expert opinion showing how the use of this source term is appropriate for dose calculations at Catawba and McGuire, or superior to the site-specific source term used by Duke in its application. Similarly, BREDL/NIRS provides absolutely no basis for its argument that the use of a 50-mile radius, which is taken from NRC guidance,²⁰ is technically indefensible. Because Contention 6 lacks an adequate legal and factual basis, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(2).

²⁰See NUREG/BR-0184 at Section 5.5.1.; see also NUREG-BR-0058 Rev. 3 at 25 (stating that changes in public health and safety from radiation exposure should be examined over a 50-mile distance from the plant site).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. The lack of documentation regarding plume spreading parameters, the differences in consequence estimates for Duke's site-specific source term versus other source terms (such as RSEQ1), and the use of the 50-mile radius in Duke's dose calculations have all been evident since the filing of Duke's application, yet BREDL/NIRS has failed to raise any contentions upon these bases until now. Having raised Contention 6, BREDL/NIRS fails to show good cause why it could not have been filed at the time the original contentions were proffered. Admission of Contention 6 at this stage in the proceedings is not warranted since BREDL/NIRS may still protect its interest in an accurate and complete SAMA analysis by commenting on the Staff's DEISs. Because BREDL/NIRS merely points out alleged deficiencies in Duke's application without summarizing the specific testimony and evidence upon which it intends to rely in support of the contention, BREDL/NIRS has failed to show how it would assist in the development of a sound record if Contention 6 were admitted. Admission of Contention 6 would cause undue delay by requiring the parties to litigate and engage in discovery regarding an issue that should have been raised at the outset of this proceeding. Finally, Contention 6 is beyond the scope of the Board's May 13th Order since it is not based on any new information contained in Duke's RAI Responses. Therefore, admission of Contention 6 should be denied. 10 C.F.R. § 2.714(b)(1).

Contention 7

Duke has not obtained a peer review for all of the revisions to the PRA and IPE on which it relies for its SAMA analysis. Therefore, there is not an adequate basis for reliance on its SAMA analysis.

Staff Response

Contention 7 is without any legal basis. Nothing in the Commission's regulations requires Duke to submit its PRA for peer review, and BREDL/NIRS cites no legal authority in support of its

contention. Contention 7 is factually incorrect to the extent that it suggests peer review of Duke's PRAs was never performed. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(2).

Duke notes in its RAI responses that internal peer review occurs during the conduct of the PRAs for Catawba and McGuire and that external peer review was conducted on both plants' original PRAs. See Catawba Response, Attachment 1 at 3; McGuire Response, Attachment 1 at 3. The Staff has also reviewed versions of Duke's PRAs through Duke's responses to Generic Letter 88-20 and Generic Letter 88-20, Supplement 4. See Staff Response to Contention 2, *supra*. In addition, Duke has described changes to its PRAs since that time through recent responses to Staff RAIs. *Id.* BREDL/NIRS fail to show why this level of peer and Staff review has been insufficient, how further peer review would actually improve existing PRAs, or how further peer review would relate in any specific way to Duke's SAMA analysis. Contention 7 therefore fails to demonstrate a genuine dispute with regard to an issue of material fact or law concerning this license renewal application, and its admission should be denied. 10 C.F.R. § 2.714(b)(2).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. The level of peer review performed to date on Duke's revised PRAs has been evident to BREDL/NIRS since the filing of Duke's RAI responses on January 31 and February 1, 2002. However, BREDL/NIRS fails to show good cause to warrant its late-filing of Contention 7 nearly four months later. Admission of Contention 7 at this stage in the proceedings is not warranted since BREDL/NIRS may still protect its interest in an accurate and complete SAMA analysis by commenting on the Staff's DEISs. Because BREDL/NIRS merely points out alleged deficiencies in Duke's application without summarizing the specific testimony and evidence upon which it intends to rely in support of the contention, BREDL/NIRS has failed to show how it would assist in the development of a sound record, were Contention 7 admitted. Admission of the contention would cause undue delay and unnecessarily broaden the issues in this proceeding by requiring the

parties to litigate an issue that could have been raised at the outset of this proceeding. Finally, Contention 7 is beyond the scope of the Board's May 13th Order since it is not based on any new information contained in Duke's RAI responses. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(1).

Contention 8

In response to RAI 6, Duke assumes that return fans are essential in order to ensure the effectiveness of hydrogen igniters. This has the effect of inflating the cost of the mitigative measure of hydrogen ignition. However, the assumption is not justified.

Staff Response

Contention 8, if proven, would not entitle BREDL/NIRS to any relief. Assuming that BREDL/NIRS can prove that Duke's position regarding the need for air return fans is unjustifiable, BREDL/NIRS would not be entitled to an implementation of the related mitigative measure (installation of backup power to hydrogen igniters) since this measure is not related to adequately managing the effects of aging. See 10 C.F.R. § 54.29; Catawba DEIS Section 5.2.7; McGuire DEIS Section 5.2.7. In addition, BREDL/NIRS provides no independent factual basis for its assertion that Duke's assumptions are unjustified, instead relying on the DEISs without adequately explaining how the Staff's position (that the need for air return fans is unclear) supports its argument that Duke's assumption should be rejected. BREDL/NIRS similarly provides no explanation of its reliance on NUREG/CR-6427 in this context. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(2).

The five late-filing factors of 10 C.F.R. § 2.714(a)(1) also weigh against admission of this contention. Although Duke's position regarding the need for air return fans has been evident since it responded to Staff RAIs, BREDL/NIRS fails to show good cause for its delay in filing this contention. Admission of Contention 8 at this stage in the proceedings is unwarranted since

BREDL/NIRS may still protect its interest regarding this issue through comment on the Staff's DEISs. Because BREDL/NIRS merely points out alleged deficiencies in Duke's application while relying on the Staff's DEISs to support its position, BREDL/NIRS has failed to show how it would contribute to the development of a sound record if Contention 8 were admitted. Finally, admission of Contention 8 would cause undue delay by requiring further litigation. Therefore, admission of the contention should be denied. 10 C.F.R. § 2.714(b)(1).

CONCLUSION

Although BREDL/NIRS asserts it intends only to amend Consolidated Contention 2, the Staff considers BREDL/NIRS's Amended Contentions to also include an untimely submission of eight new contentions, most of which are based on information that has been available since the beginning of this proceeding. Many of these new contentions are beyond the scope of the Board's May 13th Order, and BREDL/NIRS has failed to justify their admission based on the standards for late-filed contentions. Regarding Consolidated Contention 2, BREDL/NIRS has failed to show good cause to justify amendment of the contention nearly four months after Duke's RAI responses rendered it moot. Having failed to show good cause, BREDL/NIRS has also failed to make a compelling showing that the remaining four factors of 10 C.F.R. § 2.714(a)(1) weigh in favor of admission of Amended Consolidated Contention 2. For the above reasons, the Staff respectfully submits that none of BREDL/NIRS's late filed contentions should be admitted to this proceeding.

Respectfully Submitted,

/RA

Jared K. Heck
Counsel for NRC Staff

Dated at Rockville, Maryland
this 10th day of June, 2002.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
DUKE ENERGY CORPORATION) Docket Nos. 50-369, 370, 413 and 414
)
(McGuire Nuclear Station,)
Units 1 and 2, and)
Catawba Nuclear Station)
Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER TO BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE'S AND NUCLEAR INFORMATION AND RESOURCE SERVICE'S AMENDED CONTENTION 2" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class; or as indicated by an asterisk (*), by deposit in the Nuclear Regulatory Commission's internal mail system; as indicated by two asterisks (**), by electronic mail, this 10th day of June, 2002.

Ann Marshall Young, Chair** *
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: AMY@nrc.gov)

Lester S. Rubenstein** *
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: Lesrrr@msn.com)

Charles N. Kelber** *
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
(E-mail: CNK@nrc.gov)

Office of the Secretary** *
ATTN: Docketing and Service
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555
(E-mail: HEARINGDOCKET@nrc.gov)

Office of Commission Appellate
Adjudication***
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555

Diane Curran, Esq.**
Harmon, Curran, Spielberg & Eisenberg
1726 M Street, N.W., Suite 600
Washington, DC 20036
(E-mail: dcurran@harmoncurran.com)

Paul Gunter**
Nuclear Information and Resource Service
1424 16th St. N.W.
Suite 404
Washington, D.C. 20026
(E-mail: pgunter@nirs.org)

Mary Olson**
Southeast Director of NIRS
P.O. Box 7586
Asheville, NC 20882
(E-mail: nirs.se@mindspring.com)

David A. Repka, Esq.**
Anne W. Cottingham, Esq.**
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005-3502
(E-mail: drepka@winston.com
acotting@winston.com)

Ms. Janet Zeller**
P.O. Box 88
Blue Ridge Environmental Defense League
Glendale Springs, N.C. 28629
(E-mail: BREDL@skybest.com)

Lisa F. Vaughn, Esq.**
Legal Dept. (PBO5E)
Duke Energy Corporation
422 So. Church St.
Charlotte, NC 28201-1006
(E-mail: lfVaughn@duke-energy.com)

Jesse Riley**
854 Henley Place
Charlotte, NC 28207
(E-mail: Jlr2020@aol.com)

Atomic Safety and Licensing Board Panel*
U.S. Nuclear Regulatory Commission
T-3F23
Washington, D.C. 20555

Donald J. Moniak**
P.O. Box 3487
Blue Ridge Environmental Defense League
Aiken, S.C. 29802
(E-mail: donmoniak@earthlink.net)

Raju Goyal**
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, DC 20555
(E-mail: RXG5@nrc.gov)

/RA/

Jared K. Heck
Counsel for NRC Staff