

March 1, 2004

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555

Subject: Duke Energy Corporation
Catawba Nuclear Station Units 1 & 2, Docket Nos. 50-413, 50-414
Response to Request for Additional Information (TAC Nos. MB7863, MB7864)
Mixed Oxide Fuel Lead Assemblies (Security)

By letter dated February 27, 2003, Duke Energy submitted an application to amend the McGuire and Catawba operating licenses to allow the use of four mixed oxide (MOX) fuel lead assemblies. As part of the review of this application, the Nuclear Regulatory Commission staff requested by letter dated January 30, 2004, that Duke provide additional information. Duke Energy's responses to the Staff's request for additional information (RAIs) related to the Catawba security plan changes and security procedures are contained in Attachment 1. The responses to environmental questions relating to Duke Energy's security exemption requests are contained in Attachment 2. Attachments 1 and 2 have been designated as NRC Safeguards Information in accordance with 10 CFR § 73.21.

Attachments 1 and 2 have not been provided to petitioners Blue Ridge Environmental Defense League (BREDL) or Nuclear Information and Resource Service. These RAI responses contain Safeguards Information. Further, the RAIs themselves were communicated as Safeguards Information in the January 30, 2004 Staff correspondence. Duke Energy understands that the Staff has yet to make a "need to know" determination with respect to BREDL's request for access to these RAIs and the RAI responses. Based on these circumstances and in light of the recent Commission Order,¹ Duke Energy will defer to the NRC Staff with respect to the "need to know" determination for this RAI response, which we request be made expeditiously. Inquiries on this correspondence should be directed to M.T. Cash at (704) 382-5826. By this letter, Duke Energy requests that this entire submittal be forwarded to the members of the NRC Atomic Safety and Licensing Board presiding in this proceeding.



H.B. Barron
Executive Vice President – Nuclear Generation
Duke Energy Corporation

¹ "When a licensee or intervenor disputes those [need to know] decisions, licensing boards, while exercising their own judgment, should give considerable deference to the Staff's judgments." *Duke Energy Corp.* (Catawba Nuclear Station, Units 1 and 2), CLI-04-06, __ NRC __ (Feb. 18, 2004 slip op., at 12).

A001