

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S SECOND SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS
TO THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

Pursuant to 10 C.F.R. §§ 2.740b and 2.741, the NRC staff ("Staff") hereby requests that Blue Ridge Environmental Defense League (BREDL) respond to the following interrogatories, and produce for inspection and copying the documents requested below.

DEFINITIONS

1. The word "document" as used herein shall mean any written or recorded matter, whether produced, reproduced or stored on paper, cards, tapes, disks, film, computer storage devices, microfiche, compact disk or any other medium and shall include, without limitation, matter in the form of books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, training materials, records, correspondence, diaries, plans, charts, diagrams, drawings, periodicals, lists, telephone logs, recordings, minutes, photographs, negatives, computer printouts, legal pleadings (other than those filed in this proceeding), and any published materials, and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

2. The word "communication" shall mean correspondence, contact, discussion, or any other kind of written or oral exchange between two or more persons or entities including, but not limited to, all telephone conversations, face-to-face meetings or conversations, visits, conferences, internal and external discussions, e-mail and exchange of a document or documents.

3. "Licensee" means in the context of this discovery request, Duke Energy Corporation and any agent, servant, employee, consultant, contractor, technical advisor, representative, officer or other person(s) acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them.

4. "Intervenor" means in the context of this discovery request, the Blue Ridge Environmental Defense League (BREDL) and any agent, servant, employee, consultant, contractor, technical advisor, representative, officer or other person(s) acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them.

5. "Concerns," "concerning," or any other derivative thereof, includes referring to, responding to, relating to, pertaining to, in connection with, comprising, memorializing, commenting on, regarding, discussing, showing, describing, reflecting, analyzing, supporting, contradicting, and constituting.

6. "Relate" or "relating to" means pertaining to, recording, evidencing, setting forth, reflecting, referring to, discussing, showing, disclosing, describing, explaining, summarizing, concerning, or regarding.

7. "Identify" when used in reference to a natural person means to set forth the following information relating to that person: name; present or last known residential address and telephone number; present or last known business address and telephone number; employer; title or position; area of responsibility; and business, professional, or other relationship with BREDL. If any of the above information has changed subsequent to the time period referenced in a particular

interrogatory, set forth in the answer, and label appropriately, current information as well as the information applicable to the time period referenced in the interrogatory.

8. "Identify" when used in reference to a corporation or other entity that is not a natural person shall mean to set forth the following:

- a. the full name of such entity, including its legal name and any assumed or trade names under which it transacts or has transacted business;
- b. the nature or form of such entity, if known;
- c. the address and telephone number of the entity's principal place of business or the principal place where such entity is to be found;
- d. whether the Licensees have or have had a relationship or affiliation with such entity, its affiliates or subsidiaries, and, if so, a description of such relationship;
- e. the persons presently or formerly employed by or associated with that entity who have the principal knowledge concerning the subject matter in question;
and
- f. if any of the above information has changed subsequent to the time period referenced in a particular interrogatory, set forth in the answer, and label appropriately, current information as well as the information applicable to the time referenced in the interrogatory.

9. "Identify" when used in reference to a document shall mean to set forth the following: its title; its subject matter; its date; its author; its addressee (including the designated recipient, "cc" and "bcc" recipients, and the like); its file designation or other identifying designation; and its present location and present custodian.

10. "Identify" with respect to a contact or communication shall mean to set forth the following:

- a. the date of the communication;
- b. the type and means of communication;
- c. the substance of the communication;
- d. each person making the communication, and his location at the time the communication was made;
- e. each person to whom the communication was made, and his location at the time the communication was made;
- f. all other persons present during, participating in, or receiving the communication and the location of each such person at the time;
- g. each document concerning or relating to such communication; and
- h. each document upon which the communication is based or which is referred to in the communication.

11. "Possession, custody or control" includes actual and constructive possession, custody and control. Any document which is not in a person's immediate physical possession, but in regard to which the person has a right to compel production from a third person, or which is otherwise subject to the control of the person in question, is within the person's "possession, custody or control."

12. The words "you" or "your" as used in herein shall mean BREDL and any agent, servant, employee, consultant, contractor, technical advisor, representative, officer or other person(s) acting for or on behalf of all or any of them, or at their direction and control, or in concert with or assisting them.

13. "MOX" means: mixed oxide fuel.

14. "LTA" means: lead test assembly.

INSTRUCTIONS

1. Each interrogatory shall be answered separately and fully, in writing and under oath or affirmation, and shall include all pertinent information available to you, your officers, employees, directors, advisors, representatives, consultants, technical advisors, or counsel, based upon the personal knowledge of the person answering. The production of the documents requested herein shall take place at the offices of the U.S. Nuclear Regulatory Commission in Rockville, Maryland, unless other arrangements for inspection and copying are mutually agreed to by the parties.

2. To the extent that you do not have specific, complete and accurate information with which to answer any interrogatory, you should so state, and the interrogatory should be answered to the extent information is available, identifying each person who is believed to have accurate information with respect thereto.

3. Each interrogatory and document request shall be deemed to be continuing, and you are requested timely to supplement your answers with additional facts, documents, information, and names of witnesses which become known, in accordance with 10 C.F.R. § 2.740(e)(1) and (2) of the NRC's Rules of Practice.

4. The word "and" and "or" shall be construed either in the conjunctive or in the disjunctive so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

5. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice versa, so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

6. Wherever appropriate, the word "his" shall include "her" or "their," and vice versa, so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

7. Please produce each document requested herein in the form and condition in which it exists on the date of service of this request, including all comments, notes, remarks, and other material that may have been added to the document after its initial preparation.

8. Documents produced in compliance with this request should be accompanied with an indication as to the particular paragraph(s) or questions under which the documents are being produced.

9. If you object to or claim a privilege (attorney-client, work product, or other) with respect to any interrogatory or document request, in whole or in part, or seek to withhold documents or information because of the alleged proprietary nature of the data, please identify the information or document, set forth the nature of the privilege or objection asserted and the underlying factual basis for the objection or claim of privilege, and respond to the remainder of the interrogatory or document request.

10. For any document or part of a document that was at one time, but is no longer, in your possession, custody, or control, or which is no longer in existence, or which cannot be located or produced, identify the document, state where and how it passed out of existence or why it can no longer be located and the reasons therefor, and identify each person having knowledge concerning such disposition or loss and the contents of the document.

INTERROGATORIES

1. In its response to NRC Staff's First Set of Interrogatories and Request for Production of Documents to the Blue Ridge Environmental Defense League, Interrogatory 30, BREDL stated that Duke had not performed a comprehensive analysis of the difference in radio nuclide inventories for all important radio nuclides. In this context, please identify (a) how the Duke core inventory analysis was deficient, identifying, with specificity, all areas of deficiency, (b) which radio nuclides, omitted by Duke, should have been included, and (c) any core inventory analyses that BREDL performed, had performed at their request or intends to perform.

2. Identify and describe in detail, providing all bases and justification for, BREDL's position, and any analyses or evaluations that BREDL, its experts, agents or employees, have performed and/or expect to perform or to rely upon in its testimony and/or in examination of Duke or Staff witnesses, to demonstrate that Duke's assessment of the difference in the magnitude of fission product release during gap release phase for an LEU fuel assembly and a MOX lead test assembly is inadequate.

3. Identify and describe in detail, providing all bases and justification for, BREDL's position, and any analyses or evaluations that BREDL, its experts, agents or employees, have performed and/or expect to perform or to rely upon in its testimony and/or in examination of Duke or Staff witnesses, that Duke's scaling approach to evaluating the consequences of using MOX LTAs is invalid.

4. Explain how, in BREDL's view, the phenomenon of "fuel-clad interaction" would affect fuel relocation during a LOCA in a way that is different for M5-clad MOX fuel than for M5-clad LEU fuel. Provide all bases and support for the explanation.

5. Explain how, in BREDL's view, the phenomenon of "particle size distribution of fuel fragments" would affect fuel relocation during a LOCA in a way that is different for M5-clad MOX fuel than for M5-clad LEU fuel. Provide all bases and support for the explanation.

6. Explain how, in BREDL's view, the phenomenon of "clad ballooning geometry" would affect fuel relocation during a LOCA in a way that is different for M5-clad MOX fuel than for M5-clad LEU fuel. Provide all bases and support for the explanation.

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Any and all documents referred to or relied upon in answering the above interrogatories.

2. All documents that evaluate or otherwise discuss the impact of differences in the fuel behavior between the 4 MOX lead test assemblies and the LEU assemblies during

severe accidents.

3. All documents that evaluate or otherwise discuss the impact of 4 MOX lead test assemblies on the radiological consequences of severe accidents.

4. All answers to interrogatories, responses to requests for production or inspection, and documents provided in response to discovery requests served on BREDL by Duke.

Respectfully submitted,

/RA/

Margaret J. Bupp
Counsel for NRC staff

April 26, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S NOTICE OF DEPOSITION

Pursuant to 10 C.F.R. § 2.740a, the Staff of the Nuclear Regulatory Commission (Staff) hereby notices that it will take the deposition of Dr. Edwin S. Lyman on Wednesday, May 12, 2004. The deposition will take place at the Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland. Dr. Lyman will be examined on his knowledge and opinions relevant to the above-captioned proceeding, including any such matters to which Dr. Lyman is expected to testify if he appears as a witness in the above-captioned proceeding. Dr. Lyman is directed to bring to the deposition documents that are in his or Blue Ridge Environmental Defense League's (BREDL) possession, custody or control which pertain or relate to BREDL's admitted contention bases in the above-captioned proceeding.

Respectfully submitted,

/RA/

Margaret J. Bupp
Counsel for NRC Staff

Dated at Rockville, Maryland
this 26th day of April, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S SECOND SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE" and "NRC STAFF'S NOTICE OF DEPOSITION" 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; and by e-mail as indicated by a double asterisk (**), this 26th day of April 2004.

Ann Marshall Young, Chair** *
Administrative Judge
Atomic Safety and Licensing Board
Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: AMY@nrc.gov)

Anthony J. Baratta** *
Administrative Judge
Atomic Safety and Licensing Board
Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: AJB5@nrc.gov)

Thomas S. Elleman**
Administrative Judge
Atomic Safety and Licensing Board
Panel
5207 Creedmoor Rd. #101
Raleigh, NC 27612
(E-mail: elleman@eos.ncsu.edu)

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

Atomic Safety and Licensing Board
Panel
Adjudicatory File*
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555

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

Lisa F. Vaughn, Esq.**
Legal Department
Mail Code - PB05E
Duke Energy Corporation
426 S. Church Street (EC11X)
Charlotte, NC 28201-1006
(E-mail: IfVaughn@duke-energy.com)

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

/RA/

Margaret J. Bupp
Counsel for NRC Staff