

John Runkle

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To: <LAR1@nrc.gov>
Cc: "Len Anthony" <Len.S.Anthony@pgnmail.com>
Sent: Thursday, September 21, 2006 10:23 AM
Attach: Fire petition corrected.rtf; Fire petition corrected.wpd
Subject: Re: 2.206 Petition – Shearon Harris Nuclear Power Plant (corrected)

To: Dyer, NRR
Ref. G20060793
Due: 10/26/06

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DEDMRS
DEDR
DEDIA
AO
R11
OGC
Williams, NRR
B. Jones, OGC

VIA MAIL AND EMAIL

To: Luis A. Reyes
Executive Director for Operations

Attached please find a corrected copy (in two formats) of the 2.206 Petition submitted by NC WARN et al. yesterday. This corrects a typographical error. I am not including the report and other attachments as they have not changed.

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Template: EDO-001

ERIDS: EDO-01
9/25/2006


– corrected version –

NC WASTE AWARENESS AND REDUCTION NETWORK
NUCLEAR INFORMATION AND RESOURCE SERVICE
UNION OF CONCERNED SCIENTISTS
NC FAIR SHARE
STUDENTS UNITED FOR A RESPONSIBLE GLOBAL ENVIRONMENT

September 20, 2006

VIA MAIL AND E-MAIL

TO: Luis A. Reyes
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

FROM: John D. Runkle 
Attorney at Law
Post Office Box
Chapel Hill, NC 27515, for Petitioners

RE: Petition for Emergency Enforcement Action Pursuant to 10 CFR §2.206 –
Suspension of Operating License No. NPF-63 for Shearon Harris Nuclear
Plant Until Recurring Fire Protection Issues are Brought Into Compliance

Pursuant to §2.206 of Title 10 of the Code of Federal Regulations, now come the North Carolina Waste Awareness and Reduction Network, the Nuclear Information and Resource Services, the Union of Concerned Scientists, NC Fair Share, and the Students United for a Responsible Global Environment, by and through the above counsel, with a petition for the Nuclear Regulatory Commission ("NRC") to take the following emergency enforcement actions against Progress Energy and its Shearon Harris Nuclear Power Plant:

Issue an Order requiring the immediate suspension of the operating license for the Shearon Harris Nuclear Power Plant until such time that all fire safety violations affecting safe shutdown functions as designated under current law are brought into compliance. This shall be accomplished without reliance on regulatory bypasses, such as indefinite compensatory measures.

OR IN THE ALTERNATIVE

Issue penalties to the Shearon Harris Nuclear Power Plant for the maximum allowable amount of \$130,000 for each and every violation for each day the plant operates until compliance with the fire protection regulations is achieved and verified by NRC.

THE PETITIONERS. The Petitioners are public interest groups concerned about the health and safety of their members, and the members of the public. The Petitioners are bringing this Petition on behalf of and to protect the interests of their members. The Petitioners are as follows:

a. The North Carolina Waste Awareness and Reduction Network is a grassroots nonprofit using science and activism to tackle climate change and reduce hazards to public health and the environment from nuclear power and other polluting electricity production, and working for a transition to safe, economical energy in North Carolina. It has more than 1,000 members and supporters in North Carolina, many near the Shearon Harris Nuclear Power Plant. Its address is P.O. Box 61051, Durham, NC 27715-1051.

b. The Nuclear Information and Resource Services is the information and networking center for citizens and environmental organizations concerned about nuclear power, radioactive waste, radiation, and sustainable energy issues. It has 11,000 members in the United States and is affiliated with organizations worldwide. Its office is 6930 Carroll Avenue, Suite 340, Takoma Park, MD 20912.

c. The Union of Concerned Scientists is an independent nonprofit alliance of more than 100,000 concerned citizens and scientists. We augment rigorous scientific analysis with innovative thinking and committed citizen advocacy to build a cleaner, healthier environment and a safer world. Its Washington Office is 1707 H St NW, Suite 600, Washington, D.C. 20006-3962.

d. NC Fair Share is a statewide, membership, multi-issue advocacy organization that works to promote political participation and leadership of low income people for a fairer North Carolina. It has more than 1300 members in North Carolina. Its address is 3824 Barrett Drive Suite 312, Raleigh NC 27609.

e. Students United for a Responsible Global Environment is a coalition of 75 student groups across the country dedicated to protecting the environment. Its address is PO Box 1188, Chapel Hill, NC 27514.

SUPPORT FOR PETITION. The emergency enforcement action is warranted based on the current public health and safety hazard posed by the continued

operation of the Shearon Harris Nuclear Plant without reasonable assurance against cable and conduit fires and consequential impairment of the ability of the plant to safely operate, and in particular, to safely shutdown in emergency situations.

This action will replace the currently used "blanket enforcement discretion policy" with one that requires immediate compliance with the fire protection rules at 10 CFR Part 50, Appendix R, III.G.2. It is entirely consistent with actions taken by the NRC in the withdrawal of the rulemaking this spring on disallowing operator manual actions and comes after the issuance of many Confirmatory Orders, guidance documents, reports and enforcement actions.

The factual basis for this Petition is provided in the enclosed report, "Delaying with Fire: The Shearon Harris Nuclear Plant and 14 Years of Fire Safety Violations." The report contains attachments providing additional documentation for the serious allegations in the Petition. It is important to note the Shearon Harris Fire Protection Abridged Chronology document the lack of compliance with fire safety rules in Attachment 1 to the report, as well as the listing of electrical fires and other documentation.

If the NRC had followed its own rules, Shearon Harris' fourteen-year violation of fire safety regulations would not have been allowed. Correction of the problems would have added another instance to the long list of U.S. nuclear plant outages required to restore minimum safety margins. But despite the 2002 near-miss at the Davis Besse Nuclear Plant, in which the NRC apparently prioritized utility profits over public safety, the agency remains poised to become a regulator whose neglect of its mandated duty leads to widespread harm.

It seems clear that NRC's intention is to "correct" the fourteen-year noncompliance at the Shearon Harris plant by allowing more years of delay under a different regulatory guise. Any further "study" of the Harris fire problem, such as pursuing the NFPA 805 regulatory scheme, constitutes an irresponsible delay and a violation of both federal regulation and the NRC's mandate under federal law. Progress Energy has known of the lack of compliance with the NRC's fire protection rules since at least 1992; it has obviously made a business decision to not correct the violations.

Progress Energy has relied on impaired and inadequate fire safety systems for at least fourteen years at the Shearon Harris Nuclear Power Plant. In recent submittals, it has indicated that it may resolve some of the fire protection problems by 2015. People living around the Shearon Harris plant are subject to severe and yet unnecessary risk from these practices. It is time for this risk to end, the NRC has allowed Shearon Harris to operate unsafely for far too long.

PROCEDURAL MATTERS. The goals of the Petition are the resolution of all uncertainties regarding the agency's agenda for protecting the public against fire safety violations, and in particular, the lack of compliance with the fire protection rules at the Shearon Harris plant. The Petitioners thereby request that deliberations on this Petition are conducted in open and public proceedings that include hearings in the vicinity of the Shearon Harris plant.

Although the Petitioners are willing to enter into negotiations allowing the plant to remain operating for a short term, any continued operation must be based on the establishment of a firm timetable. One possibility may be to move up the next refueling outage, now scheduled for the third quarter of 2007, to the first quarter of 2007. Replacing faulty fire barriers and rerouting electrical circuitry could prolong the outage for several months, but the danger from electrical fires would be, and must be, significantly minimized. Since Progress Energy responds more readily when revenues are at stake, the penalties should expedite action and finally lower the risks to the regional public.

Finally, we put NRC on notice that to even accept an application from Progress Energy seeking to add 20 years or more to Harris' operating license without first resolving all open violations of federal safety regulations flies in the face of the NRC's mandate to protect public health and safety. It is contrary to common sense, state law governing corporate activities, and basic public values.

The Petitioners therefore urge the NRC to act with due haste in taking this emergency enforcement action. Fourteen years is long enough to "delay with fire" at Shearon Harris.

FOR PETITIONERS:

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ENCLOSURE

"Delaying with Fire: The Shearon Harris Nuclear Plant and 14 Years of Fire Safety Violations"

Attachments:

- 1. "Shearon Harris Fire Protection Abridged Chronology," Union of Concerned Scientists, July 2006. (Also see 16-page chronology at www.ncwarn.org).**
- 2. "N-Plants Keep Watch On Fire-Retardant Material," Raleigh NEWS & OBSERVER/AP Article, August 25, 1992.**
- 3. Partial listing of electrical fires at Harris and Brunswick plants.**
- 4. INSIDE NRC article on major fire at Harris in 1989.**
- 5. Licensee Event Report, October 28, 2005. (Also see the report on www.ncwarn.org).**
- 6. Shearon Harris OMA procedures: sample listing of "Local Manual Action Steps to be Performed Outside of the Control Room to Achieve and Maintain Hot Standby."**
- 7. New York Times: NRC Ponders Rule Change (reflecting industry lobbying and heroic actions/OMAs), November 29, 2003.**

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RESEARCH TRIANGLE REGION

25 SEP 2006



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