

City & State

Groups: Nuclear plant is unsafe

*Petition against
Shearon Harris*

BY WADE RAWLINS
STAFF WRITER

Five public interest groups are asking the Nuclear Regulatory Commission to suspend the operating license of Progress Energy's Shearon Harris plant or levy hefty fines until the plant fixes longstanding flaws in fire safety systems.

A petition — filed Wednesday by the N.C. Waste Awareness and Reduction Network, the Union of Concerned Scientists, the Nuclear Information and Resource Service, and two other groups — contends that the violations make

INSIDE
PROGRESS:
Company will
resume produc-
tion of synthetic
fuel. ► 1D

the plant unsafe. The groups demand that regulators take an emergency action — either shut down the plant or fine it

\$130,000 a day per violation.

Some of the fire safety violations date to the early 1990s and are industry-wide issues. The groups contend that Progress Energy has relied indefinitely on compensatory measures such as having personnel assigned to look for fires, rather than correcting the problems.

"Progress Energy has known of the fire protection violations since at least 1992," said Jim Warren, executive director of N.C. WARN, based in Durham. "It obviously has made a business decision to not correct them."

Officials at Progress Energy and the NRC said Shearon Harris has taken temporary measures to ensure the plant is safe. A fire broke out at the plant in 1989, shutting it down for two weeks, followed by a planned outage.

Currently, Progress has assigned personnel to patrol the plant looking for fires, constructed barriers and beefed up some inadequate insulation. Progress has until 2015 to correct fire safety problems at its plants under an agreement with the NRC and plans to make Harris a priority, a spokesman said.

Fire is a concern at nuclear plants. It can interfere with a quick shutdown and keep operators from controlling hundreds of cooling system components that prevent fuel in the reactor core from overheating and causing a meltdown.

Nuclear plants are required to have multiple backup fire protection methods to keep fires from damaging safety systems. They include fire barriers such as insulation, fire detection systems and sprinklers.

"We are in compliance with fire safety regulations right now," said Julie Hans, a spokeswoman for Progress Energy. "We are using compensatory measures, but those measures bring us into compliance. We have been addressing the problem."

Roger Hannah, a spokesman for the Nuclear Regulatory Commission, said Shearon Harris was not in compliance with all fire safety regulations.

"There are some areas where they are not meeting the current regulations," Hannah said. "But they are meeting the safety standard that we expect them to adhere to."

The NRC first will decide whether to accept the groups' petition for review. If it does, then it typically takes six months to act. NRC officials declined to comment on the petition, saying they hadn't seen it.

"They're not new issues," said Dave Lochbaum, a nuclear safety engineer with the Union of Concerned Scientists. "Part of the feeling is that without a petition, they are never going to be resolved. The petition will hopefully serve as a way to get them done sooner rather than later, to replace the I.O.U.'s with action."

Shearon Harris is one of the first nuclear plants to start changing to new fire safety standards, endorsed by the Nuclear Regulatory Commission, based on risk of fire. Utilities will analyze the risk of fire in parts of the plant and make changes where needed for fire protection. It also may allow utility officials to avoid spending money to correct fire safety violations in some areas, if they can make a case that the risk of fire is low.

"Right now, what is required by the NRC is a cookie-cutter approach," Hans said. "The same fire protection standard exists in every part of the plant, no matter the risk of fire in that location."

Hans said that Progress Energy had until 2015 to correct fire safety issues at all its plants, and it planned to make modifications at Harris first. She said the company had spent \$13 million in recent years making changes.

The watchdog groups criticized the approach, saying it allowed more years of delay under a different regulatory guise.

The filing might be a prelude to a broader legal challenge by the groups to Progress Energy's plans to seek a 20-year extension of its operating license. The Harris plant, about 25 miles southwest of Raleigh in southern Wake County, has been in commercial operation since 1987.

Groups seek NRC action vs. nuclear plant

Watchdogs want fines or license pulled over alleged violations

BY EMILY COAKLEY

ecoakley@heraldsun.com; 918-1032

PITTSBORO — Three watchdog groups petitioned the Nuclear Regulatory Commission Wednesday to either suspend Shearon Harris nuclear power plant's operating license or impose fines because of alleged fire protection violations.

At a briefing Wednesday night, North Carolina Waste Awareness Reduction Network, otherwise known as NC Warn, Union of Concerned Scientists and Nuclear Information and Resource Service (NIRS) representatives criticized nuclear power plants and the NRC for not, as they see it, fixing fire protection barrier problems.

"Right now U.S. nuclear power stations are extremely vulnerable to fire," said Paul Gunter, reactor safety director at NIRS.

One issue is over regulations enacted in the 1980s requiring the separation of primary and secondary cables used to control reactors.

Some materials used were later found to be faulty, so plants had to make changes.

The allegations

The watchdog groups say Shearon Harris has delayed complying with the changed rules, and the measures they've taken in the interim aren't enough.

Representatives for Shearon Harris and the NRC see the situation differently.

Earlier Wednesday, Julie Hans, spokeswoman for Progress Ener-

The Herald-Sun

DURHAM

THURSDAY
SEPTEMBER 21, 2006

GROUPS

FROM PAGE C1

gy-operated Shearon Harris, said noncompliance claims are not true.

"I think the bottom line is that as technology changes, standards are going to change. We are keeping up with that. It's a priority for us, it's not something we'd let slip," Hans said.

Tuesday, Charles Payne, chief of NRC's region two fire protection branch, said the plant hadn't had any fire protection violations since 2004.

Shearon Harris is in an NRC pilot project to implement National Fire Protection Association standards, Payne said, which involve analyzing fire

risk and implementing protections as needed.

The pilot program also gives the plant more leeway in fire protection enforcement during the transition, he said.

Payne said the agency has been comfortable with the transition at Shearon Harris, adding that an agency inspector is on-site to raise any concerns.

Hans said additional people have been added to fire protection, roaming the plant looking for fires or hazardous situations.

Sprinkler systems, more smoke detectors and walls were added and some items were moved, Hans said.

Action urged

One speaker at the briefing urged local residents to take action.

Margie Ellison, a community activist who lives in Chatham County, asked people to contact Shearon Harris and urge elected officials to pass resolutions encouraging NRC to act on the petition.

"To me it's an unforgivable situation. I'm saying tonight that what we've heard tonight gives us reason to say that's why we can't wait any longer," Ellison said.

Meanwhile, Shearon Harris is offline after an electrical problem was discovered Tuesday. Hans said the problem is on the "non-nuclear side of the plant" and crews are working to fix the problem. She did not have a schedule for the plant coming back on line, but said service hasn't been interrupted.

Memo, October 3, 2006

To: Local, State and Federal Public Officials

From: NC WARN Executive Director Jim Warren

Subject: Fire safety violations at Shearon Harris Nuclear Plant – a response to misleading statements made by Progress Energy in public and to many of you.

As detailed in our September 26th letter to Progress Energy CEO Robert McGehee, it seems clear that Progress has tried to mislead the public and officials about Shearon Harris fire safety status. In short, multiple statements that Harris is “in full compliance” are contradicted by numerous official communications cited in our letter to McGehee. Even the NRC – whose lax regulation is a focus of our 9/20/06 legal action – admitted under questioning by The News & Observer that Harris is “not in compliance with all fire safety regulations.”

Since that time, Progress has made additional misleading statements. It has also deployed its prodigious public relations machine, seeking to prevent state and local officials from examining the fire safety issue, in deference to Progress Energy and the NRC, thereby attempting to compromise your duty to protect public safety.

We appreciate the many of you who are already educating yourselves and showing leadership by looking beyond the corporate PR line – and the controversial nature of this issue – and endorsing our call for immediate enforcement of safety regulations. It is not sufficient that NC WARN and the other petitioners have a compelling legal and technical argument that fire safety regulations must be enforced; public officials must be able to act independent of Progress Energy’s sphere of influence.

■ Progress’ 9/20/06 professions of “full compliance” evolved into “compliance based on temporary compensatory measures,” which later became “Harris is meeting NRC standards.” As detailed in our “Delaying With Fire” report and legal petition (www.ncwarn.org), fire safety regulations do not allow such “interim” or “compensatory” measures in place of approved fire barriers and cable separation, nor did Progress Energy seek exemptions from NRC to use such measures. NRC has abused its authority by applying “enforcement discretion” – a regulatory smokescreen – for at least 14 years. One of the two types of compensatory measures – Operator Manual Actions – were explicitly rejected by NRC when it enhanced fire regulations following the severe fire at Browns Ferry in 1975.

■ Progress’ statement that fire regulations “have changed” is incorrect. While they repeatedly delayed correcting fire violations since the 1990s, Progress and other licensees vigorously lobbied NRC to relax current fire regulations.* Early this year, NRC decided against relaxing the rules – again rejecting the use of Operator Manual Actions instead of fire barriers and cable separation. But meanwhile, the agency and industry created another attempt to skirt the regulations, a “risk-informed” approach that would further delay compliance for many years. For now, however, the current fire regulations under 10 CFR Part 50, Appendix R, III.G.2 still apply. Last month, Progress was scheduled to file for scores of exemptions seeking NRC permission to continue operating in noncompliance with the current rules.

■ In an email to numerous public officials, Progress implied that the roving fire watches are firefighters. Obviously, there is a great difference in roles, training and proficiency between a firefighter and someone hired by contractor Bartlett, Inc. to patrol various fire areas in order to detect smoke or fire. Regarding

Progress' statements that Harris is spending \$500,000 per year on for "six to eight" fire watch personnel around the clock: If correct, that would mean these people make less than minimum wage (assuming seven people per shift and a typical contractor mark-up for overhead and profit). Did Progress truthfully describe the fire watch force? If so, is it paying enough to ensure a stable and dedicated workforce?

■ Regarding Progress statements that it has spent \$13 million on fire compliance upgrades (again confirming Harris is in violation), this corroborates our point in the petition – that corporate officials made a business decision to delay compliance. Amortized over the past 14 years of violations, \$13 million pales in comparison to scores of other Progress priorities, including the annual compensation of several executives. If Harris is "midway" through "major upgrades" in the past "couple of years" as now claimed, it would seem quite feasible to complete the work during the 2007 refueling outage as called for in our petition, which might avoid a prolonged legal/public battle. Why is Progress proposing not to restore compliance for nine more years? In the absence of contrary evidence, watchdogs rely on what the extensive documentation shows: Progress has repeatedly re-scheduled its projected compliance date, and now seeks until 2015 to correct its fire vulnerabilities under a proposed new regulatory scheme.

NC WARN has been told several times since the 1990s that upgrades were being made, but Progress has repeatedly declined to provide documentation. We wonder if the \$13 million in upgrades refers largely to regulatory and lobbying efforts rather than labor and materials. Now would be a perfect juncture for Progress to gain some public confidence by providing the following, in a public-friendly format with visuals and narrative: 1) the extent of original fire safety violations, 2) additional violations discovered at the ten or more inspections noted in our report, and 3) a comprehensive schedule of the corrective measures taking place. As noted in our petition, we are willing to accord Progress Energy a reasonable time frame – 12 months maximum – to change direction and comply with current regulations.

We have been amused to hear that Progress Energy is acting victimized. NC WARN and our technical experts are out in the open with our information, eager to discuss our charges and answer questions in an honest and professional manner. By contrast, Progress' typical approach is to distribute millions of dollars across the region in a variety of ways in order to silence criticism of its actions. It seeks to suppress open discussion, instead pressing for private meetings and receptions at the Harris visitor center. The utility maligns its critics in private, while refusing to address the content of tough questions in public.

Obviously, conscientious public officials do not want our regional civic decisions to work that way. This is no time for "business as usual." These crucial safety issues command that elected officials must make decisions in the interest of public safety, not defer to Progress Energy because it provides financial benefits to candidates, communities, institutions and the media that are irrelevant to the issue at hand.

One local official recently challenged Progress' use of misleading soundbites, claims that critics are trying to shut down the plant and put people out of work. We agree with Progress' PR about Harris employees striving for safety. Our complaint is that corporate management made the business choice to delay correcting fire vulnerabilities in order to save money, a decision which puts plant workers and the regional community at unnecessary risk.

We will be contacting each of you, seeking your support for the enforcement of federal safety regulations at Shearon Harris, and to answer any questions you may have. Shearon Harris is the single most dangerous facility in the Triangle, and one of the most dangerous nuclear plants in the nation. It is essential that public officials insist that the plant be operated as safely as possible.

Sincerely,
Jim Warten

* See <http://www.ncwarn.org/ATT%207%20NYT%20art%20NRC%20ponders%20rule%20change.pdf>

From: Clayton, Marty [mailto:marty.clayton@pgnmail.com]
Sent: Friday, September 22, 2006 4:17 PM
To: Kevin Foy
Subject: Progress Energy Update - Harris Plant

To: Kevin Foy
Chapel Hill, Town of
September 22, 2006

From: Marty Clayton
Progress Energy

The Harris Plant has been in the news this week and we want to make sure you have the facts.

Harris Plant outage

The Harris Plant tripped offline at approximately 10 a.m. Tuesday morning when a relay device inside the plant's generator failed. Nuclear plants are designed to automatically shut down when components fail in order to protect plant equipment and to ensure the health and safety of the public. Shutdowns are the result of properly functioning safety systems.

The cause of the outage was an electrical problem, similar to tripping the breaker in your home, and was not related to the reactor or the nuclear side of the plant. After conducting extensive precautionary testing on the relay and other nearby components to ensure the relay was the sole cause of the outage, the device was successfully replaced Thursday afternoon.

The plant began startup procedures Thursday evening, and began making and sending power to our customers again early this morning.

Petition to suspend the Harris Plant's license

NC WARN and others filed a 2.206 petition on Wednesday, which is a mechanism the Nuclear Regulatory Commission (NRC) established to allow the public to be involved and engaged in its oversight process. We expect the NRC will review the petition to determine its merit.

Progress Energy and the Harris Plant will work with the NRC in the appropriate manner to address this petition.

Fire safety at the Harris Plant

Allegations of inadequate fire safety at the Harris Plant are simply not true.

There are multiple layers of fire protection barriers in place at Harris. Fire-sensitive cables are wrapped in fire retardant material, surrounded by automatic detection devices and sprinkler systems, and are located in rooms separated by thick concrete to prevent the spread of any fire. Additionally, we employ human fire protection, with an on-site fire brigade and teams of individuals (six to eight per shift) who work around the clock, walking the plant in search of fires or fire hazards.

Over the last several years, the NRC's regulations for fire protection have changed – the Harris Plant has been responsive to the NRC's requests every step of the way and is making modifications to meet new NRC requirements in the time allowed by the NRC. With compensatory measures, the NRC considers the Harris Plant to be within guidelines for safe operation.

It is our responsibility to ensure the health and safety of the public and we take that responsibility seriously, as do the nearly 450 highly qualified and experienced plant employees. They work here and raise their families in this community. The last thing our employees would accept is an operating condition that presents a danger to themselves or the public.

If you have additional questions about these or other issues, please do not hesitate to contact me.

Thank you,
Marty

Marty Clayton
Manager - Community Relations
Progress Energy
919-878-5300

<http://www.progress-energy.com>

September 26, 2006

Robert McGehee
Chief Executive Officer
Progress Energy

Subject: Fire Safety – Emergency Enforcement and Misrepresentation of Harris Compliance Status

Dear Mr. McGehee,

Seeking to correct the public record and to clarify your position regarding the NC WARN/UCS/NIRS 2.206 petition regarding fire regulations at Shearon Harris, NC WARN asks that you personally address the following very serious issue.

Your spokespeople have stated repeatedly that you are in compliance with NRC fire safety regulations. But recent correspondence from Progress Energy to the NRC and from the NRC to Progress Energy states clearly that you are not in compliance. Is the community to believe what you and the NRC said in this official correspondence, or what your public relations people are saying now?

It seems clear that both the Progress and NRC public relations teams sought to misrepresent the fire violations issue to the media last Wednesday, and possibly to elected officials since that time, in an effort to perform “damage control” after we filed the legal action. Both sets of PR professionals initially told numerous reporters that Harris is “in full compliance” in an obvious attempt to confuse the issue of our charge that Harris has been in violation for 14 years. One reporter recounted to us the Progress/NRC tandem message that Harris is “fine” regarding fire safety regulations.

Only a few reporters had the time or background to contest the front-line PR on this relatively complicated issue. When they did so, both Progress and NRC hedged to reporters, admitting that “compliance” actually refers to (“interim”) compensatory measures used for years at Harris in place of approved fire barriers and cable separation. For example, it appears that when NRC spokesman Roger Hannah was questioned about his initial response, he admitted to The News & Observer that Harris “*was not in compliance with all fire safety regulations. There are some areas where they are not meeting the current regulations,*” Hannah said. “*But they are meeting the safety standard that we expect them to adhere to.*”

This might be dismissed as the typical linguistic contortion often used by Progress and others seeking to limit scrutiny of their actions, but consider the following fire violation reports to NRC, each titled: “Unanalyzed Condition Due to Inadequate Separation of Associated Circuits.” These are only three of the latest reports of similar violations and rescheduling “commitments” to NRC intended to bring Harris into full compliance.

1. Progress Energy ended a Licensee Event Report (LER) dated 4/12/04 by telling NRC of its intention to “**Restore the identified conditions of this LER to compliance** by design changes or other methods approved by the NRC.” It next states that the scheduled completion date is 5/13/06.

2. In another LER dated 3/21/05, Progress reported to NRC its intention to “**Restore the conditions identified in this [seventh] revision of this LER to compliance** by design changes or other methods approved by the NRC.” It next states that the scheduled completion date is 10/17/06.
3. In an eighth LER dated 10/28/05, Progress reported to NRC its intention to “**Restore the conditions identified in Matrix 2 of this LER to compliance** by design changes or other methods approved by the NRC.” Completion date: 11/05/10.
4. Your company made a Power-Point presentation at an 8/11/05 meeting with NRC regarding Harris’ participation in the new regulatory 805 scheme, noting among three goals in the first content slide:
Restore Fire Protection Compliance

In addition, the NRC makes clear repeatedly its position that Harris and others are in noncompliance with fire regulations in a Regulatory Issue Summary regarding Operator Manual Actions, dated June 30, 2006.

Progress Energy now confirms its intention to shift to compliance in 2015 with the new 805 regulatory scheme, and therefore has made no major advances that would have altered Harris’ illegal fire safety status since the reports cited above.

As noted in our petition, federal regulations do not allow extended use of “interim” compensations – a regulatory smokescreen – nor did Progress Energy seek exemptions from NRC to use them in lieu of approved fire protection measures. The fact that NRC’s Hannah told the N&O that while Harris is “*not meeting current regulations ... But they are meeting the safety standard that we expect them to adhere to,*” is evidence of the NRC’s failure to enforce its own rules – and precisely the reason for our legal action.

I have copied this letter to the NRC’s Inspector General because we believe the PR exchange noted above represents yet another example of NRC protecting the industry instead of regulating it. It appears that at least two NRC spokesmen participated in efforts to downplay the noncompliance issue, thus confusing the public’s understanding of the fire safety issue, which carries great importance to safety in regions surrounding dozens of US nuclear power plants.

Thank you for your attention to this matter.

Sincerely,

Jim Warren
Executive Director

cc:

Rep. David Price
Rep. Bob Etheridge
Rep. Brad Miller
State and local public officials
NC Attorney General Roy Cooper
David Lochbaum
Paul Gunter
Luis A. Reyes, NRC
George Mulley, NRC Deputy Inspector General

MEMORANDUM

TO: Town Council
FROM: Kevin C. Foy, Mayor
SUBJECT: Resolution in Support of Bringing the Shearon Harris Nuclear Plant into Compliance with Federal Fire Safety Regulations
DATE: September 27, 2006

The attached resolution is provided for Council consideration.

ATTACHMENT

1. Delaying with Fire: The Shearon Harris Nuclear plant and 14 years of Fire Safety Violations –September 20, 2006 (begin new page 1).

A RESOLUTION IN SUPPORT OF BRINGING THE SHERON HARRIS NUCLEAR PLANT INTO COMPLIANCE WITH FEDERAL FIRE SAFETY REGULATIONS (2006-9-27/R-16)

WHEREAS, the Town of Chapel Hill supports the legal action directed to the U.S. Nuclear Regulatory Commission (NRC) by NC WARN, the Union of Concerned Scientists, the Nuclear Information and Research Service, NC Fair Share, and Students United for a Responsible Global Environment to bring the Shearon Harris nuclear Plant into compliance with Federal Fire Safety Regulations; and

WHEREAS, the plant has operated in violation of those regulations for at least the past 14 years and as such has substantially increased the risk to the public. In addition, the plant owner says it will apply for permission to take up to nine more years to study its fire safety violations instead of fixing them; and

WHEREAS, the legal action calls for emergency enforcement action by the NRC to:

1. Immediately suspend Shearon Harris's license until all fire safety violations are corrected, or
2. Fine Harris \$130,000 for each violation each day it operates until compliance with current law is verified by NRC – without relying on regulatory bypasses such as “interim” fire watches and operator actions; and

WHEREAS, the legal action further requests that deliberations on this matter are conducted in open and public proceedings that include hearings in the vicinity of the Shearon Harris plant, and

WHEREAS, although the bringers of the legal action are willing to enter into negotiations allowing the plant to remain operating, any continued operation must be based on the establishments of a firm timetable – not exceeding 12 months – for completing the necessary repairs to bring the plant into full compliance with current, applicable fire safety regulations;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council further calls for the NRC to refuse to consider any “early relicensing” of the plant for an additional 20 years – for which an application will be submitted by year end – unless the plant has been brought into full compliance with fire regulations.

This the 27th day of September, 2006.

ORANGE COUNTY BOARD OF COMMISSIONERS

A Resolution

In Support of an Emergency Petition to the US Nuclear Regulatory Commission by the NC Waste Awareness and Reduction Network, the Union of Concerned Scientists, the Nuclear Information and Research Service, NC Fair Share and Students United for a Responsible Global Environment Seeking Regulatory Action by the Commission to Enforce Existing Fire Protection Standards and Regulations Applicable to the Shearon Harris Nuclear Power Plant

WHEREAS, the Orange County Board of Commissioners has a long and well-established practice of advocating for any and all activities that would promote the public health, safety and welfare, particularly in regard to feasible threats to that health, safety and welfare; and

WHEREAS, approximately 50 percent of the risks of catastrophic nuclear plant failure are associated with fire-related accidents, as calculated by the Nuclear Regulatory Commission; and

WHEREAS, the Orange County Board of Commissioners also have a long and well-established record of concern regarding security and safety issues at the Shearon Harris nuclear power plant, related to the potential magnitude and catastrophic consequences of a nuclear power plant fire leading to an airborne release of nuclear waste materials; and

WHEREAS, information has recently been presented to the Board of County Commissioners as to ongoing problems with fire safety and fire protection practices at the Shearon Harris nuclear power plant; and

WHEREAS, Progress Energy/CP&L has indicated that it will apply to the NRC for permission to take up to nine more years to bring the Shearon Harris nuclear power plant into compliance with fire safety standards and regulations; and

WHEREAS, Progress Energy/CP&L has indicated that it will apply to the NRC for a twenty-year extension of its operating license for the Shearon Harris plant while the plant is not in compliance with existing fire safety standards and regulations; and

WHEREAS, Progress Energy/CP&L has indicated that it is in the process of evaluation of permitting, designing and constructing two nuclear power reactors at the Shearon Harris nuclear power plant while the existing plant is not in compliance with existing fire safety standards and regulations;

NOW, THEREFORE, do we, the Orange County Board of Commissioners, hereby resolve to support the petition of the NC Waste Awareness and Reduction Network, the Union of Concerned Scientists, the Nuclear Information and Research Service, NC Fair Share and Students United for a Responsible Global Environment to the US Nuclear Regulatory Commission asking that the NRC compel Progress Energy/CP&L to immediately bring the Shearon Harris nuclear power plant into compliance with existing federal fire safety standards and regulations applicable to nuclear power plants.

This is the 3rd day of October, 2006

Barry Jacobs, Chair
Orange County Board of Commissioners

Jim Warren

From: Dan Coleman [dan-coleman@nc.rr.com]

Sent: Friday, October 20, 2006 11:09 AM

To: Jim Warren

Subject: Re: Harris resolutions

A RESOLUTION IN SUPPORT OF BRINGING THE SHEARON HARRIS NUCLEAR PLANT

INTO COMPLIANCE WITH FEDERAL FIRE SAFETY REGULATIONS

Resolution No. 38/2006-07

WHEREAS, NC WARN, the Union of Concerned Scientists, the Nuclear Information and Research Service, NC Fair Share, and Students United for a Responsible Global Environment (SURGE) have filed a legal action with the Nuclear Regulatory Commission (NRC) to bring the Shearon Harris Nuclear Plant into compliance with Federal Fire Safety Regulations, and

WHEREAS, the plant has operated in violation of those regulations for at least the past 14 years and as such has substantially increased the risk to the public, and

WHEREAS, the plant owner says it will apply for permission to take up to nine more years to study its fire safety violations instead of fixing them, and

WHEREAS, approximately 50 percent of the risks of catastrophic nuclear plant failure are associated with fire-related accidents, as calculated by the Nuclear Regulatory Commission; and

WHEREAS, Orange County staff has recently been presented information to the Assembly of Governments as to ongoing problems with fire safety and practices at the Shearon Harris nuclear power plant.

NOW THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen support these local organizations' call for emergency enforcement action by the NRC to:

- 1) Immediately suspend Shearon Harris' license until all fire safety violations are corrected, or;
- 2) Fine Harris \$130,000 for each violation each day it operates until compliance with current law is verified by NRC – without relying on regulatory bypasses such as "interim" fire watches and operator actions.

BE IT FURTHER RESOLVED that the Carrboro Board of Aldermen support the requests that:

- 1) Deliberations on this matter are conducted in open and public proceedings that include hearings in the vicinity of the Shearon Harris plant, and that
- 2) Although the bringers of the legal action are willing to enter into negotiations allowing the plant to remain operating, any continued operation must be based on the establishment of a firm timetable – not exceeding 12 months – for completing the necessary repairs to bring the plant into full compliance with current, applicable fire safety regulations.

BE IT FURTHER RESOLVED that the Carrboro Board of Aldermen join in the call for the NRC to refuse to consider any "early relicensing" of the plant for an additional 20 years – for which an application will be submitted by year end – unless the plant has been brought into full compliance with fire regulations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 3rd day of October, 2006:

Ayes: Mark Chilton, Dan Coleman, Jacquelyn Gist, Randee Haven-O'Donnell, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Joal Hall Broun

N 4 0 10/4/06

*'I've been worried for
20 years.'*

STEPHEN HALKIOTIS

ORANGE COUNTY COMMISSIONER

Board urges action on plant

*Resolutions OK'd
on Shearon Harris*

BY CHERYL JOHNSTON SADGROVE
STAFF WRITER

HILLSBOROUGH - The Orange County Board of Commissioners adopted two resolutions Tuesday concerning safety at the Shearon Harris nuclear power plant.

The first, like the resolution the Chapel Hill Town Council recently adopted, requests that Progress Energy, which owns the plant, immediately bring it up to federal fire code. These local government resolutions support a petition that five public interest groups, concerned about fire safety, filed two weeks ago with the Nuclear Regulatory Commission.

The second resolution asks that Progress Energy, the N.C. Utilities Commission, the Department of Crime Control and Public Safety and others work with local governments to form an evacuation plan for a 50-mile radius surrounding the nuclear power plant.

From 1988 to mid-2002, Orange County and other local governments legally challenged Progress Energy's plans to expand use of its fuel storage pools.

"I've been worried for 20 years," Commissioner Stephen Halkiotis said.

Commissioner Moses Carey asked for clarification on whether Progress Energy says that it is in compliance with the Nuclear Regulatory Commission's fire safety standards.

"We are not out of compliance," said Tony Maness, supervisor of fire protection at the plant.

He said a multi-tiered approach countered deficiencies in the plant's fire-retardant blankets, including fire prevention education and training; employee fire brigades; thermal, smoke and fire detectors; concrete barriers and the blankets.

Jim Warren, executive director of Durham-based N.C. Waste Reduction and Awareness Network, said Shearon Harris is the worst in the country in two fire safety categories.

Commissioners' Chairman Barry Jacobs encouraged Progress Energy to take part in a forum that Chapel Hill plans to hold at which both the company and critics would have a chance to explain their points of view.

"I will do what I can to make that happen," said Marty Clayton, the community relations manager for Shearon Harris.

Staff writer

Cheryl Johnston Sadgrove
can be reached at 932-2005 or
cheryl.sadgrove@newsobserver.com.

----- Original Message -----

From: Carol Abernethy

To: Clayton, Marty

Cc: Bill Strom ; Bill Thorpe ; Cam Hill ; Ed Harrison ; Jim Ward ; Jim Ward (w) ; Kevin Foy ; Laurin Easthom ; Mark Kleinschmidt ; Sally Greene (w) ; Adam Schaefer ; Catherine Lazorko ; Roger Stancil ; Sabrina Oliver ; Sandy Kline ; Bruce Heflin ; Flo Miller ; Ralph Karpinos ; Toni Pendergraph

Sent: Thursday, October 05, 2006 9:32 AM

Subject: Email RE: Responses to Questions from Town of Chapel Hill

Thank you for your email. A copy has been forwarded to each Council Member and to senior staff members.

Carol Abernethy
Exec. Asst., Manager's Office
Town of Chapel Hill

From: Faulkner, Linda [mailto:linda.faulkner@pgnmail.com] **On Behalf Of** Clayton, Marty

Sent: Wednesday, October 04, 2006 4:21 PM

To: Town Council

Subject: Responses to Questions from Town of Chapel Hill

Mayor and Councilmembers:

Below are our responses to the questions recently received. As mentioned at the meeting last Wednesday evening, I would like to encourage you to visit and tour the plant and meet with the management team. I will be glad to assist in arranging this visit.

Please let me know if you have questions or need additional information.

Thank you,
Marty

Marty Clayton
Manager - Community Relations
Progress Energy
919-878-5300
919-981-1740 (pager)

Question 1

Progress Energy has assured the public that the roving fire watch team as a compensatory measure protects us sufficiently. What certifications or professional credentials are required to be hired? What is their starting pay?

We certainly don't rely solely on the fire watch team to protect the plant from fire. The Harris Plant operates its fire safety program, as NRC regulations require, under a multi-layered fire safety philosophy. The fire safety program is three-tiered:

- 1) Fire prevention
- 2) Fire detection and suppression
- 3) Fire barriers

When one aspect of the three-tiered program has a deficiency, the NRC requires us to strengthen the other aspects of the program. The NRC has identified a deficiency with the fire barrier tier, so we have strengthened the fire prevention and fire detection tiers through the fire watch program.

Members of the fire watch program strengthen the fire prevention aspect by watching for and taking action to eliminate fire hazards. They've strengthened the fire detection aspect by walking the plant 24 hours a day, watching for fires.

Members of the fire watch program are subject to extensive background checks, drug screening, and other requirements necessary for anyone to become employed at the Harris Plant. They are required to participate in a fire watch training program, and successfully complete testing at the conclusion of that training in order to become a member of the program. That training includes understanding how to detect fires, knowing the appropriate actions to take if a fire is detected, and being proficient in the operation of fire extinguishers.

To say that we rely on fire watch to protect the plant is not accurate. Within these three tiers there are multiple layers of fire safety measures in place at the Harris Plant, including the use of fire retardant material, automatic detection devices, sprinkler systems, and, in some cases, separating equipment by thick concrete walls to prevent the spread of fire. The plant also has a team of 85 personnel qualified to serve in the on-site fire brigade, which is available 24 hours a day, seven days a week. In addition to the on-site brigade, off-site fire departments participate in plant drills and have proven they can be at the plant to assist within 10 minutes if necessary.

Also, the fire protection wraps that we are in the process of modifying are still effective fire barriers. In cases where the wrap is required to last one hour under more than 1500 degree heat, the material lasted no less than approximately 30 minutes during tests. In cases where the wrap is required to last three hours under more than 1500 degree heat, some of the material lasted the full three hours during tests, and none lasted less than approximately two hours. The fact that the wraps protect against fire for significant periods of time still qualifies them to be one of several fire safety measures.

We treat the salary information for all of our employees as confidential.

Question 2

Progress Energy has said that they spent \$13 million dollars in the last couple of years to improve fire safety at Harris. What exactly did you do? And if you spent that much, why are you still out of compliance with current regulations?

The \$13 million spent so far includes re-routing of cable to increase the distance between redundant safety systems, installation of a fire resistant cable (called Meggitt cable), installation of new fire barrier called Interam, established new three-hour fire barriers, added fire indicators and controls to the panel in the plant's main control room, added a manual transfer switch that allows us (in the event of a fire) to quickly provide power to a backup pump to ensure we can get water into the reactor coolant system within minutes (if the fire involves that system).

We also continue to conduct testing so that we can provide the most effective fire protection for all safety systems in the plant. The new guidelines (NFPA-805) require the plant to use a risk-informed approach, meaning that we will provide the highest level of fire protection necessary based on a risk analysis. In some areas of the plant, this means additional fire protection measures (new or additional layers of fire retardant material, for example) will be implemented. The old approach was a "one size fits all" approach. The new approach ensures we put the appropriate amount of fire protection in every area of the plant to ensure we are in full compliance without supplemental measures.

In terms of time, we conducted a thorough analysis to ensure that all components involved with the plant's safe shutdown were accurately evaluated, and that process took about four years. That analysis had to be completed in order for us to have the right information to make

modifications necessary to meet the new risk-informed approach. We are in the process of making those modifications now, though we are still conducting tests in certain areas to ensure the appropriate level of fire safety.

Question 3

Is Progress Energy required to file requests for exemptions with the NRC which allow Harris to continue compensatory measures to meet Fire safety operations under NRC enforcement discretionary authority? If so would you please have complete copies of those documents made available to The Town of Chapel Hill. How often are you required to apply, and what is the most recent date which Progress filed documents to continue the compensatory measures for fire protection.

The NRC allows the Harris Plant, under the guidelines of the plant's operating license, to use measures such as fire watch to meet fire safety standards. No formal filing is required. The Harris Plant began using the fire watch program (compensatory measure) in 2002.



Robert B. McGehee
Chairman and Chief Executive Officer

October 17, 2006

Mr. Jim Warren
Executive Director
NC WARN
P.O. Box 61051
Durham, North Carolina 27715

Dear Mr. Warren:

Allegations of inadequate fire safety at the Harris Plant are simply not true. As the NRC has stated publicly -- and as you repeated in your letter -- we are meeting the safety standard that the NRC expects us to adhere to. As you know, the NRC allows only safe plants to operate.

There are multiple layers of fire safety measures in place at the Harris Plant, including the use of fire retardant material, automatic detection devices, sprinkler systems, and, in some cases, separating equipment by thick concrete walls to prevent the spread of fire.

Additionally, we employ human fire protection, with an on-site fire brigade and teams of individuals who work in shifts around the clock, aggressively walking the plant in search of fires or fire hazards.

Over the last several years, the NRC's criteria for fire protection have changed. The Harris Plant has been responsive to the NRC's requests every step of the way and is making modifications to meet new NRC requirements in the time allowed by the NRC.

It is our responsibility to ensure that our plant operations do not adversely affect public health and safety or the environment. We take that responsibility seriously, as do the nearly 650 highly qualified and experienced Harris Plant employees and contractors. They work here and raise their families in this community. The last thing our employees would accept is an operating condition that presents a danger to themselves, their families or their neighbors.

Sincerely,

A handwritten signature in black ink that reads 'Robert B. McGehee'.

RBM:dcj

P.O. Box 1551
Raleigh, NC 27602

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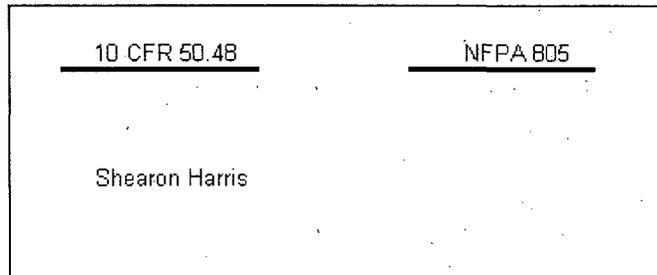
**Union of
Concerned
Scientists**

Citizens and Scientists for Environmental Solutions

CONCERNS ABOUT INADEQUATE FIRE PROTECTION AT SHEARON HARRIS

The Union of Concerned Scientists (UCS) joined the North Carolina Waste Awareness and Reduction Network (NC WARN) and the Nuclear Information and Resource Service (NIRS) in a petition dated September 20, 2006, to the Nuclear Regulatory Commission (NRC) seeking actions related to fire protection problems at the Shearon Harris nuclear plant. The concerns, their justifications, and our requested actions are all detailed in the petition. This paper highlights aspects of the petition for the NRC's Petition Review Board.

Through NRC inspection findings and reports submitted to the NRC by Harris' owner, it is clear that Harris does not comply with the fire protection regulations embodied in 10 CFR 50.48. Similarly, it is clear that Harris does not comply with fire protection regulations adopted more recently by the NRC as an equivalent alternative to 10 CFR 50.48 (these new alternative regulations will be referred to as the "NFPA 805 Regulations.") Progress Energy, which had been laboring to restore Harris to compliance with the 10 CFR 50.48 regulations, advised the NRC that it now seeks to place Harris in compliance with the NFPA 805 regulations at a pace that provides compliance several years from now. Thus, Harris has long been and will long remain out of compliance with the 10 CFR 50.48 / NFPA 805 regulations that provide adequate protection of public health – IF they are satisfied.



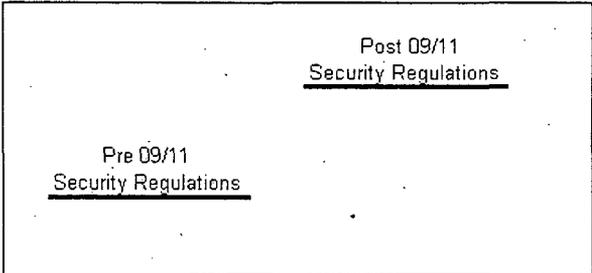
This situation is unacceptable for the following reasons:

1. Neither the NRC staff nor Progress Energy has evaluated the risk from Shearon Harris operating in non-compliance with the 10 CFR 50.48 / NFPA 805 for such a protracted period. In promulgating 10 CFR 50.48 and the NFPA 805 alternative, the NRC staff prepared a regulatory analysis showing how public health would be protected by the regulatory requirements. Obviously, that analysis does not apply when it is known that Harris is not in compliance with either regulation. Neither the NRC nor Progress Energy has defined how far below the minimum standard defined by the 10 CFR 50.48 / NFPA 805 regulations Harris stands (i.e, neither has quantified the difference between the risk level defined by compliance and the risk level associated with current non-compliance) – thus, neither can responsibly, honestly claim that Harris comports with the criteria in Regulatory Guide 1.174. The fact that Progress Energy – by its own admissions – is years away and many physical modifications away from achieving compliance with the NFPA 805 regulations strongly suggests that the non-compliance risk cannot continue to be neglected.

2. The current reliance on interim compensatory measures at Harris contradicts prudent regulatory practice and past NRC policy. In the early 1990s, Dr. Ivan Selin, then Chairman of the NRC, responded during a Congressional hearing on fire protection to a question about how long the agency intended interim compensatory measures to substitute for compliance with fire protection regulations with "six months." Extending reliance on interim compensatory measures at Harris far beyond "six months" towards nearly a decade constitutes careless disregard of the regulatory process. If indeed the so-called compensatory measures provided long-term protection of public health equivalent to that provided by compliance with the regulations, the NRC and/or Progress Energy could institute rulemaking to formally codify the measures as another suitable means of compliance. But neither has initiated such rulemaking and instead are scoffing at the existing regulations over a long haul.

3. The current reliance on interim compensatory measures at Harris puts Progress Energy in the position of regulating NRC, instead of the proper arrangement of NRC being the regulator. To date, Progress Energy has informed the NRC of its intentions for coming into compliance with the NFPA 805 regulations. The NRC has not made the scope and schedule for those intentions binding via an Order or other regulatory means. Consequently, Progress Energy could choose to take five more years to reach compliance and would need only update the NRC on its revised intentions. Likewise, Progress Energy rather than NRC controls the interim compensatory measures. As explained above, the interim compensatory measures are not specified within regulations and not governed by an NRC Order or other regulatory device. If Progress Energy chose to alter some of the compensatory measures (e.g, use less-expensive mannequins instead of actual people as fire watches), there's little NRC could do about it since there's no associated regulatory requirement. That's ridiculous. Compliance with NRC's regulations should not be up to the convenience and whims of the company. The NRC simply must have more of a role in requiring compliance with safety regulations than that of casual observer.

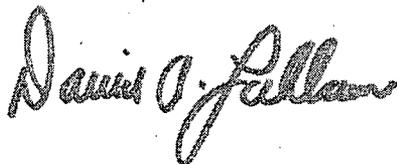
4. The unacceptability of the fire protection non-compliance situation at Harris is demonstrated by the NRC's stance on security regulations after 09/11. Those tragic events prompted the NRC to review its security regulations (10 CFR 50.73 et al) and make changes to protect the public in light of the new threat. Unlike the NFPA 805 regulations, the post 09/11 security regulations were not merely equivalent to existing regulations – they represented higher levels of security. Thus, it was understandable that plant owners would require time to meet the beefed-up security regulations. But unlike the NRC's handling of regulatory non-compliance at Harris, the NRC did not allow plant owners open-ended time frames for attaining compliance – the NRC Ordered them to achieve compliance within a specific period. And unlike the NRC's handling of interim compensatory measures at Harris, the NRC does not allow plant owners indefinite time frames for substituting interim compensatory measures for compliance. During the September 2006 public meeting on security, NRC's Glenn Tracy explained that interim compensatory measures are not equivalent to compliance and cannot be viewed as providing



equivalent protection. We agree, both in that security context and in the Harris fire protection safety context. IOUs are unreliable barriers.

The petition seeks to end unacceptable reactor operation at Shearon Harris. Either by shutting down the reactor and not allowing it to resume operating until Progress Energy has achieved compliance with applicable fire protection regulations or by imposing the daily civil penalty for each day that the reactor continues operating in flagrant violation of public health standards. Currently, Progress Energy's leisurely pace for restoring compliance with fire protection regulations suggests that the company has financial performance ahead of safety performance. Moral and legal obligations alone do not appear sufficient to compel the company to swifter action.

Prepared by:

A handwritten signature in cursive script, reading "David A. Lochbaum".

David A. Lochbaum
Director, Nuclear Safety Project
Union of Concerned Scientists