

LAW OFFICES

LOWENSTEIN, NEWMAN, REIS & AXELRAD

1025 CONNECTICUT AVENUE, N. W.

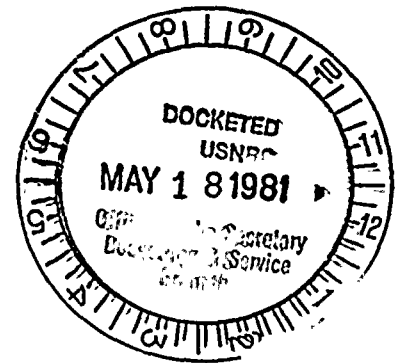
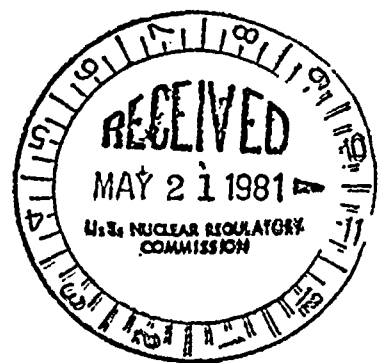
WASHINGTON, D. C. 20036

202-862-8400

ROBERT LOWENSTEIN
JACK R. NEWMAN
HAROLD F. REIS
MAURICE AXELRAD
KATHLEEN H. SHEA
J. A. BOUKNIGHT, JR.
MICHAEL A. BAUSER
DOUGLAS G. GREEN

E. GREGORY BARNES
ALBERT V. CARR, JR.
ANNE W. COTTINGHAM
KATHLEEN A. COX
ROBERT H. CULP
PETER G. FLYNN
STEVEN P. FRANTZ
FREDERIC S. GRAY
ALVIN H. GUTTERMAN
DAVID G. POWELL*
DAVID B. RASKIN
DONALD J. SILVERMAN

*ADM. KEN.



May 15, 1981

Marshall E. Miller, Chairman
Dr. Emmeth A. Luebke
Dr. Oscar H. Paris
U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board
Washington, D.C. 20555

Re: In the Matter of Florida Power and
Light Company (Turkey Point Nuclear
Generating Units 3 and 4);
Docket Nos. 50-250-SP, 50-251-SP;
(Proposed Amendments to Facility
Operating License to Permit Steam
Generator Repairs)

Dear Members of the Board:

On April 27, 1981, the NRC Staff served a pleading entitled "NRC Staff Objections to Proposed Amended Contention 1 and Third Motion for Summary Disposition," which objected to the Intervenor's proposed amendments to Contention 1 and moved for the summary disposition of Contentions 1 and 4B. On April 30 and May 5, 1981, Florida Power & Light Company (FPL) filed pleadings which also objected to the proposed amendments to Contention 1 and supported the motion for the summary disposition of Contentions 1 and 4B. On May 12, 1981, the Intervenor filed its "Response to NRC Staff Objections to Proposed Amended Contention 1 and Licensee's Motion to dismiss Contention 1," in which it stated, among other things, that it would file a

*Encl. See
Hearing Jacket*

8105220 354

J DS03
S/11



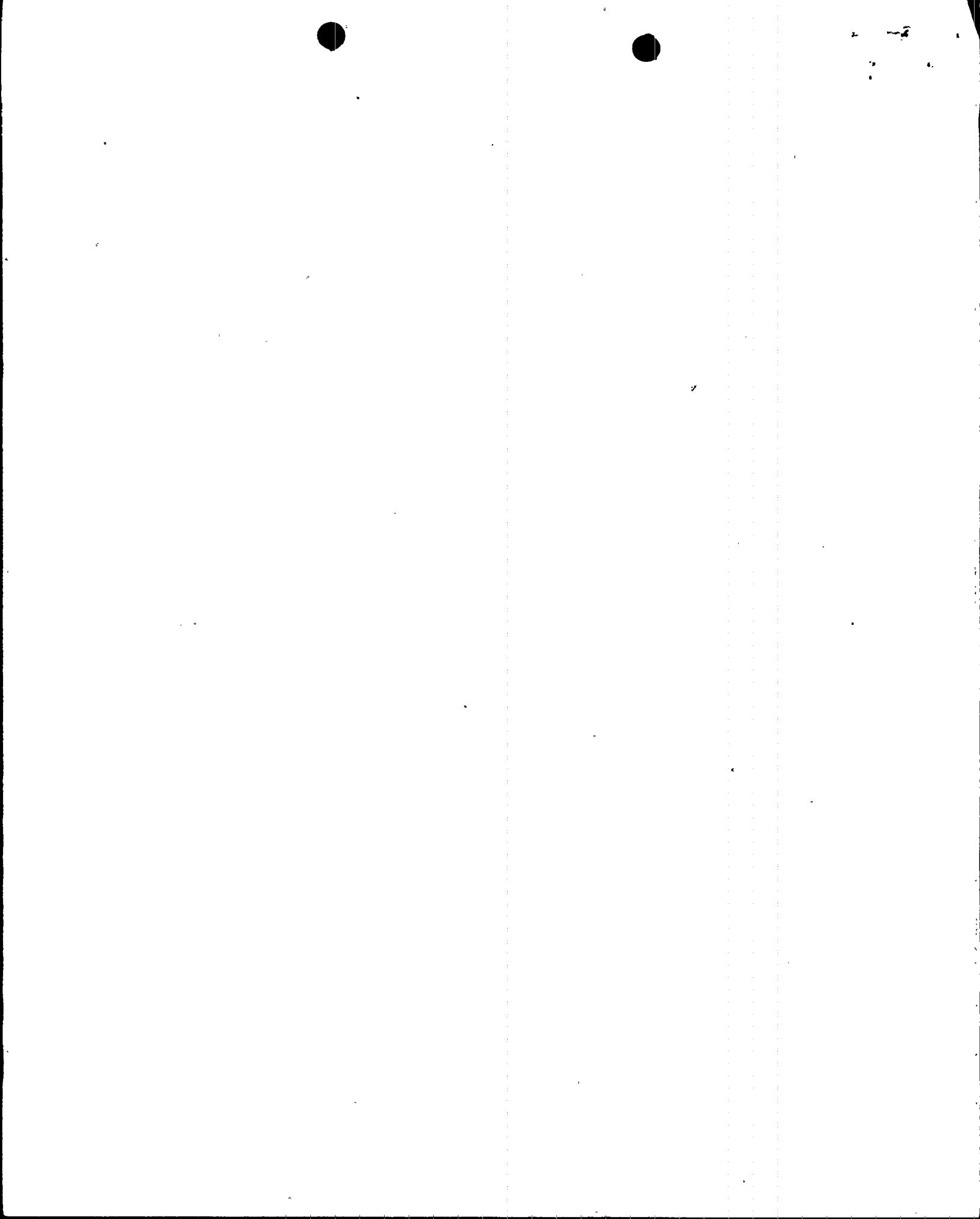
Marshall E. Miller, Chairman
Dr. Emmeth A. Luebke
Dr. Oscar H. Paris
May 15, 1981
Page Two

separate answer to the motion for summary disposition by May 20, 1981. The Board has not yet ruled on the objections or the motion for summary disposition.

Nevertheless, the schedule negotiated by the parties to this proceeding and the Licensing Board's "Order Accepting Negotiated Schedule," dated February 23, 1981, requires the parties to file their prepared testimony on May 15, 1981. Accordingly, FPL is transmitting herewith the "Testimony of Frederick G. Flugger, Habib H. Jabali, and P. K. Wan Relating to Contention 4B." That testimony is in question-and-answer form as requested by the Chairman during a conference call with the parties on March 9, 1981.

Naturally, this testimony cannot address any response which the Intervenor may hereafter file to the motion for summary disposition of Contention 4B or to the Board's future ruling on the motion. Consequently, in the event that the motion for summary disposition is denied, we request that the Licensing Board extend to FPL the opportunity to supplement the testimony so that it may directly address the material fact or facts as to which the Board may find a genuine issue to be heard. Depending upon the time available, the testimony could be supplemented by additional prepared written testimony or on the witness stand.

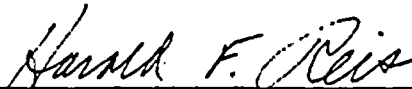
Similarly, FPL is unable at this time to submit prepared testimony on Contention 1. As originally phrased, the Contention is moot if interpreted literally and confined to the question whether an environmental impact statement should be prepared; if interpreted as Intervenor subsequently suggested at the prehearing conference on March 24, 1981, i.e., "whether or not that EIS factually and legally complies with the law . . ." (Tr. 33), the amended contention is wholly lacking in specificity. (Tr. 11-14, 33-36, 42-43). It is not possible to address testimony to so unspecific a contention. In the event that the Board hereafter admits any of the proposed amendments to Contention 1 or otherwise



Marshall E. Miller, Chairman
Dr. Emmeth A. Luebke
Dr. Oscar H. Paris
May 15, 1981
Page Three

rules that an evidentiary hearing is required as to any matter, FPL also requests the opportunity to submit appropriate testimony.

Respectfully submitted,



Harold F. Reis
Steven P. Frantz
LOWENSTEIN, NEWMAN, REIS & AXELRAD
1025 Connecticut Avenue, N. W.
Washington, D. C. 20036
Telephone: (202) 862-8400

cc: See attached Certificate of Service

