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RE: In the Matter of Florida Power & Light Company
(St. Lucie Nuclear Power Plant No. 2 - Docket 50-389)

Dear Members of the Board:

Enclosed is "Applicant's Response to Additional Testimony of Karl Z. Morgan served Thursday, December 16, 1976".

Respectfully submitted,

Norman A. Coll

Norman A. Coll

NAC/pv
Enclosure

cc: See attached Certificate of Service

50-389
H 4

APPLICANT'S RESPONSE TO
ADDITIONAL TESTIMONY OF
KARL Z. MORGAN SERVED THURSDAY, DECEMBER 16, 1976

Applicant objects to the testimony of Karl Z. Morgan served upon the parties and the Board, December 16, 1976, which consists of the following two documents:

A. Two page typewritten document entitled "St. Lucie II Hearings-Miami, Florida December 16, 1976 Supplementary Testimony of Karl Z. Morgan, School of Nuclear Engineering, Georgia Institute of Technology, Atlanta, Georgia 30332" together with four page chart entitled "Table A Deficiencies of Table 2 in the NRC Supplemental Testimony where Comparisons Are Made of Advantages of Various Sites". (The two typewritten pages have already been stricken by the Board [Tr. 6122, 6137]).

B. Five handwritten pages entitled "Other Comments of K. Z. Morgan in reference to St. Lucie II - December 16, 1976, Miami, Florida" with four pages of typed tables attached.

GENERAL OBJECTIONS - UNTIMELINESS

The offered testimony of Karl Z. Morgan was not served five days in advance of the hearing session at which it

was to be presented as required by 10 C.F.R. § 2.743(b). Intervenors waited until the morning of December 16, 1976, after the hearings had resumed December 15, 1976 to serve this testimony. Intervenors have failed to demonstrate any substantial good cause why this most recent testimony was not prepared, filed and served in the interim between the last session of the hearing, December 4 and December 16, 1976. (Tr. 6076).

SPECIFIC OBJECTIONS - TYPED TESTIMONY

Applicant has the following specific objections to this testimony, which, after the Board's order, (Tr. 6122, 6137) now consists solely of Table A:

1. Much of the material contained in the column of Table A entitled "Comments of KZM" is not testimony. In some instances it is simply a "comment" (See No. 9); in others, it consists of questions (See 8b and 11); in still others it would appear to be an opinion that Dr. Morgan is not qualified by background and experience to furnish. (See items 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14 and 15).
2. Item 1 is objectionable on the grounds that it purports to furnish a legal opinion which the witness is not qualified to give.

3. Items 12, 13, 14 and 15 are objectionable on the grounds that each constitutes a challenge to regulations of the Nuclear Regulatory Commission which is not permitted in this proceeding.

4. The following items from Table A are repetitious, having been included and addressed by Dr. Morgan in prepared written testimony served initially on December 2, 1976 and introduced into evidence December 16, 1976. (Follows Tr. 6192):

TABLE A.	DEC. 2 TESTIMONY
Item 6	Paragraph 1
Item 7	Paragraph 4
Item 12	Paragraph 8
Item 13	Paragraph 8
Item 14	Paragraph 2
Item 15	Paragraph 6

10 C.F.R. § 2.743(c) provides that only relevant, material, and reliable evidence "which is not unduly repetitious" will be admitted. To the extent that this testimony has been previously received from Dr. Morgan, it should not again be received.

SPECIFIC OBJECTION -- HANDWRITTEN TESTIMONY

Applicant has the following specific objections to this testimony:

A. The Paragraph entitled "A. Doubling of Population Dose" questions the propriety of putting two units on a single site. It also states that "If St. Lucie II were built on Hutchinson Island, the dose permitted to the neighboring population (in accordance with NRC's own rules) would be doubled." This appears to be an impermissible challenge to the Commission's regulations, including 10 C.F.R. § 100.11(b)(3). This testimony is also a reiteration of Paragraph 6 of the December 2 testimony, which has been previously offered. To the extent that it is repetitous, it should not be admitted pursuant to 10 C.F.R. § 2.743(c).

B. Subparagraph 1 entitled "Routine Populations" appears to be a general attack by the witness on an alleged failure of the NRC to require reactor redesign and new operating techniques to reduce in-plant exposure. It mistakenly assumes but argues that the NRC "believes its task is to promote nuclear power". This

entire portion of the testimony is unrelated to St. Lucie Plant Unit No. 2, is irrelevant and immaterial to any issue in this case about alternative sites, and should be stricken pursuant to 10 C.F.R. 2.743(c).

C. Subparagraph 2 entitled "Accidental Situations" concludes that the consequences of an accident on Hutchinson Island would be greater than one at the Martin Plant site in the event of an unspecified, but presumably class nine, "nuclear accident". The consequences of such an accident need not be considered in a NEPA cost/benefit analysis. Carolina Environmental Study Group v. United States, 510 F.2d 796 (D.C. Cir. 1975). To the extent that the conclusion in this paragraph is also premised on population density and difficulties of egress, it is a reiteration of Paragraphs 1 and 2 of the December 2 testimony. Consequently this testimony is repetitious, immaterial, and irrelevant to the issues in this case and should be stricken pursuant to Rule 10 C.F.R. 2.743(c).

D. Paragraph C entitled "Consequences of Low Doses to Population" purports to demonstrate certain "consequences" which could occur if the linear hypothesis is incorrect. The analysis is entirely unrelated to St. Lucie Plant Unit No. 2, except for the last sentence in the second full paragraph, on page 4, which assumes that by locating two plants on a site, the permissible population dose increases from 5 man-rems a year to 10 man-rems a year. This assumption is not supported by the record, and is directly contrary to the testimony in the record in this proceeding concerning compliance with Appendix I. Testimony of Walton A. Rodger relating to Appendix I follows Tr. 3638, page 6, 13; Testimony of Michael A. Parsont, follows Tr. 4562, page 6, 8, Tr. 4575. Consequently, the remainder of the testimony, which purports to show a variation from the linear hypothesis which is based upon the erroneous premise of an increase from 5 to 10 man-rems per year, is totally unrelated

to St. Lucie Plant Unit No. 2, is irrelevant and immaterial, and should be stricken pursuant to 10 C.F.R. § 2.743(c).

Respectfully submitted,

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BY: Norman A. Coll
NORMAN A. COLL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by mail, this 21st day of December, 1976, to the following:

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