January 23, 1979


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | DOCKET NOS. 50-400, |
| CAROLINA POWER & LIGHT COMPANY | ) | 50-401, |
| (Shearon Harris Nuclear Power | ) | 50-402 |
| Plant Units 1, 2, 3, and 4) | ) | and 50-403 |

APPLICANT'S RESPONSE TO CONSERVATION COUNCIL OF NORTH CAROLINA AND WAKE ENVIRONMENT, INC.'S MOTION TO REMAND TO LICENSING BOARD FOR FURTHER HEARINGS

By motion dated January 8, 1979, Conservation Council of North Carolina and Wake Environment, Inc. (intervenors in the above-captioned proceeding)(hereinafter "Intervenors") moved to the Commission "to remand to the Licensing Board the issue as to whether there is a need for the proposed [Harris] facility within the time frame set forth in the construction permits and to direct the Licensing Board to take further evidence regarding this issue." In support of its motion, Intervenors point to an order entered on December 28, 1978 by the North Carolina Utilities Commission (hereinafter "NCUC") which formally adopted a 1978 load forecast and capacity plan for North Carolina. The load forecast and capacity plan is contained in a report entitled, Future Electricity Needs for North Carolina: Load Forecast and Capacity - 1978, (December,



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1978)(hereinafter "NCUC Report"), previously forwarded by letter from Applicant dated January 3, 1979, to the NRC Office of Nuclear Reactor Regulation with a copy to the Commissioners, among others.[1] Intervenors also note that the NCUC has scheduled a hearing to be held in mid-year 1979, whereby Applicant and other utilities serving customers in North Carolina will be required to demonstrate why their construction schedules should not be modified to match the NCUC capacity plan. Intervenors further move that "the Commission direct the Licensing Board to make an independent investigation of the issues to be covered in the NCUC mid-1979 hearings." For the reasons set forth below, Applicant requests that the Commission deny Intervenors' motion.[2]

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1 The NCUC Report is incorporated herein by reference.

2 It is unclear to Applicant what relief Intervenors are seeking in their motion. Contrary to the requirements of 10 C.F.R. § 2.730(b), Intervenors have not stated with particularity the relief sought, much less the grounds for the motion. Intervenors have not asserted that based on the information in the NCUC Report the construction permits for the Harris units should be suspended or in any way amended. Intervenors have not asserted that there is no longer a need for the Harris Plant or that the new forecast and the projected revisions to the construction plan could conceivably result in more than a slight modification to the construction schedule for the Harris units. As far as Applicant can surmise from Intervenor's motion, Intervenors simply would like the Licensing Board to "take further evidence regarding [the need-for-power] issue" and to make an "independent investigation of those issues which are to be covered" by the NCUC in hearings to be held in mid-1979. It is also unclear whether Intervenors would have the Licensing Board provide such a duplicative function prior to, concurrent with, or subsequent to the NCUC's hearings.

JURISDICTION OF THE COMMISSION

On January 23, 1978, an Atomic Safety and Licensing Board issued an initial decision authorizing construction permits for the Shearon Harris Nuclear Power Plant. 7 NRC 92 (1978). On August 23, 1978, that initial decision was affirmed by an Atomic Safety and Licensing Appeal Board in ALAB-490. 8 NRC 234 (1978).[3] On the basis of an administrative letter dated August 30, 1978, from the members of the Harris Licensing Board, the Commission remanded to the Licensing Board the Harris Proceeding "for a further hearing on the management capabilities of CP&L to construct and operate the proposed Shearon Harris facility without undue risks to the health and safety to the public." CLI-78 - ___, 8 NRC __ (September 15, 1978).

Intervenors assert "apparently all matters relating to this case are pending before the full Commission, except for the previously remanded portion of the proceeding dealing with the management qualifications of CP&L." Intervenors' Motion at 2. We question whether, in fact, the Commission has retained jurisdiction over all matters in this proceeding excepting the

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3 The Appeal Board deferred decision with respect to the environmental impacts of the release of radon-222, and its effect on the Licensing Board's cost benefit balance. The Appeal Board noted that it anticipates reaching the radon issue after disposing of the issue in one or more of the cases in which it is contested. ALAB-490, 8 NRC at 242.

remanded issue. The Licensing Board's jurisdiction in this proceeding is limited to the one issue of Applicant's management capability as per the Commission's Order of September 5, 1978. The Appeal Board has retained jurisdiction only with respect to the radon issue.[4] Within thirty days after the date of an Appeal Board decision, the Commission may "in cases of exceptional legal or policy importance", review the decision on its own motion. 10 C.F.R. § 2.786(a). The Appeal Board decision was dated August 23, 1978. The only action by the Commission between the Appeal Board decision and thirty days thereafter was to issue the September 5, 1978 Order remanding the proceeding to the Licensing Board for further hearings on Applicant's management capabilities. The remand was prompted by the concerns expressed in the August 30, 1978 letter from the Licensing Board. The Commission did not move to review any other aspect of the Appeal Board decision nor did the Commission state that it was reserving its jurisdiction over any other aspect of the Appeal Board decision. No other party filed a petition for review with the Commission within the fifteen day period required by 10 C.F.R. § 2.786(b)(1).

As contemplated by 10 C.F.R. § 2.770 when the Commission reviews a decision it may "limit the issues to be reviewed". It is at least implicit in the regulations with

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4 See note 3 supra.

respect to the Commission's review of Licensing Board and Appeal Board decisions (see 10 C.F.R. § 2.770 and 2.786) that the findings and decisions concerning issues, which the Commission in its discretion choses not to review, represent the final findings and decisions of the Commission. This should be especially true where initiation of the sole remanded issue here was in response to the Licensing Board's administrative communication with the Commission. This interpretation of the Commission's jurisdiction in this proceeding is consistent with the rule of practice, based on sound policy that, when an issue is once decided and reviewed, that should be the end of the matter. The unreserved decision on a question of law or fact made during the course of litigation settles that question for all subsequent stages of the suit.[5]

INTERVENORS HAVE NOT MET AND CANNOT MEET THE BURDEN OF PROOF REQUIRED OF THE MOVING PARTY BEFORE THE COMMISSION CAN REMAND TO THE LICENSING BOARD, REOPEN THE RECORD AND RECONSIDER AN ISSUE PREVIOUSLY FULLY CONSIDERED AND DECIDED BY THE LICENSING BOARD AND APPEAL BOARD

We are reluctant to have the Commission deny Intervenors' motion solely for failure to state with

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5 Barrett v. Baylor, 457 F.2d 119, 123 (7th Cir. 1972) (citations omitted)(distinguished in Public Service Company of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-493, 8 NRC 253, 259-60 (1978)); Cf. Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-513, 8 NRC ___ (December 21, 1978).

particularity the relief requested and the grounds for such relief, or for want of jurisdiction. A party could properly fashion a petition to reopen the record on the basis of newly discovered evidence and challenge a construction permit. See e.g. 10 C.F.R. § 2.206. Assuming arguendo that the Commission has jurisdiction to entertain this motion[6] and that Intervenors had fashioned an understandable motion to remand to the Licensing Board, to reopen the record and to reconsider the issue of the need for the plant (with some relief requested), the motion should be denied because Intervenors have failed both to offer a significant new circumstance, new trend or new fact sufficient to justify reopening the record and to demonstrate that a different result would have been reached initially had such new information been considered.

In its initial decision, the Licensing Board found that "the four Shearon Harris Nuclear power units will be needed as now scheduled, or sooner, and that this need is not diminished by increased consumer use of alternative energy sources or energy conservation or increasing electrical rates over the next 15 years." 7 NRC at 139. The Licensing Board

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6 In Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-359, 4 NRC 619, 621 (1976), the Appeal Board similarly dismissed a motion to reopen where the issue of jurisdiction was unclear (but the proper disposition of the petition was clear) by assuming arguendo jurisdiction was with the Appeal Board.

indicated that its conclusions as to need-for-power would remain unchanged "even if forecasts predicted an even lower peak demand in the forecasted period". (emphasis supplied). The Board also noted that "applicant has in the past demonstrated that it is ready to and capable of deferring its scheduled construction when required by conditions in its industry." For example, the Board noted that CP&L "could certainly delay its nebulous 1150 megawatt nuclear plant labelled 'SRI' which is currently scheduled for operation in 1989." Id.

In ALAB 490, the Appeal Board affirmed the Licensing Board's initial decision while specifically addressing only one issue, i.e. the need for the power to be generated by the facility. The Appeal Board noted that following the close of the evidentiary hearing, the Applicant transmitted to the Licensing Board for its information (1) a revised forecast which embodied somewhat lower growth rates than had the earlier forecast proffered by its witness; and (2) the newest (1978) NCUC Public Staff forecast of growth rates. The new forecasts predicted a lower growth rate than the forecasts that were in evidence at the hearing. 8 NRC at 238-239. In its decision, the Appeal Board gave great weight to the NCUC forecast. NCUC is under a statutory obligation to keep current analyses of long-range needs for expansion of facilities for the generation of electricity in North Carolina. Where the NCUC forecast was

subject to scrutiny and cross-examination and not found to be flawed, the Appeal Board held that the NRC could attach heavy reliance on the judgment of the local Commission which has a legal obligation to ensure that utilities meet customer demands. 8 NRC at 240-241.

The NCUC Report relies primarily on the same 1978 NCUC Public Staff forecast that was before the Licensing Board and Appeal Board. The NCUC has determined that the probable range of annual peak load growth for Applicant through 1992 is 4.4% to 6.5%. Within this range the most probable peak load growth rate for planning was found to be 5.2%. NCUC Report at 9. In reaching this conclusion, the NCUC basically adopted the NCUC Public Staff's 1978 base case forecast of 6.7% growth and qualitatively adjusted it to account for actual 1978 peaks and to incorporate the NCUC's belief that conservation and load management can reduce the rate of peak load gr h. Id. at 19-21. The NCUC recognized, however, that the proposed reductions "depend upon increased levels of conservation and load management" (id. at 21) and stated that "significant efforts should be expended by the utilities to help effect . . . changes in usage patterns." Id. at 22.

Based upon its expectation of achieving a reduction in the rate of growth to 5.2%, the NCUC concluded that the inservice dates for Applicant's units under construction could be extended at least one year, but in no case greater than two

years and still maintain adequate reserves. Id. at 22 and 24. The NCUC recogni ed, however, the "paucity of conrete data available . . . concerning actual methods of achieving the expected levels of conservation and load management" (id. at 26) and its "responsibility to insure that the continued economic growth of the state is not impaired by lack of adequate utility services" (id. at 27), specifically noting that industry expanded in 1978 at about twice the rate of the previous year (id. at 26). Therefore, the NCUC deferred any decision to require Applicant or other electric utilities to adjust their construction schedules until after completion of hearings planned for mid-1979. Before any decision to require adjustment of construction schedules the NCUC desires to examine more detailed projections of industrial usage and the planning model of the State Budget Office, in addition to the information to be provided by the utilities. Id. at 26-27.

On December 20, 1978, Applicant submitted a revised forecast and construction schedule to its Board of Directors (which along with the NCUC Report was submitted to the Office of Nuclear Reactor Regulation with copies to the Commission by letter of January 3, 1979).[7] Applicant also forecasts a slightly slower growth (5.35% through 1992) than the Company's

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7 Applicant's revised forecast and capacity plan are incorporated herein by reference.

previous forecast (5.7%). Applicant's generating capacity addition schedule eliminates a 1150 MW undesignated nuclear unit ("SRI") formerly projected for 1989 and adds two undesignated 720 megawatt units for 1991 and 1992, respectively. However, no changes in the construction schedule or inservice dates are currently projected by Applicant for units under construction, including the four Harris units.

The burden required of a moving party to reopen the record and the sound policy reasons behind that burden were articulated in denying a motion for reconsideration of the need-for-power issue on the basis of new evidence in Duke Power Company (Catawba Nuclear Station, Units 1 and 2), supra at 620-21, and bear repeating here:

> After a decision has been rendered, a dissatisfied litigant who seeks to persuade us - or any tribunal for that matter - to reopen a record and reconsider "because some new circumstance has arisen, some new trend has been observed or some new fact discovered," has a difficult burden to bear. The reasons for this were cogently given by Mr. Justice Jackson more than thirty years ago in ICC v. Jersey City, 322 U.S. 503, 514 (1944):
>
> > One of the grounds of resistance to administrative orders throughout federal experience with the administrative process has been the claims of private litigants to be entitled to rehearings to bring the record up to date and meanwhile to stall the enforcement of the administrative order. Administrative consideration of evidence - particularly where the evidence is taken by an examiner, his

> report submitted to the parties, and a hearing held on their exceptions to it - always creates a gap between the time the record is closed and the time the administrative decision is promulgated. This is especially true if the issues are difficult, the evidence intricate, and the consideration of the case deliberate and careful. If upon the coming down of the order litigants might demand rehearings as a matter of law because some new circumstance has arisen, some new trend has been observed, or some new fact discovered, there would be little hope that the administrative process could ever be consummated in an order that would not be subject to reopening.[8]

This "difficult burden" includes a showing that "a different result would have been reached initially had [the new information] been considered".[9]

The Appeal Board has consistently ruled that a minor change in the forecast of the electric demand in an applicant's service area is not significant new evidence that would warrant reopening a proceeding on a construction permit application. The decisions of the Appeal Board have recognized the "substantial margin of uncertainty" inherent in any forecast.

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8 Accord, United States v. ICC, 396 U.S. 491, 521 (1970); Northern Indiana Public Service Company (Bailly Generating Station, Nuclear-1), ALAB-227, 8 AEC 416, 418 fn. 4 (1974); Cleveland Electric Illuminating Company (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 750-51 (1977).

9 Northern Indiana Public Service Company (Bailly Generating Station, Nuclear-1), supra, at 418, citing Unarco Industries, Inc. v. Evans Products Company, 403 F.2d 638 (7th Cir. 1968); and Knight v. Hersh, 313 F.2d 879 (D.C. Cir. 1963).

Thus in Niagara Mohawk Power Corporation (Nine Mile Point Nuclear Station, Unit 2), ALAB-264, 1 NRC 347, 365-66 (1975), the Appeal Board found a two year difference between applicant's and intervenors' forecasts within the margin of uncertainty. A two year difference in the forecasted need for the plant was also found to be within the margin of uncertainty in Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit 1), ALAB-477, 7 NRC 766, 770 (1978), and, thereby, the new forecast was insufficient new information to grant a petition for reconsideration. Even if the NCUC adopts its proposed capacity plan based on its new forecast, the inservice dates for Applicant's units under construction could be extended generally only one year, and in no case greater than two years. NCUC Report at 22 and 24.

Here, there really is little new information. The NCUC Report is based on the NCUC Public Staff forecast which was before the Licensing Board and Appeal Board. While the actual 1978 peaks are now available, the main rationale of the somewhat reduced probable peak load growth rate (5.2%) for planning purposes is a more optimistic view of the effects of conservation and load management.[10] Id. at 19-21. This

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10 The probable range of annual peak-load growth for Applicant is 4.4% to 6.5%. NCUC Report at 9. Under Applicant's present construction plan for the Harris units, Applicant would not have sufficient reserves if the high-end of that range (6.5%) were achieved. See

optimism is admittedly based on a "paucity of concrete data". Id. at 26. The NCUC recognizes the paramount importance of flexibility in its capacity plan. Id. at 17. The NCUC has the responsibility of ensuring that the continued economic growth of the state is not impaired by a lack of adequate utility service. Id. at 27. Thus, the NCUC plans annual updates of its forecast and capacity plan. Id. at 17. Flexibility will permit delays in construction schedules if conservation and load management programs are even more successful than predicted, or acceleration of construction schedules if industrial growth is faster than predicted or if conservation and load management programs do not significantly impact the peakload growth rate. Because the NCUC recognized the inherent uncertainties in its own forecast and capacity plan, applicant and other utilities are not required to delay their construction schedules pending further examination of these issues in detail in mid-year 1979. Id. at 27.

It is particularly inappropriate that Intervenors petition the Commission to "direct the Licensing Board to make an independent investigation of the issues to be covered in the NCUC mid-1979 hearings." As stated by the Appeal Board in

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(continued)
7 NRC at 138. It is reasonable for a utility company to favor the high side of forecast load demand to ensure it is always prepared for unexpectedly high demands. Niagara Mohawk Power Corporation (Nine Mile Point Nuclear Station, Unit 2), supra at 366.

Rochester Gas and Electric Corporation (Sterling Power Project Nuclear Unit 1), ALAB-502, 8 NRC ___, ___ (slip opinion at 5)(October 19, 1978), in response to a petition to reopen the record on need-for-power, "little useful purpose would be served were we now to undertake a duplication of the inquiry being made by the state body [with jurisdiction over the issue]." Further, as established by the Appeal Board decision in this proceeding, the findings of the NCUC, as that state body charged by law with the responsibility of providing up-to-date analyses of, inter alia, the probable future growth of the use of electricity, are entitled to be given great weight. 8 NRC at 240. The National Environmental Policy Act does not require a completely independent investigation of the projected load forecasts of each applicant for a construction permit in the first instance; "heavy reliance" may be placed on the judgment of local regulatory bodies. There is no rational basis for suggesting that a NRC Licensing Board should independently investigate a state utilities commission's annual review of electricity forecasts and capacity plans, especially where the Licensing Board and Appeal Board have already found the benefit of the power from a facility, now under construction, is needed and outweighs any environmental impacts - a determination based, in part, on the same state utilities commission's earlier credible findings.

"'Need for power' is a shorthand expression for the 'benefit' side of the cost-benefit balance which NEPA mandates

for a proceeding considering the licensing of a nuclear power plant." Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-422, 6 NRC 33, 90 (1977). At the outset, inquiry must be made into whether there exists a genuine need for the electricity to be produced. Thereafter, the focus shifts to the relative costs and benefits of alternatives to the proposed facility. Finally there is an overall balancing of costs and benefits; the costs associated with the selected alternative must be balanced against the benefit achieved by meeting the degree of demand anticipated. Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station), ALAB-179, 7 AEC 159, 175-76 (1974). In other words, the need-for-power issue is important to ensure environmertal costs are not incurred where there is no countervailing benefit. A need-for-power in Applicant's service area was found and the Harris facility was found to be the preferred alternative. The benefit from the power to be generated by the plant was found to outweigh any environmental impacts.

Construction activity has been on-going at the Harris site since the issuance of a construction permit over a year ago. As can be seen in the photographs attached to the Affidavit of Mr. M. A. McDuffie (attached hereto as Appendix A) and as attested to by Mr. M. A. McDuffie, considerable progress has been made in placing concrete and reinforcing steel at the plant site, particularly in the lower elevations

of the Unit 1 power block. In addition, the main reservoir has been cleared and work is proceeding on the dam where Applicant is excavating, cleaning, mapping and grouting the core trench. The west auxiliary reservoir has been cleared and work is progressing on excavating, cleaning, mapping and grouting the core trench for that dam. In all, Unit 1 is 12% complete while Units 2, 3, and 4 are less than 1% complete. Applicant has thus far spent $570,000,000 on the Harris project and has outstanding contractual commitments for an additional $269,000,000. Approximately 3,400 personnel are employed working on the Harris construction effort.

Thus, the environmental impacts of the Harris facility have to a large extent been realized. Considerable economic resources have been expended. The actual cost-benefit balance at this moment is heavily tipped to the cost side, awaiting the expected benefits. Rehashing the need-for-power issue at this point makes no sense. It is no longer relevant in the NEPA context, particularly where almost all non-operational environmental impacts have already occurred and where even with a change in the inservice date for Harris Unit 1 to coincide with the capacity plan in the NCUC Report, construction work would not be suspended. See Appendix A at 2-3. Whether any unit of the Harris facility should be delayed from its present construction schedule is purely an economic issue, which is very much the concern of the NCUC. The Appeal

Board decisions discussed above, which declined to reopen the record and reconsider the need-for-power question due to new forecasts, have all the more effect here where the issue of the delay of units under construction is a straightforward economic issue, exclusively within the jurisdiction of state regulatory bodies.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

George F. Trowbridge
John H. O'Neill, Jr.

Dated: January 23, 1979

AFFIDAVIT OF
M. A. MCDUFFIE

M. A. McDuffie, having been first duly sworn, hereby deposes and says as follows:

1. My name is M. A. McDuffie. My business address is Carolina Power & Light Company, 411 Fayetteville Street Mall, Raleigh, North Carolina 27602.

2. I am employed by Carolina Power & Light Company as Senior Vice President, Engineering and Construction. As Senior Vice President in charge of the Engineering and Construction Group, I am responsible for supervision of personnel in the Power Plant Engineering Department, the Power Plant Construction Department, the Engineering and Construction Support Services Department, the Technical Services Department, and the Transmission System Engineering and Construction Department who have responsibilities for the engineering, design and construction of the Shearon Harris Nuclear Power Plant.

3. Since the construction permit was issued for the Shearon Harris Plant in January, 1978, construction has proceeded at an accelerated pace in order to recover time previously lost in the licensing process. Construction is progressing in three main areas. These are (1) the plant site, (2) the Main Reservoir, and (3) the West Auxiliary Reservoir. Relative locations of these facilities are noted on Figure 1, Vicinity Map.

At this stage of construction, our major efforts at the plant site are directed toward placing reinforcing steel and concrete in the lower elevations of the Unit 1 power block. The Unit 1 power block (as shown on Figure 2) is composed of Containment 1, Reactor Auxiliary 1, Reactor Auxiliary Common, Turbine 1, Fuel Handling and Waste Processing. Most foundation mats for these buldings have been placed and walls and columns are beginning to rise. The floor liner plate has been installed and installation of the wall liner plate is active in Containment 1. Other work in progress can be seen on Figure 3, which is an aerial photo of the plant site.

The Main Reservoir has been cleared except for about 250 out of a total of 4,000 acres and work is proceeding on the dam where we are excavating, cleaning, mapping and grouting the core trench. The diversion conduit is also being installed. The West Auxiliary Reservoir has been cleared and work is progressing on excavating, cleaning, mapping, and grouting the core trench for that dam. In all, Unit 1 is 12% complete. While Units 2, 3, and 4 are each less than 1% complete, because of the unique nature of the site, major environmental impacts associated with site utilization have occurred for these units as well as for Unit 1.

4. As a result of construction activities to date, most of the non-operational environmental impacts associated with plant construction have already occurred and major commitments of resources in the form of equipment and supplies have been made as a result of the advanced stage of procurement of the nuclear steam supply system. Not only has most of the 4,000-acre Main Reservoir been cleared (see Figure 4), but so too has

the West Auxiliary Reservoir. In addition, excavation has begun for both the Main and Auxiliary Dams (see Figure 5).

5. As of December 31, 1978, just over $570 million has been spent on the Harris project. At the present time there are approximately 3,400 personnel actively associated with engineering, design or construction activities. In addition to the $570 million already expended on the project, another $269 million in contractual obligations is currently outstanding.

6. Under no presently foreseeable shift in in-service dates, including the in-service schedule proposed in the North Carolina Utilities Commission's December 1978 Load Forecast and Capacity Plan, would it be more economical to halt construction than to adjust the pace of construction. Neither would a halt in construction associated with a change in in-service dates materially reduce or alter the environmental impacts which are associated with utilization of the Harris site.

M. A. McDuffie

M. A. MCDUFFIE

Sworn to and subscribed before me

this 22d day of January, 1979.

Margaret M. Cox

Notary Public

My commission expires: July 7, 1980

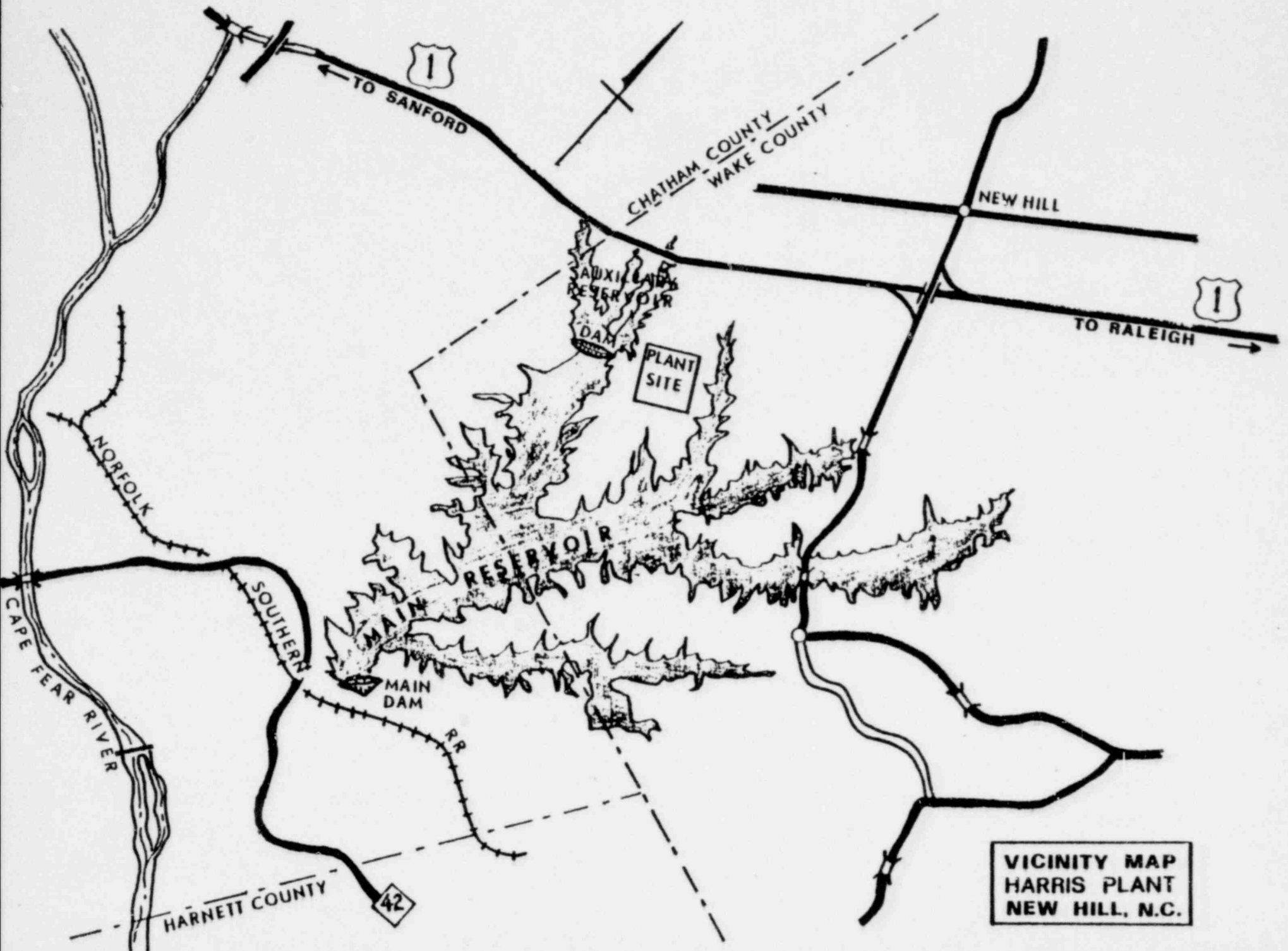
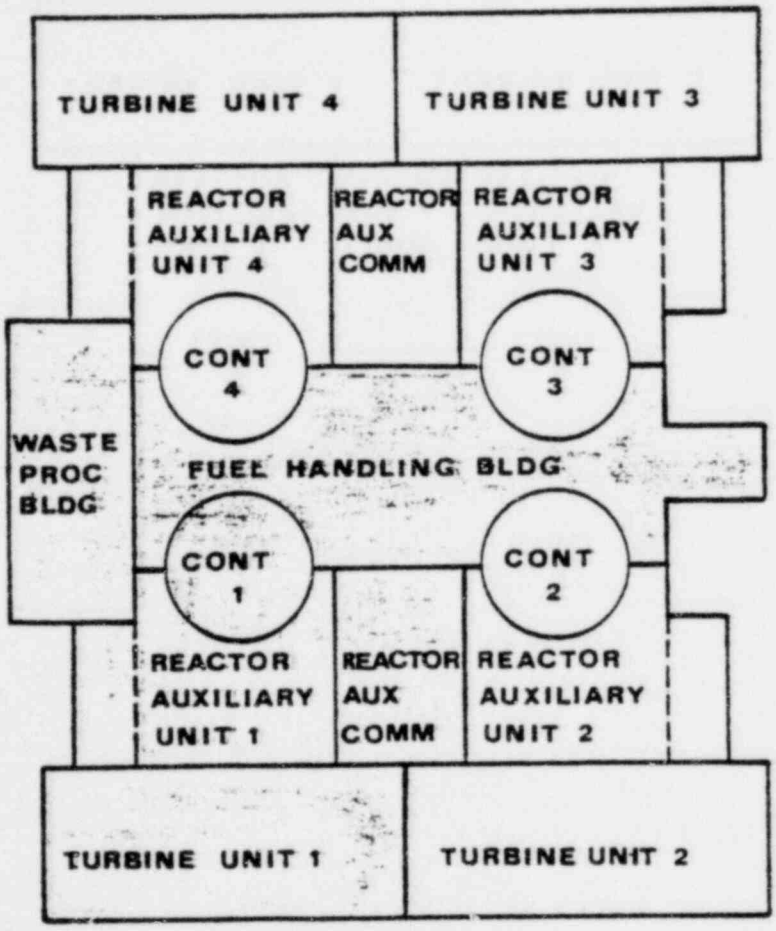

TO SANFORD
1
CHATHAM COUNTY
WAKE COUNTY
NEW HILL
AUXILIARY RESERVOIR
DAM
PLANT SITE
1
TO RALEIGH
NORFOLK
SOUTHERN
MAIN RESERVOIR
CAPE FEAR RIVER
MAIN DAM
RR
HARNETT COUNTY
42
VICINITY MAP
HARRIS PLANT
NEW HILL, N.C.

FIGURE 1

COOLING TOWER NO. 4

COOLING TOWER NO 3

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SHADED AREA DENOTES UNIT 1 POWER BLOCK

COOLING TOWER NO 1

COOLING TOWER NO 2

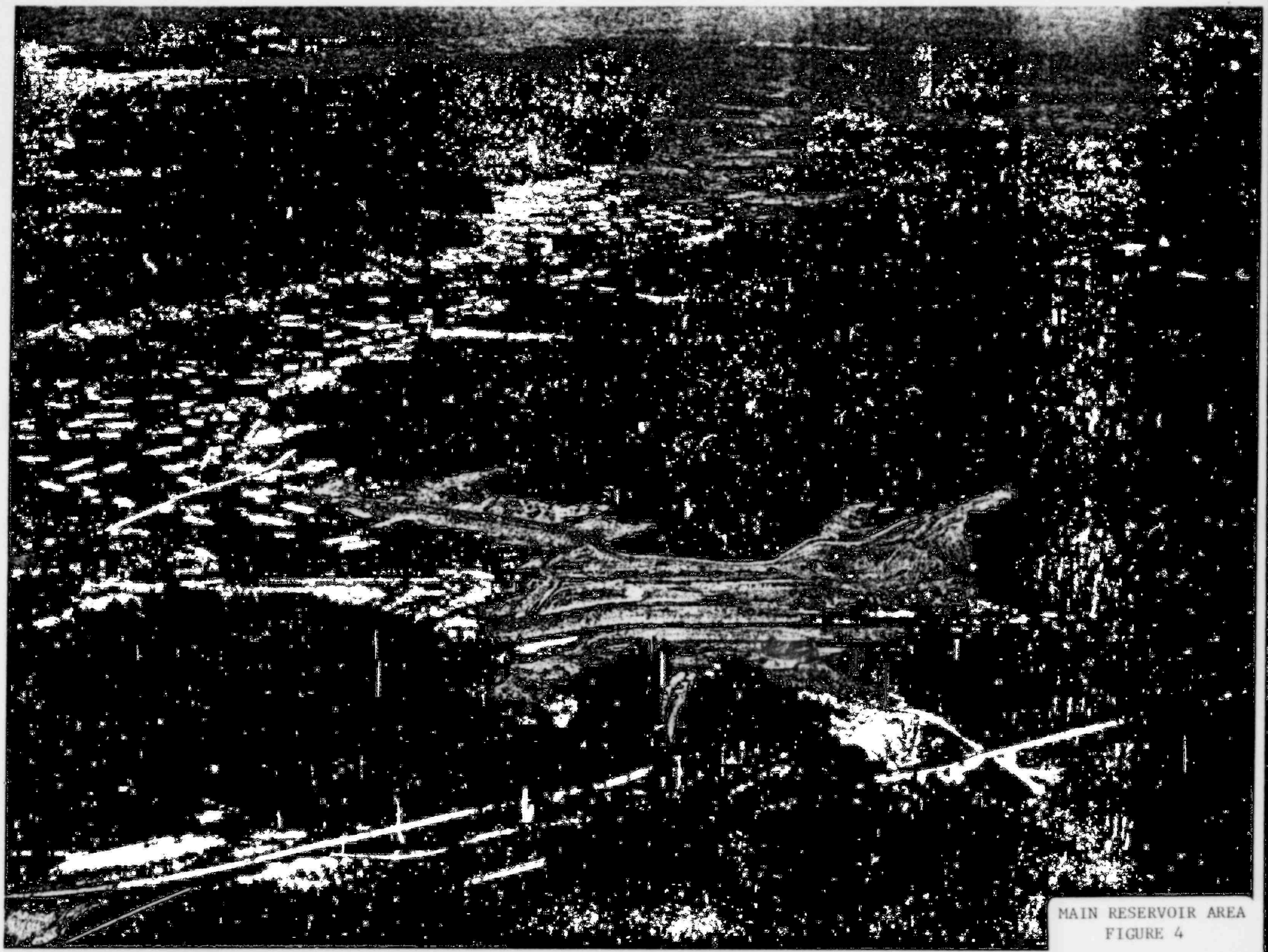
**BUILDING ARRANGEMENT**

HARRIS PLANT

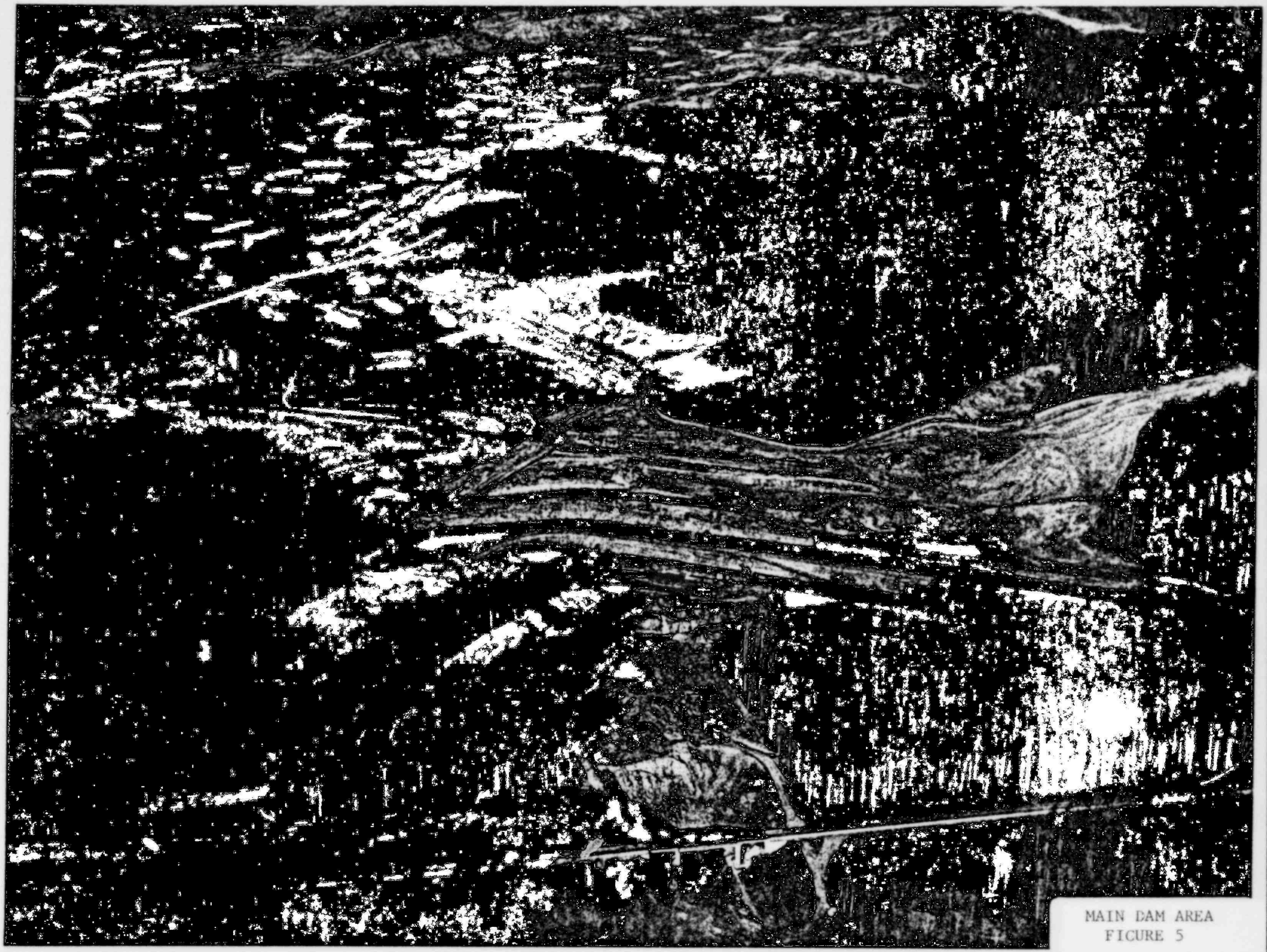
**NEW HILL, N.C.**

FIGURE 2

HARRIS CONSTRUCTION
FIGURE 3



MAIN RESERVOIR AREA
FIGURE 4



MAIN DAM AREA
FIGURE 5

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| CAROLINA POWER & LIGHT COMPANY | ) | Docket Nos. 50-400 |
| | ) | 50-401 |
| (Shearon Harris Nuclear Power | ) | 50-402 |
| Plant, Units 1, 2, 3 and 4 | ) | 50-403 |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "APPLICANT'S RESPONSE TO CONSERVATION COUNCIL OF NORTH CAROLINA AND WAKE ENVIRONMENT, INC.'S MOTION TO REMAND TO LICENSING BOARD FOR FURTHER HEARINGS" have been served upon each of the persons listed on the attached service list by mail, postage prepaid, or by hand-delivery, this 23rd day of January, 1979.

John H. O'Neill, Jr.

Dated: January 23, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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SERVICE LIST

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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

The Honorable Victor Gilinsky
Commissioner
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

The Honorable Richard T. Kennedy
Commissioner
U.S. Nuclear Regulatory Commission
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The Honorable Peter A. Bradford
Commissioner
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