

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

7/1/80

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
DUKE POWER COMPANY	)	Docket Nos. STN 50-488
	)	50-489
(Perkins Nuclear Station	)	50-490
Units 1, 2 and 3)	)	

NRC STAFF'S SUPPLEMENT TO ITS  
OPPOSITION TO INTERVENORS' MOTION  
TO RECONSIDER OR REOPEN THE RECORD

On June 26, 1980, the Staff filed its opposition to the Intervenor's motion to reconsider or reopen the record in the present proceeding. In that response, the Staff argued, inter alia, that the Intervenor's motion was untimely filed in that the ten day period prescribed by 10 C.F.R. §2.771 for the filing of motions for reconsideration had elapsed.

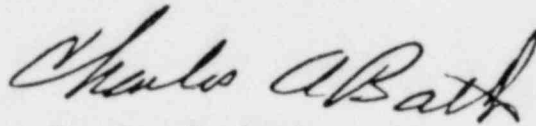
In its recent Memorandum and Order (ALAB-597) filed in this proceeding on June 20, 1980, the Appeal Board ruled upon a request by the Intervenor for an extension of time to file their exceptions to the February 22, 1980 partial initial decision of the Licensing Board in this case. LBP-80-9, 11 NRC 310.

In that opinion the Appeal Board observed that:

In this regard, there is no substance to the Staff's argument to us that Intervenor's June 6 motion [for reconsideration] must be deemed untimely because not filed within 10 days of the rendition of the partial initial decision. The ten day limitation contained in 10 CFR 2.771(a) - upon which the staff relies - is in terms applicable solely to final Commission decisions (i.e., those decisions rendered upon ultimate appellate review of initial decisions (see 10 CFR 2.770)). ALAB-597, slip op. at 8, n. 9.

In view of the Appeal Board's ruling noted above, the NRC Staff withdraws the argument presented to the Licensing Board in its June 26, 1980 pleading and no longer asserts that the Intervenors' motion was untimely filed. The Staff does, however, reaffirm its position that the motion should be denied in that it fails to meet the standards for reconsideration or reopening.

Respectfully submitted,

A handwritten signature in cursive script that reads "Charles A. Barth". The signature is written in dark ink and is positioned above the typed name.

Charles A. Barth  
Counsel for NRC Staff

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CERTIFICATE OF SERVICE

I hereby certify that copies of NRC STAFF'S SUPPLEMENT TO ITS OPPOSITION TO INTERVENORS' MOTION TO RECONSIDER OR REOPEN THE RECORD, in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 1st day of July, 1980.

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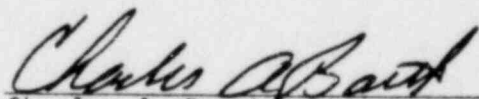
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