

Staff 8/18/81

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
DUKE POWER COMPANY, ET AL.  
(Catawba Nuclear Station,  
Units 1 and 2)

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)  
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Docket No. 50-413  
50-414



NRC STAFF RESPONSE TO PETITIONS TO INTERVENE SUBMITTED  
BY CHARLOTTE-MECKLENBURG ENVIRONMENTAL COALITION,  
CAROLINA ENVIRONMENTAL STUDY GROUP, AND SAFE ENERGY ALLIANCE

I. Introduction

Pursuant to the "Notice of Receipt of Application for Facility Operating Licenses... and Notice of Opportunity for Hearing" published in the Federal Register on June 25, 1981 (46 Fed. Reg. 32974 (1981)), the Charlotte-Mecklenburg Environmental Coalition (CMEC), the Carolina Environmental Study Group (CESG), and the Safe Energy Alliance (SEA) each filed a Petition to Intervene and a Request for a Hearing (Petition) on the issuance of operating licenses for the Catawba Nuclear Station, Units 1 and 2. These petitions were submitted on or before the July 27, 1981 filing deadline<sup>1/</sup> stated in the Federal Register Notice and thus

<sup>1/</sup> The SEA Petition was filed on July 23, 1981 and received by Staff counsel on August 3, 1981. CMEC's Petition was submitted on July 24, 1981 and received by counsel on August 6, 1981. The Petition submitted by CESG was filed on July 27, 1981 and received by counsel on August 5, 1981.

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should be considered timely.<sup>2/</sup> The Staff opposes the Petition of SEA but does not object to the Petitions filed by CMEC and CESG. The requirements for intervention as described in the Commission's regulations and case law and the Staff's position on each of the Petitions is explained below.

## II. Discussion

### A. Requirements for Intervention

#### 1. Petitioners Must Meet the "Interest" Requirement of 10 CFR § 2.714

Section 2.714 of the Commission's Rules of Practice sets forth the requirements for intervention. Specifically, that section states, in part:

The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene . . . .

10 CFR § 2.714(a)(2).

In determining whether the "interest" requirement has been satisfied, the Commission has ruled that contemporaneous judicial

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<sup>2/</sup> The Notice published in the Federal Register in accordance with 10 CFR § 2.105 stated that requests for a hearing or petitions to intervene must be filed with the Secretary of the Commission and that copies should also be sent to the Executive Legal Director of the Nuclear Regulatory Commission and to the Applicant's attorney, J. Michael McGarry. 46 Fed. Reg. 32974, 32975 (1981). CMEC, CESG, and SEA did not follow these instructions, however. Staff counsel received their Petitions through a circuitous route and then forwarded copies to the Secretary of the Commission and to the Applicant's attorney. The Staff requests the Board to impress upon the Petitioners the necessity of complying with the Commission's Rules of Practice in the future.

concepts of standing are to be applied. Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-14 (1976). Thus, a petitioner, in order to show "interest," must meet the judicial standing principles which require a showing that: (1) some injury has occurred or will probably result from the action involved and (2) the interest alleged is "arguably within the zone of interests" protected by the statutes being enforced. Association of Data Processing Service Organizations v. Camp, 397 U.S. 150, 153 (1970); Sierra Club v. Morton, 405 U.S. 727 (1972); Warth v. Seldin, 422 U.S. 490 (1975).

In establishing "injury in fact," a petitioner seeking to intervene in a proceeding may not assert a generalized grievance shared by all or a large class of citizens. Transnuclear, Inc., CLI-77-24, 6 NRC 525, 531 (1977). Rather, a petitioner must particularize a specific injury that it or its members would or might sustain. Nuclear Engineering Co. (Sheffield, Illinois, Low-Level Radioactive Waste Disposal Site), ALAB-473, 7 NRC 737, 741-43 (1978).

With respect to the "zone of interests" test, the Atomic Energy Act is addressed to, inter alia, the protection of the radiological health and safety of the public. Thus, the zone of interests created by that Act embraces an interest in the avoidance of a threat to health and safety as a result of radiological releases from the nuclear facility, either in normal operation or as a result of an accident.<sup>3/</sup> Virginia Electric and

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<sup>3/</sup> The economic interest of a ratepayer, however, is not sufficient to allow standing to intervene as a matter of right since concern about rates is not within the scope of interests sought to be protected by the Atomic Energy Act. Kansas Gas & Electric Co., et al. (Wolf Creek Generating Station, Unit 1), ALAB-424, 6 NRC, 122, 128 (1977).

Power Co. (North Anna Power Station, Units 1 and 2), ALAB-342, 4 NRC 98, 105 (1976).

The Appeal Board held that residence within 30-40 miles of the site is sufficient to show interest to raise safety questions (Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 190; aff'd, CLI-73-12, 6 AEC 241 (1973)) and that a person whose base of normal, everyday activities is within 25 miles of a nuclear facility can be presumed to have an interest which might be affected by reactor construction or operation (Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-183, 7 AEC 222, 226 (1974)). This was recently reiterated by the Appeal Board in Virginia Electric and Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 56 (1979) (geographical proximity of a member's residence to a facility is sufficient, standing alone, to satisfy the interest requirements of 10 CFR § 2.714). Accord, Consumers Power Co. (Palisades Nuclear Power Plant), LBP-79-20, 10 NRC 108 (1979) (residence as far away as 40-50 miles from a reactor may provide a foundation for standing).

2. Petitioners Must Meet the "Aspect" Requirement of 10 CFR § 2.714

In addition to demonstrating "interest", a petitioner must set forth "the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene." 10 CFR § 2.714(a)(2). While there is little guidance in NRC case law as to the meaning of "aspect" as the term is used in § 2.714, it appears that a petitioner may satisfy this requirement by identifying general potential effects of the licensing action which are within the scope of matters that may be considered in the proceeding. See, Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), Licensing Board "Memorandum and Order Ruling on Petitions and Setting Special Prehearing Conference", dated September 21, 1979, Slip Op. at 6.

3. Corporate Petitioners Must Satisfy Additional Requirements

Finally, both the Atomic Energy Act of 1954 (42 U.S.C. §§ 2011 et seq.) and the Commission's regulations permit intervention only by a "person whose interest may be affected." The term "person" in this context includes corporate environmental groups which may represent members of the group provided that such members have an interest which will be affected. Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-322, 3 NRC 328 (1976). Where an organization's standing hinges upon its being the representative of a member who has the requisite interest, there must be some concrete evidence that the member wishes to have that interest represented in

the proceeding. Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-535, 9 NRC 377, 396 (1979).

Further, under § 2.713 of the Commission's Rules of Practice, a "partnership, corporation or unincorporated association may be represented by a duly authorized member or officer, or by an attorney-at-law." 10 CFR § 2.713(b) (emphasis added). Thus, where an organization is represented by one of its members, the member must demonstrate authorization by that organization to represent it. Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 (1977).

B. Petitioners' Interest and Standing

1. Charlotte-Mecklenberg Environmental Coalition

In its Petition, CMEC requests that a hearing be conducted on the issuance of operating licenses for the Catawba Nuclear Power Station and asks for leave to intervene "on its own behalf" and "on behalf of its members...."<sup>4/</sup> CMEC Petition at 1. CMEC asserts that it represents the

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<sup>4/</sup> CMEC also states in its Petition that it represents "other persons who are similarly situated...." CMEC Petition at 1. Although, as noted above, a corporate organization may represent its members who could be affected by the proceeding, a person may not assert the interests of third persons (Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2), ALAB-413, 5 NRC 1418, 1421 (1977)) and a corporate organization cannot be deemed to represent the interests of other persons who are not members. Long Island Lighting Co. (Shorcham Nuclear Power Station, Unit 1), LBP-77-11, 5 NRC 481 (1977). Thus, the reference to "other persons who are similarly situated" should be disregarded.

interests of a local chapter of the League of Women Voters, the Joseph LeConte Chapter of the Sierra Club, the Carolina Environmental Study Group, the Davidson Energy Group, and the Safe Energy Alliance. CMEC Petition at 2. The Petitioner encloses affidavits from the above-mentioned groups which attest that CMEC does represent them "in the matters considered in this Petition." Id.

In the Staff's view, CMEC meets most of the requirements for intervention. First, that group asserts that almost all of its members "live within 35 miles of Catawba Nuclear Station" and that it believes "that the operation of the facility poses a clear threat to [their] health...." CMEC Petition at 1. While the "clear threat" alleged by CMEC is not defined, CMEC is not asserting a mere generalized grievance on behalf of citizens at large. It has met the "injury-in-fact" test. Further, CMEC meets the "zone of interests" test inasmuch as it asserts that its members may be directly affected by a release of radioactive materials.<sup>5/</sup>

Second, CMEC satisfies the "aspect" requirement of § 2.714.

Petitioner asserts:

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<sup>5/</sup> The Petitioner also appears to argue that its standing can be based on their "economic interest" as ratepayers. CMEC Petition at 2. As noted above, however, the economic interest of a ratepayer is not sufficient to allow standing to intervene as a matter of right. See Note 3, supra.

- (1) that the Applicant's cost-benefit analysis is defective (CMEC Petition at 2);
- (2) that assessments of routine releases of radionuclides from the facility are deficient (CMEC Petition at 3);
- (3) that Applicant's cost-benefit analysis is inadequate because it does not take into account possible infestation of the Asiatic Clam Corbicula (CMEC Petition at 4-5);
- (4) that the probabilistic analysis used by the NRC Staff in licensing proceedings is inadequate (CMEC Petition at 5); and
- (5) that emergency response and permanent relocation plans must be developed for the city of Charlotte and that the cost of such plans should be included in the Applicant's cost-benefit analysis (CMEC Petition at 5).

The "aspects" of the proceeding in which the Petitioner desires to participate all appear to be within the scope of the proceeding<sup>6/</sup> and thus are permissible. Accordingly, it is the Staff's position that CMEC has satisfied the "aspect" requirement.

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<sup>6/</sup> In several instances, CMEC challenges conclusions reached in the Final Environmental Statement (FES) issued by the Staff for the Catawba plant. See, e.g., CMEC Petition at 2, 3, 4. Although it is not clear from the references made by CMEC, the Staff assumes that the Petitioner is concerned about conclusions reached in the FES related to the construction permit granted the Applicant in 1975. That document, however, was subject to scrutiny in the construction permit proceedings for Catawba (Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-74-22, 7 AEC 659 (1974) (Partial Initial Decision on Environmental Issues)) and is not now subject to challenge.

The Staff, however, takes no position on whether the assertions made by CMEC in its Petition are sufficiently precise and have the requisite basis to be considered contentions under the Commission's regulations. Section 2.714(b) of 10 CFR allows a petitioner to supplement its petition to intervene up to 15 days prior to the first prehearing conference to include a list of contentions which it seeks to have litigated in the proceeding. A date certain for a prehearing conference has not yet been set and CMEC may very well supplement its Petition before such a conference is held. The Staff will respond to contentions filed in a supplemental petition or, if such a supplement, will respond to the assertions made in the instant Petition to Intervene.

Finally, although CMEC has satisfied the interest and aspects requirements of § 2.714, the Petitioner is required to demonstrate, in accordance with § 2.713(b), that its representative, Mr. Presler, has been authorized to participate in the Catawba licensing proceeding as a representative of CMEC and its members who have an interest in the proceeding.<sup>7/</sup> On the condition that such authorization is demonstrated and that the Petitioner ultimately satisfies the contention requirement of 10 CFR § 2.714(b), CMEC's request for a hearing should be granted and that group should be admitted as a party to the proceeding.

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<sup>7/</sup> CMEC has satisfied the Allens Creek (ALAB-535, supra) requirement that an organization must provide concrete evidence that at least one member of the organization who possesses the requisite interest wishes to have that interest represented in the proceeding. Mr. Presler, Chairman of CMEC, executed an affidavit, a copy of which is attached to the CMEC Petition, affirming the contents of the Petition and stating that he resides in Charlotte, North Carolina. In addition, members of several groups who belong to CMEC executed affidavits stating that CMEC did represent them in the Catawba proceedings.

2. Carolina Environmental Study Group

CESG also requests a hearing on the issuance of operating licenses for Catawba and asks leave to intervene in those proceedings.<sup>8/</sup> The Petitioner states that it "presently numbers 150 members, most of whom live within 30 miles of the Catawba site...." CESG Petition at 1. Its members are concerned with the adverse effects that the operation of the facility may have on their health and safety. Id.

Petitioner CESG has met the intervention requirements of § 2.714(a). It is asserting that its members may be harmed by the Catawba plant and that its members may be directly affected by the release of radioactive materials. Thus, CESG meets both the "injury-in-fact" and the "zone of interests" tests of standing.

By setting forth several concerns, CESG also satisfies the "aspect" requirement of § 2.714(b). Specifically, the Petitioner asserts:

- (1) that the "hydrogen matter" remains unresolved (CESG Petition at 2);

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<sup>8/</sup> CMEC in its Petition states that it represents CESG in the matters CMEC raises. An affidavit to that effect signed by Lilith Quinlan Otey of CESG is attached to the CMEC Petition. Although the arrangement between CMEC and CESG is not clear, the Staff considers CESG to be representing itself on the matters it raised in its Petition and considers CMEC to be representing it on matters raised in the CMEC Petition.

- (2) that emergency planning for the Catawba facility should include the cities of Rock Hill and Charlotte (CESG Petition at 3);
- (3) that the "entire spectrum of serious release accidents" should be considered in the EIS for Catawba (CESG Petition at 3);
- (4) that crisis relocation planning should be required in the zone over which particulate releases could be expected (CESG Petition at 3); and
- (5) that certain welds were made at below specification temperatures (CESG Petition at 4).

In the Staff's view, these assertions fall within the scope of the proceeding and thus CESG has satisfied the "aspects" requirement of § 2.714(a).<sup>9/</sup> For the reasons stated with regard to CMEC's Petition, however, the Staff does not take a position on whether these assertions are sufficient to satisfy the contention requirement of § 2.714(b).

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<sup>9/</sup> CESG also raises issues concerning environmental matters, the Staff's cost-benefit analysis, the issuance of an EIS, and the transportation of spent fuel.

As with CMEC, the Petitioner has until 15 days prior to the first prehearing conference to formally submit contentions. The Staff will respond to contentions filed in a supplemental petition or, absent such a supplement, will respond to the assertions made in CESG's Petition to Intervene.

In accordance with § 2.713(b), CESG has filed an affidavit which indicates that the Board of Directors of that organization has voted to participate in the Catawba proceeding and has authorized Mr. Riley to act on behalf of CESG.<sup>10/</sup> Thus, CESG has complied with the intervention requirements of § 2.713(b), as well as those in § 2.714(a), and should be permitted to intervene in the Catawba licensing proceedings, provided, of course, that CESG ultimately satisfies the contention requirements of § 2.714(b).

### 3. Safe Energy Alliance

SEA, on July 23, 1981, filed a request "to become an intervening party in the Operating License Hearings on the Catawba Nuclear Station Unit[s] 1 and 2." SEA Petition at 1. Attached to the SEA Petition is an affidavit from Donald Joseph Tate of Charlotte, North Carolina who attests that SEA is authorized to represent his interests in the Catawba

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<sup>10/</sup> CESG, by attaching an affidavit from one of its members, has also satisfied the requirement that an organization provide evidence that at least one of its members wishes to have his or her interest represented in the proceeding by that organization.

proceedings. In the Staff's view, SEA does not have the requisite "interest" to intervene in these proceedings because, while it identifies one member who lives in the area of the plant and generally identifies aspects it wishes to pursue, it has not alleged specific injury which it or its members may suffer as a result of the licensing action in question.

By its own admission, SEA is a "group of citizens concerned about the safety of nuclear power." SEA Petition at 1. That group professes "no scientific expertise" but believes that the public should be fully informed as to certain issues. SEA Petition at 1. Aside from the one member who executed an affidavit, there is no indication that SEA members reside in the area of the Catawba facility. Indeed, there is no indication that any member of SEA is concerned about the operation of the Catawba plant in particular. SEA appears to be asserting a "generalized grievance" and has not alleged any type of specific injury.<sup>11/</sup> Thus, that group has not demonstrated an "interest" in the proceeding as required by § 2.714(a) and should not be permitted to intervene.

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<sup>11/</sup> In a similar instance where a petitioner organization identified a member who resided relatively close to the facility involved but did not particularize how the interests of that member might be adversely affected, the Appeal Board ruled that the organization lacked standing. Allied-General Nuclear Fuel Services (Barnwell Fuel Receiving and Storage Station), ALAB-328, 3 NRC 420 (1976). Accord, Virginia Electric and Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-536, 9 NRC 402, 404 (1979).

Although a petitioner such as SEA lacks standing to intervene as of right under § 2.714(a), that petitioner may be admitted to a proceeding at the discretion of the Licensing Board. Portland General Electric Co., et al. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610 (1976). Here, however, that course of action is inappropriate.

The Pebble Springs decision outlined several factors for a Licensing Board to consider in determining whether to grant discretionary intervention. The factors weighing in favor of allowing such intervention are: (1) the extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record, (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Weighing against intervention are the following factors: (4) the availability of other means whereby petitioner's interest will be protected, (5) the extent to which the petitioner's interest will be represented by existing parties, and (6) the extent to which the petitioner's participation will inappropriately broaden or delay the proceeding. Id. at 616.

While SEA presents no argument on the issue of discretionary intervention, upon review of the SEA Petition in its entirety, the Staff concludes that the group does not fall within the guidelines outlined in Pebble Springs. CMEC, a group whose Petition the Staff does not oppose, has indicated that it is representing SEA in the matters CMEC raises in

its Petition. An affidavit to that effect signed by Lori A. Glosemeyer of SEA is attached to CMEC's Petition. In its Petition, however, SEA raises issues already raised by its representative, CMEC: (1) the absence of an evacuation plan for the city of Charlotte and (2) the need for a reexamination of low-level radiation dangers. These concerns are specifically mentioned in, items 4 and 6 of CMEC's Petition.

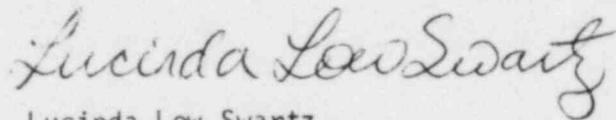
Thus, inasmuch as SEA has no standing to intervene in the proceeding but, at the same time, may be represented in the proceeding by another organization, SEA meets none of the Pebble Springs factors weighing in favor of intervention. Because it lacks expertise, participation by SEA would not assist in developing a sound record. Moreover, that group has no demonstrable interest which could be affected by the proceeding. Weighing against discretionary intervention is the fact that another Petitioner, CMEC, will represent SEA in the Catawba proceeding and SEA will not be harmed by being denied permission to intervene as a separate organization. The Licensing Board should not, as a matter of discretion, grant SEA's Petition.

### III. Conclusion

The Staff concludes that Petitioners CMEC and CESG have satisfied the interest and aspects requirements of 10 CFR § 2.714. In the event

these Petitioners satisfy the contention requirement of 10 CFR § 2.714(b), their requests for a hearing should be granted and the Petitioners should be admitted as parties to the proceeding.<sup>12/</sup> SEA, however, has not demonstrated a sufficient "interest" in the proceeding and should not be permitted to intervene as a matter of discretion.

Respectfully submitted,



Lucinda Low Swartz  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 18th day of August 1981.

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<sup>12/</sup> As noted above, CMEC must also indicate, pursuant to § 2.713(b), that it has authorized Mr. Presler to represent it in the Catawba proceedings.

Received in E.L.P. 876701

UNITED STATES OF AMERICA  
BEFORE THE NUCLEAR REGULATORY COMMISSION

RECEIVED

Charlotte-Mecklenburg  
Environmental Coalition,  
Petitioner,

In the Matter of:

DUKE POWER COMPANY, ET AL.  
(Catawba Nuclear Station,  
Units 1 and 2),  
Applicants,

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DOCKET NOS. 50-4130  
and  
50-414

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PETITION TO INTERVENE AND REQUEST FOR HEARING

Charlotte-Mecklenburg Environmental Coalition, on its own behalf, on behalf of its members and on behalf of other persons who are similarly situated, hereby petitions for leave to intervene in the above-captioned license proceedings as a party of record, requests that public hearings be conducted at which it will be afforded an opportunity to be heard, and requests this Application for Operating License be denied, or be so conditioned, as Petitioner will hereafter demonstrate in order that the operation of the facility will be consistent with the health and safety of the public, and consistent with the economic interest of people in the Applicants' service area. This relief is sought under the provisions of 10 CFR 2.714 and pursuant to Notice of Receipt of Application for Facility Operating Licenses, published June 25, 1981. In support of this Petition and Request for Hearing, the Charlotte-Mecklenburg Environmental Coalition would respectfully show:

1. That Charlotte-Mecklenburg Environmental Coalition, 943 Henley Place, Charlotte, N.C. 28207 represents, in this petition, the interests of Carolina Action, the local

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Aug. 21, 1981

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chapter of the League of Women Voters of North Carolina, the Joseph LeConte Chapter of the Sierra Club, the Carolina Environmental Study Group, the Davidson Energy Group, and the Safe Energy Alliance. Petitioner encloses herewith an affidavit from each of these groups attesting that the Charlotte-Mecklenburg Environmental Coalition (hereafter, CMEC) represents it in the matters considered in this Petition.

2. CMEC represents about 1350 persons--the combined membership of the above six groups added to CMEC's individual members. Almost all of these 1350 persons live within 35 miles of the Catawba Nuclear Station, the great majority in Charlotte and Mecklenburg County; some live or own property within a few miles of the proposed facility. Inasmuch as the prevailing south-west wind would carry radioactive emissions, either routine or accidental, from the facility to Charlotte and Mecklenburg county, and inasmuch as these airborne emissions are predictably precipitated into the watershed from which our members draw their drinking water, we believe that the operation of the facility poses a clear threat to our health on the basis of our reading of the 'Environmental Report' (hereafter ER) and the 'Final Environmental Statement' (hereafter FES). Inasmuch as almost all our members purchase power from the Applicant, our economic interest in the Applicant's "Cost-Benefit Analysis" for the facility is clear; we find that analysis to be seriously defective.

3. Petitioner's reading of the FES prepared by the NRC Staff and the ER prepared by the Applicant indicate that our health and

economic interests are not represented by either the Applicants or the Commission Staff. Indeed we find that the Applicants' interest is contrary to our own.

4. Petitioner's analysis of both the ER and the FES indicates that both documents are seriously deficient and in error in their assessments of routine releases of radionuclides from the proposed facility. For example:

a) we find the methods and models used in the ER and the FES to calculate the concentrations of radionuclides that will result downstream from liquid radioactive releases to most seriously underestimate the degree of concentrations that will in fact result. We are prepared to demonstrate, for instance, that ~~liquid~~ releases of tritium from the facility will result in concentrations greater than obtain at present by, minimally, a factor of 3.

b) We find no mention of the fact that with the McGuire plant in operation, the Catawba River will contain concentrations of radionuclides which ought to be added to the Catawba Plant's discharges in calculating resultant concentrations in the water that will be drawn by communities downstream from the Catawba Plant. In any case, we are prepared to demonstrate that the same errors we find in ER and FES calculations for Catawba in this respect, obtain also for McGuire releases.

c) In respect to gaseous effluents from the facility, FES p. 5-16 attests that measurable effluent will be carried 50 miles from the plant and that much of this radioactive effluent will predictably be brought back into the Catawba River watershed (ER, Figure 5.2.1-1). The effects of this process on radionuclide concentrations (e.g. for tritium which is released in large quantities in gaseous form from

LWRs) in the Catawba River upriver from the Charlotte water intake has not been calculated in either ER or FES.

d) We contend that Duke and NRC projections of actual radioactive emissions from the plant (FES, table 3.10) are far too low: LWR experience demonstrates (e.g. Shippingport) that LWRs become progressively "dirtier" in this respect as they age. We question the assumptions upon which Duke and Staff made their projections of the quantity of both liquid and gaseous releases. We take as a sign of the lack of proper scientific grounding for these projections the fact that there are extremely wide divergences between such projections for McGuire on the one hand, and the Catawba Station on the other hand. Yet, the design of the Catawba reactors and the design of the McGuire reactors are, in all essentials, the same.

e) We note that neither the ER nor the FES takes any account of recent work that shows the long term somatic and health effects of routine radiation releases from this facility to be damaging to adults and extremely hazardous to the human embryo and fetus even where such releases may be within existing guidelines.

5) We find the "Cost-Benefit Analysis" offered in support of this facility to be inadequate in many respects. For example, Applicant is aware of the infestation in Lake Wylie by the Asiatic Clam Corbicula and that densities of Corbicula have continued to increase since the first specimens were collected in 1968 (ER 2.2-11). 1973 samplings showed densities of Corbicula as high as 1,472/m<sup>2</sup>) at one sampling location (ER 2.2-9). Corbicula infiltrate the cooling systems and plug up the pipes

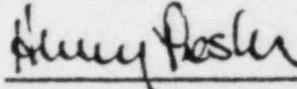
of LWRs cooled by river water causing the scaling back of operations, plant shutdowns and enormous added expense. According to the Wall Street Journal (August 12, 1980 p. 1) Corbicula infestation recently forced \$150,000 in repairs and cost \$700,000 in lost electricity at Potomac Power Electric Company; Illinois Power Co. had to close its Baldwin Ill. plant twice daily during a recent infestation. We understand that the Brunswick Plant in North Carolina was similarly afflicted this summer. Since there is no method of effectively controlling Corbicula, concentrations in Lake Wylie will rise predictably and add very significantly to the operating costs of the plant and so the cost of electricity in Duke Power's service area. The "Cost-Benefit Analysis" submitted by Applicants does not address these circumstances and so is seriously compromised.

6. As an organization representing members who, for the most part are residents of Charlotte, we must note that Charlotte is directly in the path of the prevailing south-west wind from the facility and that, consequently, Charlotte residents are at extreme hazard from airborne radioactive particulates in the case of a serious accident at the facility. We take the Brown's Ferry, TMI and Enrico Fermi accidents as constituting prima facie evidence that the probabilistic analysis used by the NRC in licensing proceedings is inadequate. Accordingly, we contest Applicants' and Staff's view that we are not at hazard. We contend that emergency evacuation, radiological emergency response and permanent relocation plans must be drawn up for Charlotte and the cost of these plans in the event of catastrophic accident at the facility must be included in Applicants' cost-benefit analysis.

7. Petitioner reserves the right, and hereby asserts its intention, to hereafter file a supplement to the Petition To Intervene under provisions of 10 CFR 2.714 (b) including a list of the contentions which it seeks to have litigated in the Proceeding together with the bases therefor. It further reserves the right, if admitted as a party to this proceeding to amend this Petition in such manner as is deemed necessary and proper.

Wherefore, having set forth its interest which will be affected in this proceeding, having alledged at least one litigable contention and the basis therefor with resonable specificity, and having annexed hereto the Affidavits of 6 of its members representing 1350 individuals who will suffer injury in fact from the operation of this facility, Charlotte-Mecklenburg Coalition respectfully begs leave to intervene in these proceedings, the conduct of hearings, and the denial of the Application for Operating License unless so conditioned as to prevent injury to Petitioner's health, safety and economic interests.

July 24, 1981



Henry Presler, Chairman CMEC  
942 Henley Place  
Charlotte, N.C. 28207  
704-373-8589

Attachments:

1. Affidavit from Lori A. Glosemeyer-Safe Energy Alliance
2. Affidavit from June M. Kimmel for the League of Women Voters
3. Affidavit from Eric Meyerson for the Central Piedmont Group of the Joseph LeConte Chapter of the Sierra Club
4. Affidavit from Lility Quinlan Otey for the Carolina Environmental Study Group
5. Affidavit from Sarah Wilson for the Davidson Energy Group
6. Affidavit from Brenda Best for Carolina Action
7. Affidavit from Henry Presler attesting to this document.

# Charlotte-Mecklenburg Environmental Coalition

Audubon Society  
Dick Brown

July 24, 1981

Carolina Action  
Brenda Best

## Affidavit

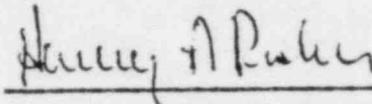
To: The Nuclear Regulatory Commission  
Washington D.C. 20555

Carolina Environmental  
Study Group  
Jesse Riley  
Henry Pressler (Chairman)

I, Henry Presler, resident at 943 Henley Place,  
Charlotte, N.C. 28207 do affirm the contents  
of The Charlotte-Mecklenburg Environmental  
Coalition's PETITION TO INTERVENE AND REQUEST  
FOR HEARING in the Matter of Duke Power Company  
et al. (Catawba Nuclear Station, Units 1 and 2)  
Docket Nos. 50-413, 414.

Davidson Energy Group  
Dawn Wilson

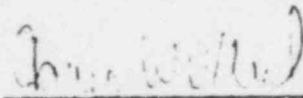
League of Women Voters  
June Kimmel



Henry A. Presler  
Chairman, Charlotte-Mecklenburg  
Environmental Coalition

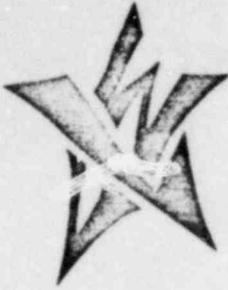
Safe Energy Alliance  
Mike Fennell

Sierra Club  
Margaret Miller



Notary

My Commission Expires: \_\_\_\_\_



# LEAGUE OF WOMEN VOTERS OF NORTH CAROLINA

2637 McDowell Street  
Durham, N. C. 27705  
Telephone: (919) 493-1178

DIANE D. BROWN  
*President*

July 23, 1981

To Whom It May Concern:

I, Jude M. Kimmel, attest that the Charlotte/Mecklenburg Environmental Coalition represents the North Carolina League of Women Voters in the Catawba licensing stage proceedings for the Catawba Nuclear Station.

Jude M. Kimmel  
State Director  
League of Women Voters  
of North Carolina

July 23, 1981

*Gretta L. Archie*  
*Notary Public*



SIERRA CLUB ☼ Joseph LeConte Chapter

... To explore, enjoy and preserve the nation's forests, waters, wildlife and wilderness ...

July 21, 1981

I, Eric Meyerson, resident of 705 McAlway Rd.,  
Charlotte, North Carolina 28211; and Executive Committee  
Officer for the Central Piedmont Group of the Joseph  
LeConte Chapter of the Sierra Club, hereby attest that the  
Charlotte Mecklenburg Environmental Coalition represents  
the Sierra Club in the Operating Stage Licensing Proceedings  
for the Catawba Nuclear Station.

*Eric Meyerson*  
\_\_\_\_\_

*Eric Meyerson*  
\_\_\_\_\_

My Commission Expires: 3/19/85

I, Lilith Quinlan Otey, resident at 726 Hartford Avenue, Charlotte, North Carolina, regard the licensing of Catawba Nuclear Station as detrimental to my health and interests. I am a member of the Carolina Environmental Study Group. The Charlotte Mecklenburg Environmental Coalition represents my interests in petitioning to be admitted as an intervener in licensing stage proceedings for the Catawba plant.

Signed Lilith Quinlan Otey  
Dated July 21, 1971

Notary Heinrich J. Jackson

PARK ROAD BRANCH

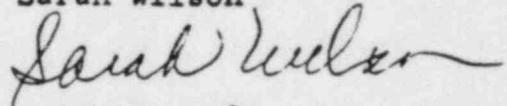
I, Lori Glosemeyer, resident at 721 Silverleaf Road, Charlotte, N.C., attest that the CMEC is empowered to represent the interest of the Safe Energy Alliance in respect to the CMEC's particular interventions into the licensing proceedings for the Catawba Nuclear Station, Docket Numbers 50413, 50414.

Signed Lori A. Glosemeyer

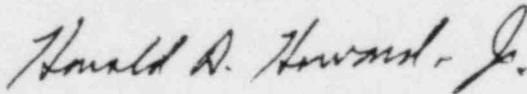
Witnessed Larry S. Moore

I, Sarah Wilson, residing at Rt. 2, Box 558E,  
Huntersville, N. C. 28078, and a member of the  
Davidson Energy Group, consider my health to be  
threatened by the proposed operation of the  
Catawba Nuclear Station. I attest the  
Charlotte-Mecklenburg Environmental Coalition  
is representing my interests.

Sarah Wilson



July 21, 1981



My Commission Expires 6-6-84

July 23, 1981

I, Brenda Best, resident of  
6320 Becker Dr. Charlotte, N.C.  
am a citywide board member of  
Carolina Action and the duly-elected  
representative to the Charlotte-Mecklenburg  
Environmental Coalition hereby attest  
that the Charlotte-Mecklenburg Environ-  
mental Coalition represents Carolina Action  
in the operating stage licensing proceedings  
for the Catawba Nuclear Station

signed: Brenda W. Best

notary: Helen F. de Lora  
My comm. expires 4/4/84

July 23, 1981

I, Brenda Best, resident of  
6320 Becker Dr. Charlotte, N.C.  
am a citywide board member of  
Carolina Action and the duly-elected  
representative to the Charlotte-Mecklenburg  
Environmental Coalition hereby attest  
that the Charlotte-Mecklenburg Environ-  
mental Coalition represents Carolina Action  
in the operating stage licensing proceedings  
for the Catawba Nuclear Station

signed: Brenda W. Best

notary: Helen F. de Lury  
My comm. expires 4/4/84

CAROLINA ENVIRONMENTAL STUDY GROUP

July 27, 1981

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413  
714

854 HENLEY PLACE  
CHARLOTTE, NORTH CAROLINA 28207  
704-375-4342

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

Catawba Operating License Application--  
A Petition to Intervene

To Whom it May Concern:

The Carolina Environmental Study Group (CESG), a party in the Catawba CP proceeding and in the McGuire CP and OL proceedings, hereby in reference to the recent announcement of the application of Duke Power Company for an OL for the Catawba nuclear station, petitions, under 10 CFR §2.714 to be admitted as an intervening party.

CESG presently numbers 150 members, most of whom live within 30 miles of the Catawba site and a majority of whom live in Charlotte, NC.

The members of CESG are concerned with the adverse effects that they anticipate operation of the plant will have on their health, safety, and outlays for electric power.

Based on past experience CESG does not anticipate that its interests will be represented or protected by the state of South Carolina nor by the NRC staff.

CESG has specific concerns and supporting reasons as follow:

1. The ASLB rather than considering the OL should rescind the CP. The Catawba plant is not needed now. It is unlikely that it will be needed in the foreseeable future. CESG's demand forecasts, made at the time of the CP proceeding, have proved remarkably accurate, both as to trend and as to specific peaks. The Applicant even now enjoys a reserve of between 15 and 20% without the operation of McGuire. If McGuire operates, its reserve will be raised to about 40%. Applicant has put in place a number of load management and peak saving programs. Electric rates continue to increase. The alternatives which CESG identified at the CP stage continue to be emplaced. It is altogether likely that the capacity of Catawba will never be required. As long as construction of an unneeded station is permitted to continue, the public will be pointlessly bled for interest, AFDC and CWIP which benefit, not the public, but Applicant's shareholders and lending institutions. The increase in the investment at Catawba should be halted until, at the very least (ignoring safety considerations) there is a clear indication that the plant may be proved used and useful.

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2. Hydrogen issues were heard as CESG's Contentions 1 and 2 in the reopened McGuire OL proceeding. Although an ID favorable to the issuance of a license came from the ASLB the hydrogen matter remains to be resolved. In a meeting held after the close of the evidentiary hearing the Staff found that the matter of possible in containment detonation merited further study and ordered this work done by Duke, TVA and AEP, all of which operate or have low pressure, ice condenser containments under construction. Research is continuing at Brookhaven, Sandia, and Livermore Laboratories on the computerized study of hydrogen release accident sequences; on the appropriateness of leaving igniters on throughout a hydrogen release event; of why igniters twice failed to ignite in trials at Livermore. Perhaps the most adequate comment on the appropriateness of the ID was expressed in the "Separate Views" of Commissioners Gilinsky and Bradford. Quoting, "It is a finding that could only have been made by a group schooled in the arcane subtleties of nuclear regulation. No ordinary person is capable of such foolishness."

3. The Staff, NUREG-0534 Supplement, Nov. 1980, in a discussion of "Risk Consideration", 6.1.4.6, clearly establishes that estimates of risk involve both the probability and the consequences of the event. The McGuire ASLB made no finding, in fact developed no record as to consequences. It simply found, for the one scenario that Applicant put forth, that a hydrogen release accident was not credible. Accordingly it found the plant could be operated without undue risk to the health and safety of the public. The record it developed failed to support the finding.

4. In view of the deficiencies in the McGuire record and ID CESG asserts that it is not to be viewed as a precedent for the Catawba "sister plant" and that a motion for res judicata is not to be entertained.

5. The long construction period for the Catawba plant is resulting in an enormous cost overrun in regard to projections at the CP stage. The cause of slow construction is to be found not in Staff nor Intervenor caused delays. It is to be found in Applicant's enormous error in forecasting demand and the initial projection that Catawba 1 and 2 would be needed in 1978 and 1979 (McGuire DES, Table K-7, (July 1972)). McGuire, for similar reasons, cost more than four times the estimate used in the CP stage. Similar upward revisions in cost have been made for Catawba. As a consequence the initial cost/benefit weighing is grossly defective. The cost/benefit weighing should be re-determined in view of the changing circumstances.

6. The rate burden placed on the consumer, not some mythic "costs", should provide the basis for cost/benefit considerations. Applicant has requested a 10.7% rate increase, to cover its return, from the NCUC for McGuire when it goes on line.

7. The NRC should complete the final EIS at least 60 days before hearing matters concerned with public health and safety. This is a minimal requirement in terms of providing the public

with some basis for intimating to what extent its health and safety will be jeopardized by operation of Catawba.

8. Emergency planning for Catawba should include the EPZ, particularly the city of Rock Hill. But, because the plant is a low pressure, ice condenser containment type, and because the consequences of even a PWR-5 are estimated to extend to at least 25 miles (NUREG-0396, Fig. I-17 and I-18) a radius of 30 miles should be included in emergency planning. This clearly would include the largest population center in the two Carolinas, the city of Charlotte with a population in excess of 300,000.

9. The entire spectrum of serious release accidents, from and including PWR-1 to PWR-9, as envisaged in the Reactor Safety Study, should be considered as to consequences in the OL Environmental Statement.

10. The nature of particulate releases in the most serious accidents, PWR-1 et seq., will require relocation of the affected population. Crisis relocation planning should be required over the zone over which particulate releases can reasonably be expected.

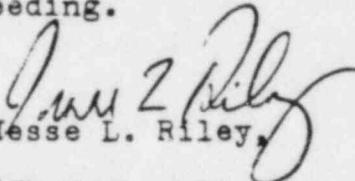
11. The capacity of the Catawba fuel pool was increased by amending the CP. There was no public notification in regard to this significant change. The change permits Catawba to become an essential part of Duke's "cascade plan" for handling spent fuel. In Docket No. 70-2623 Duke sought permission to move spent fuel from Oconee for storage at McGuire. The record shows that McGuire fuel, after the smaller McGuire pools were filled, was to go to Catawba. The ID in the spent fuel transport docket found that the transport of spent fuel could be inimical to the health and welfare of the public. Clearly the transport of spent fuel to Catawba for storage will affect the cost/benefit ratio struck for Catawba. The increase in fuel storage capacity will, by itself, also change the cost/benefit ratio. The plant has the potential for accomodating 30 years of spent fuel from the plant. German studies have shown that one of the most serious accidents possible would result from failure of a fuel pool cooling system. It is obvious that an increase in the amount of spent fuel stored will increase the severity of the consequences of a cooling failure.

12. At the CP stage CESG contended that a number of developments not considered by Applicant or Staff would affect subsequent peak demand. Applicant responded that its statutory duty was to supply whatever demand the public generated. Staff and the ASLB agreed. Since that time the state of North Carolina has passed energy conservation legislation which requires the Applicant to take reasonable steps to decrease peak growth. These include load management and various programs giving consumer's incentives to minimize load at system peak. Solar water systems are being installed, many by a utility, Piedmont Natural Gas Company. The state has set up an Alternative Energy Corporation, aimed at reducing the growth in electrical demand. There has been no adequate assessment of these alternatives as they affect the need for Catawba and the cost/benefit balance since the CP stage.

13. CESG has received information which leads it to believe that welders at Catawba have been improperly "qualified"; that welding supervisors have hurried work so that certain welds were made at below specification temperatures. Some welds were s placed that the welder could not observe his work when laying a bead. These uncertainties in regard to welds in the system are further adverse to the public health and safety.

CESG reserves the right under 10 CFR §2.714 (b) to file a supplement to this petition to intervene which will include a list of contentions and the bases therefor. It also reserves the right, if admitted as an intervenor, to amend this petition as may be necessary.

Having set forth its interest, having asserted a number of litigable contentions and the bases therefor, having attached hereto affidavits of several of its members who are subject to irreparable harm by operation of the plant, CESG requests leave to intervene in the Catawba OL proceeding.

  
Jesse L. Riley,  
854 Henley Place  
Charlotte, NC 28207

At Charlotte, NC  
July 27, 1981

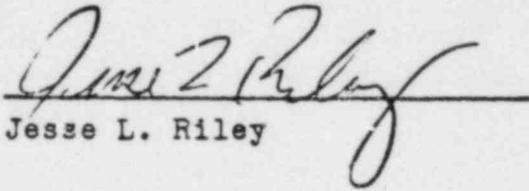
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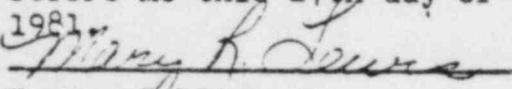
AFFIDAVIT

My name is Jesse L. Riley. I live at 854 Henley Place in Charlotte, NC. I am president of the Carolina Environmental Study Group. At a meeting of CESC's Board on July 19, 1981, it was the unanimous agreement of the Board members that CESC petition to intervene in the recently noticed Catawba Operating License proceeding. In conformity with that authorization I have prepared a four page petition, to which this affidavit is attached.

I feel that my personal health and safety are adversely affected by the bracketing of Charlotte with four thin shell containment reactors, all about 10 miles from a city limit. I consider myself as a party with an interest in the proceeding.

Sworn to and subscribed  
before me this 27th day of July,  
1981.

  
Jesse L. Riley

  
Notary Public

AFFIDAVIT

My name is Gayl S. Waller and I live at 1201 Providence Road, Charlotte, NC. I am a member of Carolina Environmental Study Group and am concerned for my and my family's health and safety which I feel will be jeopardized with the starting up of Catawba Nuclear Station.

Gayl S. Waller 7/27/81

Sworn to and subscribed before me  
this 27th day of July, 1981

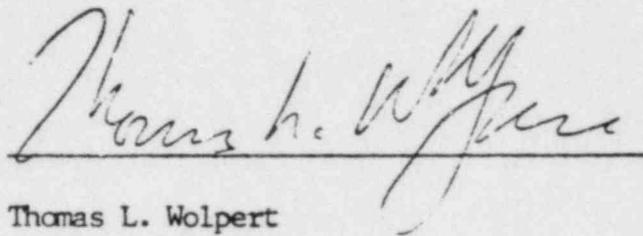
John Charles  
Notary Public

My commission expires: 10-9-82

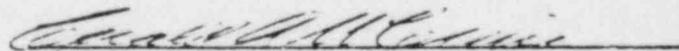
AFFIRMATION OF THOMAS L. WOLPERT

This is to affirm that I, Thomas L. Wolpert, of 1100 Sedgefield Rd., Charlotte, Mecklenburg County, North Carolina, am a member in good standing of the Carolina Environmental Study Group (CESG), and that the contentions advanced by CESG represent my views in regard to the Operating License Proceeding for the Catawba Nuclear Station Units 1 and 2.

This is to further affirm that I desire the Carolina Environmental Study Group and/or its designated representatives and counsel to represent my interests in the aforementioned proceeding.

  
Thomas L. Wolpert

Sworn to and subscribed before me this  
27 day of July, 1981.



Notary Public

My commission expires MARCH 12, 1985