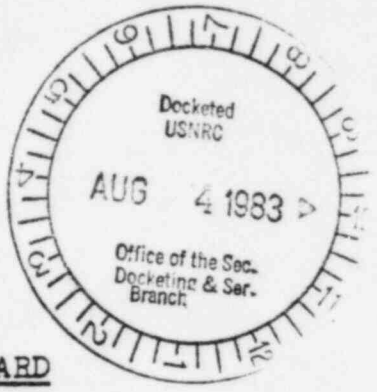

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Glenn O. Bright
Dr. James H. Carpenter
James L. Kelley, Chairman

In the Matter of CAROLINA POWER AND LIGHT CO. et al. (Shearon Harris Nuclear Power Plant, Units 1 and 2)	Dockets 50-400 OL 50-401 OL

RESPONSE TO APPLICANTS' "MOTION FOR RECONSIDERATION OF CCNC CONTENTION 4 AND CHANGE CONTENTION 9 AND APPLICANTS' RESPONSE TO INTERVENOR..."

On July 8, 1983 Applicants served their motion for reconsideration and urged dismissal of CHANGE/ELP Contention 9, among other relief. Intervenor CHANGE/ELP hereby responds in opposition to the motion. Intervenor asks that the Board excuse the delay in submitting this response; Daniel F. Read of CHANGE, who has been primarily responsible for participation in the proceeding, has only on July 27 finished taking the North Carolina Bar Examination after intensive study, and asks that the delay occurring as a result be considered excuseable by the Board.

Applicants' motion should be denied

As discussed in the joint (with CCNC) "Brief Concerning Spent Fuel Transshipment" (Aug. 4, 1982), CHANGE believes that the sort of plans considered for transshipment and interim storage of Robinson/Brunswick spent fuel are not properly includeable in the Summary Table S-4. Applicants contend that it the ultimate destination of the spent fuel is irrelevant in applying Table S-4; CHANGE does not dispute this. A single

shipment from a reactor to federal repository would also be properly within the scope of Table S-4. However, Applicants' contention that transhipment, and interim storage for indefinite periods at other reactors is also included in the scope of Table S-4 goes too far. Taken to its logical conclusion, it would mean that as long as no one transshipment were extraordinarily long, spent fuel could be shuffled about from reactor to reactor any number of times prior to final disposal without further consideration of the environmental consequences. There is no mention of this sort of nuclear spent fuel "shell game" in either the preamble or the body of 10 C.F.R. 51.20(g).

But for the proposed license activities, i.e., the operation of the Harris plant, transshipment of spent fuel into this area would not take place. Applicants assert that the effects of transportation have already been taken into account in the individual Brunswick and Robinson licenses; while the transshipment from Brunswick and/or Robinson does not appreciably lengthen the overall distance travelled by the spent fuel, it does unavoidably necessitate an extra trip for the fuel, with the attendant additional security arrangements, extra loading and unloading, extra sets of potentially unreliable drivers, extra checks of casks and safety equipment, extra checks of transit routes, potential re-exposure of transit routes, and re-exposure to interdiction by hostile groups. As the NRC itself admits, these shipments are each subject to substantial uncertainty with respect to ability to predict and contain attacks and/or accidents, see 45 Fed. Reg. 37402-3 (1980). But the Applicants' poisition apparently is that by promising to keep effects within Table S-4, they will have satisified these concerns.

Table S-4 and 51.20(g) are not difficult to read and understand: applicants may either state that transportation will be within the scope of the table, or provide a full description and detailed analysis. The scope of the table is also fairly clear, see CHANGE/CCNC Brief at 5-9: it is not a general license for the repeated shipment of fuel from place to place, or for the shipment of spent fuel generally, as apparently Applicants propose. Applicants cite the Board's tentative position that some multiple of the Table might be appropriate, Motion at 9, but 51.20(g) does

not mention multiples or how such multiplication is to be accomplished. Nor have Applicants provided any suggestions as to how that might be accomplished. CHANGE submits that this is because the rule is fairly clear in its intent: and the proposed activity clearly does not fall within its scope; absent some description of how the Table S-4 values are to be multiplied, the rule's mandate should be followed.

The Staff's Draft Environmental Impact Statement does not offer any analysis whatsoever of the effects of spent fuel transshipment and storage at Harris, and in fact does not mention the Brunswick and Robinson fuel at all (at least not as far as CHANGE is able to find). NEPA does not require the federal government to replow ground or to undo what has been done--but it does require the government to consider the alternatives to each action it takes or licenses. By simply reciting Table S-4 as the effects, without even bothering to explain the amount of fuel transported, the Staff has abdicated this role. Under this approach, the fuel could be shuffled about indefinitely, as long as no individual segment of the shuffling was overly long or hazardous, and the environmental consequences of gypsy spent fuel would be not subject to consideration in any forum.

Applicants and Staff apparently agree that transhipment will only result in de minimis effects: yet the Commission itself has expressed substantial concern over the uncertainties inherent in such shipment. Applicants will also be carrying some half-billion dollars' worth of insurance to protect against de minimis effects, a somewhat incongruous position. Given the potential for serious environmental and social conseuqences, CHANGE believes that NEPA consideration of alternatives is certainly in order. CHANGE notes that other actions, such as steam generator repair (Point Beach) or regulation writing (low level waste licensing) have been considered worthy of separate environmental impact statements, despite the obviously smaller risk of major releases to the environment or exposure of major population centers. In this context, it hardly seems unreasonable to ask for compliance with the obvious intent of the regulations as part of an overall consideration of environmental effects.

Finally, the question arises "Why is this motion being made now?" The Staff has not changed its position at all since the conference last July, and the EIS has been available for several months. Although, as an intervenor with meager resources, CHANGE is hardly in a position to insist on the letter of the law with respect to time requirements and filing deadlines, it does seem that the motion is rather tardy. One hopes that it was not merely in response to the discovery requests (CHAGNE) and contentions (Sedleman) which were served shortly before it, after Applicants had had ample time to make their motion to reconsider.

CHANGE respectfully requests that the motion be denied and that the Applicants be instructed to respond to its discovery filing forthwith.

Respectfully submitted,

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This 25th day of July, 1983.