UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of CAROLINA POWER AND LIGHT COMPANY AND NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY

(Shearon Harris Nuclear Power Plant, Units 1 and 2)

Docket Nos. 50-400 OL 50-401 OL

NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR CODIFICATION OF ADMITTED CONTENTIONS

On December 17, 1982, the Applicants submitted a motion seeking Board approval of their codification of contentions admitted to this proceeding. Attached as Appendix A to the motion is the Applicants' proposed wording of the contentions as they interpret the Board's Memorandum and Order of September 22, 1982. That Board Memorandum set forth its rulings on all proffered contentions. The NRC Staff has examined the Applicants' proposed wording of the admitted contentions and concurs that it fairly represents the contentions as admitted in the Board's Memorandum of September 22, 1982 with the following exceptions:

CCNC 4

The Applicants' proposed language would delete the entire last sentence of this contention. The Staff agrees that the latter portion of sentence relating to "assurances for safe storage at the expiration of the proposed licensing period" was rejected by the Board (Order at 20).

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8301070289 83010 PDR ADOCK 05000400 However, the first portion of the sentence relates to unanalyzed impacts of fuel storage at Harris, and this aspect of the proposed contention was accepted by the Board. <u>Id</u>. Accordingly, the Staff would add to Applicants' proposed language for CCNC 4 at p.5 of the Motion:

Further there has been no analysis of safe storage of irradiated assemblies and other radioactive materials at SHNPP.

WILSON 1(e), (f1)-(f3)

Applicants assert they have re-typed Dr. Wilson's orginal contention, including the discussion of the Cape Fear River water pumped into the Reservoir. However, they have not included I(f4). Applicants have stated that they do not read the statement denominated I(f4) as raising an issue different than the two issues covered by Contention I(e) and Contention I(f1-3). See Applicants' Objections and Requests for Clarification at 3, n.2. The Staff would retain all portions of Contention If at this stage of the proceeding. See NRC Staff Response To Memorandum And Order (Reflecting Decision Made Following Prehearing Conference) at 3-4. Accordingly, the Staff would add to Applicants' proposed language for Wilson 1(e)-(f1-4) at pp. 9-10 of the Motion:

(f4) Even if their calculations were taken at face value, the 79 cfs flow of Buckhorn Creek is too close to the 53 cfs projected average consumptive water use to not consider the Cape Fear River to be a frequent source of water for the Main Reservoir. The Applicant may indeed have had this in mind since the lack of dependence on Cape Fear that was professed in the Environmental Review meeting is not explicitly stated in the written amendments, and section 2.4.2-5 still reads "Buckhorn Creek is not critical to plant operation."

The practice of a Licensing Board issuing an order setting forth the wording of the admitted contentions has been followed in the past. See, e.g., Cincinnati Gas and Electric Co. (Wm. H. Zimmer Nuclear Power Station, Unit 1) 15 NRC 1549 at 1618 ff. (1982); United States Department of Energy, et al. (Clinch River Breeder Reactor Plant) 15 NRC 855 at 866 ff. (1982). The Staff's experience is that it is very useful and helpful to all the parties and the Board to have established the precise wording of each contention. For these reasons, the Staff supports, with the exceptions noted above, Applicants' Motion.

Respectfully submitted,

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Charles A. Barth Counsel for NRC Staff

Dated at Bethesda, Maryland this 6th day of January, 1983

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR CODIFICATION OF ADMITTED CONTENTIONS" 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 6th day of January, 1983:

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