

RELATED CORRESPONDENCE

Carolina Power & Light Company

POST OFFICE BOX 1551

Raleigh, North Carolina 27602



LEGAL DEPARTMENT
Writer's Direct Dial Number
(919) 836 - 7707
Telecopier
(919) 836-7678

James L. Kelley, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
Carolina Power & Light Company and North
Carolina Eastern Municipal Power Agency
(Shearon Harris Nuclear Power Plant, Units 1 and 2)
Docket Nos. 50-400 and 50-401 OL

Administrative Judges Kelley, Bright and Carpenter:

Respectfully submitted for the Board's review and approval herewith are a draft protective order and affidavit of nondisclosure. These drafts were prepared by CP&L and have been modified slightly to incorporate suggestions of counsel for the NRC Staff and certain suggestions of John Runkle, counsel for Intervenor.

As the Board is aware, counsel for Applicants, Samantha Francis Flynn and Hill Carrow, met with counsel for Intervenor, John Runkle, on July 13, 1983 to discuss Applicants' draft protective order and affidavit. Set forth below is a summary of Applicants' counsel's recollection of issues as yet unresolved between Mr. Runkle and themselves. Mr. Runkle has indicated that most, if not all, of his concerns may be eliminated after he has spoken with Intervenor's experts who will be reviewing Applicants' security plan for the Harris plant. In the event that any of Mr. Runkle's concerns are not so resolved, Applicants have been granted permission by the Board to respond to Mr. Runkle's objection to any of the provisions of the proposed order or affidavit.

1. The protective order and affidavit contemplate that all protected information, including the Intervenor's counsel's and experts' notes and workpapers will be used and maintained at the location provided by Applicants. Mr. Runkle expressed some dissatisfaction with this concept.

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James L. Kelley, Esquire
Mr. Glenn O. Bright
Dr. James H. Carpenter
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July 15, 1983

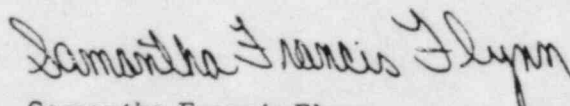
2. Apparently Mr. Bleacher's employer has stated that he wants to review all of Mr. Bleacher's work product before it is filed in this proceeding. Applicants' several objections to such a notion were explained to Mr. Runkle.

3. The protective order grants counsel for the Intervenor access to the Harris security plan on a "need to know" basis. Mr. Runkle stated that he will want to review the entire plan in advance of the experts review of appropriate portions of the plan in order that he may familiarize himself with the plan and assure himself that proper portions of the plan are being presented to his experts. As Applicants understand the concept of "need to know" as it relates to legal counsel, counsel's need to know, and therefore his right of access to the security plan, does not arise until one of Intervenor's experts has found something in the plan which, in his view, is inadequate in light of the Commission regulations. It is at that point, Applicants believe, that counsel has a need to review that part of the plan in order that he can prepare a contention with respect to that matter and prepare for litigation if the contention is admitted.

4. Applicants' counsel and Mr. Runkle may require a clarification of the Board's ruling that where more than one expert is qualified to review a given area of the plan only one expert may perform that review. It is Mr. Runkle's view that because the Board has found Mr. Bleacher qualified to examine the entire plan, he should be entitled to do so even though one or more of the other experts will be examining discrete portions of the plan. It is Applicants' understanding of the Board's ruling that if a particular portion of the plan has been examined by an expert other than Mr. Bleacher there is no need for, in effect, a redundant review of that portion of the plan by Mr. Bleacher and that his review should be confined to areas of the plan which have not been reviewed by others.

Mr. Runkle will be consulting with his experts as soon as possible in order to obtain their views on these open issues. In addition, he will be determining their schedules of availability to examine the plan. In the meantime, Applicants' counsel will be consulting with the Company's security plan experts to make arrangements for making the security plan available for examination by Intervenor's counsel and experts. It is our shared hope that the examination of the security plan by experts and counsel can begin in August and that any security plan contentions will be filed in early September. Applicants and Intervenor's counsel will advise the Board of our progress towards a more definite schedule.

Sincerely,

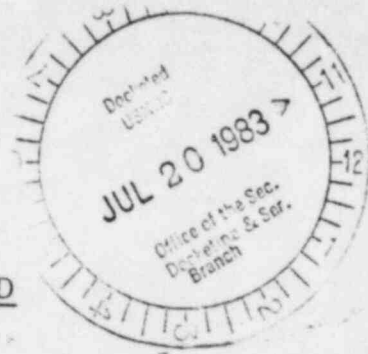


Samantha Francis Flynn
Associate General Counsel

SFF/dlt

cc: Modified Service List

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

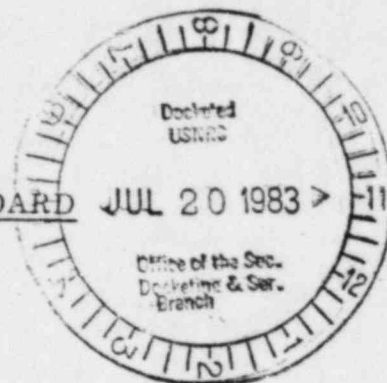


Docket Nos. 50-400 OL
50-401 OL

John D. Runkle, Esquire
Conservation Council of North Carolina
307 Granville Road
Chapel Hill, North Carolina 27514

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD JUL 20 1983



In the Matter of

CAROLINA POWER & LIGHT COMPANY
AND NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

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

Docket Nos. 50-400 OL
50-401 OL

AFFIDAVIT OF NON-DISCLOSURE

I, _____, being duly sworn, state:

1. I understand and agree that as used in this Affidavit of Non-Disclosure, (a) "protected information" is (1) any form of the physical security plan for the Applicants' Shearon Harris Nuclear Power Plant and any other Safeguards Information as defined in 10 CFR § 73.2(jj); or (2) any information obtained by virtue of these proceedings which is not otherwise a matter of public record and which deals with or describes details of the security plan or any other Safeguards Information; (b) an "authorized person" is (1) an employee of the Nuclear Regulatory Commission entitled to access to protected information; (2) a person who, at the invitation of the Atomic Safety and Licensing Board ("Licensing Board"), has executed a copy of this Affidavit; (3) a person employed by Carolina Power & Light Company (including consultants) authorized by it in accordance with Commission regulations to have access to protected information, or (4) counsel for Applicants.

2. I shall not disclose protected information to anyone except an authorized person, unless that information has previously been disclosed in the public record of this proceeding. I will safeguard written or otherwise recorded protected information (including any portions of transcripts of in camera hearings, filed testimony or any other documents that contain such information), so that it remains at all times under the

control of an authorized person and is not disclosed to anyone else. It is understood that any secretaries not employed by Applicants having access to protected information shall have such access solely for the purpose of typing and performing other support services necessary to enable counsel and experts to participate in the security plan phase of the Shearon Harris operating license proceeding.

3. I shall not reproduce any protected information by any means without the Licensing Board's express approval or direction. It is understood, however, that pleadings (including prefiled testimony) which are necessary to be prepared in this proceeding can be reproduced, provided that each copy thereof is protected as required by the Board's Protective Order and as described hereafter. So long as I possess or have control over protected information, I shall continue to take these precautions until further orders of the Licensing Board.

4. I shall similarly safeguard and hold in confidence any protected information in any form including notes or copies of protected information by means of the following:

(a) My use of the protected information will be made at a location in Raleigh, North Carolina to be made available by Carolina Power & Light Company.

(b) I will keep and safeguard all such material in a file cabinet to be provided by Carolina Power & Light Company, after consultation with Applicants' Counsel, and to be located at all times at the above-designated location.

(c) Any secretarial work which entails use of protected information, performed at my request or under my supervision, will be performed at the above location either (1) by a secretary provided by Carolina Power & Light Company authorized in accordance with paragraph 1(b) above, if available, or (2) by a secretary of my designation who has been authorized by the Board to perform such work and has executed an Affidavit of Non-Disclosure.

(d) Necessary typing and reproduction equipment will be furnished by Applicants for secretarial work performed at Carolina Power & Light Company. I

understand that Intervenor will pay CP&L \$7.00 per hour for clerical assistance and \$.07 per page of photocopying.

5. I shall use protected information only for the purposes of participating in the phase of the Shearon Harris operating license proceeding concerning the Harris security plan and for no other purpose.

6. I shall keep a record of all protected information in my possession or control, in whatever form, including my notes or photocopies thereof. At the conclusion of this proceeding, I shall account to the Licensing Board (or to a Commission employee designated by the Licensing Board) for all the papers or other materials containing or referencing protected information in my possession, custody or control and deliver them as provided herein. When I have finished using the protected information they contain, but in no event later than the conclusion of this proceeding, I shall cause those papers and materials to be delivered to the Licensing Board (or to the Commission employee designated by the Board), for safekeeping during the lifetime of the plant.

7. I understand that violators of the provisions of 10 C.F.R. § 73.21 are subject to criminal and civil sanctions.

Subscribed and sworn to before me this

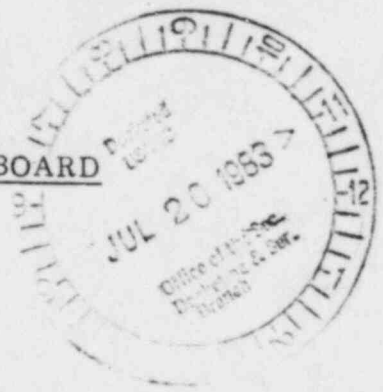
_____ day of _____, 1983.

Notary Public

My Commission Expires:

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

CAROLINA POWER & LIGHT COMPANY)
AND NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)

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

Docket Nos. 50-400 OL
50-401 OL

PROTECTIVE ORDER
GOVERNING ACCESS TO SECURITY PLAN INFORMATION

Counsel and expert witnesses for Intervenor Wells Eddleman, Conservation Council of North Carolina, and Kudzu Alliance (Intervenor) who have executed an Affidavit of Non-Disclosure, in the form attached, shall be permitted access to "protected information"¹ upon the following conditions:

1. Having been found by this Board to be qualified as experts to examine the Shearon Harris security plan or portions thereof,² the following persons (hereinafter collectively and individually referred to as experts) may have access to protected information only on a need to know basis and only to the extent indicated beside such person's name:

- (a). Bobby J. Tuggle — communications portions of the Harris security plan.

¹As used in this Order, "protected information" has the same meaning as used in the Affidavit of Non-Disclosure, annexed hereto.

²Memorandum and Order (Ruling on Qualifications of Intervenor's Proffered Security Experts) June 17, 1983. The access granted to Intervenor's Counsel and experts in accordance with the provisions of this Memorandum and Order is to a "sanitized" version of such plan. See Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plan Units 1 and 2), ALAB-410, 5 NRC 1398 (1977).

- (b). John R. Maples — portions of the Harris security plan concerning (i) guard training; (ii) physical intrusion detection systems; and (iii) record keeping.
- (c). Lowell Stevens — guard training portions of the Harris security plan.
- (d). Earl Ray Bleacher — the Harris security plan.

2. Counsel for Intervenors, John D.. Runkle (Counsel) may have access to protected information only on a need to know basis and only to the extent necessary to represent Intervenors in the phase of the Shearon Harris operating license proceeding relating to the Harris security plan.

3. Pursuant to the Board's Memorandum and Order of June 17, 1983, where more than one of the experts identified in paragraph 1 has been found by the Board to be qualified to review a portion of the Harris security plan, only one such expert, to be selected by Intervenors, is permitted to review that portion of the plan or other protected information related thereto.

4. Secretary to Counsel, _____, is permitted to type pleadings and other materials which contain protected information as are necessary for Counsel to conduct the security plan phase of this proceeding. Such typing shall be performed at a location to be designated and provided by Applicant Carolina Power & Light Company (CP&L) at the CP&L corporate offices, Fayetteville Street, Raleigh, North Carolina.

5. Counsel and experts may review protected information at a location to be provided by Applicant CP&L in Raleigh, North Carolina.

6. Counsel and experts who receive any protected information in any form (including transcripts of in camera hearings, filed testimony or any other document that reveals protected information) shall maintain its confidentiality as required by the annexed Affidavit of Non-Disclosure, the terms of which are hereby incorporated into this Order.

7. Counsel and experts who receive any protected information shall use it solely for the purpose of participation in the security plan phase (including appeals) of the Shearon Harris operating license proceeding and for no other purpose.

8. Counsel and experts will review, use, store and maintain protected information in whatever form including notes, pleadings and other work product at a location provided by Applicant Carolina Power & Light Company (CP&L) in accordance with the provisions of the annexed Affidavit. All of counsel and experts' notes, pleadings and other papers shall be maintained in a file cabinet maintained by Applicant CP&L at the location provided by it. CP&L shall be the custodian of such materials over which counsel and experts shall have control until the conclusion of the proceedings. Control over such materials by Counsel and experts shall be exercised by means of a lock to be acquired, installed upon the file cabinet, and operated solely by Counsel and experts.

9. Counsel and experts shall keep a record of all protected information in any form in their possession or control and shall account for and cause that information to be delivered to the Board, or the Commission official designated by the Board, in accordance with their Affidavits of Non-Disclosure.

10. Any notes made by counsel or experts relating to their review of protected information and any pleadings or other papers prepared in connection with this security plan proceeding shall be maintained only by the following person at the following location:

John B. Walker, Jr. or his designee
Project Specialist, Security
Carolina Power & Light Company
Post Office Box 1551
Raleigh, North Carolina 27602

11. Service of any papers filed in this proceeding (including testimony) which contain protected information shall be restricted to the members of the Board and "lead counsel," to wit: John D. Runkle (in care of H. H. Carrow, Jr., Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602) for Intervenors,

Charles A. Barth for the Staff, and H. Hill Carrow, Jr., for Applicants. Service shall be accomplished in accordance with the provisions of paragraph 15 except that the inside envelope shall bear the statement "PRIVATE TO BE OPENED BY ADDRESSEE ONLY." Addressees shall take all necessary precautions to ensure that they alone will open envelopes so marked. Applicant CP&L shall notify counsel promptly of its receipt of any such papers addressed to Mr. Runkle.

12. There shall be a maximum of two transcripts per party for any proceeding conducted on the record in which protected information is disclosed or discussed. Parties (other than Applicants) shall not photocopy such transcripts without the written prior approval of the Board.

13. At the conclusion of this proceeding (including any appeals), the person designated to maintain the official NRC file of documents shall insure that all but one copy of documents required to be maintained for the life of the plant are properly destroyed.

14. Any person who has reason to suspect that documents containing or referencing protected information may have been lost, misplaced or have become available to unauthorized persons shall notify the Board promptly of those suspicions and the reasons for them.

15. With respect to transmission of protected information, procedures shall be used which ensure compliance with NRC requirements including 10. C.F.R. 73.21. Specifically, when transmitted outside an authorized place of use or storage, protected information shall be enclosed in two sealed envelopes or wrappers with the inner envelope or wrapper bearing the name and address of the intended recipient and marked on both sides, top and bottom, with the words "CONTAINS SAFEGUARDS INFORMATION." The outer envelope or wrapper will bear the intended recipient's name and address, with no indication that protected information is enclosed. Protected information shall be transmitted by registered or certified mail or by other courier

method or hand delivery which ensures that a receipt is obtained to verify delivery. Any authorized individual transporting protected information shall be instructed to retain the material in his personal possession at all times.

16. Counsel and experts shall not discuss protected information by means of unsecured telecommunication devices or in locations where there is a potential for inadvertent disclosure to unauthorized persons.

THE ATOMIC SAFETY AND LICENSING BOARD

James L. Kelley, Chairman
Administrative Judge

Glenn O. Bright
Administrative Judge

James H. Carpenter
Administrative Judge