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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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

Docket Nos. 50-41304  
50-41404

OFFICE OF SECRETARY  
OF ENERGY

MEMORANDUM OF DUKE POWER COMPANY, ET AL.  
RESPONDING TO APRIL 25, 1985 ORDER OF  
ATOMIC SAFETY AND LICENSING APPEAL BOARD

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BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of )  
DUKE POWER CO., et al. ) Docket No. 50-413  
(Catawba Nuclear Station, ) 50-414  
Units 1 and 2) )

MEMORANDUM OF DUKE POWER COMPANY, ET AL.  
RESPONDING TO APRIL 25, 1985 ORDER OF  
ATOMIC SAFETY AND LICENSING APPEAL BOARD

By Order dated April 25, 1985, the Atomic Safety and Licensing Appeal Board ("Appeal Board") in this proceeding directed the parties to file by May 17, 1985 supplemental memoranda addressing four questions raised sua sponte by the Appeal Board. The response of Duke Power Company, et al. ("Duke" or "licensees") to these questions is set forth below.

Appeal Board Question 1:

Are there legal requirements for the issuance of a public notice with respect to the planned use of the Catawba facility for the receipt and storage of spent fuel generated at the Oconee and McGuire facilities? If so, what are they?

Response

Licensees sought authorization to use the Catawba facility for the receipt and storage of spent fuel generated



at the Oconee and McGuire facilities. This authorization was sought in conjunction with Duke's operating license application for the Catawba facility which was filed pursuant to 10 C.F.R. Part 50.

A public notice requirement attaches to an operating license application. See § 189a of the Atomic Energy Act, 42 U.S.C. § 2239a, which requires "publication once in the Federal Register" of the Commission's intent to issue an operating license. The NRC's regulations implementing the Act require that a notice of proposed action regarding an operating license application be issued. This notice is to set forth: (1) the nature of the action proposed; and (2) the manner in which a copy of the safety analysis and of the ACRS report, if any, may be obtained or examined. 10 C.F.R. §2.105(b). See also 10 C.F.R. §2.105(a)(8), which requires that the notices reflect an opportunity for members of the public to request a hearing.1/

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1/ Although Duke properly sought the necessary authority to store Oconee and McGuire spent fuel at Catawba as part of their Part 50 operating license, licensees could also have properly sought such authority under a Part 70 special nuclear materials license. As discussed infra, had the latter procedure been followed, there would have been no legal requirement for public notice.

Duke is of course aware that a separate notice was published for their 10 C.F.R. Part 70 license amendment request for the shipment of Oconee spent fuel to McGuire for storage. The notice issued in the Oconee/McGuire (Footnote 1 continued on next page)

Appeal Board Question 2:

Assuming that question 1 requires an affirmative answer, was the notice published in the Federal Register (46 Fed. Reg. 32974-75) adequate to satisfy the requirement(s)? In this connection, would or should interested members of the public have understood that the applicants' request for licenses "to possess, use, and operate the Catawba Nuclear Station" embraced a request for authority to employ that facility as a repository for spent fuel generated at other facilities? If not, was the notice nonetheless adequate because it referred the reader to the operating license application itself (which application, according to our information, did indicate that such authority was being sought)?

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(Footnote 1 continued from previous page)

transshipment case must be viewed as discretionary in that § 2.104(a) provides that the Commission may find a hearing is required in the public interest. See Kerr-McGee Corporation (West Chicago Rare Earth Facility), CLI-82-2, 15 NRC 232, 246 n.12 (1982), aff'd City of West Chicago v. NRC, 701 F.2d 632, 640 (1983). In this regard, the Federal Register notice specifically stated that it was issued "based on the determination that an opportunity for hearing should be afforded pursuant to the Carolina Environmental Study Group's [pre-existing] request." 43 Fed. Reg. 32905 (1978) (copy attached as Attachment 1). To elevate discretionary actions to binding requirements would prove to be a powerful disincentive to the ordering of discretionary hearings. In addition, the need for a separate Federal Register notice was not a contested issue in that proceeding and thus the case is not binding precedent on that point. See, e.g., Duke Power Co. (Cherokee Nuclear Station, Units 1, 2, & 3), ALAB-482, 7 NRC 979, 981 at n.4 (1978).

Lastly, subsequent to the public notice of the Oconee-McGuire transshipment, the Commission and Appeal Board have had occasion to consider the notice requirement as it relates to material license applications. As discussed infra, these tribunals have determined that such notice is not required.

Response:

Assuming that there is a legal requirement for notice of Duke's use of Catawba to receive and store spent fuel from McGuire and Oconee, the notice published in the Federal Register (46 Fed. Reg. 32974-75 (1981)) (Attachment 2) provided adequate notice.

The Atomic Energy Act's requirement of one-time publication in the Federal Register of an intent to issue an operating license has been satisfied. See 46 Fed. Reg. 32974 (1981).<sup>2/</sup> The Atomic Energy Act does not require the Federal Register notice to enumerate the details of the operating license application. See §189a of the Act, 42 U.S.C. §2239a.

The requirements of 10 C.F.R. § 2.105(b) have also been satisfied. The "nature of the action proposed" is detailed in the operating license application and supporting documentation was incorporated by reference in the Federal Register notice (46 Fed. Reg. 32975, col. 2); the manner in which a copy of

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<sup>2/</sup> As has been recognized by the Appeal Board as well as the Licensing Board, under the Federal Register Act, 44 U.S.C. §§1501-11, publication of a notice in the Federal Register provides notice to all residents of the United States. See 44 U.S.C. §1508; Long Island Lighting Co. (Jamesport Nuclear Power Station, Units 1 & 2), ALAB-292, 2 NRC 631, 646-47, 647 n.18 (1975); Florida Power & Light Co. (Turkey Point Nuclear Generating Station, Units 3 & 4), LBP-79-21, 10 NRC 183, 191-92 (1979).

the safety analysis and the ACRS report could be obtained was likewise addressed. Id.<sup>3/</sup>

With respect to whether members of the public would or should have understood the notice itself to subsume licensees' request to store spent fuel generated at its other facilities, licensees submit that interested members of the public (those concerned about receipt and storage of spent fuel at Duke facilities) would or should have had a heightened sensitivity to the possibility that Duke's Catawba license application would likely seek authority to store McGuire and Oconee fuel at Catawba. This is because, as interested members of the public, such persons would by definition no doubt already be aware of the then-recent hearings and appellate proceedings involving Duke's proposal to ship spent fuel from Oconee to McGuire and the allegation that Duke planned to "cascade" spent fuel to its other nuclear facilities, such as Catawba. See, e.g., 43 Fed. Reg. 32905 (1978); Duke Power Co.

(Amendment to Materials License SNM-1773-Transportation of Spent Fuel from Oconee Nuclear Station for Storage at McGuire Nuclear Station), ALAB-651, 14 NRC 307 (August 10, 1981),

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<sup>3/</sup> Section 2.105(a)(8) requires that in the case of an application for an operating license, a notice of opportunity for hearing shall be issued. This requirement was met by the Federal Register notice set forth at 46 Fed. Reg. 32974 et seq. (1981).

rev'g LBP-80-28, 12 NRC 459 (October 31, 1980). It should come as no surprise to such interested persons that Duke, in an effort to keep its storage options flexible, might seek similar spent fuel storage authority in connection with their Catawba plant.4/ In this regard, see Attachment 4A, discussed in Duke's response to Question 3.

However, the Board need not reach this question since the Federal Register notice, which properly incorporated by reference the operating license application, provided adequate notice to the public. The Federal Register notice for Catawba stated: "The Commission will consider the issuance of facility operating licenses for Catawba . . . . These licenses would authorize the applicants to possess, use and operate the Catawba Nuclear Station in accordance with the provisions of the licenses and the technical specifications appended thereto . . . ." 46 Fed. Reg. 32974, col. 3 (1981) (Attachment 2 hereto). The notice further stated, similar to

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4/ Licensees note that no persons living in the vicinity of Oconee petitioned to intervene in the Oconee/McGuire transshipment case despite the fact that the Federal Register notice in that case was available in the local public document room in Oconee County, South Carolina, the site of the Oconee facility. See 43 Fed. Reg. 32906 (Attachment 1 hereto). All petitioners were centered in the Charlotte area, except for NRDC, which was admitted on a discretionary basis, professing national membership, and the State of South Carolina, which participated pursuant to 10 C.F.R. §2.715(c). See LBP-80-28, 12 NRC at 464-65.

all notices issued in operating license cases, that: "For details pertinent to the matters under consideration, see the application for the facility operating licenses and the applicants' environmental report dated June 8, 1981, which are available for public inspection at the Commission's Public Document Room, . . . Washington, D.C. and the York County Library, . . ., Rock Hill, S.C. . . ." Id. at 32975, col. 2.

The referenced operating license application clearly described to the NRC, as well as interested members of the public, the full range of uses which the licensees sought for Catawba:

The license hereby applied for is a class 103 operating license as defined by 10 CFR 50.22. It is requested for a period of forty (40) years. Applicants further request such additional source, special nuclear, and by-product material licenses as may be necessary or appropriate to the acquisition, construction, possession, and operation of the licensed facilities and for authority to store irradiated fuel from other Duke nuclear facilities. At present, Duke has no specific plans to utilize this storage alternative but, rather, considers it prudent planning to have this storage as one of the alternatives available.

Operating License Application, p. 12 (emphasis added). The reference in the Federal Register notice to the publicly available application, which contained this clear language, put

interested members of the public on notice in fact,<sup>5/</sup> as well as in law. See Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-574, 11 NRC 7 (1980) which recognized the duty of a person who may wish to intervene in an NRC proceeding to read the full Federal Register notice and inquire into any preconditions relating to intervention. Id. at 10. This duty was deemed not to be an onerous undertaking in that a copy of the notice was available at the local public library. Id.

In this regard, this Board, in this case, recognized an "ironclad obligation" on the part of members of the public to examine the publicly available documentary material pertaining

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<sup>5/</sup> There are hundreds of significant activities involved in the operation of a nuclear power reactor. NRC notice regulations do not require that all licensed activities (or potential activities) be mentioned explicitly in the Federal Register notice. See 10 C.F.R. §2.105. Rather, these activities are understood to be encompassed within the scope of the application for a Part 50 operating license. In licensees' view, Duke's request to store Oconee and McGuire spent fuel in the Catawba spent fuel pool is similar to one of many such activities always embraced within the operating license application, i.e., storage of the spent fuel generated by the reactor. There are no legal requirements for specific public notice with respect to the subject activity, just as there are no legal requirements that other aspects of plant operation within the scope of the original operating license application be specifically noticed (i.e., no specific notice was required for the first 8 x 8 fuel configuration, nor for the first subatmospheric containment, nor for the first ice condenser).

to the facility in question in framing contentions. Duke Power Co. (Catawba Nuclear Station, Units 1 & 2), ALAB-687, 16 NRC 460, 468 (1982); see also Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 & 2), ALAB-107, 6 AEC 188, 192 n.5 (1973) (recognizing that a petitioner, in framing contentions, is to make use of the "abundant information respecting a particular facility"). Certainly there is a commensurate duty to inquire into the exact scope of the operating license authority sought by reading at least the first dozen pages of the license application when that license application is specifically mentioned in the Federal Register notice as a source of further information, as was the case with the Catawba notice. See 46 Fed. Reg. at 32975, col. 2 (1981).

NRC precedent finds support in the federal case law. See, e.g., South Terminal Corp. v. EPA, 504 F.2d 646, 656-57, 659-60 (1st Cir. 1974) wherein the Court found that EPA had provided adequate notice of the technical basis for a proposed rule by stating in the Federal Register notice that a technical support document was available. Specifically, the Court stated:

EPA stated in its published notice that a technical support document was available. That referred to previous studies which, had they been sought out, would have been found to include consultants' technical reports.

504 F.2d at 659 (emphasis added).



It is significant that published "notice is generally considered adequate in the absence of a showing that an interested person was misled." Buckner Trucking, Inc. v. United States, 354 F. Supp. 1210, 1219 (S.D. Tex. 1973) (three-judge court), citing Cella v. United States, 208 F.2d 783 (7th Cir. 1953), cert. denied, 347 U.S. 1016 (1954). On the facts of the Catawba proceeding, no such showing has been made or likely could be made by an "interested person." Indeed, far from being misled, in response to this notice the Intervenor Palmetto Alliance submitted four contentions dealing with transportation and/or storage of spent fuel from other facilities at Catawba. See "Palmetto Alliance Supplement to Petition to Intervene," pp. 11-13 (Dec. 9, 1981) (contentions 14, 15, 16, and 17).6/

It is worth emphasizing that Palmetto Alliance asserted a broad membership throughout the State of South Carolina.7/ See Palmetto's "Petition to Intervene and Request for

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6/ One of these contentions, Palmetto 16, was admitted in part and litigated before the Licensing Board. See LBP-83-56, 18 NRC 421 (1983). The Intervenor cross-examined on this contention (see, e.g., Tr. 10,324-501, 10,530-48 (12/8/83); Tr. 11749-78, 11797-97(a) (12/15/83)). However, the Intervenor defaulted on this, their sole admitted spent-fuel storage contention, by failing to file any proposed findings. See LBP-84-24, 19 NRC 1418, 1423 n.1 (1984).

7/ Duke's Oconee facility is located in Oconee County, South Carolina.

Hearing," p. 2 (7/22/81). The other Intervenors alleged similarly diverse constituencies. The Charlotte-Mecklenburg Environmental Coalition (CMEC) (a coalition of six groups consisting of Carolina Action, the local 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) alleged representation of 1350 persons, almost all of whom lived within 35 miles of Catawba, and the "great majority" of whom resided in Mecklenburg County, North Carolina.<sup>8/</sup> See CMEC's "Petition to Intervene and Request for Hearing," pp. 1-2 (7/24/81). The Carolina Environmental Study Group alleged that it had 150 members, most living within 30 miles of Catawba, with the majority living in Charlotte. See CESG's "Catawba Operating License Application -- A Petition to Intervene," p. 1 (7/27/81).

Thus a broad range of interested persons throughout North and South Carolina had notice, through their organizations' representatives, of Duke's application for authority to receive and store spent fuel from Oconee and McGuire at Catawba. See letter from A.V. Carr, Jr. to R. Guild (Attachment 3), which discusses the subject spent fuel

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<sup>8/</sup> Duke's McGuire facility is located in Mecklenburg County, North Carolina, north-west of Charlotte.

storage scenario and which was served on all parties including the three other organizations that petitioned to intervene.

At oral argument (Tr. 51-55), the Appeal Board inquired as to the adequacy of the notice with respect to individuals beyond what can be styled as the Catawba area i.e., a radial area of approximately fifty miles from Catawba.<sup>9/</sup> This would include McGuire, given its 35 mile proximity to Catawba. As the Licensing Board correctly held, the environmental effects of spent fuel transportation away from McGuire and Oconee (to any destination, including Catawba) have already been considered by the NRC in conjunction with the licensing of McGuire and Oconee, and these should not be considered or weighed a second time in connection with Catawba. See LBP-83-8B, 17 NRC 291, 293-94 (1983); see also licensees' February 13, 1985 Appeal Board brief at 85-86. Thus, the only spent fuel transshipment concerns that remained to be litigated in response to the Catawba Federal Register notice involved the incremental environmental impacts of storing a greater quantity of spent fuel at

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<sup>9/</sup> Prior cases establish that residence within fifty miles of a plant gives a person a sufficient interest in the safety of the plant, necessary for standing to intervene. See, e.g., Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 & 2), ALAB-413, 5 NRC 1418, 1421-22, n.4 (1977).

Catawba than would be produced by the operation of the Catawba reactors alone. Those persons who would be interested in these impacts would not be any persons along the transshipment route but would be those who live around the Catawba site who, as discussed supra, are already within the population of interested persons notified by the original Federal Register notice.

Since no transportation impacts other than those involving unloading and storage of spent fuel at the Catawba site were open for consideration, the Federal Register notice pertaining to operation of the facility adequately notified the public who would be interested in the spent fuel activities to be evaluated by the NRC: i.e., the environmental impacts of spent fuel receipt and storage at Catawba. These matters, as noted, were the subject of contentions filed by the Intervenors, including Palmetto 16 and DES-19, on which the Intervenors defaulted. See LBP-84-24, 19 NRC at 1423 n.1; see also LBP-83-8B, 17 NRC at 295-96.

The above response has assumed a legal requirement to publish a notice. However, as noted above, there is no such legal requirement with regard to NRC materials license applications. Duke's "planned use of the Catawba facility for the receipt and storage of spent fuel generated at the

Oconee and McGuire facilities" can be viewed simply as a plan to possess and store special nuclear material from other Duke power reactors at the Catawba plant. In order to conduct these activities, Duke in effect obtains an NRC materials license under 10 C.F.R. Parts 30 and 70, the application for which may be combined with the facility license and will merge into the Part 50 operating license.<sup>10/</sup> Question 1 can be read as asking whether legal requirements for public notice emanate from this materials license characteristic of the licensed activity. The answer to this question is "no".

This position is supported by court-approved analogous NRC authority. In Kerr-McGee Corp. (West Chicago Rare Earth Facility), CLI-82-2, 15 NRC 232 (1982), the licensee operated a thorium milling facility from 1967 until 1973, pursuant to a source materials license under Part 40. This license authorized the possession and storage of thorium ore. As part of its plan to decommission the site, Kerr-

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<sup>10/</sup> See 10 C.F.R. § 50.31. Also, NRC licensing boards have specifically held that the authority encompassed within a special nuclear materials license "is essentially subsumed within a license to operate a commercial power reactor, issued pursuant to 10 C.F.R. Part 50." Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), ALAB-765, 19 NRC at 649 n.2. See also Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), CLI-76-1, 3 NRC 73, 74 n.2 (1976).

McGee sought and obtained from the NRC Staff a license amendment that authorized, inter alia, the receipt and on-site storage of contaminated material (mill tailings) taken from the site. The city of West Chicago challenged the issuance of the amendment on the grounds that it had been given no notice of the licensee's amendment request and thus no opportunity to request a hearing.

The Commission upheld the issuance of the amendment, ruling that neither NRC regulations nor section 189 of the Atomic Energy Act nor constitutional due process compelled the public notice of an opportunity for a hearing under 10 C.F.R. §2.104 or §2.105. 15 NRC at 244-46.11/ With respect

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11/ With regard to Section 2.104, the Commission held that no notice of hearing was required unless (1) a hearing is mandated by section 189a of the Act or 10 C.F.R. Chapter 1; or (2) the Commission finds a hearing is required in the public interest. 15 NRC at 244-46. The Commission ruled that a materials license request did not mandate a hearing (only a construction permit application does) and that nothing in 10 C.F.R. Chapter 1 so requires. The Commission also found that the materials license request did not give rise to a public interest finding. Id. With regard to Section 2.105 the Commission stated:

[B]y its very terms, section 2.105 requires that the Commission issue a notice of proposed action - also called a notice of opportunity for hearing - only with respect to an application for a facility license, an application for a license to receive radioactive waste for commercial disposal, an application to amend such licenses where significant hazards considerations are

(Footnote 11 continued on next page)

to the applicability of NRC regulations, the Commission stated:

Although the Atomic Energy Act allows the City to request a hearing, our conclusion here is that there are no NRC regulations which require that we commence the formal hearing process which is triggered by a section 2.104 notice of hearing or section 2.105 notice of proposed action . . . . those regulations do not apply here . . . .

15 NRC at 246.<sup>12/</sup>

The Commission's decision in the Kerr-McGee proceeding was affirmed in City of West Chicago v. NRC, 701 F.2d 632 (7th Cir. 1983). The court of appeals ruled therein that:

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(Footnote 11 continued from previous page)  
involved, or an application for "any other license or amendment as to which the Commission determines that an opportunity for public hearing should be afforded." 10 C.F.R. § 2.105(a)(4). The Kerr-McGee amendment does not fall into any of these categories.

15 NRC at 245.

<sup>12/</sup> The Commission acknowledged that it had, in the past, provided formal hearings on materials license cases, either under the authority of since-repealed AEC regulations or as a matter of "policy and convenience." However this fact did not foreclose a different result when the Commission squarely ruled upon the issue. 15 NRC at 246, n.12. Moreover, even before the Kerr-McGee proceeding arose, the Commission took a consistent position in Edlow International Co. (Agent for the Government of India on Application to Export Special Nuclear Material), CLI-76-6, 3 NRC 563, 581 (1976), (Footnote 12 continued on next page)

Because a materials license amendment clearly falls within the first sentence of Section 189(a) [of the AEA], it does not, we hold, trigger the Section 2.104 notice of hearing, or the formal procedures provided therein.

701 F.2d at 639. The court similarly rejected the argument that the notice of hearing under §2.104 was triggered in this instance by §2.105. Id. at 639-40.

More recently, in Limerick, ALAB-765, the Appeal Board ruled that "the holding of Kerr-McGee fully pertains to Part 70 matters," although that proceeding involved a Part 40 license. 19 NRC at 651 n.9. Parts 30, 40, and 70 all deal with "materials" as distinct from "facilities." The Board rejected the intervenor's argument that section 182c of the Atomic Energy Act, and sections 2.104, 2.105 and 72.34 of NRC regulations, required the Commission to provide notice of an application for a Part 70 license. Id. at 651-52 n.10.

It also appears (although the Commission has not squarely decided this issue) that no other statutory or regulatory provisions require notice of materials license action.

Limerick, ALAB-765, 19 NRC at 652 n.10; Armed Forces Radiobiology Research Institute (Cobalt-60 Storage Facility),

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(Footnote 12 continued from previous page)

wherein the Commission stated, with respect to petitioners' complaint that there had been no public notice of Edlow's export license application, that "no legal obligation exists to give public notice of materials license applications, either for export or domestic use."



ALAB-682, 16 NRC 150, 157-59 (1982)("AFRRI"), wherein Mr. Eilperin stated in his concurring opinion:13/

The Commission's regulations do not specify any kind of formal notice for materials license actions such as these. And in the past, the Commission has suggested that there may be no notice requirement flowing from any other source of law. However, the Commission has been reluctant to decide the question finally.

AFRRI, ALAB-682, 16 NRC at 157 (footnotes omitted).

Appeal Board Question 3:

Has there been any other notice that apprised the public of such intended use of Catawba (e.g., a notice issued in connection with the application for a construction permit, an application for a construction permit modification, or an application for the issuance of a materials license pursuant to 10 CFR Part 70)? If so, what present significance attaches to that notice?

Response:

Several other Federal Register notices referred the public to additional documents or public meetings describing Duke's proposal to ship spent fuel from Oconee and McGuire to Catawba. Although none of these notices contains explicit language discussing spent fuel receipt and storage, they do refer to

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13/ The majority opinion in this decision did not reach the notice question. See 16 NRC at 155. However, both the majority opinion and Judge Eilperin's concurring opinion suggest that the Commission may wish to study the matter and resolve the issue in a rulemaking proceeding. The fact that nearly three years have elapsed and the Commission has taken no action suggests the Commission is not troubled by the fact that materials license applications need not be noticed.

(and incorporate by reference) additional publicly available documents that do describe the transshipment and storage authority sought by Duke. See, e.g., 47 Fed. Reg. 39767-68 (1982) (discussing issuance of NRC Staff's Draft Environmental Statement ("DES") and setting deadline for filing new contentions based upon it);<sup>14/</sup> 46 Fed. Reg. 56086 (1981), modified, 47 Fed. Reg. 702 (1982) (setting time and place for first prehearing conference, at which Licensing Board and parties discussed, inter alia, Palmetto's four spent fuel contentions (14, 15, 16, and 17)). Under the same rationale of incorporation by reference, discussed supra under question 2, these Federal Register notices provided further public notice of Duke's proposed transshipment of spent fuel from its other facilities to Catawba.

In addition to publication in the Federal Register (which was in itself adequate, as demonstrated above), there was significant coverage in local and regional newspapers of the fact that Duke sought authority to receive and store spent fuel from McGuire and Oconee at Catawba. See attached newspaper articles carried in newspapers which are widely circulated in the Oconee, McGuire, and Catawba areas. (Attachment 4A-H.). Such newspaper coverage provided adequate notice to the public

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<sup>14/</sup> See p. 5-19, and Appendix G of the DES, which specifically evaluate Duke's transshipment request.

in the affected region, both in fact and in law. See, e.g., Allens Creek, ALAB-574, 11 NRC at 11-12 n.12; Project Management Corp. (Clinch River Breeder Reactor Plant), ALAB-354, 4 NRC 383, 389 (1976); Jamesport, ALAB-292, 2 NRC at 647 (opinion of Mr. Rosenthal); Citizens Advisory Board, DPRM-81-1, 13 NRC 429, 435 (1981) See also, Limerick, ALAB-765, 19 NRC at 652, n.10 which notes, relying upon AFRRI, that in the event of actual notice, the Appeal Board need not reach the question of whether the statutory or regulatory provisions pertaining to notice have been met. Thus, regardless of this Board's view regarding the adequacy of the Federal Register notice, complete and adequate notice to the public was effected by the ensuing publicity in the newspapers.

Appeal Board Question 4:

Assuming that question 1 requires an affirmative answer, and further that no published notice can be reasonably construed as embodying the proposal to use Catawba for the storage of spent fuel generated at other facilities, did the Licensing Board have jurisdiction to consider that proposal? (In this connection, see, e.g., Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 NRC 287, 289-90 n.6 (1979); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167, 170-71 (1976)). If not, on what basis could the authorization of such storage be now granted by the NRC staff?

Response:

Licensees submit that the Licensing Board convened to preside over the Catawba operating license hearing did have

jurisdiction to consider Duke's proposal to store at Catawba spent fuel from the Oconee and McGuire nuclear plants. Under the Commission's Rules of Practice, Licensing Boards may "preside in such proceedings for granting, suspending, revoking, or amending licenses for authorizations as the Commission may designate, and to perform such other adjudicatory functions as the Commission deems appropriate." 10 C.F.R. §2.721(a). The NRC's notice of receipt of Duke's license application stated that a petition to intervene in "a hearing with respect to issuance of the facility operating licenses" may be filed by "any person whose interest may be affected." 46 Fed. Reg. 32975. As noted previously in response to question 2, this notice referred the reader to Duke's publicly available application for these facility operating licenses "[f]or further details pertinent to the matters under consideration." Id. The matters under consideration naturally included the entirety of the referenced OL application, including the spent fuel receipt and storage authority. The notice provided that should a petition to intervene be filed, the Commission could designate a Licensing Board to conduct the necessary proceedings. Id. Such a Board was subsequently designated. See 46 Fed. Reg. 39710 (Aug. 4, 1981).<sup>15/</sup> (Attachment 5).

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<sup>15/</sup> By means of that Notice, the Commission sets the scope (Footnote 15 continued on next page)

As noted above, the notice of hearing for the Catawba operating license proceeding did not specifically mention the fact (nor need it have done so) that the Catawba spent fuel pool might be used for the storage of Oconee and McGuire spent fuel as well as Catawba spent fuel. However, as explained supra, licensees believe that this activity was one of many that are legitimately encompassed within the broad scope of the operating license application, but are not specifically mentioned in the notice of hearing. Moreover, Duke's request for the necessary authority to store Oconee and McGuire fuel at Catawba was set forth in the Catawba operating license application itself. This matter therefore fell within the jurisdiction of the Catawba Licensing Board.

Analogous NRC case precedent supports this position. In Diablo Canyon, CLI-76-1, 3 NRC 73 (1976), the applicant had sought, during an ongoing OL proceeding, a materials license under Part 70 to enable it to transport and store fuel assemblies at the plant before issuance of the operating license. The licensing board presiding in the OL hearing also

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(Footnote 15 continued from previous page)  
of the proceeding, and establishes the authority of this Board. Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit No. 1, ALAB-400, 5 NRC 1175 (1977)); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4) ALAB-577, 11 NRC 18, 25 (1980)).

held an evidentiary hearing on the Part 70 license in which it denied the intervenor's request to prevent delivery and storage of the fuel and authorized issuance of the materials license. With respect to the licensing board's assertion of jurisdiction over the Part 70 license application, the Commission stated:

The Atomic Safety and Licensing Boards may be given jurisdiction over proceedings for the issuance of Part 70 materials licenses. 10 CFR 2.721. Normally, the notice of hearing constituting a particular board confers jurisdiction in a particular case by referencing the specific license application or applications to be considered. Although the notice of hearing establishing the present board did not explicitly reference the materials license in question here, that license is integral to the Diablo Canyon project, and it does not appear that any interested person was actually prejudiced by the lack of such a reference.<sup>16/</sup> Given that Board's familiarity with the Diablo Canyon project, it made good practical sense for it to hear and decide the related issues raised by the Part 70 materials license application.

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<sup>16/</sup> Though it may be argued that the storage of Oconee and McGuire spent fuel at Catawba is arguably not "integral" to the operation of the Catawba facility, it is both integral to the license application and identical to activities that are always involved (i.e., storage of spent fuel). This activity became an integral part of Duke's OL application when licensees specifically noted in the application that they sought the requisite regulatory authority to perform this activity. Moreover, in the Diablo Canyon proceeding the applicant sought a materials license after the OL license hearing had begun, whereas in the instant case the materials license application was encompassed within the Part 50 license application. If the Commission found that the materials license was "integral to the Diablo Canyon project," then surely the request to store spent fuel generated at other Duke reactors, which was sought along with the Part 50 operating license, must likewise be viewed as integral to the Catawba project.

Accordingly, we hereby confirm the Licensing Board's assertion of jurisdiction in this instance.

3 NRC at 74 n.1 (emphasis added).

A similar holding was reached in Cincinnati Gas & Electric Co. (William H. Zimmer Nuclear Station), LBP-79-24, 10 NRC 226 (1979). During the operating license proceeding for that facility, intervenors filed a motion to delay the delivery of fuel to the site after the utility had obtained a Part 70 license. The licensing board found that it had jurisdiction to rule on the motion. Citing 10 C.F.R. §2.717(b), which authorizes a presiding officer to modify "as appropriate for the purpose of the proceeding" any "order related to the subject matter of the pending proceeding," the board ruled that the issuance of a Part 70 license is an "order" which may be "modified" by a licensing board delegated to preside in a Part 50 operating license proceeding. 10 NRC at 228-30. See also Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 & 2), LBP-83-38, 18 NRC 61, 62-63 (1983).

This precedent was followed in Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), LBP-84-16, 19 NRC 857 (1984), wherein the licensing board in that operating license proceeding ruled that it had jurisdiction over the utility's Part 70 license application to receive and store unirradiated fuel onsite. The applicant argued that the

board's jurisdiction did not extend to the Part 70 contentions, and attempted to distinguish contrary case law (including Zimmer and Diablo Canyon, supra) on the basis that the Part 70 licenses therein had been issued before the boards asserted jurisdiction, whereas in the Limerick proceeding the licenses were still pending.

The board rejected this argument, stating that: "[o]ur jurisdiction over Part 70 matters is not to be so narrowly construed." 19 NRC at 863.17/ Citing the Commission's Diablo Canyon decision (3 NRC 73), the board stated that "the practical good sense in letting a licensing board hear and decide related issues raised by a materials license application apply no less to issues raised before the Part 70 license is granted than they do to issues raised after the license is granted." Id.

The appeal board affirmed the Limerick licensing board's assertion of jurisdiction in ALAB-765, 19 NRC 645. Citing the Commission's Diablo Canyon decision as precedent, the Appeal

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17/ As in Zimmer, supra, the licensing board in the Limerick proceeding based its assertion of jurisdiction over Part 70 matters upon 10 C.F.R. §2.717(b). The purpose of this provision, reasoned the board, "clearly is to permit integration of an operating license proceeding with Staff orders on matters related to that proceeding." In the Board's view, such integration could, and perhaps should, take place before the Staff issues an order on a related matter. 19 NRC at 863.



Board ruled that "PECo's materials license is no less integral to Limerick," and that it made good sense for the Limerick licensing board to rule on the proposed Part 70 contentions given its familiarity with the proceeding. 19 NRC at 651. It concluded that "the consistent<sup>18/</sup> agency practice . . . is for licensing boards, already presiding at operating license hearings, to act on requests to raise Part 70 issues involving the same facility." Id. at 652 (citations omitted).

Neither of the two cases cited in Question 4 contradict licensees' position on this jurisdictional question, since both

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<sup>18/</sup> In Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 & 2), Docket Nos. 50-387/50-388, Licensing Board Memorandum and Order of May 21, 1981, pp. 28-29 (unpublished), the Licensing Board declined to assert jurisdiction over Part 70 issues at that time because it believed that it would be able to issue an expedited decision on the operating license first, thereby eliminating the need for a separate Part 70 license. The board stated:

There is precedent in the Commission's proceedings for Licensing Boards to assume jurisdiction over this application once it is filed, and there seems to be ample justification where the receipt of these unirradiated fuel bundle assemblies and their storage on the refueling floor of the Reactor Building relates closely with one or more contentions. However, inasmuch as the grant of an operating license negates the necessity for [a] Part 70 license, the Board declines to assume jurisdiction of this proceeding at the present time. At present, the Board intends to concentrate on expediting the hearing process on the operating license application.

(Footnote 18 continued on next page)

are clearly distinguishable from the instant case. In Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 & 2), ALAB-316, 3 NRC 167 (1976), the licensing board convened to consider health, safety and environmental aspects of a construction permit application denied an intervention petition for lack of jurisdiction, on the grounds that the petition raised only antitrust issues. The Appeal Board affirmed this ruling, noting that the Commission has established entirely separate procedures for antitrust issues, and that a notice for opportunity for a hearing on antitrust issues had previously been published to which petitioners had not responded.<sup>19/</sup> The Appeal Board further reasoned that

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(Footnote 18 continued from previous page)

Slip op. at 29. However, as the Susquehanna Board acknowledged, there is ample precedent for the Licensing Board to take jurisdiction over related materials license matters and the fact that the Susquehanna Board chose not to exercise its jurisdiction in no way undermines the validity of this point.

<sup>19/</sup> It is standard, and long-standing, Commission policy to review antitrust matters raised in connection with the licensing of a facility "separately from the hearings held on matters of radiological health and safety" for the same facility. (10 CFR Part 2, Appendix A § X(e); See, e.g., Duke Power (Oconee Nuclear Station, Units 1, 2, and 3), 4 AEC 592 (1971); Boston Edison Co. (Pilgrim Nuclear Power Station), 4 AEC 666 (1971)). In fact, the Commission's rules specifically provide that "unless the Commission determines otherwise" a hearing on the antitrust aspects of an application will be considered at a proceeding other than the one convened to hear environmental and safety matters. (10 CFR § 2.104(d)).

licensing boards, as delegates of the Commission, exercise only those powers that the Commission has given them, and that the NRC's hearing notice (which invited consideration of "radiological health and safety and environmental matters relating to the proposed facility") could not reasonably be read to encompass antitrust issues.

On this last point, the Marble Hill decision is clearly distinguishable from the situation in Catawba. While the jurisdiction of a licensing board to consider health, safety and environmental issues related to the proposed operation of a nuclear plant cannot reasonably be read to encompass antitrust issues, it should be read to include activities such as the proposed storage of fuel from other licensee facilities at the facility in question. The storage of Oconee and McGuire spent fuel in the Catawba spent fuel pool constitutes a "health, safety and environmental" issue that falls under the licensing board's jurisdiction, even though it may be seen as a materials license rather than a facility license issue, as we have already discussed.

Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 NRC 287 (1979), also supports the general proposition that "a licensing board does not have the power to explore matters beyond those which are embraced by the notice of hearing for the particular proceeding." 9 NRC at 289-90, n.6.

Duke does do not dispute that general proposition. However, as in Marble Hill, supra, the facts of that decision are clearly distinguishable from those in the instant case. In particular, the licensing board in Trojan had been convened for a limited purpose:

[O]ur jurisdiction in this phase of the proceeding is limited to determining whether interim operation of the as-built Control Building and the related equipment can be authorized with reasonable assurance that such operation will not endanger the public health and safety. We are not authorized to examine matters that were explored at the construction permit or operating license stages, nor can we expand the issues beyond those related to the design deficiencies that resulted in the notice of hearing which described the issues we are empowered to consider. Although a safety audit of the entire Trojan facility is beyond our authority, we did permit all Intervenors to cross-examine fully on the nature, effect and ramifications of the identified design deficiencies, and no safety questions were left unexplored.

Portland General Electric Co. (Trojan Nuclear Plant), LBP-78-40, 8 NRC 717 (1978).

Many of the concerns raised by the intervenors in Trojan involved matters beyond the scope of those issues to be considered in the hearing on interim operation, such as the alleged need for an overall safety audit of the plant and need for power. 8 NRC at 745. Accordingly, the Appeal Board reasoned, the licensing board had correctly determined that it lacked jurisdiction to explore these matters. 9 NRC at 289 n.6. In affirming the licensing board's decision to allow interim

operation, the Appeal Board ruled that "the Licensing Board treated all of the issues necessary to a reasoned decision on the interim operation question." Id. at 289.

Again, the situation in Trojan -- involving a licensing board with very limited jurisdiction -- is clearly distinguishable from that of the license board in Catawba. Trojan involved a narrow health and safety question; jurisdiction of the Catawba licensing board was broad, potentially covering any public health and safety matters duly placed in controversy by the parties related to the operating license application, in which Duke made their request to store Oconee and McGuire spent fuel at Catawba.

As explained by the Commission in Diablo Canyon, it is normal practice for the Federal Register notice to confer jurisdiction in a particular case by referencing the specific license application(s) to be considered. CLI-76-1, 3 NRC at 74 n.1. This was done in the case of Catawba (see 46 Fed. Reg. 32975, col. 2), conferring on the Licensing Board full jurisdiction over the authority to receive and store at Catawba spent fuel from McGuire and Oconee. Such is fully consistent with Trojan, ALAB-534, and Marble Hill, ALAB-316, for those cases limited the Board's jurisdiction to those matters encompassed by the notices in the Federal Register. Licensees seek no authority beyond that incorporated by reference in the

Catawba Federal Register notice. Indeed, under NRC precedent, the Licensing Boards would have jurisdiction over Part 70 matters relating to Catawba even in the absence of their inclusion in the OL application referenced in the Federal Register. See Diablo Canyon, CLI-76-1, 3 NRC at 74 n.1; Limerick, ALAB-765, 19 NRC at 651-52; Zimmer, LBP-79-24, 10 NRC at 228-30; Perry, LBP-83-38, 18 NRC at 62-63. Thus the Licensing Board had jurisdiction over licensees' request for authority to receive and store spent fuel from McGuire and Oconee at Catawba.

Respectfully submitted,

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## NOTICES

-32905

Since the last antitrust advice letters were written Lilco has had a change in its operations that merits notation.

In April, 1978, the Greenport New York Municipal Electric System, which until that time had been isolated, interconnected with Lilco. The Greenport system has a peak of about 3 MW. In addition, Greenport, as well as Freeport and Rockville Centre, the only two other comparatively small municipal utilities in Lilco's service area, have obtained commitments from the Power Authority of the State of New York (PASNY) to supply their bulk power needs. Lilco, as well as other investor-owned utilities in the State of New York, have agreed to transmit that power from the PASNY transmission system to the three municipal systems.

After examination of the current application and review of the relevant data, we have concluded that no intervening circumstances have occurred to warrant a reversal of the advice given with respect to the applicants in the above-cited antitrust letters.

We express no opinion, however, concerning the legality under the antitrust laws of the manner in which, or any arrangements pursuant to which, the plants will be operated, should they differ from or extend beyond those matters specifically disclosed in the application.

Accordingly, from the information available to us at the present time we conclude that no antitrust hearing by the Nuclear Regulatory Commission will be required with respect to this application.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by August 27, 1978, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,  
Chief, Antitrust and Indemnity  
Group Office of Nuclear Reactor  
Regulation.

[FR Doc. 78-20754 Filed 7-27-78; 8:45 am]

[7590-01]

[Docket No. 70-2623]

DUKE POWER CO.

Opportunity for Public Participation in Proposed NRC Licensing Action for Amendment to Materials License SNM-1773 for Oconee Nuclear Station Spent Fuel Transportation and Storage at McGuire Nuclear Station

The U.S. Nuclear Regulatory Commission (the Commission) is giving public notice that it is considering an application for amendment to Special Nuclear Material License No. SNM-

1773 issued pursuant to 10 CFR Part 70 to authorize the receipt and storage of Oconee Nuclear Station spent fuel at the McGuire Nuclear Station.

The proposed amendment would authorize the receipt and storage of Oconee Nuclear Station spent fuel at the McGuire facility in accordance with the licensee's application for amendment dated March 9, 1978. Activities for which additional authorization is sought involve receipt, possession, inspection and storage of spent nuclear fuel from the licensee's Oconee Nuclear Facility in Oconee County, S.C., at the licensee's McGuire facility located in Mecklenburg County, N.C., including transport of the Oconee spent fuel by truck between the two sites. The activities being reviewed also include storage of Oconee irradiated fuel with the spent fuel to be generated by the operation of the McGuire facility. In its license amendment Duke Power Co. also requested certain special arrangements with respect to Price-Anderson Act indemnification. This request is under consideration by the Commission as a separate matter, and it will be the subject of a separate action, including any public notice required. Issuance of an operating license for the McGuire Nuclear facility is presently under consideration in a separate proceeding pursuant to 10 CFR Part 50 in Docket Nos. 50-369 and 50-370.

The NRC will not issue the license amendment for storage of Oconee spent fuel at the McGuire Nuclear Station spent fuel pool (1) until the completion of a safety evaluation on the licensee's request and the completion of environmental evaluations made pursuant to 10 CFR Part 51; and (2) unless favorable findings required by the Atomic Energy Act of 1954, as amended (the act), and the NRC's rules and regulations have been made.

The NRC will complete an environmental evaluation in accordance with 10 CFR Part 51 to determine if the preparation of an environmental impact statement, or negative declaration and environmental appraisal is warranted. This action will be the subject of a separate notice in the FEDERAL REGISTER.

On or before August 28, 1978, the licensee may file a request for a hearing and any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the proposed amendment to SNM-1773 should be issued.

Petitions for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the specific aspect(s) of the subject matter of the proceed-

ing as to which petitioner wishes to intervene. Such petitions must be filed in accordance with the above-referenced FEDERAL REGISTER Notice and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by August 28, 1978. A copy of the petition and/or request for hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Duke Power Co., c/o W. L. Porter, Esq., Associate General Counsel, Legal Department, 422 South Church Street, Charlotte, N.C. 28242, attorney for the applicant. Any questions or requests for additional information regarding the context of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The Carolina Environmental Study Group was previously admitted as an Intervenor *In the Matter of Duke Power Company* (William B. McGuire Nuclear Station, Units 1 and 2) Docket Nos. 50-369, 50-370, a separate operating license application proceeding. On May 23, 1978, the Carolina Environmental Study Group filed a motion ("Motion to Reopen Environmental Hearing to Add Contention (2)") in the McGuire operating license proceeding that seeks to raise a contention relating to the proposed transportation and storage of Oconee spent fuel at the McGuire facility pursuant to the application for amendment of the Special Nuclear Material License SNM-1773. The Carolina Environmental Study Group's motion is being treated as a request for hearing pursuant to 10 CFR § 2.105. This notice is being issued based on the determination that an opportunity for hearing should be afforded pursuant to the Carolina Environmental Study Group's request. Carolina Environmental Study Group's motion of May 23, 1978, is deemed to be filed pursuant to this notice of application for amendment to License No. SNM-1773 as of the first day of publication of this notice in the FEDERAL REGISTER, provided, however, that the Carolina Environmental Study Group may file a statement within the thirty (30) day intervention period indicating that it does not wish to participate in the SNM-1773 license amendment proceedings, or it may elect to file any additional material with respect to the specific aspect or aspects of Duke Power Company's application to amend SNM-1773 on which it wishes to intervene.

Not later than fifteen (15) days prior to any prehearing conference scheduled in the proceeding, the petitioner

shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each. All petitions will be acted upon by the Commission or the Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, that person becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, that person may present evidence and cross-examine witnesses.

A copy of the FEDERAL REGISTER Notice is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local Public Document Rooms at the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, N.C. 28202, between the hours of 9 a.m. and 9 p.m. weekdays, 9 a.m. and 6 p.m. on Saturday and 2 p.m. and 6 p.m. on Sunday, and at the Oconee County Library, 201 South Spring Street, Waihalla, S.C. 29691, between the hours of 10 a.m. and 9 p.m. on Monday, 9 a.m. and 5 p.m. Tuesday through Friday, and 9 a.m. and 12 noon on Saturday. The Commission has arranged for other documents and correspondence relating to the proposed amendment to the Special Nuclear Material License No. SNM-1773 to be kept at the same locations.

Dated at Silver Spring, Md., this 14th day of July, 1978.

For the Nuclear Regulatory Commission.

RICHARD W. STAROSTECKI,  
Chief, Fuel Reprocessing and Recycle Branch Division of Fuel Cycle and Material Safety.

[FR Doc. 78-20753 Filed 7-27-78; 8:45 am]

[7590-01]

Docket No. PRM-31-31

R. F. NACHREINER

Filing of Petition for Rulemaking

Notice is hereby given that Dr. R. F. Nachreiner by letter dated June 19, 1978, has filed with the Nuclear Regulatory Commission a petition for rulemaking to amend the Commission's regulation "General Domestic Licenses for Byproduct Material," 10 CFR Part 31.

The petitioner requests the Commission to amend section 31.11, general license for use of byproduct material for certain in vitro clinical or laboratory testing, to include veterinarians as general licensees. The petitioner states that:

It has been brought to my attention that licensed veterinarians are not eligible to register on Form AEC-483 for in vitro testing under the terms of the general license provided for in section 31.11 of 10 CFR Part 31. Rather, veterinarians must request a specific byproduct material license on form AEC-313. It is also my understanding that the fee for the specific byproduct license will be \$190. Since more veterinarians are receiving postgraduate training in clinical pathology and upgrading their diagnostic facilities considerably, I believe it is a hindrance to progress to require a different license than that extended to physicians. The small quantity used and similarity of use to that of a physician (specifically, RIA use) [Radioimmunoassay] would imply a similar type licensure for veterinarians. Would you please consider having this type of licensure for veterinarians also?

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, By September 26, 1978.

Dated at Washington, D.C. this 21st day of July, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 78-20898 Filed 7-27-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS (ECCS)

Meeting

The ACRS Subcommittee on Emergency Core Cooling will hold an open meeting on August 14, 1978 at the Westbank Motel Coffee Shop, 475 River Parkway, Idaho Falls, Idaho 83401, to review the status of research projects related to LOFT, SEMISCALE, thermal-hydraulic aspects of the Power Burst Facility (PBF), and 2-phase flow instrumentation. Notice of this meeting was published at 43 FR

26162 and 30631, June 16 and July 17, 1978, respectively.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, August 14, 1978; 8:30 a.m. until the conclusion of business.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Idaho National Engineering Laboratory (INEL), and their consultants, pertinent to the above topics. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Andrew L. Bates, telephone 202-634-3267; between 8:15 a.m. and 5 p.m., e.s.t.

Dated: July 26, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc. 78-21132 Filed 7-27-78; 9:09 am]

[3110-01]

OFFICE OF MANAGEMENT AND  
BUDGET

CLEARANCE OF REPORTS

List of requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 24, 1978 (44 U.S.C. 3509). The purpose of pub-



amend § 121.571. The Board has closed out A-74-106, -113, and -114.

**A-80-44 (June 18).**—FAA has begun study of general aviation and commuter accidents and incidents and will evaluate bird strike history and review windshield designs to determine effect of windshield heat on windshield structural strength. (Ref. 45 FR 60053, Sept. 11, 1980.)

**A-81-24 and -25; A-79-95 and A-79-80 (reiterated) (June 10).**—FAA continues to urge small twin-engine airplane manufacturers to comply with GAMA Specification No. 1: FAA is reviewing 14 CFR Part 23, Airworthiness Standards: Normal, Utility, and Acrobatic Category Airplanes; prior consideration is being given to requirement for specific takeoff performance data; added emphasis in FAA orders and handbooks is being placed on training for potential power failure on takeoff; FAA plans to revise Advisory Circular AC 135.3B (A-81-24 and -25). FAA continues its efforts under its safety charter, Federal Aviation Act of 1958 as amended, and has disseminated Accident Prevention Program publications FAA-P8740-19 and 25 regarding light twin-engine aircraft operation (A-79-95). FAA has insured that safe operating knowledge and practices are acquired through a combination of increased experience reflected in 14 CFR 135.244 and approved pilot training programs; Change 6 to Chapter 3, Section 8, FAA Order 8320.12, gives instructions for weight and balance control for Part 135 operators of aircraft certificated for nine or less passengers (A-79-80). (Ref. 46 FR 18823, Mar. 26, 1981; 45 FR 85532, Dec. 29, 1980.)

#### Responses from the U.S. Coast Guard—

**M-79-39 (Part 5) through -44 (June 9).**—Providing guidance in the operating manual as to expected results of exceeding the design limits for jacking operations or any vessel operation, will not improve overall vessel safety (M-79-39(5)). USCG does not concur in requiring operating limits for self-elevating mobile offshore drilling to be specified in terms of motion amplitudes and periods, or in requiring on-board motion sensing and recording instruments to determine actual unit motions. (M-79-41). A 7-step R&D program for structural and motion monitoring is set for completion in 1986 (M-79-42). USCG reports that IMCO's "Training Qualifications of Crews Serving on Mobile Offshore Units" (STW XIV/WP.4), Jan. 21, 1981, covering various duties/training qualifications of person-in-charge and others, will be reviewed formally by the Subcommittee on Standards of Training and Watchkeeping in February 1982 (M-79-43 and -44). (Ref. 45 FR 52519, Aug. 7, 1980.)

**M-80-36 (June 11).**—On Jan. 12, 1981, representatives of Sabine Pilots, Maritime Industry, and USCG amended and ratified the "Voluntary Traffic Control Agreement of the Maritime Industry of the Sabine Waterways." USCG has a position statement from the Corps of Engineers regarding Chapter 1, Tidal Hydraulics Committee Report No. 3, 1965. (45 FR 62234, Sept. 18, 1980.)

**Note:** Single copies of Board reports are available without charge as long as limited supplies last. Copies of recommendation

letters, responses and related correspondence are also free of charge. All requests must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va., 22161. (49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

June 19, 1981.

(FR Doc. 81-18750 Filed 6-24-81; 9:45 am)

BILLING CODE 4910-58-M

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-413, 50-414]

### Duke Power Co., et al.; Notice of Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Notice of Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for facility operating licenses from Duke Power Company, for itself and as agent for North Carolina Municipal Power Agency Number 1, North Carolina Electric Membership Corporation, and Saluda River Electric Cooperative, Inc. (the applicants), to possess, use, and operate the Catawba Nuclear Station, Units 1 and 2, two pressurized water nuclear reactors (the facilities), located on the shore of Lake Wylie in York County, South Carolina. The reactors are designed to operate at a steady-state power level of 3411 megawatts thermal, with an equivalent net electrical output of approximately 1145 megawatts.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report which discusses environmental considerations related to the proposed operation of the facilities. This report is being made available at the State Clearinghouse, Office of the State Auditor, P.O. Box 11333, Columbia, South Carolina 29211, and at the Catawba Regional Planning Council, P.O. Box 862, Rock Hill, South Carolina 29730.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the

Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

The Commission will consider the issuance of facility operating licenses for Catawba Unit 1 to Duke Power Company, North Carolina Electric Membership Corporation and Saluda River Electric Cooperative, Inc., and for Catawba Unit 2 to Duke Power Company and North Carolina Municipal Power Agency Number 1. These licenses would authorize the applicants to possess, use and operate the Catawba Nuclear Station in accordance with the provisions of the licenses and the technical specifications appended thereto, upon: (1) the completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicants' application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Construction Permit Nos. CPPR-116 and CPPR-117, issued by the Commission on August 7, 1975. Construction of Unit 1 is anticipated to be completed by March 1, 1984, and Unit 2 by September 1, 1985.

Prior to issuance of any operation licenses, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review

of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By July 27, 1981, the applicants may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (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. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are

sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by July 27, 1981. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, and to J. Michael McGarry, III, Esq., Debevoise and Liberman, 1200 Seventeenth Street, N.W., Washington, D.C. 20036, attorney for the applicants. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i)-(v) and §2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses and the applicants' environmental report dated June 8, 1981, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730. As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be

attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

For the Nuclear Regulatory Commission,

Dated: June 12, 1981.

Elinor G. Adensam,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

(FR Doc. 18770 Filed 6-25-81, 8:45 am)

BILLING CODE 7580-01-88

(Docket Nos. 50-280 and 50-281)

#### Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR-32 and Amendment No. 70 to Facility Operating License No. DPR-37 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively, (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to change the heat flux hot channel factor ( $F_0$ ) to 2.18 for Units 1 and 2. These amendments also make editorial changes to the Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant

# DUKE POWER COMPANY

LEGAL DEPARTMENT  
P. O. Box 33189  
CHARLOTTE, N. C. 28242

ALBERT V. CARR, JR.  
ASSISTANT GENERAL COUNSEL

November 2, 1981

(704) 373-2870

Robert Guild, Esq.  
Attorney-at-Law  
314 Pall Mall  
Columbia, South Carolina 29201

Re: Catawba Nuclear Station, Units 1 & 2  
Docket Nos. 50-413 & 50-414

Dear Mr. Guild:

This is a follow up to our meeting of October 30, 1981. We thank you and the members of your group for the opportunity to meet with you and the time that you expended in doing so.

With respect to certain specific items of information which you requested and other items discussed at the October 30 meeting, please note the following:

(1) We will add the Palmetto Alliance to Duke's service list so that from this date forward Palmetto Alliance will be served by Duke with a copy of documents filed by Duke in this docket with the NRC on or after the date of this letter, as though Palmetto Alliance were currently a full participant to the proceeding. However, these documents will not include amendments to the FSAR. Those amendments will be forwarded, in accordance with standard practice, to the local Public Document Room (PDR) and to those addresses in Columbia which were furnished to you in my letter of October 20, 1981.

(2) The citation to the collateral estoppel case discussed is 7 AEC 82.

(3) The dates for the NRC licensing milestones are attached to a letter of April 30, 1981 from Chairman Hendrie of the NRC to Congressman Bevill, Chairman of the Subcommittee on Energy and Water Development, Committee on Appropriation.

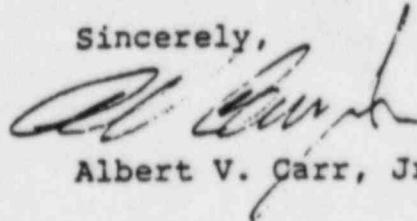
(4) With regard to your questions concerning the scope of the authority sought in the application, the application contains the following statement:

Robert Guild, Esq.  
November 2, 1981  
Page 2

The license hereby applied for is a class 103 operating license as defined by 10 CFR 50.22. It is requested for a period of forty (40) years. Applicants further request such additional source, special nuclear, and by-product material licenses as may be necessary or appropriate to the acquisition, construction, possession, and operation of the licensed facilities and for authority to store irradiated fuel from other Duke nuclear facilities. At present, Duke has no specific plans to utilize this storage alternative but, rather, considers it prudent planning to have this storage as one of the alternatives available.

At this point, we feel we must consider whether it is fruitful to continue discussions with the hope of arriving at a timely stipulation of contentions to present to the Licensing Board. It is our understanding that at this time the Palmetto Alliance is not able to provide us with all of the contentions it will seek to raise as issues in this proceeding. Moreover, the Palmetto Alliance has indicated that it is unable to tell Duke when it will be prepared to discuss its full range of contentions. Further, the Palmetto Alliance will not assure us that, if we do pursue discussions and do reach a stipulation of contentions, the Palmetto Alliance will not seek to file additional contentions with the Licensing Board on the date set by the Board for such filing. In light of the foregoing and Duke's desire to proceed in a timely fashion, we do not believe that any useful purpose will be served by further discussions between Duke and Palmetto Alliance.

Sincerely,



Albert V. Carr, Jr.

AVCJr/fhb  
cc: See attached list

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

Dr. Dixon Callihan  
Union Carbide Corporation  
P.O. Box Y  
Oak Ridge, Tennessee 37830

Dr. Richard F. Foster  
P.O. Box 4263  
Sunriver, Oregon 97701

Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Palmetto Alliance  
2135 1/2 Devine Street  
Columbia, South Carolina 29205

Henry A. Presler  
Chairman  
Charlotte-Mecklenburg  
Environmental Coalition  
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Charlotte, North Carolina 28207

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1200 Seventeenth Street, N.W.  
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Chairman  
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Charlotte, North Carolina 28207

Richard P. Wilson, Esq.  
Assistant Attorney General  
State of South Carolina  
2600 Bull Street  
Columbia, South Carolina 29201

Donald R. Belk  
Representative  
Safe Energy Alliance  
2213 East Seventh Street  
Charlotte, North Carolina 28204

Chase R. Stephens  
Docketing & Service Section  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Attachment 1

# Agency Dismisses Charge Against Duke

By JACK MORAN  
Special Staff Writer

The Nuclear Regulatory Commission (NRC) has cleared Duke Power Co. of charges that it tried to hide from the federal agency an alleged master plan for shuffling nuclear waste among its nuclear plants.

An inquiry by the NRC's Atlanta office concluded in March there was no basis for a formal investigation into possible false statements by Duke.

"We felt like we'd been candid all along," Duke official Mary Cartwright said Monday.

The charges were made last October by an NRC hearing panel when it ruled Duke couldn't make 300 waste shipments from its Oconee, S.C., plant for storage at the McGuire plant, 17 miles northwest of downtown Charlotte.

Opponents argued the shipments actually would be made the first step in a massive "un-

safe" program in which Duke would send waste occasionally from reactor to reactor as storage pools became filled. Duke officials acknowledged they had considered multiple shipments but decided they had officially adopted a "cascade" plan.

The hearing panel wrote "... It appears that Duke was somewhat less than candid, if not actively devious, in not disclosing its cascade plan to the NRC..."

"We regard as disingenuous, the further notes (by Duke) that 'Each plant is expanded solely on the basis of meeting its own need for storage. No mention of the cascade approach in licensing documents,'" the three-member panel said.

Those internal Duke documents, written in 1978 and 1977, emerged in public hearings in Charlotte in 1979.

The inquiry concluded that NRC official Brett Spitzley knew of Duke proposals to ship

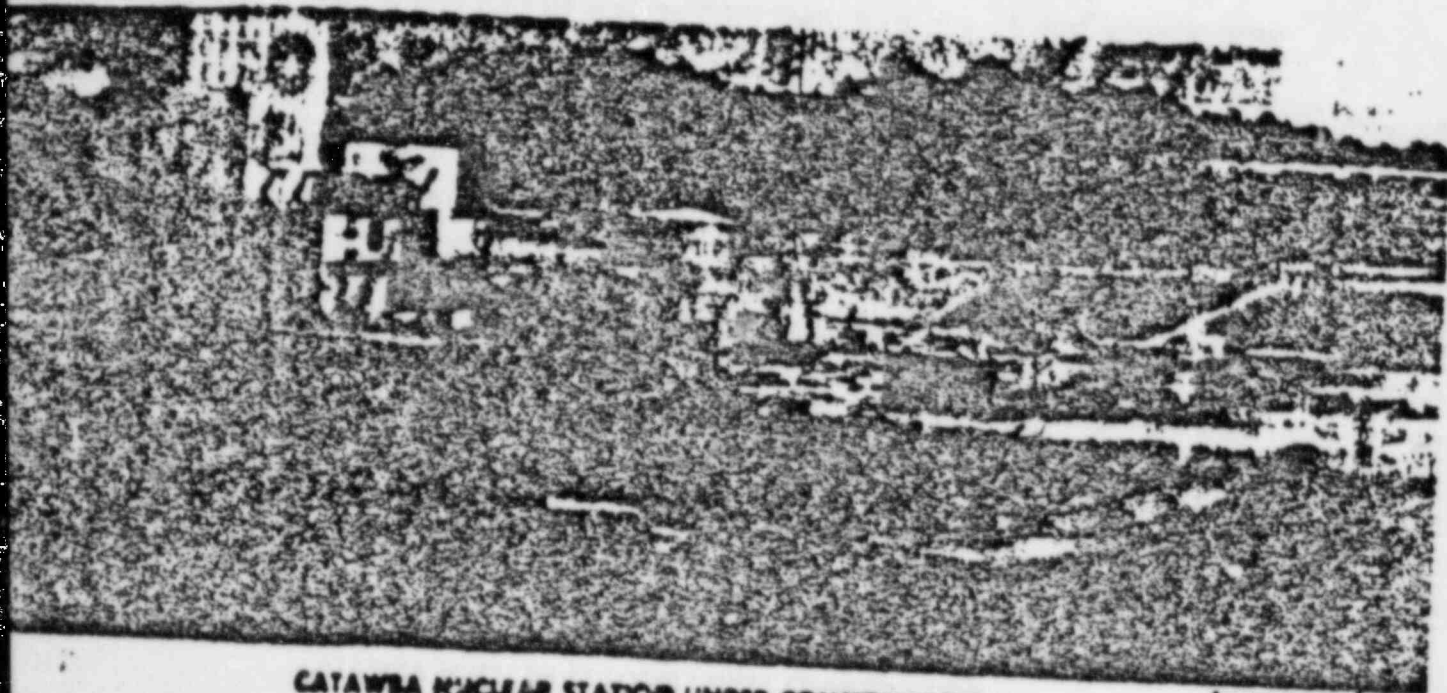
waste from Oconee to McGuire, McGuire to the Catawba plant and Oconee to Catawba in 1978.

NRC investigator Carl Almeron also noted that Catawba's safety report said Oconee and McGuire waste may be stored at the plant. The 1979 report was filed about one month before the National Resources Defense Council, an environmental organization opposed to the shipments, obtained copies of the documents.

Since the NRC staff knew about Duke's plans, "... It does not appear appropriate that the question of material false statements should be addressed further," Almeron wrote.

NRC official Clare Miles said Monday the inquiry into licensing panel accusations was a "rare occurrence."

Duke has appealed the adverse decision on shipping from the licensing panel to the NRC's Atomic Safety and Licensing Appeals Board.



CATAWBA NUCLEAR STATION UNDER CONSTRUCTION  
Palmetto Alliance opposes licensing for the plant

From Herald file photo

# Duke foes find support in NRC's criticism of Catawba construction

By Staff Writer  
A Nuclear Regulatory Commission report released Tuesday concerning construction of the Catawba nuclear plant near Rock Hill, S.C., says the plant has poor workmanship and substandard workmanship west of Rock Hill. The Palmetto Alliance, a conservation organization in Columbia, dedicated to the promotion of renewable non-nuclear energy, is intervening in the licensing proceedings for the plant. Members of the alliance intend to oppose the



Lowe



McAfee

billions of dollars for the Catawba station in August 1979 applied for an operating license for the plant this year.

The Palmetto Alliance filed a petition protesting the proposed operating license in July.

"Substandard workmanship and poor quality control strongly suggest that actual plant construction is substantially below NRC standards in many safety related areas," says the petition.

Palmetto Alliance organized in 1979 and claims a mailing list of about 1,000 people inside and outside the state, is dedicated to public education and organizing against the nuclear industry.

In an interview this month, Michael Lowe, a spokesman for the group, said it regularly intervenes in the licensing of nuclear power plants and in requests for utility rate hikes. It participates in legislative lobbying and promotes renewable energy resources, such as solar power, in South Carolina.

Ron McAfee of Route 1, York, and Nolan Hoopingartner II of Route 5, Clover, are active members of Palmetto Alliance and are intervenors in the proceedings for Catawba's operating license.

Hoopingartner and McAfee are both former Duke employees who say they observed deficiencies in plant construction and problems in construction management at the Catawba plant. Lowe says the Palmetto Alliance will use testimony from McAfee and Hoopingartner and others to protest the Catawba operating license on the following grounds:

- Construction: "Nuclear construction is very exacting work," Lowe said this morning.

"Everything has to be done to perfection. A weld has to be perfect, and the tedious nature of construction

makes it subject to poor workmanship."

Lowe said one of the alliance's main objections is to the thin-wall concrete containment buildings at Catawba.

"Most plants have thick walls. Duke has designed the McGuire and Catawba plants with thin walls and an ice-cooler (surrounding the reactor building) to keep steam pressure down, in case of an accident."

"But we have seen accidents that exceeded the containment capacity at Catawba," Lowe said.

- Nuclear waste: "We will resist any attempt to store any waste at Catawba from any other plants in the Duke system," Lowe said.

Health and environmental hazards: "The hazards of radiation put off by this plant are not minimal," Lowe said.

- That's only part of the story - there are radiation hazards from the mining of fuel through transportation to its handling in final disposal."

- Economics: Lowe says the Catawba plant may be violating federal antitrust laws by giving Duke Power Company a monopoly on generating power and construction capital.

said Monday they are racing and have the problems studied.

The bill was granted for the \$2.7

## Duke considers shipping nuclear waste to Catawba nuclear plant for storage

Duke Power Co. is considering shipping highly radioactive waste from two nuclear plants near Charlotte and Seneca, S.C., to its Catawba Nuclear Station near Rock Hill, S.C., says Bob Rasmussen, a fuel section assistant engineer. The utility has submitted to the Nuclear Regulatory Commission a 20-page plan for the shipments.

Shipments from Oconee, near Seneca, would begin no sooner than March 1988. Shipments from McGuire, 17 miles northwest of Charlotte on Lake Norman, would begin no sooner than March 1991.

32165



### 1 Of Several Options

# Duke May Ship Waste To York County Plant

By JACK HORAN  
*Observer Staff Writer*

Duke Power Co.'s nuclear-waste storage plans for the 1990s include the possibility of shipping highly radioactive nuclear waste from other Duke plants to the Catawba plant in York County, a company official said.

"It's just an option we've looked at," said Bob Rasmussen, a member of a Duke task force on the waste issue.

Such shipments likely would travel along I-85 and I-77 in Charlotte south to N.C. 49 and S.C. 274 to the Catawba plant.

The information was recently submitted to the U.S. Nuclear Regulatory Commission as part of the licensing requirements for Catawba.

But Rasmussen said waste shipments to Catawba may take place only on a limited basis or may be ruled out completely by new methods of compacting waste at Duke's two other nuclear plants.

One of these methods, called pinpacking, will be tested at Duke's Oconee plant near Seneca in August.

Duke now stores 990 nuclear waste assemblies — burned up reactor fuel — underwater in special pools at Oconee. Each assembly contains 208 fuel rods held together by metal frames.

Pinpacking consists of taking

the assemblies apart and bunching the rods closer together to create additional space for new waste.

Pinpacking "would be a less expensive option than transshipment," Rasmussen said. "Transshipment just changes your spaces around and eventually catches up with you."

Last year Duke began shipping the first of 300 assemblies from Oconee to the McGuire plant, 17 miles northwest of downtown Charlotte.

During public hearings on the shipping license in 1979, opponents claimed the shipments were the beginning of a "cascade plan" that eventually would mean shuttling waste to Catawba and other plants. Catawba is scheduled to operate in 1985.

Rasmussen said the possible Catawba shipments aren't part of a cascade plan since Duke's present strategy is to find ways to keep nuclear waste stored at the original plant.

Under Duke's current expansion plans, Oconee won't run out of storage space until 1992, and McGuire until 1997.

He said other possible options for storing waste besides shipping it to Catawba and pinpacking include building a new pool at Oconee and putting the waste in above-ground casks.

# Duke considers snipping N-waste to Catawba

By BILL MCCONNELL  
Evening Herald staff writer  
ROCK HILL — Highly radioactive waste from two Duke Power Co nuclear plants could be shipped to the Catawba Nuclear Station near Rock Hill as one option for creating more storage space, a company official says.

The Charlotte-based utility recently submitted to the Nuclear Regulatory Commission a 26-page preliminary plan for the shipments. Bob Rasmussen, an assistant engineer in Duke's fuel section, said Thursday.

If approved, shipments from Duke's Oconee Plant near Seneca could begin as early as March 1983. The McGuire shipments would begin no later than March 1991, Rasmussen said.

"We're not going to be shipping tomorrow or next week or next year," Rasmussen said during a press conference. "If we do, we shipments it will be several years down the road."

Duke's suggested routes for the shipments touch some of the Carolina's largest cities, including Charlotte and Greenville, and include about 26 miles of northern York County road.

The utility could ship 150 spent fuel assemblies per year from Oconee and 120 assemblies per year from McGuire to the Catawba plant, under construction off S.C. 274 north-west of Rock Hill. Currently, one spent fuel assembly can be hauled at a time.

The shipments are only one option Duke is considering. Rasmussen stressed other options being considered by a task force studying nuclear waste storage are the construction of an additional spent fuel pool at Oconee, "dry storage" in vaults or casks and fuel rod consolidation, according to Rasmussen, a member of the study group.

Oconee has used up virtually all of its storage space and has been shipping its waste to McGuire since October. McGuire has enough storage space in its spent fuel pool to accommodate 1,000 spent fuel rods.

Oconee produces about 177 spent fuel rods annually. McGuire produces about 150 spent fuel rods every 18 months, according to Irv Kaplan, di-

rector of community programs at Duke Power.

Duke Power and Westinghouse Corp. are conducting a pilot project at the Oconee plant this year to test the fuel rod consolidation concept, the first effort of its kind in the nation.

If fuel consolidation proves successful, Duke will probably start consolidating assemblies at Oconee and McGuire, thus delaying the need for any shipments. Rasmussen said.

Consolidation allows about twice the number of fuel rods to be stored in the same amount of space and would move the need for additional storage space up to the year 2028, Kaplan said.

The two spent fuel pools at the O-

conee plant were expanded by 36 feet during construction to meet predicted storage needs. They are designed to accommodate 2,826 fuel assemblies.

Rasmussen said the shipments could provide a short-term solution to spent fuel storage problems expected at Oconee and McGuire. Shipping the waste is less desirable than long-term solutions to the problem, Rasmussen said.

This morning Kaplan said increasing spent fuel is the most desirable solution to the problem. Increasing eliminates plutonium from the spent fuel rods and greatly reduces the time needed for the rods to irradiate, Kaplan said.

The government banned all reprocessing in 1977. Chem-Nuclear's reprocessing station in Barnwell last year used an aqueous-uranium-uranium storage site about then.

"It's conceivable by then (1989) the government will have developed what method we're to use for plutonium disposal. The technology outside the study. What's lacking is a decision," Kaplan said.

Low-level waste is left over after reprocessing. The crystallized waste could be stored in salt beds 2,000 feet underground, Kaplan said.

Duke submitted the information on spent fuel transportation at the request of the NRC as part of the licensing review for the Catawba station.

Catawba reactor Unit 1 is expected to begin commercial operation.

See DUKE, page 2

# Duke may ship used fuel to Catawba

**ROCK HILL** — Duke Power Co. is considering shipping highly radioactive spent fuel from its Oconee and McGuire nuclear stations to its Catawba Nuclear Station, a company official said Thursday.

The Charlotte-based utility recently submitted to the Nuclear Regulatory Commission 20 pages of preliminary plans for the transportation of a maximum of 150 spent fuel assemblies per year from Oconee and 120 assemblies per year from McGuire to the Catawba station near Rock Hill.

Bob Rasmussen, an assistant engineer in Duke's fuel section, said the Oconee shipments would begin no sooner than March 1988. The McGuire shipments would begin no sooner than March 1991, he said.

The utility has no firm plans to make the shipments, which are only an option, Rasmussen said.

Duke submitted the information on spent fuel transportation at the request of the NRC as part of the licensing review for the Catawba station, which is under construction, he said.

Utility officials briefed reporters on spent fuel storage and other topics Thursday before a tour of the Catawba station.

Duke began the shipment of 300 fuel assemblies from the Oconee station, located near Seneca, to the McGuire station, near Charlotte, in October. The shipments are intended to open up space at the Oconee spent fuel pools for additional storage of assemblies.

If Duke decides to transport spent fuel in the future, the utility would need to apply for an NRC license, Rasmussen said. Review of the license for the Oconee-to-McGuire shipments lasted 44 months and a lengthy review could be expected for future shipments, he said.

The utility has submitted routes to the NRC for the possible shipments to Catawba.

The primary, Oconee-to-Catawba route, Rasmussen said, would include South Carolina 130, U.S. 123,



By Steve Matthews  
Of News Oconee-Petersburg Bureau

South Carolina 153, Interstate 85, Interstate 77, Carowinds Boulevard and South Carolina 274. The shipments would pass through Seneca, Clemson, Greenville, Spartanburg, Gastonia and Charlotte.

The first part of the primary route would be the same as the current Oconee-to-McGuire route.

The primary McGuire-to-Catawba route, he said, would include North Carolina 73, Interstate 77, Carowinds Boulevard and South Carolina 274.

Rasmussen said the shipments could provide a short-term solution to spent fuel storage problems predicted at Oconee and McGuire, but the shipments are less desirable

than long-term solutions to the problems.

"It's an option that's readily available," said Rasmussen, a member of the utility's task force studying nuclear waste storage. "We look at it as a flexibility option."

Other options being considered are the construction of an additional spent fuel pool at Oconee,

"dry storage" in vaults or casks and fuel rod consolidation.

Duke and Westinghouse Electric Corp. are conducting a pilot project at the Oconee station this year that will test the fuel rod consolidation concept. It is the first test of its kind in the nation.

As part of the test, four five-year-old fuel assemblies will be consolidated into two canisters, which will

fit into the current racks.

If fuel consolidation proves successful, Duke probably will proceed with consolidation of its assemblies at Oconee and McGuire, thus delaying the need for any shipments, Rasmussen said.

Rasmussen stressed that Duke had made no decisions about the long-term storage of spent fuel produced by its nuclear plants.

The shipment of fuel to Catawba is only a possibility, he said.

"We're not going to be shipping tomorrow or next week or next year," Rasmussen said. "If we do have shipments, it'll be several years down the road.... It's an option. It's not something we're planning to do right now."

The two spent fuel pools at Catawba were expanded by 50 feet during construction to meet predicted storage needs. The two pools are designed to accommodate 2,838 fuel assemblies.

Catawba reactor Unit 1 is expected to begin commercial operation in June 1986, plant manager Jim Hampton said. Reactor Unit 2 is predicted to come on line in October 1986.

The Greenville News

Monday, June 28, 1982

## Duke takes lead on storage issue

Duke Power Co. obviously isn't banking on the federal government solving its spent fuel storage problems for it. As Duke officials explained last week, the utility company is studying several alternatives for handling burnt fuel elements as storage pools at the Oconee and McGuire plants fill up.

One of the options — shipping highly radioactive spent fuel from Oconee and McGuire to the Catawba plant at Rock Hill — is not an appealing one for the people who live along the proposed routes. But it is preferable to the government-sponsored away-from-reactor storage that some utilities seem to be devoting their efforts to.

The spent fuel shipments, if they prove necessary, would begin no sooner than 1988, a Duke official said. And the utility also is considering other options, including construction of another spent fuel pool at Oconee and fuel rod consolidation, that would further delay the need to move the material.

In any case, spent fuel storage is only part of the larger problem of nuclear waste disposal, which some utilities are complicating by their short-sighted insistence on away-from-reactor storage. The future of the nuclear industry depends on a permanent solution to the

waste problem, but some utility officials seem less concerned with that than with having the government solve their temporary storage problems for them.

The Senate, over the objections of South Carolina's members, passed a nuclear waste disposal bill that provides for a federal away-from-reactor spent fuel depot. The Barnwell Nuclear Fuel Plant, built to reprocess spent fuel but never used for that purpose, is considered a likely site for such a facility.

Third District Congressman Butler Derrick opposes inclusion of away-from-reactor storage in House legislation, and for good reasons. The most logical, cheapest and safest way to store spent fuel is to hold it at the reactor until a permanent disposal site is ready, or until commercial reprocessing becomes a reality.

A fear is that the away-from-reactor controversy will prevent any nuclear waste legislation from passing this year.

Utilities running out of spent fuel storage space would serve the public interest better by expanding that capacity on their own, leaving the government free to tackle the bigger issue of permanent disposal. Duke Power Co. seems willing to demonstrate it can be done.

5

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Evening Herald  
DATE PUBLISHED 12-7-83

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# Duke may ship N-waste to Catawba after 1992

By DAVID BARRIE

**Evening Herald staff writer  
LAMP BY LINE** — Duke Power Co. has left the door open for shipping radioactive waste from its Oconee plant to storage at the Catawba Nuclear Station after 1992. Though the company says it hopes such shipments won't be necessary.

"In the final analysis... any future decision to begin shipments to Catawba will involve an evaluation between transportation and other storage options and technical, legal, weighing public health and safety, environmental acceptability and cost," Steve Griffith, senior vice president and general counsel for Duke, said in a sworn statement released by the U.S. Atomic Energy Commission's office earlier this week.

Duke would prefer to continue to store spent fuel at its individual reactor sites, Griffith said.

Attorney General Travis Medlock said he was "pleased" that the Charlotte-based utility wants to avoid shipments to Catawba.

"One of the greatest concerns of South Carolinians about the operation of nuclear facilities in this state is the transportation of radioactive materials on our public highways," said Medlock, who had requested a statement from Duke on its shipment plans.

"The policy of South Carolina has been to minimize the transportation of spent nuclear fuel into or within the state in order to reduce the inherent risks to the public."

Duke's policy "would minimize the shipment of such materials on our public roads from other Duke facilities," he said.

Duke currently operates three reactors at its Oconee plant in northwestern S.C. and two reactors at the McGuire plant on Lake Norman, southwest of Charlotte. The company hopes to begin operating unit No. 1 at the Catawba plant next year, with start-up of unit No. 2 scheduled for 1987.

Duke has included spent fuel storage areas at each of its plants, for temporary storage until 1992, when federal guidelines call for establishment of a federal spent fuel repository.

But Oconee may run out of storage room as early as 1984, according to Griffith's statement.

The storage method involves placing used fuel rods in racks that are submerged in water. The storage pools for two Oconee reactors have already been reroaked twice — with new racks installed so that rods could be stored more closely together. The pool for unit No. 2 has been reroaked once, and Duke is seeking federal approval for a second reroaking.

About one-third of the fuel assemblies in a reactor are removed from a reactor when it is refueled, Duke spokesman Andy Thompson said Thursday. Oconee reactors are refueled every 18 months, and McGuire reactors refueled once a year, he said.

There are 177 fuel assemblies in each reactor. Each assembly comprises 264 fuel rods measuring about 12 feet long. Individual rods are about as big around as a person's finger.

According to Griffith's statement, existing storage space could run short at the McGuire plant as early as 1979, but a planned reroaking should provide an adequate storage capability through 1984.

"If reroaking of the McGuire pools can be accomplished (by early 1984), and given a federal repository receiving spent fuel, it should not be necessary in the future to trans-ship fuel from McGuire to Catawba," Griffith said.

At Catawba, on-site storage pools should provide adequate space through the year 2048 if no reroaking is done and no waste is shipped from other plants, Griffith said.

The statement of shipment plans

was scheduled to be filed during the Nuclear Regulatory Commission's licensing hearings and under way here for the Catawba plant. The attorney general's office is representing the state as an interested party in the proceedings, which entered their fourth day this morning.

On Thursday, the anti-nuclear Palmetto Alliance continued to hammer away at the safety of the Catawba plant.

Palmetto Alliance attorney Robert Guld questioned Duke corporate officials Warren Owen and George Grier about whether they discouraged workers from testifying about safety problems.

Guld also attacked the company's quality assurance program, the procedures by which Duke inspectors check construction materials and work to make sure they meet rigid safety standards.

He asked Owen about a January 1982 meeting with a group of disgruntled welding inspectors who'd complained to top Duke management that supervisors were undermining the welding inspection program.

Guld suggested Owen didn't tell the inspectors that they had a right to take their complaints to the Nuclear Regulatory Commission, a suggestion that Owen denied.

Guld then asked if the company requires employees to go through a two-step recourse process before they can complain to the NRC.

"Absolutely not," Owen shot back. He added that he told the workers that while it was their decision, they could contact the NRC, and he mentioned the commission's phone number was posted at the Catawba site.

Owen turned aside the suggestion there was fear of reprisals among the inspectors, 31 of whom will testify at the hearings about their grievances.

"I think it's clear in our policy there's no retaliation. All of these people still work for us," he said.

**NUCLEAR REGULATORY COMMISSION****Applications for Licenses to Export/Import Nuclear Facilities or Materials**

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W.,

Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before September 3, 1981. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20420.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this 29th day of July 1981, at Bethesda, Maryland.

For the Nuclear Regulatory Commission,  
**James R. Shea,**  
*Director, Office of International Programs.*

Name of applicant, date of application date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Delegation of the Community of European Countries June 29, 1981 July 6, 1981 XSNM01848	93.3 percent enriched uranium	7 018	6 547	Fuel for GRR-1 Res. Reactor	Greece
Transnuclear July 14, 1981 July 16, 1981 XSNM01686(02)	3.8 percent enriched uranium	1 664.0	1 63.23	Reload fuel for Gosgen-Danubien	Switzerland
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01849	3.25 percent enriched uranium	20 908	680	Routine reload for Ohi Unit 2	Japan
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01850	2.85 percent enriched uranium	13 056	373	Routine reload for Takahama Unit 2	Do
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01851	2.85 percent enriched uranium	20 518	585	Routine reload for Mihama Unit 3	Do
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01852	2.45 percent enriched uranium	10 744	264	Routine reload for Mihama Unit 1	Do
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01853	3.25 percent enriched uranium	14 631	476	Routine Reload for Ohi Unit 2	Do
Mitsubishi International July 14, 1981 July 21, 1981 XSNM01854	2.85 percent enriched uranium	20 518	585	Routine reload for Mihama Unit 3	Do
Transnuclear July 20, 1981 July 21, 1981 XSNM01855	19.95 percent enriched uranium	54 135	10 800	Fuel for the Janus 3 Research Reactor	Indonesia
Transnuclear July 24, 1981 July 24, 1981 XSNM01699(06)1771	77.1 percent enriched uranium	11 349	8 751	Irradiated Fuel for Reprocessing at SROO	From South Africa
Edlow International July 21, 1981 July 21, 1981 XSNM01014	2.65 percent enriched uranium	1 850	48	UO <sub>2</sub> and UO <sub>3</sub> for purification and conversion to UO <sub>2</sub>	From Sweden

\* Additional

(FR Doc. 81-22621 Filed 8-3-81; 8:45 am)

BILLING CODE 7590-01-M

**(Docket 50-255-SP)****Consumers Power Co. (Palisades Nuclear Power Facility); Reconstitution of Board**

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Consumers Power Company* (Palisades Nuclear Power Facility), Docket No. 50-255-SP, is hereby reconstituted by appointing the following Administrative Judge to the Board: Dr. Jerry R. Kline. Dr. John R. Lamarsh, who was a member of this Board, is deceased.

As reconstituted, the Board is comprised of the following Administrative Judges:  
Elizabeth S. Bowers, Chairman  
Dr. Peter A. Morris  
Dr. Jerry R. Kline  
All correspondence, documents and

other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Dr. Jerry Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 28th day of July 1981.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge Atomic Safety and Licensing Board Panel.*

(FR Doc. 81-22621 Filed 8-3-81; 8:45 am)

BILLING CODE 7590-01-M

**(Docket Nos. 50-413 and 50-414)****Duke Power Co., et al; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding**

Pursuant to delegation by the Commission dated December 29, 1972,

published in the **Federal Register** (37 FR 38710) and 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered:

Duke Power Company, et al, Catawba Nuclear Station, Units 1 and 2.  
Construction Permit Nos. CPPR-116 and CPPR-117

This Board is being constituted pursuant to a notice published by the Commission on June 25, 1981, in the **Federal Register** (46 FR 32974-75)

entitled, "Duke Power Co., et al.; Notice of Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Notice of Opportunity for Hearing."

The Board is comprised of the following Administrative Judges:

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

Dr. Dixon Callihan, Union Carbide Corporation, P.O. Box Y, Oak Ridge, Tennessee 37830

Dr. Richard F. Foster, P.O. Box 4283, Sunriver, Oregon 97701

Issued at Bethesda, Maryland, this 28th day of July, 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

(FR Doc. 81-22622 Filed 8-3-81; 8:45 am)

BILLING CODE 7590-01-02

[Docket No. 50-302]

**Florida Power Corp., et al; Issuance of Amendment to Facility Operating License and Negative Declaration**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the license and Technical Specifications (TSs) for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment: (1) authorizes the facility power level to be increased from 2452 MWt to 2544 MWt, and (2) corrects a typographical error on TS page 3/4 3-8.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10

CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with Item 1, above, was published in the **Federal Register** on March 28, 1979 (44 FR 18566). No request for a hearing or petition for leave to intervene was filed following this notice of proposed action. Prior public notice of Item 2 was not required since it does not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the power increase and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributed to this action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see (1) the applications for amendment dated November 29, 1978, February 28, 1979, November 20, 1979, and July 9, 1981, and supplemental filings, (2) Amendment No. 41 to License No. DPR-72, (3) Advisory Committee on Reactor Safeguards letter dated May 13, 1981, and (4) the Commission's related Safety Evaluation/Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of July 1981.

For the Nuclear Regulatory Commission,

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

(FR Doc. 81-22623 Filed 8-3-81; 8:45 am)

BILLING CODE 7590-01-02

[Docket Nos. 50-424 and 50-425]

**Georgia Power Co., et al; Issuance of Amendments to Construction Permits**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-108 and Amendment No. 2 to Construction Permit No. CPPR-109. The amendment

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of )  
DUKE POWER COMPANY, et al. ) Docket Nos. 50-413  
(Catawba Nuclear Station, ) 50-414  
Units 1 and 2) )

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DOCKETING & SERVICE  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Memorandum of Duke Power Co., et al. Responding to April 25, 1985 Order of Atomic Safety and Licensing Appeal Board" in the above captioned matter have been served upon the following by deposit in the United States mail this 17th day of May 1985:

Alan S. Rosenthal, Chairman  
Administrative Judge  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

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Appeal Board  
U.S. Nuclear Regulatory  
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Washington, D.C. 20555

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*J. Michael McGarry, Jr.*  
J. Michael McGarry, Jr.