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### Chattooga River Watershed Coalition

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OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATION

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE  
ATOMIC SAFETY AND LICENSING BOARD

|                         |   |                        |
|-------------------------|---|------------------------|
| _____                   | ) |                        |
| In the Matter of        | ) |                        |
|                         | ) |                        |
| DUKE ENERGY CORPORATION | ) |                        |
|                         | ) |                        |
| Oconee Nuclear Station, | ) | Docket Nos. 50-269-LR  |
| Unit Nos. 1, 2, and 3   | ) | 50-270-LR              |
|                         | ) | 50-287-LR              |
|                         | ) | ASLBP No. 98-749-01-LR |
| _____                   | ) |                        |
|                         | ) | October 30, 1998       |

#### PETITIONER'S FIRST SUPPLEMENTAL FILING

#### INTRODUCTION

The Petitioners, Chattooga River Watershed Coalition, Messrs. Norman "Buzz" Williams, William "Butch" Clay and William Steven "W. S." Lesan (collectively referred to as "Petitioners") hereby submit their RESPONSE TO THE "NUCLEAR REGULATORY COMMISSION STAFF'S ANSWER TO THE PETITION FOR LEAVE TO INTERVENE" (dated Oct. 9, 1998), and their FIRST SUPPLEMENTAL SET OF CONTENTIONS in the above-captioned proceeding, and their CONCLUSION.

#### PETITIONER'S RESPONSE TO THE "NUCLEAR REGULATORY COMMISSION STAFF'S ANSWER TO THE PETITION FOR LEAVE TO INTERVENE"

The Petitioners respectfully direct the Atomic Safety and Licensing Board (ASLB) and Nuclear Regulatory Commission (NRC) staff to the attached DECLARATIONS of William ("Butch") Clay, William Steven ("W. S.") Lesan and Norman ("Buzz") Williams (Attachments 1, 2 and 3, respectively). The statements in these Declarations address the issues raised by the NRC staff concerning standing, with particular reference to the factors set forth in 10 C.F.R. 2.714. The Petitioners believe that their Declarations are consistent with the requirements of 10 C.F.R. 2.714, and therefore meet the requirements for standing in these proceedings.

In addition to the contents of their Declarations, the Petitioners hereby submit the following information:

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The Chattooga River Watershed Coalition's office is located at 49 East Savannah Street in the town of Clayton, Georgia. Clayton is located in Rabun County, which lies in the far northeast corner of Georgia, and is within 30 miles of the Oconee Nuclear Station. Clayton is centrally located in the 180,000 acre Chattooga River watershed, and is 8 miles from the South Carolina state line, which is delineated by the National Wild and Scenic Chattooga River. The entire 180,000 acre Chattooga River watershed lies within 40 miles of the Oconee Nuclear Station. Approximately 90% of the Chattooga River watershed lies within 30 miles of the nuclear facility, with the closest point in the watershed located at 15 miles from the Oconee Nuclear Station. The Petitioners derived these mileage figures from the "bulls-eye" map included in Volume 2 of the Oconee Nuclear Station's Final Safety Analysis Report (which depicts the nuclear station in the center of concentric circles at 10, 20, 30, 40 and 50 mile radiuses from the facility).

The CRWC's Bylaws, at Article II, describe the organization as a membership organization, that is, one composed of members, both individuals and groups. The CRWC has hundreds of members who reside, recreate, work, breathe the air, drink water and eat food produced within 50 miles of Oconee Nuclear Station Units 1, 2 and 3. The CRWC membership also includes some individuals who have been or are currently employed at the Oconee Nuclear Station site. The CRWC's members' food sources, air, water, personal safety, property rights and personal finances would be adversely affected by the NRC granting Duke Power's application for license renewal of Oconee Nuclear Station Units 1, 2 and 3 for an additional 20 years, if the plant cannot be safely operated for the full 20 year term of the renewal, and/or in the event of normal and accidental releases of radioactive materials from the nuclear facility during this time period.

It is central to the Petitioner's meaningful participation in these proceedings that their standing be recognized by the ASLB. With standing, the Petitioner's interests could be redressed through an adjudicatory process. This adjudicatory process is not available through the ongoing parallel process of public scoping for preparation of a site-specific Environmental Impact Statement, and Duke Power Company's application to renew their operating license for the Oconee Nuclear Station Units 1, 2 and 3. As clearly stated in previous correspondence, the Petitioner's believe that the aforementioned parallel proceedings do not serve the intent of the National Environmental Policy Act (NEPA) as expressed at 40 C.F.R. 1500.1(b) and 1502.2(g). Thus, the Petitioner's interests may be redressed through obtaining standing, which would assure the Petitioners could access and exhaust all administrative remedies in the course of these proceedings.

The Petitioners would like to respond to the NRC staff's evaluation of our complaint regarding "adequate notice." While the NRC staff maintains that we have had "ample" notice, we cannot concur with this opinion. In reality, the volume of material associated with these proceedings is quite large, and deserves adequate review. For example, we consider the basic documents associated with these proceedings to consist of: the Final Safety Analysis Report--8 volumes; Duke Power's Application for Renewed Operating Licenses for the Oconee Nuclear Station Units 1, 2 and 3--4 volumes; Crisis Management Implementation Procedures--2 volumes; Generic Environmental Impact Statement for License Renewal of Nuclear Plants--2 volumes; Oconee Nuclear Station Emergency Plan--1 volume; and 10 C.F. R.--2 volumes (see Attachment 4 for a visual representation of these documents). In addition, the Public Document Room (PDR) in the Oconee County Library (at Walhalla, SC) contains 38 file cabinet drawers chock full of relevant materials: 8 file cabinet drawers full of paper documents, and 30 file cabinet drawers full of documents on micro fiche. Concerning just the micro fiches, our conservative calculation of the volume of material here places the number of pages in the millions (see Attachment 5, a & b). This material deserves adequate review in light of these proceedings. Our cursory survey of just the micro fiche documents revealed some intriguing topics, for example: "Radioactive effluents released from facilities during 1976," and "Raw water supply grab samples collected in mid-January, February and March, 1977, revealed levels of radioactivity exceeding control level by greater than 4 times." While we heartily endorse the practice of establishing reasonable timelines for the discourse of public comment, agency response and dispute resolution, it is ludicrous to expect adequate review of this volume of material in just a few weeks. Therefore, the Petitioners believe that under the current expedited timelines, meaningful public review is severely compromised, and in some cases may be impossible.

Indeed, Duke Power's application to renew the operating license for the Oconee Nuclear Station is the product of years of work, and "reflects the results of a considerable investment of time on behalf of Duke, the NRC and the industry," as stated on page 7 of M. S. Tuckman's cover letter in Duke's Application (vol. 1). Further, Tuckman clearly states (same page) that "our goal is to facilitate a thorough, yet efficient review of



this Application so as to avoid unnecessary delay in the issuance of the requested renewed operating licenses," and proposes "periodic meetings between its management and the NRC's License Renewal Project Directorate" to achieve this goal--as quickly as possible. While we understand that a close "working relationship" has evolved between the NRC and industry, which is a function of the NRC's oversight of the nuclear industry, the Petitioners submit that the intent of NEPA at 40 C.F.R. 1502.2(g) is being circumvented in these proceedings.

### PETITIONERS CONTENTIONS

#### Contention #1:

As a matter of law and fact, Duke Energy Corporation's Application for Renewed Operating License for Oconee Nuclear Station Units 1, 2 and 3 (hereafter referred to as "Application") is incomplete, and should be withdrawn and/or summarily dismissed.

#### Basis:

Duke's Application states "The evaluation of structures and components as required by 10 C.F.R. 54.21 has been completed" (Applicant's Environmental Report, volume 4, Exhibit D, p.3-2). However, contrary to this statement, page 3 of M. S. Tuckman's submittal letter for the Application states, "In making the requisite demonstration for Reactor Coolant System components, Duke has incorporated by reference several Babcock & Wilcox Owners Group (B&WOG) topical reports applicable to the Oconee Reactor Coolant System. Submitted to the NRC in 1996 and 1997, several of these B&WOG topical reports remain under staff review. Similarly, in 1996, Duke submitted a report to the NRC on the Reactor Building (Containment), sections of which are under active review by the staff. This report also is incorporated by reference into the Application. Therefore, final disposition of the B&WOG and Duke reports is of paramount importance to the technical analysis and conclusions set forth in Exhibit A" (Application vol. 1, submittal letter). Thus, the Petitioners submit that the incomplete status of the final disposition of the B&WOG reports renders the Application incomplete, and inadequate for meaningful public and technical expert review. It follows that the absence of such critical information limits the resources available to the Petitioners, and significantly inhibits the ability of intervenors in this proceeding to gather complete information in preparation for the NRC's projected schedule of hearings and other adjudicatory proceedings. The absence of such critical information at this time is also a solid impediment to the public's right to know.

In addition, the Application states, "Additional descriptions of the Oconee Reactor Vessels are contained in the Oconee UFSAR, section 5.3 and BAW-2251 [*Demonstration of the Management of Aging Effects for the Reactor Vessel*].... As noted previously... one of the B&WOG topical reports that is currently under review is BAW-2251" (Application vol. 1, at 2.4-7). Furthermore, the Application states, "Descriptions of Reactor Vessel Internals of Oconee are contained in BAW-2248 [*Demonstration of the Management of Aging Effects for the Reactor Vessel Internals*].... As noted previously... one of the B&WOG topical reports that is currently under NRC review is BAW-2248..." (Application vol. 1, at 2.4-8). Again, the Petitioners submit that the incomplete status of the final disposition of the B&WOG reports renders the Application incomplete, as well as inadequate for public and technical expert review, and hearings and other adjudicatory proceedings.

The Basis for Contention #1 is also set forth in each of the Requests for Additional Information (RAI) filed or forthcoming by NRC staff to Duke Energy Corporation. According an NRC letter, the final RAI's (technical) must be filed on or before December 4, 1998, and the final RAI's (environmental) on or before January 3, 1999 (letter from Grimes to McCollum, dated July 31, 1998, addressing a proposed NRC review schedule for Duke Energy Corporation's Application for Renewal of Operating Licenses for Oconee Nuclear Station Units 1, 2 and 3). Although the RAI's have not been fully docketed or filed, the Petitioners hereby include as an additional basis for Contention #1 all of the unresolved safety-related matters identified in the attached list of documents (Attachment 6).

#### Contention #2:

As a matter of law and fact, Duke Energy Corporation's Application for Renewed Operating License for Oconee Nuclear Station Units 1, 2 and 3 does not meet the aging management and other safety-related



requirements mandated by law and NRC regulations, and therefore should be withdrawn and/or summarily dismissed.

**Basis:**

Please see Contention #1 Basis discussion. In addition, the Petitioners set forth in the Basis for Contention #2 the B&WOG topical report BAW-2243A (*The Demonstration of the Management of Aging Effects for the Reactor Coolant System Piping*). The Application is incomplete in describing the status of BAW-2243A: (quoting the NRC) "The B&WOG defers the development of details of... (2) the sample inspection of small bore Reactor Coolant System piping, to the renewal applicant referencing this topical report. The renewal applicant will have to provide details of these... inspection programs in its renewal application for staff review and approval" (Application, vol 3, 4.3-30). The Petitioners also set forth in the Basis for Contention #2 BAW-2244A (*Demonstration of the Management of Aging Effects for the Pressurizer*). Indeed, the Application notes, "Without such additional aging management program activities, the staff cannot conclude that all aging effects applicable to the pressurizer vessel cladding have been adequately addressed by the aging management programs delineated in BAW-2244" (Application, vol. 1, 2.4-28). The Petitioners submit that the current, nebulous status of BAW-2251, BAW-2248, BAW-2243A and BAW-2244A cannot support a determination on the safety or the validity of Duke Energy Corporation's aging management programs for Oconee Nuclear Station Units 1, 2 and 3.

In addition, the Petitioners question the timing, and therefore validity, of specific aging management program activities that are apparently undeveloped and vaguely referenced in the Application. For example, "A program to provide a reasonable demonstration of the integrity of the pressurizer cladding could be a one-time inspection for license renewal" (Application vol. 1, p. 2.4-28). In order to be used for license renewal, the language here indicates that this "one-time inspection" would be well in advance of the expiration date for the Oconee Nuclear Station's current operating license. As such, if this "one-time inspection" was used as a baseline component in approving the facility's license renewal, then at the beginning of the nuclear station's extended term there could be ten years of "wear and tear" on the pressurizer cladding that would be unaccounted for. If the Petitioners are correct in their interpretation of the sequence of "one-time inspection" events, this scenario would be unacceptable in addressing public health and safety-related issues.

Additional Basis for this Contention shall also be set forth in each of the RAI's that will be filed by the NRC staff.

**Contention #3:**

As a matter of law and fact, Duke Energy Corporation's Application for Renewed Operating License for Oconee Nuclear Station Units 1, 2 and 3 fails to meet mandated law under the National Environmental Policy Act (NEPA), and therefore should be withdrawn and/or summarily dismissed.

**Basis:**

NEPA at 1500.1(b) states "NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken." Throughout Duke Energy Corporation's Application, Duke defers the development of specific safety and aging management programs until after the time that the NRC would issue an operating license renewal, and/or until shortly before the current operating license expires (see also Contentions #1 & #2). The Petitioners submit that this methodology is a violation of the purpose and procedures of NEPA 1500.1(b). In addition, the Petitioners believe that to permit the licensee to address specific safety and aging management programs in dispersed increments over many years would impair the NRC's ability (and responsibility) to provide the necessary safety analyses, as a prerequisite to deciding whether or not to approve Duke Energy Corporation's Application for Renewed Operating License for Oconee Nuclear Station Units 1, 2 and 3. In addition, this type of "segmentation" of licensing actions contradicts a series of NEPA cases affirming that a federal agency may not avoid an overall review of a project by dealing with the project in "segments" (See Memorandum of Law submitted by SAPL and NECNP in support of Jointly Filed Contentions 2 through 4, July 9, 1998, and SAPL/NAESCO Response to Proposed Contentions, August 19, 1998).



NEPA at 1502.2(g) states "Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made." The Petitioners submit that the intent of NEPA at 40 C.F.R. 1502.2(g) is being circumvented in these proceedings. Please see above discussion of M. S. Tuckman's Application submittal letter.

NEPA at 1502.21 states "Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference." Please see above discussion in Contentions #1 and #2.

Additional Basis for this Contention shall also be set forth in each of the RAI's that will be filed by the NRC staff.

#### Contention #4

The Petitioners submit that the specific issue of the storage of spent fuel and other radioactive substances on the site of the Oconee Nuclear Station must be addressed in these proceedings. In addition, the status and capacity of the current spent fuel storage facility must be disclosed and addressed. The transport of radioactive materials to other locations, if and when storage capacity is exceeded, must be disclosed and addressed. The real and potential availability and viability of other High Level Waste storage sites must be disclosed and addressed.

#### Basis:

The Petitioners can find no record of a discussion of the storage of spent fuel and other radioactive substances on the site of the Oconee Nuclear Station in the Applicant's Environmental Report. The Petitioners can find no record of a discussion of the status and capacity of the current spent fuel storage facility in the Applicant's Environmental Report.

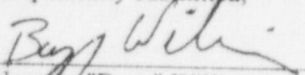
The transport of radioactive materials to other locations, if and when storage capacity is exceeded, must be disclosed and addressed. The applicant admits "Duke has not addressed the existing requirements of Section 51.53(c)(3)(ii)(M) in this Environmental Report (Application, vol. 4, p.4-55).

The real and potential availability and viability of other High Level Waste (HLW) storage sites must be disclosed and addressed. It is common knowledge that the HLW repository at Yucca Mountain, Nevada, may not be a viable repository. Within the scope of these proceedings, it would be irresponsible to disregard or circumvent one of the most pressing issues facing the nuclear power industry.

### CONCLUSION

The Petitioners request that the Chattooga River Watershed Coalition be admitted as a party to these proceedings, and that the CRWC's contentions be admitted for adjudication. In addition, the Petitioners request that these proceedings be stayed, as the Petitioners must review the Requests for Additional Information that will be filed by the NRC staff, and the Applicant's responses to said Requests for Additional Information. The Petitioners request that the CRWC be given at least 90 days after the Applicant has filed its responses to the Requests for Additional Information to file a Supplemental List of Contentions.

Respectfully submitted,



Norman "Buzz" Williams  
190 Mountain Cove Road  
Mountain Rest, SC 29664



*Buzz Williams*

Norman "Buzz" Williams  
Executive Director, Chattooga River Watershed Coalition  
49 East Savannah Street  
Clayton, Georgia 30525

*Buzz Williams (for)*

William "Burch" Clay  
Red Mountain Road  
Mountain Rest, SC 29664

*William Steven Lesan*

William Steven ("W. S.") Lesan  
190 Daffodil Hill  
Mountain Rest, SC 29664



LIST OF ATTACHMENTS

1. Declaration of William "Butch" Clay
2. Declaration of William Steven "W. S." Lesan
3. Declaration of Norma "Buzz" Williams
4. Basic documents in Oconee proceedings
5. A & B Micro fiche documents
6. Requests for Additional Information



Attach. 1  
note original signed copy  
was sent to B. PAUL COTTER, ASISB.  
this copy was not able to be signed.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE  
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
DUKE ENERGY CORPORATION )  
 ) Docket Nos. 50-269-LR  
Oconee Nuclear Station, ) 50-270-LR  
Unit Nos. 1, 2, and 3) 50-287-LR

DECLARATION of WILLIAM ("BUTCH") CLAY

I declare under the pains and penalty of perjury, and hereby affirm that to the best of my knowledge and belief, the following is true and correct:

1. My name is William ("Butch") Clay.
2. I own property and reside at an unnumbered residence on Red Mountain Road, Mountain Rest, South Carolina 29664. Said property is within 20 miles of Oconee Nuclear Station Units 1, 2 and 3.
3. I am a member in good standing of the Chattooga River Watershed Coalition, Inc. (CRWC), and I volunteer my services to contribute the CRWC's mission "To protect, promote and restore the natural ecological integrity of the Chattooga River watershed ecosystem; to ensure the viability of native species in harmony with the need for a healthy human environment; and, to educate and empower communities to practice good stewardship on public and private lands." In addition, I also volunteer my services to contribute to the CRWC's stated goals, two of which are directly applicable to these proceedings and are: "Educate the public," and "Promote public choice based on credible scientific information." I frequently visit the Chattooga River Watershed Coalition office, which is located in Clayton, Georgia, and is within 30 miles of the Oconee Nuclear Station.
4. I live, work, recreate and travel to areas within 20 miles of Oconee Nuclear Station Units 1, 2 and 3. I also breathe the air, drink water and eat food produced within 20 miles of Oconee Nuclear Station Units 1, 2 and 3. My food sources, air and water would be adversely affected by normal and accidental releases of radioactive materials during the proposed extended operation of the Oconee Nuclear Station Units 1, 2 and 3.
5. I believe that significant issues remain unresolved to the public, the Nuclear Regulatory Commission (NRC), and Duke Power Company, in Duke's application to renew the operating license for Oconee Nuclear Station Units 1, 2 and 3. Thus, the application is inadequate to protect me from the unacceptable risk of a radiological accident at the facility during the proposed renewal term. My concern is based on my knowledge that the Nuclear Regulatory Commission staff has responded to Duke Power's application by requesting additional information concerning the structural integrity of the reactor vessel and containment buildings, and other critical components of the facility which are pivotal in determining whether the facility can be safely operated now, and through the extended renewal term for Oconee Nuclear Station Units 1, 2 and 3. In addition, to my knowledge there are other significant issues that are unresolved in Duke Power Company's application to renew the operating license for Oconee Nuclear Station Units 1, 2 and 3, specifically: the effects of aging and embrittlement of the Oconee Nuclear Station's reactor vessels and containment vessels; the status and capacity of the current storage facility for spent fuel and other radioactive substances on the site of the Oconee Nuclear Station; the potential need to design and expand aforementioned storage facilities to accommodate extended operation of Units 1, 2 and 3 of the Oconee Nuclear Station; transport of radioactive materials to other locations if and when storage capacity is exceeded; the real and potential availability and viability of other storage sites; specific safeguards to detect terrorist actions, and plans and measures to defend against terrorist attacks; and, the structural integrity of Units 1, 2 and 3 of the Oconee Nuclear Station to withstand tornadoes, and earthquakes of the magnitude possible due to the nuclear station's proximity to the Brevard Fault. In addition, I believe that the



established timeline of these proceedings presents a totally inadequate window of opportunity for members of the CRWC and the public at large to gain an adequate understanding of, expertise on, and legal standing for the particular issues named above. Thus, I am concerned that meaningful public participation is not possible in the ongoing license renewal proceedings, because the public scoping meeting for the renewal application was held well after the deadlines for obtaining legal standing in the proceedings.

6. I believe that if the Oconee Nuclear Station Units 1, 2 and 3 has a major radiological accident during current and/or extended operation, I could suffer severe illness and/or die, and my safety, property rights and personal finances could be adversely affected by the NRC granting Duke Power's application for license renewal of Oconee Nuclear Station Units 1, 2 and 3 for an additional 20 years, if the plant cannot be safely operated for the full 20 year term of the renewal. Based on my knowledge of the aforementioned re-licensing proceedings, I have a reasonable fear that the Oconee Nuclear Station Units 1, 2 and 3 may not be safely operated for the full 20 year term of the renewal.
7. I believe that if the Oconee Nuclear Station Units 1, 2 and 3 has a major radiological accident during current and/or extended operation, the staff members working for the CRWC may suffer severe illness and/or die, and the ability of the CRWC to function would be destroyed, thus preventing the CRWC pursuing the organization's mission and from advocating my interests in a cleaner and healthier environment. In addition, if the Oconee Nuclear Station Units 1, 2 and 3 has a major radiological accident during current and/or extended operation, the flora, fauna, air, and aquatic resources of the Chattooga River ecosystem would be irretrievably damaged and/or destroyed. The entire 180,000 acre Chattooga River watershed lies within 40 miles of the Oconee Nuclear Station; approximately 90% of the Chattooga River watershed lies within 30 miles of the nuclear facility, with the closest point in the watershed located at 15 miles from the Oconee Nuclear Station. (These mileage figures are derived from the map included in Volume 2 of the Oconee Nuclear Station's Final Safety Analysis Report.)
8. I believe that if the Oconee Nuclear Station Units 1, 2 and 3 has a major radiological accident during current and/or extended operation, the flora, fauna, air, and aquatic resources of the Chattooga River ecosystem would be irretrievably damaged and/or destroyed. Thus, an accident would adversely affect the quality of my environment and my enjoyment of my natural surroundings.
9. I hereby authorize the CRWC to represent all of my interests pertaining to the Oconee Nuclear Station re-licensing matter. Should the CRWC not be granted standing to represent my interests, I hereby request permission to represent my own interests before the NRC, and participate in this proceeding in my individual capacity.

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William ("Butch") Clay

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Dated