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Duke Power Company

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July 28, 1986

Mr. James M. Taylor, Director
Office of Inspection & Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: Catawba Nuclear Station
Response to Order Imposing Civil Penalty
EA 84-93

Dear Mr. Taylor:

By letter dated June 30, 1986 the NRC Staff issued an order in the captioned enforcement action imposing a \$20,000 civil penalty against Duke Power Company for an alleged violation of 10 C.F.R. §50.7 at the Catawba Nuclear Station. The civil penalty for this alleged violation was proposed in a Notice of Violation and Proposed Imposition of Civil Penalty issued to Duke Power Company on August 13, 1985.

Duke has considered carefully the conclusions reached by the Staff as to the arguments raised in response to the proposed civil penalty. Duke continues to believe that the alleged violation is not supported by the record upon which the NRC relied and that the imposition of this civil penalty is contrary to law. In Duke's view, the findings by the Licensing Board regarding the alleged incident that lead up to this enforcement action were based on an incomplete understanding of all of the relevant facts surrounding an issue (labor relations) that falls outside the expertise of the Nuclear Regulatory Commission and the Licensing Board. The findings the Licensing Board made (upon which your enforcement action was based) were gratuitous in nature and irrelevant to the decision that Board was empanelled to reach -- whether there is reasonable assurance Catawba can operate without undue risk to the public health and safety. The Licensing Board entertained no doubts on that question. Moreover, proposing the civil penalty in this case is contrary to law because the alleged violation had no impact on health and safety and because there has been no finding by the Department of Labor that the employee was engaged in activity protected by Section 210 of the Energy Reorganization Act.

As was stated when responding to the Notice of Violation, the circumstances underlying this enforcement action have been the subject of continuous scrutiny by Duke and various arms of the NRC -- I&E (including several petitions under Section 2.206 and at least two Director's Decisions), OIA, OI, an Atomic Safety and Licensing Board, an Atomic Safety and Licensing Appeal Board, and the Commission itself -- since 1981. In all of these instances the same conclusion was reached: the events had no effect on the public health and safety. Duke continues to believe that these findings were not taken into account fully by the Staff when it proposed the instant civil penalty.

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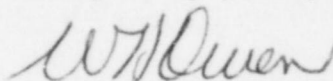
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Nevertheless, Duke has elected to pay the civil penalty. This proceeding has been underway since 1981 and it has taken up an inordinate amount of time already. Under the circumstances outlined above, Duke cannot justify continuing to pursue the matter further. However, by agreeing to pay the civil penalty, Duke does not admit that the alleged violation occurred or that its conduct was in any way below that which is expected of an NRC licensee. Duke continues to believe strongly that no violation of NRC requirements occurred and that it was unlawful for the Staff to propose the civil penalty. Duke specifically denies that, with respect to the employee in question, its conduct violated either Section 210 or NRC regulations.

Duke considers itself to be a responsible licensee. Its fundamental corporate philosophy is reflected in its unwavering commitment to the protection of public health and safety. Part of this commitment necessarily includes disagreeing with the NRC when that disagreement is based on sound technical, policy or legal reasons. While we understand the NRC's position in this enforcement action, we must nevertheless disagree with it for the reasons set forth in our earlier submittals.

In addition, as part of Duke's commitment to the protection of public health and safety, it never has and never will permit the harassment of any employee who identifies legitimate safety concerns. Duke's actions not just at Catawba but at all of its plants bear this out. As Duke emphasized in its response to the proposed civil penalty, Duke regards its employees as a valuable resource and as the eyes and ears of management. For that reason it believes that it is important to listen to matters of concern to those employees. Duke will continue to do so in the future.

Very truly yours,



W. H. Owen

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