

03/21/75

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

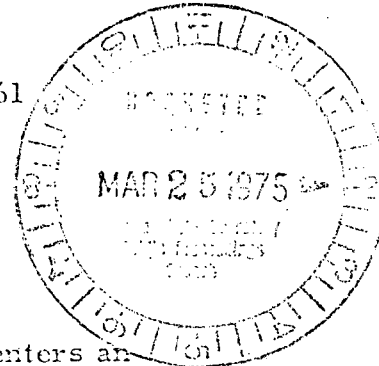
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

CAROLINA POWER AND LIGHT COMPANY )

(H. B. Robinson, Unit No. 2) )

) Docket No. 50-261



NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with § 2.713(a), 10 CFR

Part 2, the following information is provided:

Name

- James R. Tourtellotte

Address

- U.S. Nuclear Regulatory Commission  
Office of the Executive Legal Director  
Washington, D. C. 20555

Telephone Number

- Area Code 301 - 492-7474  
(Or IDS Code 179 - Ext. 7474)

Admissions

- Supreme Court for the State of  
Oklahoma  
- Supreme Court of the United States

Name of Party

- NRC Staff  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

RECEIVED  
'75 MAR 24 AM 10:31  
OFFICE OF THE SECRETARY

James R. Tourtellotte  
Assistant Chief Hearing Counsel  
for the NRC Staff

Dated at Bethesda, Maryland  
this 21st day of March, 1975

H-4

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

CAROLINA POWER AND LIGHT COMPANY

(H. B. Robinson, Unit No. 2)

)  
)  
) Docket No. 50-261  
)  
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NOTICE OF APPEARANCE" for James R. Tourtellotte, dated March 21, 1975, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 21st day of March 1975:

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

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

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Hartsville Memorial Library  
Home and Fifth Avenues  
Hartsville, South Carolina 29550

George F. Trowbridge, Esq.  
Shaw, Pittman, Potts & Trowbridge  
910 17th Street, N. W.  
Washington, D. C. 20006

Charles D. Barham, Jr., Esq.  
Associate General Counsel  
Carolina Power and Light Company  
336 Fayetteville Street  
Raleigh, North Carolina 27602

Mr. George A. Marshall  
122 Harlington Drive  
Hartsville, South Carolina 29550

John D. Whisenhunt, Esq.  
Bridges and Whisenhunt  
Bridges Building  
P. O. Box 26  
Florence, South Carolina 29501

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

Atomic Safety and Licensing Board

Panel

U.S. Nuclear Regulatory Commission

Washington, D. C. 20555

Docketing and Service Section

Office of the Secretary

U.S. Nuclear Regulatory Commission

Washington, D. C. 20555

A handwritten signature in dark ink, appearing to read "James R. Tourtellotte", is written over a horizontal line.

James R. Tourtellotte

Assistant Chief Hearing Counsel  
for the NRC Staff

OCT 3 1974

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U.S. Atomic Energy Commission  
Washington, D. C. 20545

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

In the Matter of  
Carolina Power and Light Company  
(H. B. Robinson, Unit No. 2)  
Docket No. 50-261

Gentlemen:

The Staff has changed its estimated date for issuance of the Final Environmental Statement. The new date is January 17, 1975.

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GOWsley, L

GDittman, EP

SReed, EP

Formal files (2)

Chron

Sincerely,

William D. Paton

Counsel for AEC Regulatory Staff

George F. Trowbridge, Esq.

Charles D. Barham, Jr., Esq.

Mr. George A. Marshall

John D. Whisenhunt, Esq.

Hartsville Memorial Library

Atomic Safety and Licensing  
Appeal Board

Atomic Safety and Licensing  
Board Panel

Docketing and Service Section

OFFICE >	OGC				
SURNAME >	WDPaton: eb				
	WMassar				
DATE >	10/2/74				



UNITED STATES  
ATOMIC ENERGY COMMISSION  
WASHINGTON, D.C. 20545

October 3, 1974

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

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

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U.S. Atomic Energy Commission  
Washington, D. C. 20545

In the Matter of  
Carolina Power and Light Company  
(H. B. Robinson, Unit No. 2)  
Docket No. 50-261

Gentlemen:

The Staff has changed its estimated date for issuance of the Final Environmental Statement. The new date is January 17, 1975.

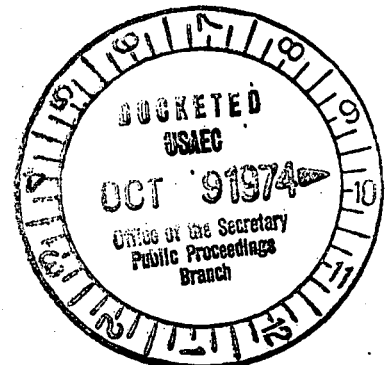
Sincerely,

William D. Paton  
Counsel for AEC Regulatory Staff

cc: George F. Trowbridge, Esq.  
Charles D. Barham, Jr., Esq.  
Mr. George A. Marshall  
John D. Whisenhunt, Esq.  
Hartsville Memorial Library

Atomic Safety and Licensing  
Appeal Board  
Atomic Safety and Licensing  
Board Panel  
Docketing and Service Section

H-4



August 7, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

CAROLINA POWER & LIGHT COMPANY )

Docket No. 50-261

(H. B. Robinson, Unit No. 2) )

(OL Modification)

(Facility License Amendment)

INTERVENOR'S ANSWER TO NOTICE OF HEARING  
ON MODIFICATION OF FACILITY OPERATING LICENSE

This Answer is filed pursuant to 10 C. F. R. §2.705 on behalf of John D. Whisenhunt ("Intervenor") in response to the "Notice of Hearing on Modification of Facility Operating License," issued by the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene on July 22, 1974, and published at 39 Fed. Reg. 27748 (July 31, 1974).

Intervenor will appear at the hearing to be held in accordance with the Notice of Hearing and will present evidence in support of his objection to the application to amend Facility Operating License No. DPR-23.

Respectfully submitted,

  
JOHN D. WHISENHUNT, INTERVENOR

August 7, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket No. 50-261
(H. B. Robinson, Unit No. 2)	)	(OL Modification)
(Facility License Amendment)	)	

NOTICE OF APPEARANCE

The undersigned, being an attorney at law in good standing admitted to practice before the Courts of South Carolina and the United States District Court for the State of South Carolina, hereby enters his appearance as counsel pro se in proceedings related to the above captioned matter.

Respectfully submitted,

  
JOHN D. WHISENHUNT

August 7, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

CAROLINA POWER & LIGHT COMPANY )

Docket No. 50-261

(H. B. Robinson, Unit No. 2) )

(OL Modification)

(Facility License Amendment)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Intervenor's Answer to Notice of Hearing on Modification of Facility Operating License" and "Notice of Appearance of John D. Whisenhunt", all dated August 7, 1974, were served upon the following persons by deposit in the United States mail, postage prepaid, this 7th day of August, 1974.

John F. Wolf, Esquire  
Chairman, Atomic Safety  
and Licensing Board  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

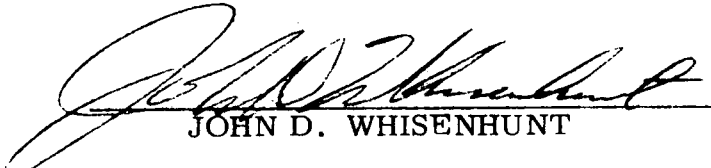
Howard M. Wilchins, Esquire (6)  
William D. Paton, Esquire  
Office of General Counsel  
Regulation  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

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

Mr. Frank W. Karas (21)  
Chief, Public Proceedings Branch  
Office of the Secretary  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

George F. Trowbridge, Esquire.  
Shaw, Pittman, Potts & Trowbridge  
Barr Building  
910 17th Street, N. W.  
Washington, D. C. 20006

  
JOHN D. WHISENHUNT



August 5, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
CAROLINA POWER & LIGHT COMPANY ) Docket No. 50-261  
 )  
(H. B. Robinson, Unit No. 2) ) (OL Modification)  
(Facility License Amendment)

LICENSEE'S ANSWER TO NOTICE OF HEARING  
ON MODIFICATION OF FACILITY OPERATING LICENSE

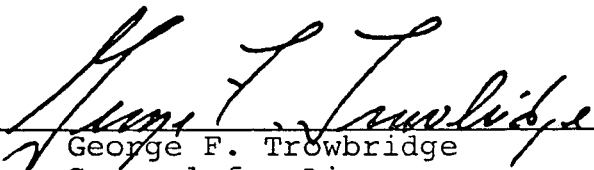
This Answer is filed pursuant to 10 C.F.R. §2.705 on behalf of Carolina Power & Light Company ("Licensee") in response to the "Notice of Hearing on Modification of Facility Operating License," issued by the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene on July 22, 1974 and published at 39 Fed. Reg. 27748 (July 31, 1974).

Licensee will appear at the hearing to be held in accordance with the Notice of Hearing and will present evidence in support of its application to amend Facility Operating License No. DPR-23.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By

  
George F. Trowbridge  
Counsel for Licensee

August 5, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

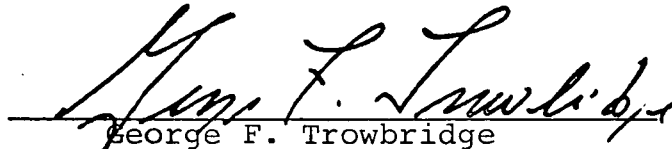
In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket No. 50-261
	)	
(H. B. Robinson, Unit No. 2)	)	(OL Modification)
	)	
( <u>Facility License Amendment</u> )	)	

NOTICE OF APPEARANCE

The undersigned, being an attorney at law in good standing admitted to practice before the Courts of the District of Columbia and the Court of Appeals for the State of New York, hereby enters his appearance as counsel on behalf of Carolina Power & Light Company in proceedings related to the above-captioned matter.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



George F. Trowbridge  
910 17th Street, N.W.  
Washington, D. C. 20006  
(202) 296-3888

August 5, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
CAROLINA POWER & LIGHT COMPANY ) Docket No. 50-261  
(H. B. Robinson, Unit No. 2) ) (OL Modification)  
(Facility License Amendment)

CAROLINA POWER & LIGHT COMPANY )  
(H. B. Robinson, Unit No. 2) ) Docket No. 50-261

NOTICE OF APPEARANCE

The undersigned, being an attorney at law in good standing admitted to practice before the Courts of the District of Columbia, hereby enters his appearance as counsel on behalf of Carolina Power & Light Company in proceedings related to the above-captioned matter.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

Thomas A. Baxter

Thomas A. Baxter  
910 17th Street, N. W.  
Washington, D.C. 20006  
(202) 296-3888

August 5, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket No. 50-261
	)	
(H. B. Robinson, Unit No. 2)	)	(OL Modification)
	)	
<u>(Facility License Amendment)</u>		

CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's Answer to Notice of Hearing on Modification of Facility Operating License," "Notice of Appearance of George F. Trowbridge," and "Notice of Appearance of Thomas A. Baxter," all dated August 5, 1974, were served upon the following persons by deposit in the United States mail, postage prepaid, this 5th day of August, 1974.

John F. Wolf, Esquire  
Chairman, Atomic Safety  
and Licensing Board  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

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

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U. S. Atomic Energy Commission  
Washington, D.C. 20545

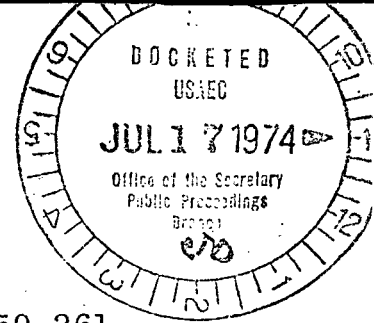
John D. Whisenhunt, Esquire  
Bridges and Whisenhunt  
Bridge Building  
Florence, South Carolina 20501

Howard M. Wilchins, Esquire (6)  
William D. Paton, Esquire  
Office of General Counsel  
Regulation  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Mr. Frank W. Karas (21)  
Chief, Public Proceedings Branch  
Office of the Secretary  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

  
\_\_\_\_\_  
Thomas A. Baxter

*Reg. Files*



UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )  
CAROLINA POWER AND LIGHT COMPANY )  
(H. B. Robinson, Unit No. 2) )

Docket No. 50-261  
(OL Modification)

(FACILITY LICENSE AMENDMENT)

NOTICE OF SPECIAL PREHEARING CONFERENCE

On April 30, 1974, the Atomic Energy Commission published a notice "Proposed Issuance of Amendment to Facility License" in the Federal Register (39 F.R. 15061). The notice advised that "any person whose interest may be affected by this proceeding may file a petition for leave to intervene."

Thereafter, Mr. John D. Whisenhunt filed a timely petition to intervene and the Commission established an Atomic Safety and Licensing Board to rule on petitions and/or requests for leave to intervene (June 13, 1974, 39 F.R. 20717).

Accordingly, a special prehearing conference on the subject matter will be held before the Atomic Safety and Licensing Board designated to rule on petitions at 10:00 a.m. local time, on July 25, 1974, in the Second Floor Courtroom, (in the U. S. Post Office Building),

U. S. District Court, 211 West Evans Street, Florence,  
South Carolina.

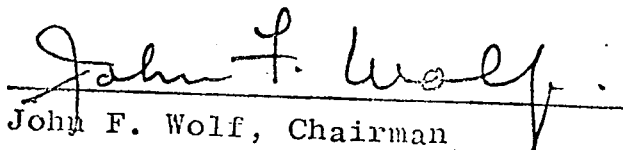
Matters to be discussed at this special prehearing  
conference will include the following:

1. Petitions to intervene and specific contentions.
2. Effects of the instant proceeding on the ongoing  
Appendix D, Section B, environmental hearing and  
possible consolidation of both proceedings.
3. Any other pertinent matters.

The public is invited to attend; however, no limited  
appearance statements will be accepted at this prehearing  
conference. Statements by members of the public making  
limited appearances will be received at the commencement  
of Evidentiary Hearings which will be scheduled at a later  
date.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD  
(designated to rule on petitions  
to intervene in this proceeding)

  
John F. Wolf, Chairman

Issued at Bethesda, Maryland  
this 16th day of July 1974.

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )

CAROLINA POWER AND LIGHT COMPANY )

Docket No.(s) 50-261

(H. B. Robinson, Unit No. 2) )  
)  
)  
)  
)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document (s\*\_\_\_\_) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Atomic Energy Commission's Rules and Regulations.

Dated at Washington, D. C. this  
17th day of July 1974.

Peggy A. Downing  
Office of the Secretary of the Commission

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )  
 )  
CAROLINA POWER & LIGHT COMPANY ) Docket No. 50-261  
 )  
(H. B. Robinson Unit No. 2) )

SERVICE LIST

John F. Wolf, Esq., Chairman  
Atomic Safety and Licensing Board  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

Dr. A. Dixon Callihan  
Atomic Safety and Licensing Board  
Union Carbide Corporation  
P. O. Box Y  
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Martin G. Malsch, Esq.  
Regulatory Staff Counsel  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

George F. Trowbridge, Esq.  
Shaw, Pittman, Potts & Trowbridge  
910 17th Street, N. W.  
Washington, D. C. 20006

Charles D. Barham, Jr., Esq.  
Associate General Counsel  
Carolina Power & Light Company  
336 Fayetteville Street  
Raleigh, North Carolina 27602

Mr. John D. Whisenhunt  
P. O. Box 26  
Florence, South Carolina 29501

Hartsville Memorial Library  
Home and Fifth Avenues  
Hartsville, South Carolina 29550



Information copies sent to:

Mr. George A. Marshall  
122 Harlington Drive  
Hartsville, South Carolina 29550

Mr. Ray M. Clanton  
Southeastern Reconditioning  
Center, Incorporated  
1027 Pearl Street  
Darlington, South Carolina 29532

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

REQUEST FOR REPORTING SERVICE

Work Order No. AF-121

Case: Carolina Power & Light Company

(H. B. Robinson)

Docket No: 50-261

Address of: Prehearing U. S. District Court 2nd floor, 211 West  
Evans Street, Florence, S. C.

Hearing \_\_\_\_\_

Duration: Prehearing one day Hearing \_\_\_\_\_

Date of: Prehearing July 25 Hearing \_\_\_\_\_

Time of: Prehearing 10:00 Hearing \_\_\_\_\_

Service Required: Prehearing Schedule E

Hearing \_\_\_\_\_

Type of Hearing: \_\_\_\_\_

Board: Chairman Wolf ; Members X Callihan, Cole

Alternates \_\_\_\_\_

Copies of the transcript may be sold.

Date of oral request: 7/15/74

Date of confirmation: \_\_\_\_\_

By: \_\_\_\_\_

**J. R. Neubeiser**  
Public Proceedings Staff  
Office of the Secretary

SPECIAL INSTRUCTIONS:

bcc: Mr. Wolf  
Mr. Malsch  
S. Teets  
S. Reed  
ASLBP  
ASLAB  
Reg. Files  
HQS

50-261  
July 15, 1974

Mr. Miller C. Foster  
United States District Court  
Columbia, South Carolina 29201

Dear Sir:

This letter will confirm the telephone conversation of Miss Childers and Mr. James A. Cole on July 15, 1974.

It is my understanding that Judge Robert F. Chapman has approved the use of the District Courtroom in Florence on July 25, 1974 by the United States Atomic Energy Commission for a public prehearing on the proposed H. B. Robinson Nuclear Generating Plant.

If it should be necessary for you to recall the courtroom, please call me on FTS, area code 301-973-5896. Your kind assistance is truly appreciated.

Sincerely,

J. R. Neubeiser

cc: Honorable Robert F. Chapman  
U. S. District Court  
Florence, S. C. 29501

Postmaster  
Florence, S. C. 29501

Mr. James A. Cole  
GSA Room 444  
1776 Peachtree Street, N. W.  
Atlanta, Georgia 30309

bcc: Mr. Wolf  
Mr. Malsch  
S. Teets  
S. Reed  
ASLBP  
ASLAB  
Reg Files ✓

SHAW, PITTMAN, POTTS & TROWBRIDGE

BARR BUILDING  
910 17TH STREET, N. W.

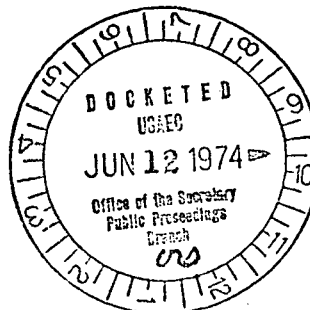
WASHINGTON, D. C. 20006

RAMSAY D. POTTS  
STUART L. PITTMAN  
GEORGE F. TROWBRIDGE  
STEPHEN D. POTTS  
GERALD CHARNOFF  
PHILLIP D. BOSTWICK  
R. TIMOTHY HANLON  
GEORGE M. ROGERS, JR.  
BRUCE W. CHURCHILL  
LESLIE A. NICHOLSON, JR.  
MARTIN D. KRALL  
RICHARD J. KENDALL  
JAY E. SILBERG  
BARBARA M. ROSSOTTI  
GEORGE V. ALLEN, JR.  
BARRY M. SMOLER  
WM. BRADFORD REYNOLDS  
STEPHEN L. PARKER  
MARK AUGENBLICK  
FRED DRASNER  
ERNEST L. BLAKE, JR.  
J. E. MURDOCK III  
CARLETON S. JONES  
THOMAS A. BAXTER  
JAMES THOMAS LENHART  
STEVEN L. MELTZER  
ELISABETH M. PENDLETON

(202) 296-3888  
CABLE "SHAWLAW"  
TELEX: 440143

BRACKLEY SHAW  
OF COUNSEL

June 12, 1974



Mr. Frank W. Karas, Chief  
Public Proceedings Branch  
Office of the Secretary  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Re: Carolina Power & Light Company  
(H. B. Robinson; Unit No. 2)  
Docket No. 50-261

Dear Mr. Karas:

On June 3, 1974, I filed with the Commission "Licensee's Answer to Petition of John D. Whisenhunt for Leave to Intervene," on behalf of Carolina Power & Light Company.

It has since come to my attention that some, but not all, of the copies served were inadvertently missing Page 2. Complete copies have been sent to Mr. Whisenhunt, AEC Staff Counsel, and the Atomic Safety and Licensing Board Panel.

Please find enclosed twenty-one (21) copies of Page 2. I regret any inconvenience which this error has caused your staff.

Thank you for your cooperation.

Sincerely,

*Thomas A. Baxter*  
Thomas A. Baxter

Enclosures

petition for leave to intervene and Licensee herein submits its answer to the petition.

3. Licensee believes that Petitioner has adequately set forth his personal interest in the proposed action as required by the Commission's regulations at 10 CFR §2.714.

4. Licensee opposes the petition, however, because the sole issue sought to be raised therein, the thermal effects on the facility's cooling lake (Robinson Impoundment) from the increase in power levels, is outside the scope of issues to be considered by the Commission. The Commission's notice of proposed action states that:

"The Commission will consider the issuance of the subject amendment upon: (1) The completion of a favorable Safety Evaluation on the application by the Commission's Directorate of Licensing and (2) a finding by the Commission that the application complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations in 10 CFR Chapter I."

Licensee submits that the environmental impact from thermal releases resulting from the proposed increase in power levels is outside the scope of issues specified by the Commission in its notice.

5. The Atomic Energy Act does not require consideration of, in a hearing or otherwise, the environmental effects of the issuance of facility operating licenses and amendments thereto. Furthermore, the Commission's regulations implement-

6/6/74

REG Central

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE COMMISSION

In the Matter of )  
 )  
CAROLINA POWER AND LIGHT COMPANY) Docket No. 50-261  
 )  
(H. B. Robinson, Unit No. 2) )

ANSWER OF AEC REGULATORY STAFF TO  
PETITION FOR LEAVE TO INTERVENE  
FILED BY JOHN D. WHISENHUNT

1. On July 31, 1970, Carolina Power and Light Company (CP&L) was issued a full-term operating license for H. B. Robinson, Unit 2 at steady state power levels up to a maximum of 2200 Mwt. Since the regulations of the Atomic Energy Commission (Commission) in effect at that time did not require it, no environmental impact statement was prepared in connection with that licensing action.

2. Pursuant to Section B of Appendix D to 10 CFR Part 50, which was promulgated after issuance of the license,<sup>1/</sup> the Commission on July 18, 1973, published a notice of opportunity for hearing with respect to whether the existing full-term facility operating license for Robinson 2 should be continued, modified, terminated or appropriately conditioned to protect environmental values (38 F.R. 19148). John D. Whisenhunt, Esq. petitioned

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<sup>1/</sup> 36 F.R. 18071 (September 9, 1971).

*Healing*

to intervene in that proceeding (hereinafter referred to as the Section B proceeding). On September 6, 1973, the Board admitted Mr. Whisenhunt as a party. A prehearing conference was held on November 30, 1973. The prehearing conference order, dated January 2, 1974, identified the issues in contention which had been stipulated to by the parties as follows:

"Periodically since the installation and operation of the nuclear plant, the waters of Lake Robinson have been heated to such an extent as to be unfit for use for recreational purposes. Fish and other wildlife have been in Petitioner's opinion damaged by the excessive heat generated by the nuclear plant.'

"Said plant is detrimental to the ecology of the waters of Black Creek which provides the main water supply of Lake Robinson, both those waters above as well as below the lake and the lake itself is kept at such a high degree of heat as to be unusable [sic] by human beings and harmful to all wildlife therein.'"

3. In February, 1974, CP&L applied to the Commission for a license amendment which would authorize steady state power levels up to a maximum of 2300 Mwt. On April 30, 1974, the Commission published in the Federal Register (39 F.R. 15061) a notice of proposed issuance of the license amendment (notice).

4. On May 24, 1974, the John D. Whisenhunt who is party in the Section B proceeding (petitioner), in response to the notice, filed a "Petition to Intervene" (petition) which incorporates his "Petition to Intervene in Public Hearing" filed in the Section B proceeding, and further alleges that "to permit

an increase of power levels up to 2300 Mw (thermal) would further aggravate the conditions."

5. On June 3, 1974, CP&L filed an answer to the petition in which it acknowledges that the petition adequately sets forth the petitioner's interest but prays that the petition be denied for failure to set forth a cognizable contention.

6. Since the Section B petition, which was held to adequately set forth the petitioner's interest in that proceeding, is incorporated by reference in the petition now under consideration, the Regulatory Staff (Staff) agrees with CP&L that the present petition adequately sets forth petitioner's interest. However, the Staff submits that, contrary to CP&L's assertion, the petition does set forth a contention cognizable in this proceeding.

7. CP&L does not dispute that the petition adequately sets forth an environmental contention. Rather, CP&L's opposition to the petition rests on the misconception that "the sole issue sought to be raised therein, the thermal effects on the facility's cooling lake (Robinson Impoundment) from the increase in power levels, is outside the scope of issues to be considered by the Commission". (CP&L's Answer ¶ 4)



8. The notice states that

"The Commission will consider the issuance of the subject amendment upon: \*\*\* (2) a finding by the Commission that the application complies with the requirements of the Atomic Energy Act of 1954, as amended ("The Act") and the Commission's regulations in 10 CFR Chapter I."

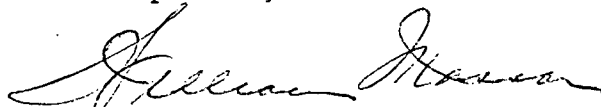
9. CP&L does not dispute that current Commission regulations (10 CFR Part 50, App. D §§ A10 and A11) require an environmental review of a facility by the Commission before a construction permit or operating license may be issued.

10. Without merit is CP&L's argument (Answer, Pars. 6-8) that no environmental review is required of the license amendment action now under consideration because it is not a "major Federal action" in that the proposed increase in power level will not result in an environmental impact significantly different from that which is occasioned by operation at the present power level. There might be some validity in CP&L's argument if the Commission had sanctioned the present power level after completing an environmental review. However, the fact is that the Commission has not yet completed an environmental review of the present facility at any power level. Since the Commission has not yet completed its review of the environmental impact of the present level of operations, a higher level of operations may not be authorized (even if

it is assumed that it will not give rise to a significantly different environmental impact) until that review has been completed. Accordingly, the environmental issue raised by petitioner is within the scope of the issues contemplated by the notice.

11. For the foregoing reasons, the Staff supports the petition and urges that it be granted. Moreover, since grant of the petition would create an identity of parties and similarity of issues, the Staff urges that the Commission (1) designate the Atomic Safety and Licensing Board now presiding in the Section B proceeding to preside in the license amendment proceeding and (2) consolidate the proceedings under 10 CFR § 2.716 so that both proceedings may be brought to conclusion in an expeditious and non-duplicative manner.

Respectfully submitted,



William Massar  
Assistant Chief Hearing Counsel  
for AEC Regulatory Staff



Howard Wilchins  
Counsel for AEC Regulatory Staff



William D. Paton  
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland  
this 6th day of June, 1974

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )  
 )  
CAROLINA POWER AND LIGHT COMPANY ) Docket No. 50-261  
 )  
(H. B. Robinson, Unit No. 2) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "ANSWER OF AEC REGULATORY STAFF TO PETITION FOR LEAVE TO INTERVENE FILED BY JOHN D. WHISENHUNT," dated June 6, 1974, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 6th day of June, 1974:

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

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

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Hartsville Memorial Library  
Home and Fifth Avenues  
Hartsville, South Carolina 29550

George F. Trowbridge, Esq.  
Shaw, Pittman, Potts & Trowbridge  
910 17th Street, N. W.  
Washington, D. C. 20006

Charles D. Barham, Jr., Esq.  
Associate General Counsel  
Carolina Power and Light Company  
336 Fayetteville Street  
Raleigh, North Carolina 27602


Mr. George A. Marshall  
122 Harlington Drive  
Hartsville, South Carolina 29550

John D. Whisenhunt, Esq.  
Bridges and Whisenhunt  
Bridges Building  
P. O. Box 26  
Florence, South Carolina 29501

Atomic Safety and Licensing  
Appeal Board  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Atomic Safety and Licensing Board  
Panel  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Mr. Frank W. Karas  
Chief, Public Proceedings Staff  
Office of the Secretary of the  
Commission  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

  
\_\_\_\_\_  
William D. Paton  
Counsel for AEC Regulatory Staff

Reg. Files

BRIDGES AND WHISENHUNT

ATTORNEYS AND COUNSELLORS AT LAW  
BRIDGES BUILDING

FLORENCE, SOUTH CAROLINA 29501

W. MARSHALL BRIDGES (1885-1957)  
SAUNDERS M. BRIDGES  
JOHN D. WHISENHUNT

DOCKET NUMBER

PROD. & UTIL. EAC. 50-261

MOHAWK 2-1418  
2-1419

P. O. Box 26

May 24, 1974

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED


Secretary of The Commission  
United States Atomic Energy Commission  
Washington, D. C. 20545

Attn: Chief, Public Proceedings Staff

Dear Sir:

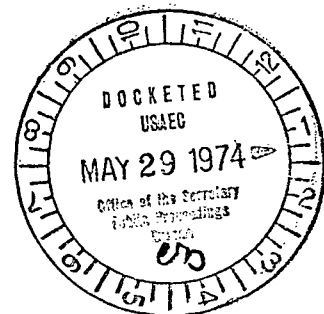
Enclosed you will please find Petition to Intervene with supporting attachments requesting the Atomic Energy Commission to permit me to intervene relative to the proposed increase in the operation of H. B. Robinson Unit 2 to power levels up to 2300 MW (thermal).

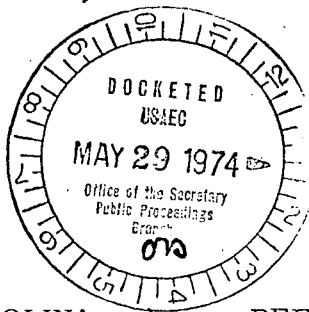
Very truly yours,

  
JOHN D. WHISENHUNT

JDW:mwk  
Enclosure

cc: Chief Hearing Counsel  
Office of the General Counsel  
Regulation, United States Atomic Energy Commission  
Washington, D. C. 20545





DOCKET NUMBER  
PROD. & UTIL. EAC. 50-261

STATE OF SOUTH CAROLINA ) BEFORE THE UNITED STATES  
COUNTY OF FLORENCE ) ATOMIC ENERGY COMMISSION

Ex Parte: )  
John D. Whisenhunt, )  
Petitioner ) PETITION TO INTERVENE  
In Re: Carolina Power & Light )  
Company's H. B. )  
Unit 2 Nuclear Plant )  
\_\_\_\_\_ )

Your Petitioner would respectfully move to be permitted to intervene in the pending Proposed Issuance of Amendment to Facility Operating License upon the grounds:

I.

That Petitioner is presently engaged in a conflict before this Commission with Carolina Power and Light relating to the heat imposed on the waters of Lake Robinson by H. B. Robinson Unit 2 nuclear plant and to permit an increase of power levels up to 2300 MW (thermal) would further aggravate the conditions.

II.

Petitioner attaches to and incorporates herein photocopy of his previous Petition to Intervene and Supporting Affidavit as fully as if set forth verbatim.

WHEREFORE, Petitioner, John D. Whisenhunt, prays that he be permitted to intervene.

Respectfully submitted,

JOHN D. WHISENHUNT

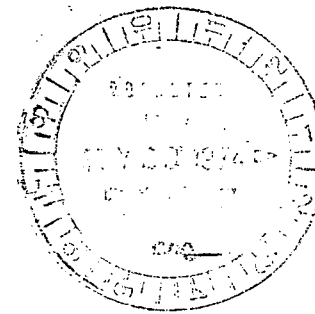
P. O. Box 26

Florence, South Carolina

29501

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

BEFORE THE UNITED STATES  
ATOMIC ENERGY COMMISSION



Ex Parte: )

John D. Whisenhunt, )

Petitioner )

PETITION TO INTERVENE

In Re: )

IN

Carolina Power & Light  
Company's H. B. Robinson  
Unit 2 nuclear plant )

PUBLIC HEARING

Your Petitioner would respectfully show unto the United States Atomic Energy Commission:

1. That Petitioner is the owner of property adjoining Lake Robinson, being separated from the water only by lands leased from Carolina Power & Light Company under a perpetual lease of lands over which Carolina Power & Light retains control to be able to raise the water level.
2. That said lot of land on which Petitioner has built and maintained a home since 1967 was sold to Petitioner and John L. Nettles by Carolina Power & Light and Petitioner acquired the interests of John L. Nettles therein.
3. That at the time of the purchase of said lot from Carolina Power & Light and the subsequent construction of Petitioner's home, it was represented to Petitioner by Carolina Power & Light Company officials, officers and agents that Petitioner, his family, heirs and assigns would always have access to the waters of said lake for fishing, boating and other water sports and recreation.
4. That periodically since the installation and operation of the nuclear plant, the waters of Lake Robinson have been heated to such an extent as to be unfit for use for recreational purposes and fish and other wildlife have been in Petitioner's opinion damaged by the excessive heat generated by the nuclear plant.
5. That several years ago Petitioner's son, Malcolm R. Whisenhunt, who is a minor stockholder in Carolina Power & Light Company, wrote complaining of the situation and the lack of adequate cooling system

for the additional strain put upon the waters of Lake Robinson by the nuclear without adequate cooling provided by extension of the cooling canal and after several months received a reply containing inadequate explanation; that Petitioner is seeking to ascertain the whereabouts of this reply but at the moment cannot locate same.

6. That Petitioner is unqualified to comment on possible radiation effect of the nuclear plant but is strongly of the opinion that said plant is detrimental to the ecology of the waters of Black Creek which provides the main water supply of Lake Robinson, both those waters above as well as below the lake and the lake itself is kept at such a high degree of heat as to be unusable by human beings and harmful to all wildlife therein.

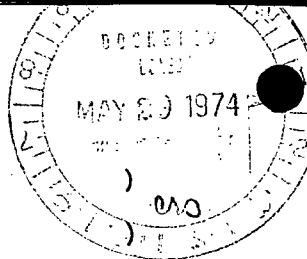
WHEREFORE Petitioner, John D. Whisenhunt, prays that he be permitted to intervene in the public hearings concerning these environmental impact of said plant.

Respectfully submitted.

John D. Whisenhunt  
P. O. Box 26  
Florence, S. C. 29501



STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE



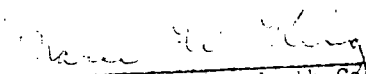
AFFIDAVIT

Personally appeared before me John D. Whisenhunt who, first being duly sworn, states that he is the owner of the lot designated as Lot 15, Subdivision Number II, Lake Robinson, said lot having been purchased at auction from Carolina Power & Light Company; that the lot was originally acquired in the name of John L. Nettles and affiant and affiant subsequently purchased the interest of John L. Nettles prior to building a home thereon in 1967; that when said lot was purchased, it was represented by officials of Carolina Power & Light Company that affiant would always have access to the waters of said lake from said lot being required to make yearly lease payments for use of the land between the lot and the water level, said land being retained by Carolina Power & Light Company for the purpose of it being able to raise the water level; that it was further represented that the lake would be suitable for fishing, boating and other water recreation; that the waters of the lake were so suitable until the erection and operation of the nuclear plant; that the cooling canal was terminated directly across the lake from the lot of affiant and when the nuclear plant is in operation, the waters of the lake reach such a temperature as to be unfit for swimming or any recreational purposes in which the body is submerged; that the high degree of temperature must of necessity affect the wildlife in and about the water and upset the ecology of the area; that although affiant was informed that the waters of the lake were well stocked with fish, the heat of the water when the nuclear plant is running is such that fish cannot survive in the waters in and around the dock built by affiant; that several years ago affiant's son, Malcolm R. Whisenhunt wrote to Carolina Power & Light Company as a minor stockholder of said company and a user of the lake complaining of the heat of the water and the effect thereof, and after several months received a reply containing charts of tests run by Carolina Power & Light Company without an adequate explanation and no possibility of relief; that affiant has not been able to locate these documents at this time to incorporate with this Affidavit and attached Petition but is still seeking them; that affiant is not qualified to comment

on the possible radiation factor from the nuclear plant but the heat generated by said plant is such as to effectively destroy the use of the waters of Lake Robinson by humans and wildlife and it is the opinion of affiant that such effects the ecology of the waters of Black Creek, which is the main source of water supply for Lake Robinson, both above and below the lake.

  
JOHN D. WHISENHUNT

Sworn to before me this the  
16<sup>th</sup> day of August, 1973.

 (L. S.)  
Notary Public for South Carolina  
My commission expires: 12-11-79

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )

CAROLINA POWER AND LIGHT COMPANY )

(H. B. Robinson, Unit No. 2) )  
)  
)  
)  
)

Docket No.(s) 50-261

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document (s\* ) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Atomic Energy Commission's Rules and Regulations.

Dated at Washington, D. C. this  
29th day of May 1974.

Reagan A. Downing  
Office of the Secretary of the Commission

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )

CAROLINA POWER & LIGHT COMPANY )

(H. B. Robinson Unit No. 2) )

Docket No. 50-261

SERVICE LIST

John F. Wolf, Esq., Chairman  
Atomic Safety and Licensing Board  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

Dr. A. Dixon Callihan  
Atomic Safety and Licensing Board  
Union Carbide Corporation  
P. O. Box Y  
Oak Ridge, Tennessee 37830

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

Martin G. Malsch, Esq.  
Regulatory Staff Counsel  
U. S. Atomic Energy Commission  
Washington, D. C. 20545

George F. Trowbridge, Esq.  
Shaw, Pittman, Potts & Trowbridge  
910 17th Street, N. W.  
Washington, D. C. 20006

Charles D. Barham, Jr., Esq.  
Associate General Counsel  
Carolina Power & Light Company  
336 Fayetteville Street  
Raleigh, North Carolina 27602

Mr. John D. Whisenhunt  
P. O. Box 26  
Florence, South Carolina 29501

Hartsville Memorial Library  
Home and Fifth Avenues  
Hartsville, South Carolina 29550

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

03/26/74

In the Matter of

CAROLINA POWER & LIGHT COMPANY

(H. B. Robinson, Unit No. 2)

Docket No. 50-261

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with § 2.713, 10 CFR Part 2, the following information is provided:

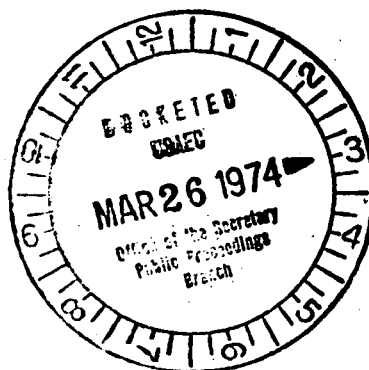
Name	- William D. Paton
Address	- Office of General Counsel Regulation U.S. Atomic Energy Commission Washington, D.C. 20545
Telephone Number	- Area Code 301-973-7501 (Or Code 119 - Ext. 7501)
Admissions	- U.S. Supreme Court
Name of Party	- Regulatory Staff U.S. Atomic Energy Commission Washington, D.C. 20545

Respectfully submitted,

*William D. Paton*

William D. Paton  
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,  
this 26th day of March, 1974.



UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of

CAROLINA POWER AND LIGHT COMPANY

(H. B. Robinson, Unit No. 2)

)

)

)

)

)

Docket No. 50-261

CERTIFICATE OF SERVICE

I hereby certify that copies of "Notice of Appearance for William D. Paton," dated March 26, 1974, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 26th day of March, 1974:

John F. Wolf, Esq., Chairman  
3409 Sheperd Street  
Chevy Chase, Maryland 20015

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

Dr. Richard F. Cole  
Atomic Safety and Licensing Board  
U.S. Atomic Energy Commission  
Washington, D. C. 20545

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Shaw, Pittman, Potts & Trowbridge  
910 - 17th Street, N.W.  
Washington, D. C. 20006

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Carolina Power and Light Company  
336 Fayetteville Street  
Raleigh, North Carolina 27602

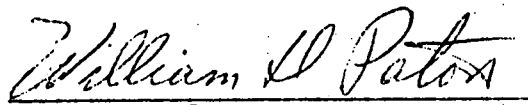
Mr. George A. Marshall  
122 Harlington Drive  
Hartsville, South Carolina 29550

John D. Whisenhunt, Esq.  
Bridges and Whisenhunt  
Bridges Building  
P.O. Box 26  
Florence, South Carolina 29501

Atomic Safety and Licensing  
Appeal Board  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Atomic Safety and Licensing  
Board Panel  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Mr. Frank W. Karas  
Chief, Public Proceedings Staff  
Office of the Secretary of the  
Commission  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

  
William D. Paton  
Counsel for AEC Regulatory Staff

50-261

March 19, 1974

Donald J. Skovholt  
Assistant Director for  
Operating Reactors  
Directorate of Licensing

ROBINSON 2 INCREASE IN POWER LEVEL

We have reviewed carefully your memorandum of February 28, 1974. We conclude the course of action proposed is not supportable from either a legal or engineering standpoint.

First, the operating license (DPR-23) contains a maximum power level provision of 2200 Mwt. Consequently, the increase in power level to 2300 Mwt involves an amendment (10 CFR §50.91) to the license as well as implementing changes (10 CFR §50.59) to the Technical Specifications. Under these circumstances, the dominant regulation is §§ 50.91\* and 50.58 rather than §50.59. An amendment to an operating license must be pre-noticed and referred to the ACRS for review pursuant to 10 CFR §§ 50.58 and 2.105 unless the amendment presents no significant hazards consideration. You will note, parenthetically, this is the same test provided for under §50.59 for deciding whether or not pre-noticing is necessary with respect to a proposed change to Tech Specs. Thus, the legal test for answering these questions is our old friend "significant hazards consideration."

Second, in your February 28, 1974, memorandum, you offer the preliminary view that a "no significant hazards" determination can be made from an engineering standpoint based on various provisions of the FSAR. You indicate, for example, that based on the FSAR, a satisfactory LOCA analysis was performed at 2300 Mwt. Our review of the technical documents does not support either of the above conclusions. The Safety

---

\* Far from not requiring ACRS review--§50.91, in fact, simply refers back generally to the requirements governing the issuance of an operating license; if such requirements prescribe review, then §50.91 requires review. In this case, §50.58 is very specific with respect to ACRS review and pre-notice for amendments, and therefore governs.



March 19, 1974

Evaluation Report discloses that the Staff had concluded that the Applicant's LOCA analysis for operation of the facility at 2300 MWt was unacceptable. This may be slightly overstated, but, read in the best light, the SER, instead of a negative finding, merely concludes that no affirmative finding of acceptability could be made at 2300 MWt. Specifically, the SER states at page 2 as follows: *still*

"We have reviewed the capability of the plant engineered safety features and the radiological consequences of various postulated accidents at both the ultimate power level of 2300 MWt and the rated power level of 2200 MWt. The licensed power level will be 2200 MWt. Our evaluation of the performance of the emergency core cooling system (ECCS) indicates that in the unlikely event a design basis loss-of-coolant accident were to occur in operation at the 2300 MWt power level the resulting calculated peak fuel clad temperature would be in a range in which the chemical reaction between the clad and the coolant water would be rapid and autocatalytic. The ability of the ECCS to arrest the clad temperature rise under these conditions has not yet been demonstrated experimentally. As discussed in Section 3.5 of this Safety Evaluation, for a loss-of-coolant accident occurring at the rated power level of 2200 MWt, the performance of the ECCS would limit calculated peak fuel clad temperatures to lower values, which we have found acceptable on the basis of presently available information on the performance of zircaloy cladding at high temperatures."

In view of the foregoing, it appears to the layman that a reassessment of the LOCA analysis is necessary before the reactor may be permitted to operate at 2300 MWt. Moreover, it also appears to the layman that the discussion in the SER eliminates any question concerning the "significant hazards" question, namely, that the finding should be made in the affirmative. Accordingly, any amendment increasing the reactor power from 2200 MWt to 2300 MWt must be pre-noticed and be submitted to the ACRS for review. In connection with ACRS review, our review of the ACRS letter for this reactor discloses that the Committee did not consider operation of the reactor above 2200 MWt.

To expedite this matter, you should consider noticing the amendment ASAP even though your review of the request for amendment is not complete.

Donald J. Skovholt

- 3 -

March 19, 1974

We will be glad to reconsider our legal opinion should it come to pass that our preliminary evaluation of the facts is faulty.

ORIGINAL SIGNED BY  
JOSEPH GALLO

Joseph Gallo  
Acting Chief Hearing Counsel

cc: A. Giambusso  
E. Case  
H. Shapar  
T. Engelhardt  
J. Scinto

Distribution: OGC Files  
Germantown Files  
Reg. Central Files  
JGallo  
Chron

OFFICE ➤	OGC					
SURNAME ➤	JGallo:ps					HEARING
DATE ➤	3/19/74					