

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	Docket Nos. 50-413
DUKE POWER COMPANY, <u>et al.</u>)		50-414
)	
(Catawba Nuclear Station,)	August 5, 1983
Units 1 and 2))	

AFFIDAVIT OF COUNSEL FOR PALMETTO ALLIANCE

I, Robert Guild, being duly sworn do
depose and say:

1. That I am counsel to Palmetto Alliance, an intervenor
in the above captioned matter; and that I make this statement
pursuant to the provisions of 10 CFR Section 2.749 (c) for the
purpose of stating reasons why facts which I believe are essential

to justify the opposition of this party to pending motions for summary disposition cannot be presented by affidavit.

2. That in support of motions for summary disposition of Palmetto Alliance Contention No. 16 NRC Staff presents two affidavits of its own employees: Amarjit Singh and Kahtan N. Jabbour; in support of its motion for summary disposition of Palmetto Alliance Contention No. 16 Applicants, Duke Power Company, et. al., present the affidavits of three of their own employees: A. L. Snow, Michael S. Tuckman, and Michael C. Green. In support of its motion for summary disposition of DES Contention 19 the NRC Staff presents the joint affidavit of three more of its own employees: Jacques S. Boegli, Edward F. Branagan Jr., and Richard John Serbu; and finally, in support of its motion for summary disposition of DES Contention 19 applicants, Duke Power Company, et. al., present the affidavit of their employee A. L. Snow. Palmetto Alliance is a largely volunteer not for profit membership organization employing only two full time staff persons: Micheal Lowe, director, and Donna Ahlers, office assistant. Palmetto Alliance employs no persons competent to testify either from personal knowledge or on the basis of expert opinion to the matters addressed in the affidavits of the employees of the NRC or Duke Power Company.

3. That by their affidavits presented in support of their motion for summary disposition of Contentions 16 and DES 19 applicants and NRC Staff present for the first time significant new factual matters not earlier made known to Palmetto Alliance,

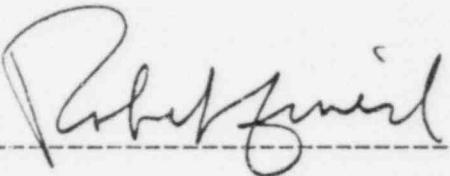
including particularly the detailed "general outline" of spent fuel handling procedures presented for the first time in the affidavit of Micheal S. Tuckman which differ in many significant and material respects (and contradict in a number of particulars) sworn knowledge of such procedures as testified to deposition of May 12, 1983. See, Tuckman affidavit at Page 7; and, the new and detailed environmental analysis of the consequences of routine operation of the Catawba spent fuel storage facility under Duke's cascade plan presented in the sixteen page joint affidavit of Messrs. Boegli, Branagan and Serbu. This affidavit is apparently intended to ^{supply} the "more detailed exposition," Id. at p. 15, which even the applicants appear to acknowledge is absent from the agency's published Environmental Statements, noting that: "That the FES does not contain voluminous reference to this matter does not render its treatment deficient." Applicants motion for summary disposition of DES Contention 19 at p. 8. I am of the opinion that in order to present by affidavit facts essential to justify the opposition of Palmetto Alliance to matters presented in the affidavits supporting staff and applicants Motions for Summary Disposition on Contentions 16 and DES 19, Palmetto Alliance requires the assistance of persons not readily available to it either as employees or members in order to analyze the affidavits presented in support of these motions and to present such essential facts in support of Palmetto Alliance's opposition.

4. That on behalf of Palmetto Alliance I have obtained the

agreement by two such persons who have agreed to assist Palmetto Alliance in performing such analysis of NRC staff and applicants affidavits and where appropriate, to present such essential facts and opinion evidence in support of Palmetto Alliance's opposition by way of affidavit. Dr. Marvin Resnikoff and Mr. Lindsay Audin have agreed to perform such analysis. Dr. Resnikoff has been the Project Director of the Nuclear Waste Transportation and Storage Project of the Council on Economic Priorities. He received a Ph.D. in High Energy Theoretical Physics from the University of Michigan in 1965. He has been a technical consultant on nuclear waste matters to the New York and Illinois Attorney General the state of lower Saxony, West Germany, and numerous environmental organizations. Since 1974 he has testified on numerous occasions before the U. S. Congress and State Legislatures on nuclear fuel reprocessing, waste management and transportation. Previous to his work at the Council, he taught at Rachel Carson College in the Department of Physics at the State University of New York at Buffalo. Mr. Audin has been a consultant to the Nuclear Waste Transport and Storage Project of the Council on Economic Priorities. He graduated from Rensselaer Polytechnic Institute, in the Aeronautical Engineering Program in 1970. He has been and engineer at Goldman, Sokolow & Copeland, specializing in energy studies. Mr. Audin served a consultant for the New York Attorney General on the transportation of the radiated fuel through New York City and has researched nuclear waste transportation and storage issues since 1975. Dr. Resnikoff and Mr. Audin have

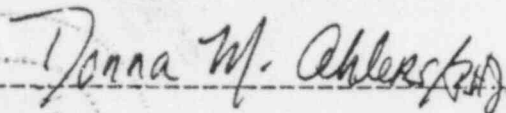
recently published "The Next Nuclear Gamble, Transportation and Storage of Nuclear Waste (1983).

5. That I am informed and believe Dr. Resnikoff and Mr. Audin are competent to testify to the matters stated in the affidavits submitted by the NRC staff and applicants; and that the presiding officer should, therefore, refuse these applications for summary decision or order a continuance to permit affidavits to be obtained by Palmetto Alliance from these persons.



Robert Guild

Subscribed and sworn to before me
this 5TH day of August 1983.



Notary Public

MY COMMISSION EXPIRES
JUNE 13, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the matter of)
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(Catawba Nuclear Station,)
Units 1 and 2))

USNRC
Docket Nos. 50-413
50-414

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August 5, 1983
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of
PALMETTO ALLIANCE ANSWER TO NRC STAFF AND APPLICANT'S MOTION
FOR SUMMARY DISPOSITION OF CONTENTIONS 16, DES-19, AND 44.
in the above captioned matters, have been served upon the follow-
ing by depositing same in the United States mail, postage prepaid,
on this 6th day of August, 1983, 0630 A.M.

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

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

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

Henry A. Presler
Charlotte-Mecklenburg Environmental Coal
943 Henley Place
Charlotte, N.C. 28207

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

J. Michael McGarry, III, Esq.
Debevoise & Liberman
1200 Seventeenth St., N.W.
Washington, D.C. 20036

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

Jesse L. Riley
854 Henley Place
Charlotte, N.C. 28207

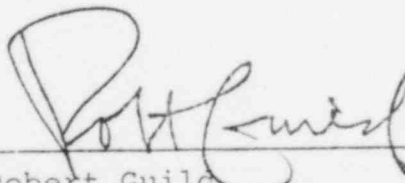
George E. Johnson, Esq.
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Scott Stucky
Docketing and Service Station
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

William L. Porter, Esq.
Albert V. Carr, Jr., Esq.
Ellen T. Ruff, Esq.
Duke Power Company
P.O. Box 33189
Charlotte, N.C. 28242

Carole F. Kagan, Atty.
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Richard P. Wilson, Esq.
Assistant Attorney General
State of South Carolina
P.O. Box 11549
Columbia, S.C. 29211


Robert Guild
Attorney for Palmetto Alliance, Inc.