

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket Nos. 50-413
50-414

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

MOTION TO DEFER RULING ON PALMETTO
ALLIANCE AND CAROLINA ENVIRONMENTAL STUDY
GROUP'S NEW CONTENTION CONCERNING
TRANSPORTATION OF SPENT FUEL (NO. 19) AND
TO PROVIDE PARTIES AN OPPORTUNITY
TO FILE STATEMENTS OF POSITION

On December 9, 1981, Palmetto Alliance filed contentions which, inter alia, raised issues with respect to the environmental impacts associated with the possible transportation of Oconee and McGuire spent fuel to Catawba. Therein, Palmetto Alliance maintained that the values set forth in Table S-4 were not applicable to such possible transportation activity because the destination of the spent fuel in transit would be the Catawba storage facility rather than a fuel reprocessing plant. 1/ In response thereto the NRC Staff stated, inter alia, that "to the extent Palmetto Alliance seeks to go litigate the impacts of spent fuel transportation outside Summary Table S-4, its contentions constitute an impermissible challenge to Commission requirements. 10 CFR §2.758." (See Staff pleading of December 30, 1981 at p. 20). Applicants took a similar

1/ Palmetto Alliance Contention 14.

position. (See Applicants' pleading of December 30, 1981 at pp. 58-64).

In its Order of March 5, 1982, the Board dismissed Palmetto Alliance's challenge to Table S-4, stating that "Table S-4 values would apply if the destination of the irradiated fuel were the Catawba spent fuel pool." (March 5, 1982 Order at p. 19). On March 31, 1982, Palmetto Alliance, in a joint pleading with Carolina Environmental Study Group (CESG), sought reconsideration of, inter alia, the Board's March 5, 1982 ruling with regard to the applicability of Table S-4. (See Palmetto Alliance and CESG's March 31, 1982 pleading at pp. 16-18). On July 8, 1982, the Board reiterated its position as to the applicability of Table S-4, stating that "no reason has been advanced as to why Table S-4 values would not adequately describe the environmental effects." (July 8, 1982 Order at p. 6).

Thereafter, on September 22, 1982, Palmetto Alliance, in a joint pleading with CESG, advanced a new spent fuel transportation contention (No. 19) allegedly based on information contained in the Draft Environmental Impact Statement (DES). Both Applicants and Staff opposed this new contention. (See Applicants' pleading of October 4, 1982 at pp. 54-58; Staff's pleading of October 4, 1982 at pp. 23-24).

At the prehearing conference on October 7 and 8, 1982, focus was placed on Appendix G to the DES, which was the Staff's

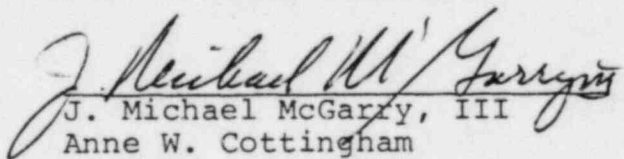
"Environmental Impact Appraisal For Transshipment Of Spent Fuel From Oconee And McGuire To Catawba Nuclear Station." In discussions with the Board (Tr. 526-552), it appears the Staff took the position that, with respect to a possible shipment of spent fuel from Oconee and/or McGuire to Catawba, the values set forth in Table S-4 should not apply, since the Staff stated that its Appendix G calculations were not based on Table S-4, but rather on the previous analysis performed for Oconee and McGuire. (Tr. 571-574). The Staff did not explain why it believed Table S-4 values no longer applied.

It appears that the oral response of the Staff at the pre-hearing conference is at odds with the written positions it has taken in response to the contentions. This apparent divergence in the Staff's position has caused Applicants to inquire further of the Staff. Applicants have determined from such inquiry that the Staff's Appendix G analysis was prepared at least in part because it appeared to the Staff that the potential number of possible shipments which Applicants might make was outside the envelope of Table S-4. To be specific, Table S-4 is based on WASH-1238. WASH-1238 contemplates 60 shipments per reactor per year. In response to Staff questions concerning the possible number of annual shipments Applicants contemplated making to Catawba, Applicants erroneously stated 300 per site. In order to clarify this situation, Applicants by letter of November 2, 1982, (copy attached) advised the Staff that any proposed transshipment activities are intended to be consistent with Table

S-4, and that Applicants are accordingly modifying their previous response to indicate that the number of potential shipments per reactor per year would not exceed 60, or a possible maximum total of 300 shipments per year from both Oconee and McGuire.

Based upon the above, Applicants maintain that it is imperative that the Board resolve the issue of the applicability of Table S-4 based upon the clear positions of each party. Accordingly, Applicants request the Board to defer its ruling on Contention 19 until such time as all parties, including Applicants, are given an opportunity to file a statement of position concerning the applicability of Table S-4 to the possible shipment of Oconee and/or McGuire spent fuel to Catawba. Applicants suggest that all parties be given 10 days to file their response, such period of time commencing from the Board's granting of this motion.

Respectfully submitted,


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November 5, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Motion to Defer Ruling on Palmetto Alliance and Carolina Environmental Study Group's New Contention Concerning Transportation of Spent Fuel (No. 19) and to Provide Parties an Opportunity to File Statements of Position" has been served upon the following by deposit in the United States mail this 5th day of November, 1982.

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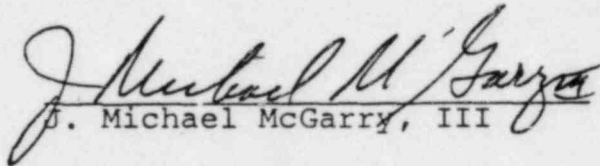
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