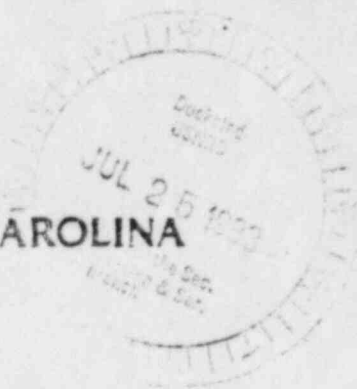




THE CONSERVATION COUNCIL OF NORTH CAROLINA

307 Grenville Road, Chapel Hill, N.C. 27514

(919) 942-7935 or 942-1080 (24 hours)



July 22, 1983

In the Matter of

CAROLINA POWER & LIGHT COMPANY
AND NC EASTERN MUNICIPAL
POWER AGENCY

(Shearon Harris Nuclear Power
Plant, Units 1 and 2)

Docket Nos. 50-400 OL
50-401 OL

JOINT INTERVENOR'S OBJECTIONS TO APPLICANTS' PROTECTIVE ORDER AND AFFIDAVIT OF NON-DISCLOSURE

The Board's Memorandum and Order of June 17, 1983, established the legal framework for the review of the Shearon Harris Security Plan. Applicants submitted a draft Affidavit of Non-disclosure and Protective Order Governing Access to Security Plan Information which we received on July 11, 1983. The Applicants discussed the Affidavit and Protective Order with us on July 13 and we received the final proposed material on July 19. This restricted time schedule has made it difficult for us to review the documents and contact our experts (one who is out of town for several weeks). However, we wish to facilitate this matter and also respect the vacation plans of other participants.

We do not feel that legal arguments are warranted or even relevant at this juncture. The Diablo Canyon decision, which all parties have agreed sets the legal framework for this matter, leaves ample discretion to the Board to decide these matters on the basis

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of common sense and what will work in a practical sense. The Applicants and Intervenor are very close to agreement in this matter, our first objective is to protect the public from physical intrusion into the operating power plant. Secondly we cannot allow the Harris Security Plan to fall into the hands of unsecure parties or those individuals we are trying to protect against.

We have found the Applicants willing to cooperate in scheduling, providing secretarial support, and the like. We request that the Board review our objections and other considerations in regards to the Affidavit of Non-disclosure and the Protective Order and modify them slightly in order to meet our practical considerations.

1. In the Protective Order on page 2, section 4, please fill in the blank space with the following: Debbie Ussery-Baumrucker. She resides at 107 W. Main Street Apt. E, Carrboro, NC 27510. Her phone number is 919/967-8581.

2. In the Board's Memorandum and Order, Early Ray Bleacher is qualified to have access to the overall Shearon Harris Security Plan. We also realize that the Board on page 6 of that order permitted only one expert to review that part of the Plan which he is qualified for. Applicants reiterated this position on page 2, section 3, of their Protective Order. We would like the Board to reconsider this preliminary decision as it hampers our full review of the Plan. We are using a team of experts, some of which are more expert in some fields than are others. If we use our

expert on communications, Tuggle, then our expert, Bleacher, is not permitted to review that part. A security plan should be an inter-connecting document which has a sum greater than any of the parts. Our overall reviewer needs to be able to review all of the sections of the plan to determine how one part fits into the other and how the different systems work. Of course, he will not review the communications section, for example, in as much detail as the sections where there is no other expert. It is his job review the overall plan and as the Board said in its order. "We do not mean that we expect Mr. Bleacher to understand all aspects of the plan without any assistance." We feel that our experts, in addition to those supplied by the Applicants, would better provide us with a review of the plan. Mr. Bleacher also needs to look at the entire plan to determine if the other experts are receiving all the material they need to assess their narrower field of review.

3. Counsel for Intervenors should be permitted a brief review of the entire plan before the experts begin their in-depth review to determine the structure and physical lay-out of the plan. The primary reason for this initial review is to determine legally if every regulation under 10 CFR 73, et al., is even mentioned in the Plan. Counsel does not have the technical competence, and not even the desire, to review the Plan in detail to determine its sufficiency under the regulations or whether the system will work in the real world. However, Counsel does have the technical competence to compare the Plan to the regulations. In addition, Counsel needs to look at the entire plan to determine

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if the Experts are getting all the section(s) they are to review and whether a section is overly "sanitized." Leaving the Protective Order, in regards to Counsel, on a need to know basis will only keep this proceeding bogged down as the Board will necessarily need to rule on whether Counsel needs to know. Let us remind the Board that the Appeal Board in the Diablo Canyon decision permitted Counsel to review the entire plan in that instance (5 NRC 1398, at 1406, in ruling (4)(c)).

4. We are satisfied with the stricture on reviewing all protected materials at the offices of the Applicants in Raleigh, but require a security-related walk-through of the Shearon Harris site for our experts at this initial stage of the review (with others in the future as needed). This would entail a 6 to 8 hour tour at the site lead by the Applicants' security experts. This walk-through would allow our experts to get a feel for the layout of the site and have a reality check to determine if Applicants can do what they say they can do. Each of our primary experts, Mr. Maples and Mr. Bleacher, expressed disbelief that any review of the plan would not include a real world comparison with the actual site. We realize that many of the security systems will not be finalized until close to the fuel loading dates, but even at this point our experts would find a tour beneficial to their review. Otherwise, the entire review of the security plan is only on paper and the question becomes have the Applicants presented good paper rather than will the security plan actually protect the public. One example, and one can no doubt think up

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countless others, is if a security guard would need to get from Point A to Point B in X minutes. This could be possible on paper but in the real world, the guard would have to go up-hill and then around the containment buildings and physically cannot do so within 2X minutes. A detailed review without a reality check might not turn up some potentially glaring flaws in the Plan.

5. Donald Henke, President of Safequards International (P.O. Box 96, Fayetteville, NC 28302, 919/483-1807), has requested a review of any work product, including reports to Counsel, produced by members of his firm. This would include our experts, Eleacher, Tuggle, and Stevens. Mr. Henke's request is a reasonable one and is done solely to protect the reputation and integrity of his corporation, which after all, provides professional services and experts in the field of security systems. Although not qualified by the Board as having the technical competence to review the plan for the reason that we did not proffer him as an expert, Mr. Henke is competent to keep the material safe and secure. We have attached copies of Mr. Henke's last two sets of Orders to Active Duty for Training (dated 2/24/82 and 6/2/83). We would draw the Board's attention to the circled part giving Mr. Henke's security clearance as secret (final). An individual with that classification should be permitted to review work product of others even dealing with protected information, especially since security plans are not classified. If Applicants are willing to have the secretaries we or our experts provide access to some of the protected information then surely Mr. Henke's review of his firm's work product would not jeopardize the integrity of the plan.

6. It was almost half-way into the negotiation session between Applicants and Counsel for Intervenors when Applicants revealed that only a "sanitized" version of the plan would be offered for review. Their rationale is that the "sanitized" version is inherent in the Diablo Canyon decision. We disagree in that sanitizing the plan would only delay this proceeding by getting the Board involved in determining just how sanitized a section can be. Our experts should have access to the entire Plan in order to determine its adequacy. To give an example to illustrate possible differences between our positions, Dr. Quarles and Dr. Johnson discussed the combinations to locks in their comments to the Diablo Canyon decision. Surely our experts have no desire to review actual combinations but we might need to know what types of locks they are (for strength and tamper-proof attributes), how they open (time may be of the essence and a five-digit lock, two key lock, or combination needing two operators would surely slow time down), and the exact locations. It is taken for granted that any terrorist group, for example, will have almost all of the inside information due to inside help and it seems only fair that our experts have similar information in order to review the plan. Sanitizing the plan will cause delay. We do not have confidence that the Applicants will be able to make the proper decisions on the relevancy of certain "gory details" to the overall adequacy of the plan.

7. We are still concerned about leaving our work product at the Applicants' offices although we see the need for keeping the

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information in the Security Plan secret. As an attorney, I am extremely leery of leaving trial preparation material in the hands of the opposing party. The Applicants suggested that the file cabinet in which the material is stored have two locks, one for their use and the other for our protection. This goes part of the way in solving the problem. We suggest the following language in the Protective Order, "Applicants or Staff shall not review any work-product or other materials prepared by Intervenor Experts or Counsel without prior approval by the Board or Intervenor Counsel." We hope this will never become a problem but we would like our notes, reports, and the like adequately protected.

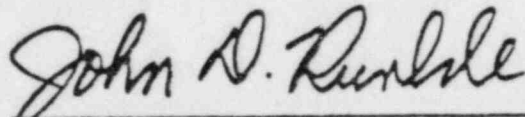
It is our intent to begin the review of the Security Plan by two of our experts on August 8, 1983, at the Applicants' Raleigh office. That is the only time we can schedule Mr. Bleacher as he has commitments for the remainder of August and into September. Mr. Maples is having minor surgery near the end of August and needs to have his review finished as early as possible. The only determination the Board needs to make before that time is section 3 above, access of the entire plan by Counsel. We would appreciate an early ruling on our other objections, especially Mr. Bleacher's access to the entire plan, soon in order to keep this matter moving.

We are trying to facilitate this matter. We cannot afford to bring trivial disputes to the Board's attention although we will do so if it means doing a full review of the Security Plan. We would like it understood that time allowances will have to

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made in order to schedule Counsel and his secretary to spend time in the Applicants' offices in Raleigh. We are sending this to a modified service list similar to the one applicants used in their July 15, 1983, letter to the Board which contained the final proposed Affidavit of Non-disclosure and Protective Order. We are sending copies of this filing, plus the proposed Order and Affidavit, to our experts. We will not do this in future filings in this matter without notification.

Respectfully submitted,

A handwritten signature in cursive script that reads "John D. Runkle". The signature is written in dark ink and is positioned above a horizontal line.

John D. Runkle
Attorney-at-Law
Counsel for Joint Intervenors

Dated this 22nd day of July, 1983

Attachments

Service List

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO 63132

24 FEB 83

AGUZ-OP-235-C
ORDERS T-02-304606

DONALD ARTHUR HENKE
704 FAIRFIELD ROAD
FAYETTEVILLE NC 28303

522 56 7281 CPT 48E5P IN
USAR CCN GP RE

YOU ARE ORDERED TO ACTIVE DUTY FOR TRAINING (ADT) FOR THE PERIOD SHOWN.
UPON COMPLETION OF THE PERIOD OF ADT, UNLESS SOONER RELEASED OR EXTENDED
BY PROPER AUTHORITY, YOU WILL RETURN TO THE PLACE WHERE YOU ENTERED ADT
AND BE RELEASED FROM SUCH DUTY.

PERIOD: 12 DAYS PLUS ALLOWABLE TRAVEL TIME
REPORT TO: HQ SUPPORT ACTIVITY USAINSCOM
FT MEADE MD 20755

REPORTING DATE: BETWEEN 0730 & 0800 HRS 06 JUN 83

ATTACHED TO: HQ INSCOM ATTN IAFM-SFOD-I FT MEADE MD 20755

PURPOSE: SPEC RSCH PROJ (COUNTERPART MOBILIZATION TRAINING)

ADDITIONAL INSTRUCTIONS: PAYMENT BY FT KNOX F&AO. DUTY IN CIVILIAN
ATTIRE DIRECTED. CALL 1-800-325-4988 IF YOU ARE UNABLE TO COMPLY
WITH THIS ORDER. VEHICLE RENTAL NOT AUTH. OER REQ PER AR 623-105,
FWD TO CDR RCPAC ATTN: AGUZ-PAE-E. ADVANCE, IF AUTH, WILL BE CHARGED
TO S15014. PIPL: MS1151A.

FOR ARMY USE: AUTH: ADT-10 USC 672(D)683(A)(1) HOR: SAME AS SNL
ACCT CLAS: 2132070 11-7300 P3281.3000A(AXBV)(1199- \$1298)(1250- \$68)
(1210-) (2572-) (2199- \$226) (2119- \$195) (2200-) S23185
PPN: NA COMP: USAR PEBD: 10 APR 67 SCTY CL: SECRET SEX: M
DOR: 01 NOV 72 SITE: 700247 TYTR: 100
FORMAT: 260

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* TAG, RCPAC *
* OFFICIAL *
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RONALD W. ZELTMAN
BRIGADIER GENERAL, USA
COMMANDING

DISTRIBUTION: 1A
HQ INSCOM ATTN IAFM-SFOD-I FT MEADE MD 20755
PACKET 6A

CSBT

DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL
U.S. ARMY RESERVE COMPONENTS PERSONNEL AND ADMINISTRATION CENTER
ST. LOUIS, MO 63132

AGUZ-OP-0235-C
ORDERS T-06-317536

02 JUN 83

DONALD ARTHUR HENKE
704 FAIRFIELD ROAD
FAYETTEVILLE NC 28303

522 56 7281 CPT IN 48E5P5G
USAR CON GP RE

YOU ARE ORDERED TO ACTIVE DUTY FOR TRAINING (ADT) FOR THE PERIOD SHOWN.
UPON COMPLETION OF THE PERIOD OF ADT, UNLESS SOONER RELEASED OR EXTENDED
BY PROPER AUTHORITY, YOU WILL RETURN TO THE PLACE WHERE YOU ENTERED ADT
AND BE RELEASED FROM SUCH DUTY.

PERIOD: 13 DAYS PLUS ALLOWABLE TRAVEL TIME
REPORT TO: BLDG 310 RESERVE AFFAIRS OFFICE (RAO)
FT PICKETT VA 23824
REPORTING DATE: BETWEEN 0730 & 0800 HRS 14 AUG 83
ATTACHED TO: UNIT TNG DIR USALOGC FT PICKETT VA 23824
PURPOSE: LOGEX PSYOP OFF (MOBILIZATION TRAINING)
ADDITIONAL INSTRUCTIONS: PAYMENT BY FT LEE F&AO. ADVANCE, IF AUTH,
WILL BE CHARGED TO S44055. CALL 1-800-325-4988 IF YOU ARE UNABLE
TO COMPLY WITH THIS ORDER. BREAK IN TVL TIME TO/FM HOR NOT AUTH
WITHOUT PRIOR WRITTEN APVL. CER REQ PER AR 623-105, FWD TO CDR
RCPAC ATTN: AGUZ-PA-E. VEHICLE RENTAL NOT AUTH. PIPL: TLXT383
*SUPPORT....

FOR ARMY USE: AUTH: ADT-10 USC 672(D)683(A)(1)
ACCT CLAS: 2132070 11-7300 P3281-4000F(FXAG)(1199- \$1398)(1250- \$74)
(1210-) (2572-) (2199- \$146) (2119- \$210) (12200-) (523185)
PPN: NA COMP: USAR PEBD: 10 APR 67 SEX: M SCTY CL: SECRET (FINAL)
DDR: 01 NOV 72 SITE: 100358 TYTR: 500 ADIS: 11 AD
HOR: SAME AS SNL
FORMAT: 260

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* TAG, RCPAC*
* OFFICIAL *
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RONALD W. ZELTMAN
BRIGADIER GENERAL, USA
COMMANDING

DISTRIBUTION: 1A
UNIT TNG DIR USALOGC FT PICKETT VA 23824
CDR, USA LOGISTIC CNTR ATTN:ATCL-DRR FT LEE VA 23801
CDR, TRADOC ATTN:ATPL-PR FT MONROE VA 23651
PACKET 6A

CERTIFICATE OF SERVICE

I hereby certify that copies of this filing were served to the following Modified Service List (Security Contentions) on this 22nd day of July, 1983, by deposit in the United States mail, first class postage prepaid, or by hand-delivery, to the following:

James L. Kelley
Atomic Safety and Licensing Board
US Nuclear Regulatory Commission
Washington, D.C. 20555

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Glenn O. Bright
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US Nuclear Regulatory Commission
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US Nuclear Regulatory Commission
Washington, D.C. 20555

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