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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

83 SEP 26 A11:43

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
DUKE POWER COMPANY, <u>et al.</u>)	Docket Nos. 50-413
)	50-414
(Catawba Nuclear Station,)	
Units 1 and 2))	September 23, 1983

PALMETTO ALLIANCE
OBJECTIONS TO PREHEARING CONFERENCE ORDER

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MOTION FOR RECONSIDERATION AND OTHER RELIEF
OR-
REQUEST FOR CERTIFICATION OR REFERRAL

Pursuant to 10 C.F.R. Sections 2.718 and 2.752 Palmetto Alliance hereby objects to the Board's September 14, 1983 Prehearing Conference Order in a number of particulars, moves for reconsideration and revision of that order as hereafter specified, seeks other relief by way of "simplification, clarification and specification of the issues" for hearing in this proceeding, and, in the alternative, requests certification or referral of these matters for determination to the Commission or the Atomic Safety and Licensing Appeal Board. Palmetto Alliance's request for extension of five days additional time for the filing of objections to this order has been denied by Order of September 20, 1983.

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1. As Palmetto Alliance reads this Board's September 14, 1983 Prehearing Conference Order it appears that this Board either misreads or misunderstands Palmetto Alliance's Quality Assurance Contention Number 6 in serious ways that cloud and obscure the nature of Palmetto Alliance's concerns expressed since the outset of this proceeding, the allocation of the burden of proof with respect to the adequacy of applicant's Quality Assurance Program and the assurance that the Catawba Nuclear Station is safely built, seriously hinders and limits Palmetto Alliance's ability to offer evidence on this subject in upcoming hearings. Palmetto objects to this Board's Prehearing Conference Order and in this regard, respectfully requests clarification of this order if its reading is not reflective of that Order's terms and effect; requests "simplification, clarification and specification of the issues" with respect to this subject, under provisions of 10 C.F.R. 2.752 (a)(1); or, in the alternative, requests certification or referral of these matters to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, under provisions of 10 C.F.R. sections 2.718(i) and 2.752(c).

The thrust of the Board's September 14, 1983 Prehearing Conference Order with respect to its characterization of Palmetto Contention 6 is to mistakenly limit Palmetto's proof on its Quality Assurance Contention to "information about specific construction deficiencies." (Order at pp. 6-8.) If Palmetto's

Reading of this Order is indeed correct, this specification of the issues improperly targets the "trees" while missing the "forest" by limiting proof to "specific construction deficiencies" which are merely the symptoms of the more pervasive malady: the systematic Quality Assurance breakdown at Catawba. By so doing, the Board appears to accept the same fallacious approach to this issue as is reflected by Duke Power Company's response to the serious, generic and programmatic complaints by the Catawba welding inspectors. Duke's response there was, likewise, to target only the "specific construction deficiencies", i.e., the bad welds, while ignoring the procedural and programmatic Quality Assurance breakdown. Quality Assurance problems at Catawba have not and will not be solved by simply reworking or exploring away the known construction deficiencies. It is the indeterminate character of the as built condition of the plant - the unknown construction deficiencies - that should be the proper target of Palmetto's Quality Assurance Contention 6.

By memo to the parties of September 16, 1983, the Board Chairman transmitted the Appeal Board's most recent pronouncement on the subject of Quality Assurance: Union Electric Co. (Callaway Plant, Unit 1), ALAB-740, _____ NRC _____ (September 14, 1983), with the appropriate admonition that, "[T]he decision will provide some guidance in litigation of Contention 6." Indeed it does:

A recurring issue in reactor operating license proceedings is whether the facility has been properly constructed. In most instances, the focus is upon the execution of the Quality Assurance Program designed to eliminate the possibility that construction deficiencies of potential safety significance will go undetected and therefore unrectified.

In any project even remotely approaching in magnitude and complexity the erection of a nuclear power plant, there inevitably will be some construction defects tied to Quality Assurance lapses . . . thus, in examining claims of Quality Assurance deficiencies, one must look to the implication of those deficiencies in terms of safe plant operation.

Obviously, this inquiry necessitates careful consideration of whether all ascertained construction errors have been cured. Even if this is established to be the case, however, there may remain a question whether there has been a breakdown in Quality Assurance procedures of sufficient dimensions to raise legitimate doubt as to the overall integrity of the facility and its safety-related structures and components. A demonstration of a pervasive failure to carry out the Quality Assurance Program might well stand in the way of the requisite safety finding. (Emphasis supplied.)

Id., slip opinion at pp. 1/3.

As the Appeal Board aptly observes, identification and demonstration that "all ascertained construction errors have been cured" is only the beginning of the Quality Assurance inquiry and not the end. However, here, if Palmetto Alliance's understanding of the Board's Prehearing Conference Order is correct the existence of "specific construction deficiencies" is the be all and end all of this Board's inquiry. By its express terms the Board's Prehearing Conference Order observes that the effect of its terms is to require Palmetto's disclosure of all information about specific construction deficiencies for the record by September 19, 1983 - the Monday following the Friday receipt of

the Order itself - on pain that, "[A]ny such information not so disclosed may be excluded from the hearing upon a timely objection." Order at p.8. Palmetto Alliance fears that the same sort of "squeeze play" worked upon the Catawba welding inspectors by Duke Power Company in responding to their Quality Assurance complaints, will be worked upon Palmetto Alliance, and ultimately the public affected by Catawba's operation, as a direct consequence of this approach to Palmetto Alliance Contention 6. There, Duke Power's Task Forces, its outside consultant the Management Analysis Company (MAC), and the NRC Region II Staff, "solved" the welding inspector problem by addressing only the numerous specific construction deficiencies (the technical concerns) while ignoring the programmatic Quality Assurance Program breakdown - the harassment, falsification, and lack of management support (the nontechnical concerns). We urge this Board not to repeat that mistake.

From the outset of this proceeding Palmetto Alliance has expressed its concern for programmatic failures in the Quality Assurance Program at Catawba on the basis of the first hand experience of its members Nolan R. Hoopingarner and William R. McAfee. In ruling on Applicant's and the NRC Staff's Motion for Partial Summary Disposition of Contention 6 this Board explicitly acknowledged that Hoopingarner's and McAfee's experience raised material issues which go to the heart of adequate Quality Assurance Program: instructions not to write Non-Conforming Items

(NCI's), harassment and "company pressure" not to report faulty workmanship or to communicate with the Nuclear Regulatory Commission. (Order of August 26, 1983.) Such programmatic, core evidence of Quality Assurance breakdown has been identified by Palmetto Alliance since the beginning of this proceeding.

Palmetto Alliance was explicit in expressing its concern. In its July 22, 1981 Petition to Intervene, at p.5, Palmetto advanced this contention:

Substandard workmanship and poor Quality Control strongly suggests that actual plant construction is substantially below NRC standards in many safety-related areas. A number of former Duke Power Company construction workers, including a certified Quality Control Inspector, have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship.

In its December 1981 supplement containing Contention 6 Palmetto Alliance asserted as follows:

Substandard workmanship and poor quality control strongly suggest that actual plant construction is substantially below NRC standards in many safety related areas. Applicants have failed to provide a Quality Assurance program which meets the requirements of 10 C.F.R. Part 50, App. B, and no reasonable assurance exists that the plant can operate without endangering the health and safety of the public. The Commission has noted that 'the regulated industry...bears the primary responsibility for the proper construction and safe operation of licensed nuclear facilities' Federal Tort Claim of General Public Utilities Corp., et al., CLI A1-10, 13 NRC 773, 775-776 (1981). The NRC's Systematic Assessment of Licensee Performance Review Group found the Catawba facility 'Below Average' among power reactor facilities under construction particularly 'in the areas of quality assurance including management and training.' NUREG 0834, NRC Licensee Assessments, August 1981, p-B-1. A number of former Duke Power Company construction workers, including a certified Quality Control

Inspector, have complained of systematic deficiencies in plant construction and company pressure to approve faulty workmanship.]

In its December 1, 1982 Memorandum and Order, the Board recast Contention 6 and accepted it for litigation, stating:

Much of Palmetto 6, which is concerned with substandard workmanship and poor quality control, lacks sufficient specificity. The last sentence, however, concerns alleged 'corner cutting' and does supply a sufficient basis for a contention. We recast the contention that we now accept to read as follows:

Because of systematic deficiencies in plant construction and company pressure to approve faulty workmanship, no reasonable assurance exists that the plant can operate without endangering the health and safety of the public.

The thrust of this contention is primarily toward alleged company attitudes and practices; proof of this contention, presumably involving specific instances of misfeasance, need not be adduced at the stage.

Late in Discovery Duke Power Company and the NRC Staff disclosed the existence of the Catawba Welding Inspector Task Force Investigation and the underlying serious and pervasive complaints by welding inspectors of harassment, falsification of QC documents and longstanding management failure to implement an effective Quality Assurance Program. On the basis of this information the Board recognized the serious safety implications of the Quality Control and Quality

Assurance allegations in the welding area and granted Palmetto Alliance's Motion to Reopen Discovery & Discovery to focus on the welding inspector complaints. With less than a month of reopened discovery, pursuing the matter almost fulltime, Palmetto conducted extensive oral depositions of Duke and NRC personnel in this area. This discovery confirmed Palmetto's earliest fears, revealed extensive evidence of widespread QA breakdowns at Catawba, extending far beyond the welding craft area. Through this discovery Palmetto learned for the first time of the critical October 1982 audit of construction practices at Catawba - the INPO study - "Construction Project Evaluation for Catawba Nuclear Station." Over Duke Power Company's objections this Board directed production of the INPO study together with past revisions of construction and Quality Assurance procedures in use over time at the Catawba Station. On the basis of this information learned since May 1983 Palmetto Alliance sought by Motion of September 9, 1983, reopened discovery of Quality Assurance matters beyond the welding area permitted earlier and additional relief to permit the comprehensive treatment of systematic Quality Assurance concerns at Catawba. Finally, on September 14, 1983, the Government Accountability Project, on behalf of Palmetto Alliance,

requested the NRC Commissioners' immediate action pursuant to 10 C.F.R. section 2.206 to require independent audits of the as-built condition of the facility and the Quality Assurance program at Catawba. GAP further sought the conduct of an Office of Investigation inquiry into "the deliberate mishandling by Duke Power Company management of certain serious complaints by Catawba welding inspectors" and an Office of Inspector and Auditor (OIA) internal investigation of the Region II Staff response to the welding inspector complaints.

In light of the foregoing Palmetto Alliance respectfully objects to the Board's Prehearing Conference Order, seeks clarification and revision of that Order to clarify and specify the Quality Assurance issue for hearing in this proceeding consistent with Palmetto Alliance's original Contention 6 and the guidance contained in ALAB-740 to permit litigation of the programmatic Quality Assurance breakdown at Catawba; or , in the alternative, to certify or refer this matter for determination to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate.

2. Palmetto Alliance objects to the Board's Prehearing Conference Order of September 14, 1983, with

respect to its decision as to the order of presentation of evidence with respect to Palmetto Contention 6. While the Board properly provides that Applicants, who have the burden of proof, should proceed first, the Board failed to provide that the NRC Staff proceed next with Intervenor following third on this Contention. The Board appropriately provides for the Staff and Applicants to precede Intervenor on Contention 44/18 based on its observation that this contention "is directed primarily towards the Staff." With respect to Contention 6 the NRC Staff's approval of Applicant's Quality Assurance Program and of Duke Power Company's resolution of the welding inspector complaints justifies Palmetto's focus of its Quality Assurance Contention 6 primarily towards Applicants, and secondarily towards the NRC Staff. Since the Staff has undertaken to endorse and support Applicant's QA track record Intervenor should be permitted to respond by following third in order of presentation. Palmetto further objects to the Board granting Applicant's and NRC Staff unsought and unjustified advance opportunity for rebuttal not provided Intervenor. While the Board properly observes that testimony of witnesses subpoenaed by Intervenor "cannot be fully anticipated," the "unanticipated matters" which would arise upon the examination of such witnesses burden

Intervenors and not Applicant and Staff who employ and control the subpoenaed witnesses. If any party is in a better position to more fully anticipate the substance of such witnesses' testimony it is Applicants and the NRC Staff. Intervenors should be offered the opportunity for rebuttal on this ground, or, at least, all parties should be provided the opportunity for rebuttal on equal footing.

3. Palmetto Alliance objects to provisions of the Board's Order with respect to the "designation of witnesses" as specified at page 3. The identities of Palmetto's proposed volunteer witnesses on Contentions 6 and 16 have long been known to the Board and parties. From the outset of this proceeding Palmetto has identified Messrs. Hoopingarner and McAfee as its witnesses on its Quality Assurance Contention. Since the summary disposition stage Palmetto has identified Dr. Marvin Resnikoff and Mr. Lindsay Audin as its proposed witnesses on Contention 16. The subjects of the witnesses' proposed testimony has likewise been long known to the parties. The only witnesses whose identities have yet to be disclosed by Palmetto are the witnesses in the employ of Applicants and NRC Staff with regard to Contention 6. While the Board is correct in observing that many of the potential subpoenaed

witnesses are hostile and also many have been deposed by Palmetto in discovery, it is not correct in its belief that the disclosure of the identities of witnesses who have not been deposed but remain in the employ of Applicants will not "cause any harm to these persons or affect their willingness (or unwillingness) to testify." (Order at p.3.) As stated at the Prehearing Conference Applicants assert only that they "may" call unspecified welding inspectors and welding inspector supervisors to testify on Contention 6. Palmetto notes that in Applicant's filing of September 19, 1983 it lists some thirty-four welding inspectors and supervisors who "may be called" to address "expressions of technical and nontechnical concerns regarding QA/QC in welding at Catawba." Beyond stating that it wishes to examine each and every witness identified by Applicants with respect to Contention 6, and that it intends to seek, by subpoena, to compel the testimony of each of those persons not voluntarily appearing, as well as additional named persons who either have already been deposed or who are members of the class of welding inspectors and welding inspector supervisors - such disclosure would, Palmetto is informed and believes, indeed, cause "harm to these persons or affect their willingness (or unwillingness) to testify." In documents available to all parties and

this Board many of the Catawba Welding Inspectors documented instances of harassment and retaliation for their expression of safety and Quality Assurance Program concerns. On the basis of confidential information made available to Palmetto by investigators from the Government Accountability Project Palmetto states its belief that further identification of such persons would subject them to harm and affect their ability to offer evidence in this proceeding. Palmetto is herewith serving prefiled testimony and identification of subpoenaed witnesses, consistent with the limitations of this objection.

4. Palmetto Alliance objects to the provisions of the Board's September 14, 1983. Order with respect to "prefiled testimony" appearing at p.4, to the extent that it requires for subpoenaed witnesses "1. a general outline of the subject matters on which each witness will be examined, and 2. as to the Contention 6, specific reference to any particular instance of alleged substandard construction concerning which the witness will be questioned. Filing of this information for subpoenaed witnesses will be a precondition to issuance of a subpoena." Such a requirement is objected to on the grounds of hardship and burden, on the basis that it improperly shifts the burden of proof

on this matter to Intervenor from the Applicants, but it is inconsistent with the guidance of ALAB-740 with respect to guidance for litigation of Quality Assurance Contention 6, and that it is inconsistent with the provisions of 10 C.F.R. section 2.720 with regard to the issuance of subpoenas requiring attendance and testimony of witnesses. The Commission's Rule of Practice above cited, make clear that a party is entitled to compel the attendance and production of evidence by witness, through the mandatory issuance of a subpoena by the presiding officer, upon no more than a "showing of general relevance of the testimony or evidence sought," however the presiding officer, "shall not attempt to determine the admissibility of evidence," in such application for subpoena. The showing required by the Board in its September 14, 1983, order burdens Palmetto far beyond the showing required by section 2.720. Further, as the Board has recognized in its observations about the "hostile" character of witnesses on Contention 6 in the employ of Applicants, and perhaps the NRC Staff, provision of the information specified will simply serve to permit "coaching" of such witness by the party who controls her or him and will make more difficult the task of Palmetto Alliance to "fully anticipate" their likely testimony. With respect to item 2 required to be filed

for subpoenaed witnesses the "specific reference to any particular instance of alleged substandard construction concerning which the witness will be questioned," the Board's Order, if understood properly by Palmetto fails to appropriately treat the Quality Assurance issue as argued under paragraph 1 above. Finally, compliance with the Board's direction with respect to subpoenaed witnesses is burdensome in the extreme, bordering on the impossible if provided in the detail understood by Palmetto to be required and within the time permitted. Palmetto Alliance faced the following time burden with respect to compliance with this Board's Prehearing Conference Order:

- 9/14 Order issued 4 p.m. Order read to Palmetto office staff on 15 minutes notice. Palmetto Counsel not present.
- 9/16 Order received by Counsel in the afternoon in Charleston, S.C.
- 9/17 Saturday Palmetto receives GAP's 2.206 Petition; Counsel departs for prior business commitment in New York City.
- 9/19, Monday a.m. Counsel has prior business commitment in New York City. P.M. Counsel works on analysis of Order and 9/19 deadline; informs Applicant and Staff of its intention to file objections. - attempts to reach Board Chairman, conveys request for extension on the basis of workload and burden to Board's Law Clerk.
- 9/20 Counsel attends site visit, Catawba Station, with Commissioner Gilinsky.
- 9/21 Counsel for Palmetto informed of denial of extension of time in which to file objections; work on prefiled testimony.
- 9/22 Work on prefiled testimony.

9/23 Work on prefiled testimony, work on objections and other required submissions.

Palmetto requests relief from requirements of the Board's Order in this respect but, nonetheless, herewith files its best efforts at compliance consistent with this objection.

5. Palmetto objects to the adoption of the February 1, 1984 date for close of Discovery with respect to Emergency Planning Contentions on the ground stated at the Prehearing Conference. We emphasize the importance of an adequate opportunity to gather evidence and review the results of the Catawba Station Emergency Exercise. The Discovery deadline provided will not permit use of Discovery tools to gather that evidence for hearing.

6. Palmetto Alliance objects to the Board's ruling at page 5 of its September 14, 1983 Prehearing Conference Order with respect to access to Applicant's documents. Palmetto stands by its position that it acted in justifiable and good faith reliance on the ability to have continued access to Applicant's voluminous documents, the reproduction of which would be unduly burdensome and expensive to Palmetto. It is just such "inconvenience and expense" that Palmetto sought to avoid by not making wholesale copies of all

voluminous construction audits for example. The Board's ruling can only place an artificial roadblock, based solely on ability to pay, on access to concededly relevant evidence to be considered in this proceeding. The Board's ruling with respect to the requirement on Palmetto to pay costs of reproduction in advance of the subpoena of records from Applicants is simply wrong. 10 C.F.R. section 2.720 makes mandatory the issuance of a subpoena by the presiding officer for "the production of evidence" upon "a showing of general relevance of the...evidence sought," but makes no mention of the payment of costs of reproduction. Palmetto does not seek the reproduction of evidence but only the fair opportunity to have access to and inspect such evidence. Production of evidence by subpoena may not properly be conditioned upon payment of its costs of reproduction.

7. Palmetto Alliance strenuously objects to the provisions of the Board's Order with respect to "new evidence of construction deficiencies" appearing at pages 6 through 8 of the Board's Prehearing Conference Order of September 14, 1983. As understood by Palmetto, such directives to provide the detailed specification "in the hands" of Applicant and Staff by Monday, September 19, 1983 is punitive, burdensome, and simply

presents Palmetto Alliance with an impossibility of compliance. Palmetto Alliance did not even have the Board's Order in it's hand until the afternoon of Friday, September 16, 1983. As stated above, counsel for Palmetto Alliance had a long-standing business commitment in New York City and was not even available to attempt compliance until the afternoon of the deadline date. Palmetto Alliance renews the argument advanced in support of its objections in Paragraph 1 above. It is the language and treatment of the matters under the heading "New Evidence of Construction Deficiencies" which causes Palmetto Alliance such grave concern about the Board's approach to the Quality Assurance issue in this proceeding.

Palmetto Alliance is frankly puzzled by the Board's language and direction on this matter.

Interpreting the terms "new information about specific construction deficiencies" most narrowly to mean specific bad welds, cracked pipes, or valves installed backwards Palmetto need add nothing to its previous responses to Applicant's August 15, 1983, motion. We mean what we said when we responded to Mr. McGarry's first complaints on this subject, "I don't have anything further to say to Mr. McGarry. If he has a problem, he should put it in writing. I stand by our

statements." (See, Applicant's motion of August 15, 1983.) Applicants mischaracterized statements by counsel for Palmetto Alliance in this motion as making any such claim to the contrary. Counsel for Palmetto Alliance, faced with the Licensing Board's proposed bifurcation of the hearing schedule, appointment of an additional hearing board and proposed separate proceedings to meet Applicant's May 1984 fuel loading date, communicated information passed on to it by Government Accountability Project investigators, received by them in confidence from Catawba workers, that construction schedules had been speeded up, that workers were under intense pressure to meet scheduling deadlines, and that workmanship was likely to suffer as a consequence. Palmetto Alliance had nothing and has nothing further to add by way of response to Applicant's motion of August 15, 1983 or by way of response to this Board's granting of that motion as reflected in its September 14, 1983, Prehearing Conference Order.

If, however, the Board's term "new information about specific construction deficiencies" is understood in its broadest sense the task at hand is indeed impossible of accomplishment as specified by the Board with the time provided, i.e., between the afternoon of

Friday, September 16, 1983 and Monday, September 19, 1983 when such information was to be in the hands of Applicant and Staff. Palmetto Alliance objects. Palmetto Alliance is indeed concerned about "specific construction deficiencies" both those occurring prior to May 27, 1983 stretching back to the beginning of construction of Catawba, as well as those which have occurred and will likely continue to occur after that date. However, Palmetto's concern and conviction that such significant deficiencies exist as to "raise legitimate doubt as to the overall integrity of the facility and its safety-related structures and components," Caloway, slip opinion at p.2, is founded upon "a breakdown in Quality Assurance procedures of sufficient dimensions to raise legitimate doubts as to the overall integrity of the facility." Id. Such "new information" has indeed been gleaned through the depositions and document discovery flowing from the welding inspector complaints, is indeed contained in the newly-discovered INPO study of construction at Catawba, is reflected in the transcript of Palmetto's oral motion of September 9, 1983, and, finally, is analyzed and detailed compellingly in the GAP section 2.206 petition to the Commissioners. These matters are all as available to this Board and the other parties as they are to Palmetto Alliance. To require Palmetto

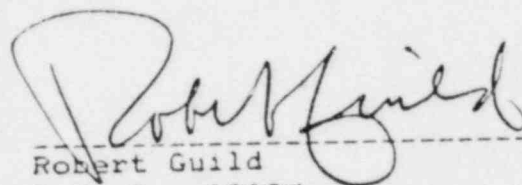
Alliance to specify "any such information" in the form and within the time specified by the Board on pain of its exclusion from the hearing later, improperly shifts the burden of proof of the safety of the facility from the Applicant Duke Power Company, et al. onto Intervenor and the public. Palmetto Alliance respectfully objects to these directives of the Board, seeks clarification of the Board's meaning in these provisions, asks the Board to reconsider and revise its Order accordingly; or, alternatively, requests certification or referral of these matters to the Commission or Appeal Board for determination.

8. In the alternative, Palmetto Alliance requests the Board certify or refer the matters objected to herein for determination to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate. Such certification is expressly authorized with respect to objections to Prehearing Conference Orders such as the Board's Order here under provisions of 10 C.F.R. section 2.752(c), as further authorized pursuant to section 2.718(i). Palmetto Alliance urges that such a referral is especially appropriate here within the guidance of the decision in Cleveland Electric Illuminating Co., et al (Perry Nuclear Power Plant, Units 1 and 2), ALAB-675(May 17,

1982), where significant legal and policy questions are involved in the appropriate consideration of the Quality Assurance issues presented in this proceeding, upon which guidance is newly available and needed, Calaway, supra, and where the Board's decision as reflected in this Order objected to "fundamentally alters the very shape of the ongoing adjudication." Perry, slip opinion, at p.15. This Board itself has noted the preeminence of the Quality Assurance issue faced for hearing in this proceeding. The appropriate standard for consideration of this matter as well as proper allocation of burden of proof and Intervenor's ability to offer evidence on this subject all are fundamentally affected by this Board's September 14, 1983 Order. Palmetto Alliance notes that this Board has referred rulings to the Appeal Board earlier in this proceeding, at the request of Applicants and the NRC Staff. Considerations of fairness further support referral of this matter at the request of this Intervenor.

For the foregoing reasons Palmetto Alliance respectfully requests that the Board consider the objections herein, that it reconsider and revise its September 14, 1983 Prehearing Conference Order in order to address Palmetto's objections; or, in the

alternative, that it refer or certify the questions raised here for determination by the Commission or the Appeal Board, as appropriate.

A handwritten signature in dark ink, appearing to read "Robert Guild", is written over a horizontal dashed line.

Robert Guild
P.O. Box 12097
Charleston, S.C. 29412

Counsel for Palmetto Alliance

September 23, 1983

REPORT THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket Nos. 50-413
50-414

September 23, 1983

CERTIFICATE OF SERVICE

I hereby certify that copies of PALMETTO ALLIANCE Objections,
,etc; Direct Testimony, and Witnesses To Be Subpoened, etc.

in the above captioned matters, have been served upon the follow-
ing by depositing same in the United States mail, postage prepaid,
on this 24th day of Septm 1983. * By Express Mail

* 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

Don R. Willard
Mecklenburg County
1200 Blythe Blvd.
Charlotte, NC 28203

Dr. Richard K. 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

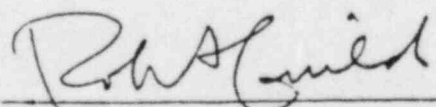
* George E. Johnson, Esq.
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Carol F. Kagan, Attorney
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.

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PALMETTO ALLIANCE, INC.
WITNESSES TO BE SUBPOENAED WITH REGARD TO
PALMETTO ALLIANCE CONTENTION #6

OFFICE OF SECRETARY
DOCKETING & RECORDS

Subject to the objections contained in the accompanying filing by Palmetto Alliance with respect to the provisions of the Board's Prehearing Conference Order of September 14, 1983 with respect to "prefiled testimony" at p. 4, Palmetto Alliance hereafter endeavors to provide as follows:

(1) A general outline of the subject matters on which each witness will be examined, and (2) as to contention 6, specific reference to any particular instance of alleged substandard construction concerning which the witness will be questioned.

Order at p.4.

Pursuant to 10CFR §2.720, Palmetto Alliance hereby applies to the Chairman for issuance of subpoenas requiring the attendance and testimony of the following witnesses and the production of evidence from them with respect to contention 6. Palmetto seeks the production of any and all documents in the possession of the witness or subject to the witness's control which reflect their knowledge of quality assurance and workmanship at Catawba within the scope of Palmetto contention 6.

If the witness is voluntarily tendered for examination by another party Palmetto seeks only the production of evidence from that witness and an opportunity to examine that witness in

turn. However, since the designation of witnesses on contention 6 by both Applicants and the NRC Staff appears by its terms to be conditional, Palmetto Alliance asks that subpoenas issue to compel their attendance, testimony and production of evidence unless such attendance, testimony and production is otherwise agreed to.

Pursuant to 10CFR §2.720(h) (2) (1), Palmetto Alliance seeks an Order of the presiding officer requiring the attendance, testimony and production of evidence from the below named NRC personnel who are believed to have direct personal knowledge of material facts with respect to Palmetto contention 6 uniquely known to them reflecting such exceptional circumstances as requires their testimony on this matter.

NRC STAFF EMPLOYEES

<u>WITNESS</u>	<u>SUBJECT MATTERS</u>	<u>INSTANCE OF SUBSTANDARD CONSTRUCTION</u>
1. James P. O'Reilly Region II Admin.	<ul style="list-style-type: none"> a. Approval and review of Duke Power Co.'s Quality Assurance Program at Catawba b. Policy regarding response to safety complaints by whistleblowers c. Response and investigation of Catawba welding inspector concerns, Duke internal investigation and remedial measures 	<ul style="list-style-type: none"> a. Knowledge regarding "technical concerns of Catawba welding inspectors" reflected in specific file numbers listed at p. 4 of vol. 2 Final report of Task Force effort to evaluate technical concerns of Catawba welding inspectors, Duke Power Co. b. Knowledge of specific

WITNESS

SUBJECT MATTERS

INSTANCE OF
SUBSTANDARD
CONSTRUCTION

- | | | |
|--|--|--|
| | d. Inspection and enforcement policy with regard to construction at Catawba. | technical findings contained in "Construction Project Evaluation for Catawba Nuclear Station", 1982, the "INPO Stu |
| 2. Peter K. VanDoorn
Senior Resident
Inspector
Catawba Nuclear
Station | <p>a. Knowledge of concerns of Catawba welding inspectors.</p> <p>b. Review of Duke Task Force recommendations.</p> <p>c. Review of implementation of Task Force recommendations.</p> <p>d. Review of Catawba Quality Assurance Program procedures and management.</p> | <p>a. Knowledge regarding "technical concerns of Catawba welding inspectors" reflect in specific file numbers listed at p. of vol. 2 Final report of Task Force effort to evaluate technical concerns of Catawba welding inspectors, Duke Power Co.</p> <p>b. Knowledge of specific technical findings contained in "Construction Project Evaluation for Catawba Nuclear Station", 1982, the "INPO Stu</p> |
| 3. Jack C. Bryant
Senior Resident
Inspector,
Oconee Nuclear
Station (formerly
supervisor of
Van Doorn) | <p>a. Knowledge of concerns of Catawba welding inspectors</p> <p>b. Review of Duke Task Force recommendations.</p> <p>c. Review of implementation of Task Force recommendations.</p> <p>d. Review of Catawba Quality Assurance Program procedures and management.</p> <p>e. Allegations of construction deficiencies made by Nolan Hoopingarner and Ronald McAfee.</p> | <p>a. Knowledge regarding "technical concerns of Catawba welding inspectors" reflect in specific file numbers listed at p. of vol. 2 Final report of Task Force effort to evaluate technical concerns of Catawba welding inspectors, Duke Power Co.</p> <p>b. Hoopingarner and McAfee's allegations admitted for hearing in the Board's 8/26/83 Order</p> |

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i. G.F. Maxwell
Former Resident
Inspector
Catawba Nuclear
Station

- a. Complaints by welding inspectors during his tenure.
- b. Allegations brought to his attention by Nolan R. Hoopingarner II.

- a. Technical concerns of welding inspectors brought to his attention and communicated to Duke's Larry Davison as reflected in Davison deposition.
- b. Concerns brought to his attention by Hoopingarner as reflected in Hoopingarner prefiled testimony.

DUKE POWER COMPANY
EMPLOYEES AND AGENTS

W.S. Lee
Chairman

- a. Quality Assurance Program organization and history.
- b. His involvement as original QA manager.
- c. Lack of independence of QA from construction.
- d. Response to welding inspector concerns.
- e. Organization of welding inspector Task Force.
- f. Pay reclassification of welding inspectors.
- g. Contract with Management Analysis Company.
- h. Cause and remedial response to SALP I Report Below Average rating.
- i. INPO construction analysis.

- a. "Technical concerns of Catawba welding inspectors" reflected in specific file numbers listed at p.4 of vol. 2 Final report of Task Force effort to evaluate technical concerns of Catawba welding inspectors, Duke Power Co.
- b. specific technical findings contained in "Construction Project Evaluation for Catawba Nuclear Station", Oct. 1982, the "INPO Study"

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2. W.H. Owen
Executive Vice
President for
Construction,
Design Engineering,
and QA Depts.

- a. Construction design
of Catawba Nuclear
Station.
- b. Pay reclassification
and recourses of
welding inspectors
- c. Task force investiga-
tions of welding
inspector concerns.

- a. Task Force Vol. 2
- b. INPO Study

3. J.R. Wells
Former QA manager

- a. Establishment and
organization of QA
dept.
- b. Pay reclassification
and recourse of welding
inspectors.
- c. Recommendations to
resolve nontechnical
concerns.
- d. Circumstances of transfer
to INPO - Atlanta
- e. INPO construction evalua-
tion as applied to
Catawba in the Oct.
"Construction Evaluation"

- a. Task Force Vol. 2
- b. INPO Study

4. G.W. Grier
Corporate QA
Manager

- a. QA Program at Catawba
- b. Pay reclassification
and recourse of welding
inspectors.
- c. Task Force investigations
of welding inspector
concerns.
- d. Implementation of recom-
mendations made by
various Task Forces
investigating welding
inspector concerns:
(technical & nontech-
nical)

- a. Task Force Vol. 2
- b. INPO Study

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| | e. QA management response to concerns. | |
| | f. Retaliation against welding inspectors and welding inspector supervisors for expression of concerns. | |
| 5. B. Gail Addis
Director,
Employee Relations | a. A role in welding inspector pay recourse. | a. Task Force Vol. 2
b. INPO Study
c. Instances of sub-standard instruction reflected in information from inspectors interviewed as described in 12/3/81 memo to W. H. Owen. |
| 6. T.C. McMeekin
Member, Task
Force 1 | a. Welding inspector Task Force 1 investigation, findings and recommendations. | a. Task Force Vol. 2
b. INPO Study
c. Instances of sub-standard instruction reflected in information from inspectors interviewed as described in 12/3/81 memo to W.H. Owen. |
| 7. A. Parks Cobb
Chairman,
Technical Task
Force | a. Work of the technical task force, findings, conclusions, and recommendations. | a. Task Force Vol. 2 |
| 8. C.N. Alexander
Chairman,
Nontechnical
Task Force | a. Review of welding inspector nontechnical concerns, findings, & recommendations of his task force.
b. Implementation of recommendations. | a. Task Force Vol. 2
b. Instances reflected in nontechnical task force report and correspondence. |

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9. L.R. Davison
QA Manager,
Projects

- | | |
|--|---|
| a. QA Program at Catawba | a. Task Force Vol.2 |
| b. Pay reclassification
& recourses of welding
inspectors. | b. INPO Study |
| c. Concerns expressed by
welding inspectors. | c. Instances identified
in welding inspector
nontechnical concerns
report. |
| d. Task Force investiga-
tions. | d. Concerns expressed by
Ron McAfee and Nolan
Hoopingarner. |
| e. Implementation of recom-
mendations of Task Force. | |
| f. Procedure provisions and
changes in QAProgram. | |
| g. Verbal voiding of NCI's. | |
| h. Pressure to approve
faulty workmanship. | |
| i. Qualification of
inspectors. | |
| j. Technical support in
QA. | |
| k. Resolution of construc-
tion deficiencies. | |
| l. Management support for
QC inspectors. | |
| m. Responsibilities of QA
personnel. | |
| n. Relationship with and
direction of craft. | |
| o. Compliance with QC
procedures. | |
| p. Harassment of QC inspectors. | |
| q. Retaliation against inspectors
for expressing concerns. | |

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10. R.A. Morgan
Sr. QA Engineer

- | | |
|--|---|
| a. QA Program at Catawba | a. Task Force Vol.2 |
| b. Pay reclassification & recourses of welding inspectors. | b. INPO Study |
| c. Concerns expressed by welding inspectors. | c. Instances identified in welding inspector nontechnical concern report. |
| d. Task Force investigations. | d. Concerns expressed Ron McAfee and Nola Hoopingarner. |
| e. Implementation of recommendations of Task Force. | |
| f. Procedure provisions and changes in QA Program. | |
| g. Verbal voiding of NCI's. | |
| h. Pressure to approve faulty workmanship. | |
| i. Qualification of inspectors. | |
| j. Technical support in QA. | |
| k. Resolution of construction deficiencies. | |
| l. Management support for QC inspectors. | |
| m. Responsibilities of QA personnel. | |
| n. Relationship with and direction of craft. | |
| o. Compliance with QC procedures. | |
| p. Harassment of QC inspectors. | |
| q. Retaliation against inspectors for expressing concerns. | |

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|---|---|--|
| 1. J.C. Shropshire
QA Engineer,
Mechanical,
Welding and NDE | a. QA Program at Catawba.
b. Welding inspector concernb.
c. Implementation of welding
inspector Task Force
recommendations. | a. Task Force Vol. 2
b. INPO Study. |
| 2. A.E. Allum
Technical Supervisor
Welding, NDE and
Mechanical
Inspection | a. QA Program at Catawba
b. Welding inspector
concerns
c. Implementation of welding
inspector Task Force
recommendations.
d. Reprisals against welding
inspectors and supervisors
for expressing concerns.
e. Evaluation of G.E. Ross
and Ross recourse against
Allum. | a. Task Force Vol. 2
b. INPO Study |
| 3. C.R. Baldwin
Technical Supervisor
NDE and welding
inspection | a. QA Program at Catawba
b. Welding inspector
concerns.
c. Implementation of welding
inspector Task Force
recommendations.
d. Verbal voiding of NCI's,
resolution of nontechnical
concerns, harassment,
QC inspector/craft communi-
cation. | a. Task Force Vol. 2
b. INPO Study
c. Instances identified
in welding inspector
nontechnical concerns
report. |

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14. R.L. Dick Vice Pres. Construction	<ul style="list-style-type: none"> a. The welding inspector concerns. b. Craft/QA relationship c. Implementation of responses to welding inspector concerns by construction. d. Harassment and intimidation of inspectors by craft. e. Craft pressure on QA f. Nonconformance evaluation team establishment and operation. g. changes in construction procedures QA program. h. current construction practices and schedules for plant completion speedup. i. INPO evaluation of construction at Catawba and implementation of recommendations. 	<ul style="list-style-type: none"> a. Task Force vol. 2 b. INPO study
15. W.H. Bradley	<ul style="list-style-type: none"> a. Catawba welding inspector concerns b. Implementation of Task Force recommendations c. Nonconformance Evaluation Team 	<ul style="list-style-type: none"> A. Task Force vol. 2 b. INPO Study c. Bradley files reflecting Task Force recommendation implementation d. Nonconformance evaluation team log.

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. W.O. Henry
QA Manager,
Technical
Services

- a. Changes in QA procedure for handling NCI's and other means for documenting construction deficiencies (i.e., process control & R-2A's, etc.)
- b. Resolution of welding inspector concerns
- c. QA procedures and changes resulting from welding inspector task force.
- d. Nonconformance evaluation team and reevaluation of NCI's
- f. Identification and description of records regarding construction deficiencies and QA problems.

- a. Task Force Vol. 2
- b. INPO study
- c. Nonconformance evaluation team log.

. J.C. Rogers
Catawba Project
Manager

- a. Harassment of QC inspectors by craft
- b. Welding inspector task force report, recommendations & implementation.
- c. McAfee and Hoopingarner technical concerns.
- d. Current construction schedule and speedup.

- a. Task Force Vol.2
- b. INPO Study
- c. Incidents reflected in McAfee & Hoopingarner testimony.

. D.G. Beam
Former Catawba
Project Manager,

- a. Organization and history of QA at Catawba
- b. Evolution of QC inspection function
- c. Reorganization of QC under QA dept.
- d. SALP I Below Average evaluation of Catawba construction.
- e. McAfee & Hoopingarner technical concerns.

- a. Task Force Vol. 2
- b. Incidents reflected in McAfee & Hoopingarner prefiled testimony.

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| Ed McKenzie
Powerhouse Mechanic
Foreman | a. Harassment of QC inspectors | a. Task Force Vol. 2 |
| | b. Craft pressure on QC | |
| | c. Use of NCI's | |
| W.L. Sifford
Supervising
Technician
Welding Inspection | a. Welding inspector qualification | |
| | b. Craft/QC relationship. | |
| | c. Harassment of QC inspectors | |
| | d. Lack of support for QC inspectors from management | |
| | e. Retaliation against inspectors for expressing concerns. | |
| 1. G.E. Ross
Supervising
Technician,
Welding Inspection | a. QC Program at Catawba | a. Task Force Vol. 2 |
| | b. Pay reclassification and recourse by welding inspectors. | b. Nontechnical Task Force report |
| | c. Technical and nontechnical concerns expressed by welding inspectors | c. INPO Study |
| | d. Task Force investigations of those concerns. | |
| | e. Implementation & recommendations of Task Forces | |
| | f. Procedure revision and changes in QA program at Catawba. | |
| | g. Retaliation for expression of concerns. | |
| | h. Process control | |
| | i. NCI resolution | |
| | j. Welding inspection | |

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(21 - G.E. Ross
cont'd.)

- k. Material control
- l. Design drawings
- m. Construction Procedure
- n. Weld procedures
- o. VN process
- p. QA procedure
- q. Harassment
- r. Management support

22. B.W. Deaton
Supervising
Technician,
Welding Inspection

- a. QA Program at Catawba
- b. Pay reclassification
and recourses by
welding inspectors
- c. Concerns (technical
& nontechnical),
expressed by welding
inspectors.
- d. Task Force investigations
of those concerns.
- e. Implementation of the
recommendations of the
Task Force
- f. Resolution of NCI's
- g. Technical support
review of QA resolution

- a. Task Force Vol. 2
- b. Nontechnical Task
Force report.

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24. David H. Boney	b. Pay reclassification & recourse of welding inspectors	b. Nontechnical Task Force report
25. John R. Bryant	c. Concerns (technical & nontechnical) expressed by welding inspectors	c. INPO Study
26. James Bright	d. Task Force investigations of those concerns.	
27. William H. Burr	e. Implementation of the recommendations of the Task Force at Catawba	
28. Boyce Cauthen	f. Procedure revisions and other changes at QA program	
29. Kenneth W. Karriker	g. Process control	
30. Richard Childers	h. NCI resolution	
31. C.D. Crisp	i. Welding inspection	
32. Harold Eubanks	j. Material control	
33. T.A. Bumgardner	k. Design drawings	
34. A.S. Gantt	l. Construction procedure	
35. V.C. Godfrey	m. Weld procedure	
36. Lindsay Harris, Jr.	n. VN process	
37. J.E. Henson	o. QA procedure	
38. R. Irby	p. Qualifications	
39. Larry Jackson	q. Tech. Support	
40. Richard Jones	r. Resolutions	
41. Ronald Kirkland	s. Management support	
42. John McCoy	t. Responsibilities	
43. Max Reep	u. Directing craft	
44. Michael Rink	v. Procedure	
45. John M. Rockholt	w. Harassment	
46. Mickey Standridge	x. Reprisal for expressing concerns.	
47. Ransom Sims		