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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket Nos. 50-400 OL
and NORTH CAROLINA EASTERN	)	50-401 OL
MUNICIPAL POWER AGENCY	)	
	)	
(Shearon Harris Nuclear Power	)	
Plant, Units 1 and 2)	)	

APPLICANTS' ANSWER TO CHANGE  
PROPOSED CONTENTIONS ON SHNPP  
OFF-SITE EMERGENCY RESPONSE PLAN

In a Supplement to Petition for Leave to Intervene dated April 5, 1984, intervenor Chapel Hill Anti-Nuclear Group Effort (CHANGE) submitted 36 proposed off-site emergency response contentions. These contentions challenge the adequacy of the North Carolina Emergency Response Plan In Support of the Shearon Harris Nuclear Power Plant (the ERP) dated February, 1984. In its Supplement, CHANGE does not refer to any of the contentions it earlier proposed on the subject of off-site emergency response capability, rulings on which were deferred by the Board pending issuance of the ERP. See Memorandum and

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Order (Reflecting Decisions Made Following Prehearing Conference), LBP-82-119A, 16 N.R.C. 2069, 2082-84 (1982). Consequently, these deferred contentions can be considered withdrawn. See id. at 2073.

Applicable Standard for  
Admissibility of Contentions

Applicants have previously discussed at length the general legal standards governing the admissibility of proposed contentions in an NRC licensing proceeding. See, e.g., "Applicants' Response to Supplement to Petition to Intervene by Wells Eddleman" (June 15, 1982), at 2-19. Accordingly, there is no need to restate in full the Commission's requirements; rather, Applicants simply summarize here the general principles to be applied in determining the admissibility of the CHANGE proposed off-site emergency response contentions.

1. Scope of Hearing Notice

A threshold requirement for an admissible contention is that it address a matter which is within the scope of the issues set forth in the Commission's Notice of Opportunity for Hearing in this proceeding. See Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear 1), ALAB-619, 12 N.R.C. 558, 565 (1981); Portland General Electric Co. (Trojan Nuclear Plant), ALAB-534, 9 N.R.C. 287, 289-90, n.6 (1979); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 N.R.C. 167, 170-71 (1976).

## 2. Bases with Reasonable Specificity

The Commission's Rules of Practice, at 10 C.F.R.

§ 2.714(b), further require that an intervenor include with proposed contentions "the bases for each contention set forth with reasonable specificity."

There are several purposes which underlie the Commission's standard in section 2.714(b):

A purpose of the basis-for-contention requirement in Section 2.714 is to help assure at the pleading stage that the hearing process is not improperly invoked. For example, a licensing proceeding before this agency is plainly not the proper forum for an attack on applicable requirements or for challenges to the basic structure of the Commission's regulatory process. Another purpose is to help assure that other parties are sufficiently put on notice so that they will know at least generally what they will have to defend against or oppose. Still another purpose is to assure that the proposed issues are proper for adjudication in the particular proceeding. In the final analysis, there must ultimately be strict observance of the requirements governing intervention, in order that the adjudicatory process is invoked only by those persons who have real interests at stake and who seek resolution of concrete issues.

Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 A.E.C. 13, 20-21 (1974) (footnotes omitted).

The notice aspect of the "bases with reasonable specificity" requirement is a natural outgrowth of fundamental notions of fairness applied to the party with the burden of proof. The Atomic Safety and Licensing Appeal Board has observed:



The applicant is entitled to a fair chance to defend. It is therefore entitled to be told at the outset, with clarity and precision, what arguments are being advanced and what relief is being asked . . . . So is the Board below. It should not be necessary to speculate about what a pleading is supposed to mean.

Kansas Gas and Electric Co. (Wolf Creek Generating Station, Unit No. 1), ALAB-279, 1 N.R.C. 559, 576 (1975) (emphasis supplied; footnote omitted). Moreover, the Licensing Board is entitled to adequate notice of a petitioner's specific contentions to enable it to guard against the obstructionism of its processes. As the Supreme Court has noted, in NRC proceedings,

\* it is incumbent upon intervenors who  
\* to participate to structure their par-  
\* ticipation so that it is meaningful, so  
\* that it alerts the agency to the interve-  
\* nors' position and contention.\* \* \*

Indeed, administrative proceedings should not be a game or forum to engage in unjustified obstructionism by making cryptic and obscure reference to matters that "ought to be" considered \* \* \*.

Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 553-54 (1978).

Yet, important as the notice aspect of the standard is, the requirement for bases with reasonable specificity goes beyond the "notice pleading" allowed in the federal courts, which has been found to be insufficient for NRC licensing proceedings. See Wolf Creek, supra, ALAB-279, 1 N.R.C. at 575, n.32 (1975). On the other hand, the regulation does not require the intervenor to detail the evidence which will be offered in



support of each proposed contention. Peach Bottom, supra, ALAB-216, 8 A.E.C. at 20 (1974); see also Mississippi Power and Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-130, 6 A.E.C. 423, 426 (1973); Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 N.R.C. 542, 548-49 (1980). In short, the standard falls somewhere in between, and "[t]he degree of specificity with which the basis for a contention must be alleged initially involves the exercise of judgment on a case-by-case basis." Peach Bottom, supra, 8 A.E.C. at 20 (1974).

There also are certain practical considerations which should play a particularly important role here in the Board's application of the "bases with reasonable specificity" standard to a particular proposed contention -- beyond the question of whether the proposed contention provides clear and precise notice of the issues on which Applicants may bear the burden of proof. First, the contention should refer to and address pertinent documentation, available in the public domain, which is relevant to this facility. See Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), LBP-81-24, 14 N.R.C. 175, 181-84 (1981). In the instant case, the Board deferred ruling on emergency planning contentions filed prior to availability of the emergency plans, pending service of the plans themselves, and accorded intervenors the opportunity to file refined and additional contentions after reviewing the

plans. See LBP-82-119A, supra, 16 N.R.C. at 2070-73 (1982). An emergency planning contention "should be required to specify in some way each portion of the plan alleged to be inadequate. . . . [W]ithout an adequately particularized contention setting forth how the 'local conditions' referenced in [the contention] are alleged to affect every aspect of [the] plan, we are left to speculate how [Applicant's] alleged failure to consider these local factors is supposed to render each aspect of its plan inadequate." Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-82-75, 16 N.R.C. 986, 993 (1982). Thus, the requirement for specific reference to relevant documentation applies with special force to the ERP, but may also include applicable NRC Staff regulatory guides and other published reports. In addition, there should be either a reasonably logical and technically credible explanation, or a plausible and referenced authority for the factual assertions in the contentions. The intervenor's personal opinion alone is not adequate for this purpose.

In this regard, Applicants have an objection that is applicable to virtually all of CHANGE's 36 offsite emergency response contentions. Rather than repeating this objection in response to each of the contentions, Applicants state the objection here, and will only refer to it in specific, egregious instances. Most of the CHANGE contentions are no more than broad and unsupported allegations that the offsite emergency

response plan is inadequate in its treatment of a particular matter. For the most part, CHANGE neglects to identify specific defects or inaccuracies. CHANGE never provides citations to the ERP or other reference documents. Most of the contentions fault the ERP for its failure to include or consider a fact or an issue; however, no supporting rationale is offered as to why this fact or issue should be considered. Such bald assertions, unsupported by factual detail or supporting legal basis, fail to meet the "bases with reasonable specificity" requirement of 10 C.F.R. § 2.714(b).

### 3. Challenges to Regulations

All rules and regulations of the Commission, and the underlying bases for those rules and regulations, are immune to attack in an individual licensing proceeding unless a petition is first made to the Licensing Board for an exception of waiver. The sole ground for a petition for waiver or exception shall be that special circumstances with respect to the subject matter of the particular proceeding are such that application of the specific challenged rule or regulation (or provision thereof) would not serve the purposes for which the rule or regulation was adopted. The petition must be accompanied by an affidavit in support of that basis for the petition. Opportunity is provided for other parties to respond to the petition, including the submission of reply affidavits. If the Licensing Board determines that a prima facie showing has been made in



support of waiver or exception, it shall, before ruling, certify directly to the Commission for a determination on the matter. If the Licensing Board does not determine that such a prima facie showing has been made, it must deny the petition. 10 C.F.R. § 2.758; Potomac Electric Power Co. (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-218, 8 A.E.C. 79, 89 (1974).

#### The CHANGE Contentions

1. There is no reasonable assurance that (a) the rumor detection system will result in timely reporting of rumors to the State Emergency Response Team (SERT) or (b) that SERT will be able to devise effective measures to overcome rumors. In the conditions of psychological stress and likely hysteria accompanying a major release of radioactivity (TMI), this inadequacy may have serious adverse impacts, e.g. panic in traffic, desertion of posts by emergency personnel, etc.

The State and local government emergency plans contain coordinated provisions for dealing with rumors, in accordance with the guidance of NUREG-0654, Evaluation Criterion G.4.c. Under the terms of the plans, each county Public Information Officer is responsible for "verifying, resolving and reporting rumors to SERT [State Emergency Response Team]." See Section IV.D.2.e of the County plans (ERP Parts 2-5). Similarly, the State Plan requires that any rumors detected be reported immediately to the SERT Public Information Officer who is charged with devising methods to overcome such rumors, coordinating the response and recommending a course of action to the SERT leader. ERP Part 1, Section IV.D.7 (p. 45).

It is clear, then, that the emergency plans provide for the "timely" reporting of rumors to SERT and CHANGE has failed to specify any asserted deficiencies in this reporting scheme. Nor has CHANGE specified any reasonable basis for its assertion that SERT will be unable to devise means for overcoming rumors in emergency situations. In this regard, it should be noted that the State has committed to continuously provide accurate and timely information to the public regarding emergency conditions through multiple avenues.<sup>1/</sup> See, generally, ERP Part 1, Section IV.D. The State cannot, however, compel the public to ignore rumors -- nor is there any regulation which requires such a showing. Further, the criteria of NUREG-0654, which form the basis for the State and local plans, are meant to minimize any chaotic conditions resulting from an emergency and thus any suggestions that mass hysteria might ensue from an emergency at the Harris Plant should be rejected. See Louisiana Power and Light Company (Waterford Steam Electric Station, Unit 3), LBP-82-100, 16 N.R.C. 1550, 1562 (1982), aff'd, ALAB-732, 17 N.R.C. 1076, 1101-02 (1983).

In sum, the Board should reject proposed Contention 1 as lacking basis and specificity.

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<sup>1/</sup> While the State has primary responsibility for rumor control, the corporate emergency plan does provide for a toll-free number which the public can call to clarify emergency conditions. Carolina Power & Light Company, Corporate Emergency Plan (Rev. 2) at 8-2 (served on the Board and parties on March 9, 1984).

2. The principal source of public information concerning appropriate responses to emergency notifications and possible accident effects is a purported educational/emergency planning brochure. No such brochure is included in the "North Carolina Emergency Response Plan" noted above (hereinafter "the plan"), nor has Intervenor been, based on best information and belief, served with a copy of any document purporting to be such a brochure. Obviously, under the circumstances, the brochure is inadequate.

The public information brochure which is to be distributed annually to the public in the plume exposure pathway EPZ is under development<sup>2/</sup> and thus has not yet been included in the State plan for the Harris Plant. The plan does, however, include a description of the scope of the information to be included in the public information brochure. See ERP Part 1, Section IV.D.2. CHANGE has not alleged that the scope of the information to be provided in the brochure is insufficient or that the information to be included does not meet the guidance of NUREG-0654, Criterion G.1. In such circumstances where a commitment has been made that the requirements of NUREG-0654 will be met, overseeing the implementation of details (such as completion of the brochure) can properly be left to the Staff and need not be litigated in an adjudicatory hearing. See Licensing Board Memorandum and Order (Ruling on Wells Eddleman's Proposed Contentions Concerning Detailed Control Room Design Review (DCRDR)...) at 6, 11-13 (Oct. 6, 1983).

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<sup>2/</sup> Applicants anticipate that the brochure will be available by July 1, 1984.



Further, CHANGE is incorrect in implying that the public information brochure would be the principal source of information during an emergency at the Harris Plant. The State plan sets out the notification methods and additional detailed information which would be provided to the public in the event of an actual emergency. See ERP Part 1, Section IV.D.3 and Annexes C, D and E; ERP Parts 2-5, Section IV.D.

3. There is no reasonable assurance that the State Department of Transportation and municipal public works departments will be able to clear evacuation routes of such impediments as snow, ice, debris, or equipment in a timely manner so that evacuation times will be within time estimates. Even a minor snowfall represents a serious traffic problem for local facilities, and the likely overcrowding of highways and accidents attending a snowstorm during an emergency evacuation make it virtually certain that the departments will not be able to complete their mission as described in the plan. This is made more likely by the location of most municipal and DOT equipment near the fringes or outside the emergency planning zone (EPZ), which means that equipment operators would have to head toward the plant in order to accomplish this mission. Furthermore, there is no reasonable assurance that even if such equipment were placed close enough to the plant, that its operators would be able to reach even a substantial number, let alone all, persons trapped in their driveways by snowfall.

This proposed contention challenges the ability of the State Department of Transportation (DOT) and municipal public works department to clear evacuation routes of impediments such as snow, ice, debris or equipment, in a timely manner so that evacuation times will be within time estimates. CHANGE specifically asserts that the ability to effectively remove impediments is made more difficult by the location of most municipal

and DOT equipment near the fringes or outside the emergency planning zone (EPZ). Applicants oppose the admission of Contention 3.

In the event of a radiological emergency at the Harris plant, the determination as to whether evacuation is a viable option will be made by the County or by the Radiation Protection Section (RPS), Division of Facility Services, North Carolina Department of Human Resources. See ERP Part 1, Section IV.E.10.c,d; ERP Parts 2-5, Section IV.E. This determination requires consideration of the passability of roads. See Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1589-90 (1981), aff'd, ALAB-698, 16 N.R.C. 1290 (1982). It also involves consideration of the Harris Plant evacuation time estimates. These estimates include consideration of adverse weather conditions. See Evacuation Time Estimates for the Plume Exposure Pathway Emergency Planning Zone: Shearon Harris Nuclear Power Plant (Oct. 1983). The State cannot ensure that evacuation always will be feasible, i.e., that it always will be able to deal with weather impediments which would impede an evacuation. Cf. ERP Part 1, Figure 11 (recommended protective actions). However, the State can and should provide some means for removing impediments, e.g., stuck vehicles, or the normal quantity of snow experienced in the area. See NUREG-0654, Evaluation Criterion J.10.k. In addition, of course, it may be feasible to reroute traffic around an impediment.

The North Carolina DOT is one of the principal response organizations identified in the ERP. The DOT routinely moves impediments to traffic moving on state highways. See ERP Part 1, Section IV.E.8. Section III.J.1.f of Part I of the ERP gives to the North Carolina DOT the responsibility, upon request, of assisting in the identification, containment or removal of evacuation impediments during a radiological emergency at the Harris plant. The County Annexes to the ERP, identified as Parts 2 through 5 of the ERP, contain parallel provisions. See ERP Parts 2-5, Section IV.E.10.

CHANGE provides no basis whatsoever for Contention 3, e.g., examples of past emergencies where impediments have not been removed, or other evidence of an unwillingness or inability by DOT to carry out this impediment removal function. CHANGE does not refer to any specific deficiency in the ERP, nor provide any rationale for its concern about the location of debris removal equipment near the fringes or outside the EPZ. In fact, should the need arise for removal of an impediment, not only would the location of the impediment be random, but it would be easier for removal equipment to travel quickly to it if it was going against the opposing/predominant traffic flow.

Because proposed Contention 3 lacks the requisite "bases with reasonable specificity," it should be rejected by the Board.



4. The operators of affected State Department of Transportation and municipal public works departments equipment are not equipped with, or trained in the use of, radiation detection and protection equipment, and therefore there is no assurance that they will be to perform their tasks of clearing evacuation routes.

This proposed contention does not address information provided in the ERP, or the standards against which the ERP is to be assessed. CHANGE implies that in order to provide reasonable assurance that the task of clearing evacuation routes can be accomplished, emergency response personnel operating affected equipment of the State Department of Transportation and municipal works departments should now be equipped with, and trained in the use of, radiation detection equipment.

First, it is not necessary that training have occurred or that equipment be in place at this time. The potential scope of the adjudication is whether, based on the information provided and as to the subject matter addressed, the plan is adequate and there is reasonable assurance that it can be implemented. See 10 C.F.R. § 50.47(a). In its proposed Contention 4, CHANGE has not addressed the ERP.

One of the assigned responsibilities of the North Carolina Department of Transportation's Division of Highways and the municipal works departments is, upon request, to assist in the identification, containment or removal of evacuation impediments such as snow, sleet, or construction equipment. ERP Part 1, Section III.J.1.f (page 21) and Section IV.E.8 (page 50); Parts 2-5, Section IV.E.10.

In conformance with FEMA Evaluation Criterion K.3, the ERP provides for radiological exposure detection and control for emergency response personnel, including instruction on the use of dosimetry equipment provided.<sup>3/</sup> See ERP Part 1, Section IV.G (pages 57-60); Part 2, pages 33-35; Part 3, pages 30, 32; Part 4, pages 30, 33; Part 5, pages 36, 38. In addition, the ERP provides for radiation emergency response training for workers scheduled to operate within the plume and ingestion exposure pathway EPZs. ERP Part 1, Section VII.E (pages 84-85). These provisions include those who will be clearing evacuation routes if it is necessary to do so.

The contention does not address any of these provisions of the plan and explain why they are not adequate or cannot be implemented. Consequently, CHANGE 4 lacks basis and should be rejected.

5. The provision of thermoluminescent dosimeters (TLDs) to "all State personnel who may be exposed to significant radiation" does not provide adequate assurance that these workers will in fact be able to leave dangerous areas in time or that RPS will be able to make timely and appropriate recommendations concerning the health and safety of the individuals concerned, since TLDs provide only an after-the-fact ability to measure dose.

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<sup>3/</sup> Applicants assume that, given the focus on removing evacuation impediments, the words "radiation detection and protection equipment" refers to personnel exposure control, since no monitoring equipment is otherwise needed to clear evacuation routes. However, we also note that the Division of Highways will have radiological monitoring equipment for use in its role, upon request, to provide trained radiological monitors. ERP Part 1, Section III.J.1.c (page 21) and Section V.C.7 (page 73).

In conformance with NUREG-0654 Evaluation Criterion K.3, the plan provides for radiological exposure detection and control, including the provision of TLDs to all State personnel who may be exposed to significant radiation. ERP Part 1, Section IV.G.2.c (page 58). CHANGE proposed Contention 5 implies that TLDs will provide the only means for determining that emergency response personnel should leave a specified area (or take other protective action to avoid or limit radiological exposure), and then criticizes such reliance on TLDs because they "provide only an after-the-fact ability to measure dose."

Evaluation Criterion II.K.3 states that "[e]ach organization shall make provisions for distribution of dosimeters, both self-reading and permanent record devices." The TLDs are used for the dose of record. However, in addition to TLDs, the plan provides that each emergency worker who enters or may enter areas where the external radiation exposure could exceed 10 percent of the Protective Action Guides for emergency personnel will be provided low and high range self-reading dosimeters. ERP Part 1, Section IV.G.3.b (page 58). Self-reading dosimeters are used to provide an estimate of the worker dose on a real time basis. Licensing Board Memorandum and Order (Ruling on Motions for Summary Disposition) at 3 (April 13, 1984). CHANGE 5 ignores these self-reading dosimeters.

In addition, the proposed contention implies that the RPS will rely upon TLDs to make recommendations to the field,



during the emergency, for protective actions to avoid or limit radiological exposure of emergency workers. The plan, however, specifically states that "[t]hese recommendations will take into consideration actual or potential external radiation exposure and airborne radioactivity levels." ERP Part 1, Section IV.G.3.e (page 59). Elsewhere the plan describes the methods, systems and equipment RPS will employ to assess and monitor actual or potential off-site consequences of a radiological emergency. It is clear that RPS does not rely on TLDs for this purpose. ERP Part 1, Section IV.C (pages 36-42).

CHANGE 5 lacks any basis in that it ignores provisions for dosimetry equipment (other than TLDs) to control radiological exposure of emergency workers, and erroneously assumes a role which TLDs do not have in the formulation of recommendations by RPS to the field for protective actions to avoid or limit worker exposure. In making this false assumption, CHANGE has ignored those portions of the plan which establish the RPS radiological assessment capability.

6. No guidelines are provided for determining when self-reading dosimeters are to be issued, other than issuance will take place when external exposure "could exceed" 10% of the protective action guidelines (PAGs) for emergency personnel. Reliance on this sort of entirely subjective, second- or third-hand decision is no substitute for issuance of self-reading dosimeters to all emergency personnel.

The plan provides that "[e]ach emergency worker who enters or may enter areas where external radiation exposure could

exceed 10 percent of the PAGs for emergency personnel will be provided low and high range self-reading dosimeters (from DEM), a record sheet, instructions, and TLDs from RPS." ERP Part 1, Section IV.G.3.b (page 58). CHANGE asserts, in its proposed Contention 6, that no guidelines are provided for determining when self-reading dosimeters are to be issued. CHANGE apparently does not view the above-quoted provision of the plan as a guideline because, according to CHANGE, it reflects an "entirely subjective, second- or third-hand decision."

It is not clear what CHANGE means by describing the RPS issuance of self-reading dosimeters as a second- or third-hand decision. Assuming CHANGE refers to the fact that the emergency worker himself does not make the issuance decision, this is consistent with the reliance emergency response personnel do and must place in RPS to advise them of needed protective action, based on RPS's accident assessment and radiological monitoring resources, to limit or avoid radiological exposure. Each worker cannot, and need not, have his own individual capability to assess the radiological consequences of the emergency.

In addition, it is self-evident that the stated basis for issuing self-reading dosimeters is not "entirely subjective." RPS will be projecting potential emergency personnel radiation exposure, on a 24-hour per day basis, based on survey data, plant release data, and/or personnel dosimetry data. ERP Part

1, Section IV.G (pages 59, 60). The plan provision to issue the equipment when exposure could exceed 10 percent of the applicable PAGs is not subjective, but rather is as explicit as an emergency response plan should be.

CHANGE 6 itself reflects unfounded subjective opinion. There is no requirement that more elaborate guidelines be provided, and CHANGE has asserted no specific basis for questioning the validity of the guideline which is in the State plan. Accordingly, CHANGE 6 should be rejected.

7. There is no adequate assurance that sophisticated monitoring will be adequate, since only two fully equipped RPS teams are available during the first 24 hours of an accident. If the wind changes once during the 24 hour period, the teams may have to relocate to other areas within or outside the EPZ, and there is no assurance that they will be able to correctly and adequately monitor, estimate, plot, and inform RPS of plume direction, content, or other information under such circumstances.

In essence, this proposed contention challenges the adequacy of two RPS survey teams during the first 24 hours of an accident because of the potential that the teams may have to relocate if the wind changes.

The plan provides that two RPS survey teams will be activated within one hour of notification and dispatched to the vicinity of the plant. Two additional RPS survey teams will be activated within 24 hours of notification. ERP Part 1, Section IV.C.5 (page 39).



The first error in CHANGE 7, then, is the statement that only two teams are available during the first 24 hours. In fact, the other two teams must be activated within 24 hours, and there is no asserted basis to question the State's capability to activate the other two teams as soon as they are needed.<sup>4/</sup>

Second, it seems obvious that a field monitoring team is not intended to be stationary. The plan states that RPS survey teams will use any or all of the following transportation means: privately-owned vehicles; Highway Patrol vehicles; State Motor Pool vehicles; helicopters; the Mobile Radiation Laboratory. ERP Part 1, Section IV.C.5 (page 39). In short, relocation of teams is contemplated without regard to the number of teams involved.

Third, the proposed contention appears to assume that the RPS survey teams are the only source of information available to the State for accident assessment. This ignores significant portions of the State plan and the role of the CP&L operating staff at Shearon Harris.

The governing regulation, 10 C.F.R. § 50.47(b)(9), does not apply to off-site response organizations alone.<sup>5/</sup> The

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<sup>4/</sup> Applicants are aware of no regulatory requirement or guidance on the number of state field monitoring teams or the timing of their deployment. See NUREG-0654 Evaluation Criterion I.8.

<sup>5/</sup> See Southern California Edison Company, et al. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 N.R.C. 346, 369-371 (1983).

State plan identifies Carolina Power & Light Company as the organization with primary responsibility for accident assessment. ERP Part 1, Figure 4 (page 25). It also provides that "[u]pon initial notification by the State warning point that an accident has occurred, RPS will use data supplied by the facility operator to compute and project off-site consequences." ERP Part 1, Section IV.C.5.f (page 40). In addition to the accident assessment data available from the plant itself, CP&L will initially activate at least two field monitoring teams upon activation of the Technical Support Center, with additional teams available as needed. SHNPP Emergency Plan, Section 4.4.4.

In conclusion, there is no asserted basis for CHANGE 7, which misreads the availability of State teams, ascribes a role to those teams which is not theirs alone, ignores the means available to relocate the teams, mistakenly assumes that field monitoring teams should not be required to relocate, and ignores CP&L's considerable assessment capability early in an accident.

8. There is no assurance that in the event of a major accident, in which total thyroid exposure is "suspected" to reach 15 rems from inhalation or ingestion of radioiodine that distribution of potassium iodide to emergency workers and institutionalized persons will be able to be accomplished in view of the likely traffic problems and other likely consequences of an accident.

Contention 8 challenges the ability of the State of North Carolina to distribute potassium iodide (KI) to emergency workers and institutionalized persons because of "likely traffic problems and other likely consequences of an accident." Applicants oppose the admission of this contention.

In accordance with NUREG-0654, Evaluation Criterion J.10.e, the ERP specifically provides for the use of KI for emergency workers and institutionalized persons within the plume exposure EPZ whose immediate evacuation may be infeasible or very difficult. Specifically, the ERP provides for the coordination of procurement of KI prior to a radiological emergency by the Division of Health Services (DHS), Department of Human Resources, in order to ensure that "a sufficient number of potassium iodide units are conveniently and strategically located in the vicinity of the Shearon Harris Plant." ERP Part 1, Section IV.E.6. KI will be stored in each of the four EPZ county health departments under the control of county health officials. Id. The State Emergency Response Team (SERT) will be informed by DHS of any significant changes in the availability of KI. Id. The DHS is identified as the organization that will determine the number of KI units required for emergency workers and institutionalized persons within the plume exposure EPZ. Id. The ERP also delineates the decision chain for distribution and administration of KI. ERP Part 1, Section IV.E.7, and Parts 2-5 at Section IV.E.7.



In sum, the organizations responsible for the procurement, storage, distribution and administration of KI have been identified in the ERP. The predistribution/stockpiling of KI in a number of strategic locations within the EPZ, under the control of the four county health officials, ensures that workers and institutionalized persons will be provided with KI if the decision is made to administer it. Moreover, since the county plans identify the specific staging area for emergency workers and where the KI tablets will be stored in the county, and given the fixed location of institutionalized persons, there is no basis for the CHANGE concern about traffic impeding the ability to distribute the drug.<sup>6/</sup> See ERP Parts 2-5 at Section IV.E.7.d and Section IV.E.7.e.

9. No provision is made in the State plan for the potential adverse reaction on the part of the general populace from the administering of potassium iodide to emergency workers and institutionalized persons, and not the general populace.

In Contention 9, CHANGE criticizes the State Plan for its failure to provide for the potential adverse reaction on the part of the general populace from the administering of potassium iodide to emergency workers and institutionalized persons, and not the general public. Applicants oppose the admission of Contention 9.

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<sup>6/</sup> This is particularly true given the State's intent to keep one lane of evacuation routes free for emergency vehicles and other usages. Evacuation Time Estimate Study, Section 2.2 (concurred in by State and local officials).

The policy question whether and, if so, to whom to distribute KI is a decision that rests squarely with the state. See Union Electric Co. (Callaway Plant, Unit 1), ALAB-754, 18 N.R.C. \_\_\_, slip op. at 3-4 (Dec. 9, 1983). There is no regulatory basis for the requirement, promoted by CHANGE in this contention, that the State plan for adverse reactions of its citizens to any of its decisions during a radiological emergency at the Harris plant, including the decision to administer KI to emergency workers and institutionalized persons.

10. No estimates are made in the plan of the amount of uncontaminated clothing, food, and bedding that may be needed for evacuees in the event of an evacuation. The plan thus does not provide for adequate emergency facilities and support material.

Under the terms of the ERP, the counties within the Harris Plant plume exposure pathway EPZ are responsible for the operation of shelters in the event that an evacuation of the population within the EPZ is undertaken. ERP Part 1, Section IV.E.5.i. In turn, each of the four counties has designated a specified county or independent agency as responsible for the management of shelters and registration and feeding of evacuees. Each counties' plan also identifies the number of evacuees who could be housed at each designated shelter and each county maintains a manual identifying available resources. ERP Part 2 at 6-8, 16, 31, 32, 37; Part 3 at 6-8, 15, 28, 29, 34; Part 3 at 7-9, 15, 30, 31, 35; Part 5 at 7-9, 15, 33, 35, 40. See also ERP Part 1, at 22, 26, regarding shelter

assistance provided by the American National Red Cross and the Salvation Army. Thus, it is clear that procedures are in place to provide the necessary care of evacuees.

CHANGE does not contend otherwise, nor is it contended that sufficient support materials would not be available when needed. Rather, it is alleged that the plans are inadequate merely because a detailed listing of available materials which might be needed to support an evacuation are not included in the Plan itself. This level of detail, however, is not required by any regulation nor is such detail appropriate.<sup>7/</sup> Absent any specified basis for alleging that the four counties would be unable to provide sufficient care for evacuees, the Board should reject this proposed contention.

11. The lack of sufficient RPS monitoring teams means that there is no assurance that ground level dose rates, cloud movement and direction, cloud characteristics, and other vital information can be quickly and correctly measured and analyzed to timely and accurately assess and monitor the offsite release and prepare appropriate emergency response.

This proposed contention assumes that State field radiological monitoring teams are insufficient, and then merely draws conclusions on the consequences of the assumed inadequacy. No basis is asserted in support of the assumption that RPS survey teams are insufficient. Further, in describing the

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<sup>7/</sup> Obviously, the amount and types of material which may be needed is case dependent.



consequences, CHANGE again ignores other available accident assessment information, including that provided by CP&L's operating staff at Shearon Harris. See Applicants' Response to CHANGE 7, supra. Accordingly, CHANGE 11 should be rejected as totally lacking an asserted basis.

12. The State EOC and the alternate EOC are both in the Raleigh area, and both are located in a zone representing about 20° of arc measured from the plant site and within 20 miles of the plant site. In the event that a cloud moves northeastward from the plant through the above zone and beyond the EPZ, there is no provision for an alternative EOC site in another quadrant or elsewhere in a different direction from the plant, and therefore there is inadequate assurance that the SERT will be able to properly perform its functions.

This contention asserts that the SERT will not be able to properly perform its function because both the primary State EOC and the alternate EOC are located in the same northeastern quadrant, measured from the Harris plant site. Although not explicitly stated, the concern in Contention 12 is that a plume moving in a northeastward direction from the plant would make both the EOC and the alternate EOC uninhabitable. Applicants oppose the admission of proposed Contention 12.

The NRC regulations and the guidance provided in NUREG-0654 specify the need for evacuation planning because of high radiation levels from a nuclear power plant for the 10 mile radius around the facility, the so-called plume exposure EPZ. The 10 mile radius is considered a conservative boundary beyond which it is unlikely that protective action would be

required. 10 C.F.R. § 50.47(c)(2); see NUREG-0654, Rev. 1, Section I.D., "Planning Basis." Neither the regulations nor NRC/FEMA guidance suggest planning for evacuating beyond the 10 mile radius.

The primary State EOC in Raleigh is more than 20 miles from the Harris plant site. See ERP Part 1, Section V.C. The alternate EOC also is outside the plume exposure EPZ.<sup>8/</sup> Consequently, there is no regulatory requirement or recommendation that the State consider the need to evacuate these facilities. This is because even if the hypothetical plume movement posed by CHANGE were to occur, in all likelihood it would pose no threat to SERT's functioning in either the primary or the alternate State EOC. Because there is no legitimate basis for the concern expressed in Contention 12, it should be rejected by the Board.

13. There is no adequate assurance in the event of an accident at the plant site that local organizations will be able to provide special emergency assistance at the site, such as ambulance, medical, hospital, fire and police services. This is true because (1) there is no assurance that emergency personnel will be able to reach the plant, either because of traffic problems, or radioactive contamination and (2) there is no assurance that these services will be staffed by persons willing to go to the plant site following a major release of radioactivity from the plant.

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<sup>8/</sup> Applicants note that the availability of an alternate State EOC is a resource in excess of the NUREG-0654 criterion of one EOC for the State. See NUREG-0654, Evaluation Criterion H.3.

Applicants believe that this proposed contention, which questions the ability or capability of off-site groups to provide on-site support must be viewed as an on-site emergency planning contention and, as such, not timely filed.

The Emergency Plan for the Harris Plant, which was served upon the parties on March 29, 1983, describes in Section 4.0 the off-site resources which may be required to provide assistance at the Harris Plant site<sup>9/</sup> and includes in Annex A letters of agreement with the respective off-site agencies. The North Carolina Emergency Response Plan, on the other hand, describes the responsibilities of local off-site agencies for providing assistance to the general public in the EPZ and provides no basis upon which to question the ability of these groups to provide on-site support.

Proposed Contention 13 should be rejected as untimely and lacking sufficient basis.

14. The plans for recovery and re-entry into contaminated areas are inadequate because (1) there is no provision for financial support adequate for such cleanup, (2) there are no adequate provisions for removing dead livestock, humans, and wildlife sufficient to ensure reasonably safe sanitary conditions, (3) there are no provisions for testing water supplies for contamination by dead livestock, humans, and wildlife, (4) no provision is made for the removal or suppression of radioactive dust in hot summer weather, and (5) there are no adequate facilities for the safe disposal of large amounts of contaminated materials

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<sup>9/</sup> Local off-site assistance may be required for medical transportation (§ 4.6.3.6.4), medical treatment (§ 4.6.3.7) and fire fighting (§ 4.7).



within a reasonable distance of the plant site (nearest at Barnwell, SC).

This contention essentially complains about the level of detail in the ERP for ensuring recovery (cleanup) will occur in contaminated areas after a radiological emergency. Applicants oppose the admission of proposed Contention 14.

The standard for reentry and recovery is unlike the other planning criteria of 10 C.F.R. § 50.47 and NUREG-0654, which identify the need for specific information about implementing protective actions in the event of a radiological emergency. In contrast, only "general plans and procedures" need be developed for reentry and recovery. See 10 C.F.R.

§ 50.47(b)(13); NUREG-0654, Evaluation Criterion M.1. This is because the focus of NRC's emergency planning requirements is on the immediate hazard posed by a serious nuclear power plant accident. Advanced planning is needed because there may be insufficient time, once the accident has occurred, to effectively respond in a manner that best protects the public's health and safety. After the fact, these considerations do not exist.

There is ample time to plan for the recovery. Moreover, as a practical matter, recovery plans "must -- and should -- be ad hoc." Southern California Edison Co. et al. (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-82-39, 15 N.R.C. 1163, 1207 (1982), aff'd, ALAB-717, 17 N.R.C. 346 (1983).

Thus, even the NUREG-0654 planning standard evaluation criteria for reentry and recovery focus on the need to ensure conditions

are appropriate to relax protective measures and, hence, permit reentry. See NUREG-0654, Evaluation Criterion M.1. Recovery is secondary when the issue is emergency preparedness.

CHANGE Contention 14 ignores this regulatory framework. Its first complaint in Contention 14 concerns adequate financial support. Estimating or providing for possible costs of reentry and recovery is not required by NRC regulations or NUREG-0654. Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-82-70, 16 N.R.C. 756, 788 (1982). This portion of proposed Contention 14 also is unacceptably vague. Only if this financial allegation manifested itself in a specific emergency response plan deficiency would it merit consideration. No such specification is stated in Contention 14. The remaining four concerns identified in proposed Contention 14, all of which relate to the level of planning required for recovery, are not required by the Commission's regulations. See id. These allegations are particularly lacking in basis given the extreme conditions on which they are predicated and the existence of plans to accommodate lesser degrees of these same conditions, such as the State's planned protective actions for the ingestion exposure pathway. See ERP Part 1, Section IV.F.

15. There are no adequate provisions for the control of the movement of contaminated wildlife, particularly birds, into non-contaminated areas, and for protection of crops in non-contaminated areas from such indirect contamination.

Applicants understand this proposed contention to allege that the provisions for monitoring radioactive contamination of foodstuffs are inadequate in that there are no explicit provisions in the plans for controlling wildlife who might spread such contamination. Applicants oppose the admission of this contention in that it lacks basis and specificity, as discussed below.

First, CHANGE has failed to set forth any factual basis supporting its implied assertion that there exists sufficient numbers of uncontrolled wildlife in the vicinity of the Harris Plant who could be contaminated to such an extent so as to pose a threat to the public health and safety which must be specifically protected against. Nor does CHANGE even attempt to explain how such contaminated animals could subsequently contaminate crops.

Second, CHANGE ignores the detailed provisions of the State Plan which describe actions to be taken to monitor and protect the food chain within the fifty mile ingestion exposure pathway EPZ. ERP Part 1 at 52-57 and Section IV.E.2 (page 46). Included within that portion of the plan is a description of the responsibilities assigned to the North Carolina Wildlife Resources Commission, which responsibilities include "[c]ontrol[ling] the movement of possibly contaminated wildlife" and closing "affected areas to the taking of fish and wildlife." Id. at 56. CHANGE provides no basis for assuming these actions would be ineffective.



Finally, CHANGE cites no regulatory basis for the requirement it proposes here.

16. There are no adequate provisions for the registration and/or segregation of contaminated humans in areas outside the contaminated area. If these measures are taken at the edge of the contaminated area, it is likely to be in the form of roadblocks or traffic checkpoints, which will impede evacuation flows.

As discussed in the ERP, the local governments are responsible for shelter monitoring and registration activities and, contrary to CHANGE's claims, Parts 2 through 5 of the ERP contain adequate provisions to ensure that these actions are properly carried out. Evacuees will be monitored for radioactivity at the shelters established by the counties and each county has designated an agency responsible for performing such monitoring and any necessary decontamination. ERP Part 1, Section IV.G.7; Part 2 at 31-32; Part 3 at 28-29; Part 4 at 30-31; Part 5 at 33-35. While the ERP does not contain any directions for segregating contaminated individuals,<sup>10/</sup> procedures are in place to assure that personnel monitoring and decontamination (as necessary) will be performed at shelters. ERP Part 2, Section IV.E.12 and Fig. 6; Part 3, Section IV.E.12 and Fig. 5; Part 4, Section IV.E.12 and Fig. 6; Part 5, Section IV.E.2 and Fig. 7. In light of the foregoing, proposed Contention 16 should be rejected.

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<sup>10/</sup> NUREG-0654, Criterion J.12, does not require that provisions be made to segregate such individuals.

17. There is no assurance that warning sirens would (1) be heard by all citizens within the threatened area because of hearing impairments, loud stereos, thunderstorms, etc., (2) provoke prompt response by citizens hearing them. The recent tornado disaster in North Carolina is clear evidence that such warnings are often not heeded, even when they do reach most of the population.
18. There is no assurance that in the event of a loss of off-site power as the result of an accident at the plant that significant numbers of the population would not be without radio, television, or other means of receiving emergency information.

NUREG-0654, Appendix 3, sets forth the following design objectives to be met by the initial notification system:

- (a) Capability for providing both an alert signal and an informational or instructional message to the population on an area wide basis throughout the 10 mile EPZ, within 15 minutes.
- (b) The initial notification system will assure direct coverage of essentially 100% of the population within 5 miles of the site.
- (c) Special arrangements will be made to assure 100% coverage within 45 minutes of the population who may not have received the initial notification within the entire plume exposure EPZ.

In accordance with these criteria, Section IV.B.10-13 of the individual county plans describes the primary and multiple alternative means of providing the initial notification to the public within the plume exposure pathway EPZ of an emergency condition at the Harris Plant. As discussed therein, if the fixed siren system cannot be activated (for example, due to a loss of power to the siren system), vehicles with sirens and/or public address systems and, if necessary, door to door alerting will be utilized to notify the public.

CHANGE has provided no basis for its speculation that the sum of these notification methods would not be effective in notifying the general population within the EPZ of an emergency situation nor does CHANGE allege that the criteria of NUREG-0654 will not be met. Thus, Applicants object to the admission of a contention which questions the capability to provide initial notification to the general public in the EPZ in accordance with NUREG-0654.

Similarly, CHANGE provides no basis for its assumption that there are hearing-impaired persons who live within the EPZ and who do not live with someone who is able to hear; for example, CHANGE cites no cases of individuals who were not alerted to the recent tornado emergencies due to hearing impairment. Nor has CHANGE addressed the provisions in place for individual, door to door alerting (accomplished using the resources of the "back-up warning system"), as a supplement to the fixed siren system to assure that any pre-identified special populations requiring special notification, such as the hearing-impaired, are promptly alerted. See ERP Part 2, Section IV.B.9 (p. 21); Part 3, Section IV.B.9 (p. 20); Part 4, Section IV.B.9 (p. 19); Part 5, Section IV.B.9 (p. 20).

As to CHANGE's criticism that the plan provides no assurance that the public will promptly respond to the warning signals, there is, of course, no regulation which requires such assurance nor are there reasonable means by which Applicants or



the government could enforce such a requirement. Applicants thus object to subpart (2) of proposed Contention 17.

19. The plan states that radio and TV broadcast provides assurance that 100% of the affected population will be able to receive emergency information. This assertion does not address (1) whether 100% of the population in the affected area have radio or television and (2) whether if even if they did such notification would be efficacious at times when large percentages of the population are not listening to either medium, as particularly between the hours of 10 p.m. and 6 a.m. The plan is therefore inadequate; it is further inadequate because there is no provision for closed-caption messages for deaf residents.

CHANGE is incorrect in claiming that the plan states that radio and TV broadcasts assure that 100% of the population will receive emergency information. Rather, as stated in Section IV.D.5 of the county plans, "[t]he primary means of communications to the public are broadcast radio, television, and cablevision." These provisions are in accordance with the guidance of Appendix 3 to NUREG-0654 which states that the prompt notification system "shall provide an alerting signal and notification by commercial broadcast (e.g., EBS) plus special systems such as NOAA radio" and "shall include the capability of local and State agencies to provide information promptly over radio and TV...." NUREG-0654 at 3-3, 4. It is clear that the ERP meets these criteria and CHANGE makes no showing that additional means are necessary. These are not, however, the sole communications methods available. Additional notifications of an emergency condition will be undertaken as

necessary for special circumstances. See, e.g., ERP Annex G (notification of boaters on Lake Jordan). Additionally, the public will have previously received instructions on how they would be alerted and informed of an emergency condition between the hours of midnight and 6 a.m. ERP Part 1, Section IV.D.6.e. Finally, as to the need for closed-captioned messages on TV, it should be noted that the EBS messages regarding emergencies at the Harris Plant, as with severe weather warnings, are concurrently available to the entire TV viewing public and are displayed in a printed format on the TV screen, superimposed upon the broadcast signals.

Based on the foregoing, proposed Contention 19 should be rejected as lacking basis with the requisite specificity.

20. The plan provides inadequate assurance for prompt and safe evacuation by failing to provide special measures for controlling, evacuating and otherwise dealing with large numbers of North Carolinians who have consumed large quantities of alcohol or other drugs, which is likely to cause traffic and other control problems, particularly on Friday and Saturday nights, or pleasant weekends at Jordan Lake.
21. The plan provides inadequate assurance that should an evacuation be ordered on Sunday morning that churches in the affected area will be timely warned and evacuated. Provision should be made for alarms at all area churches.
22. The plan does not provide adequate assurance that the area around the State Fairgrounds in Raleigh can be adequately and safely evacuated if an accident occurs during the State Fair on a weekend when N.C. State University is playing a home football game at Cater-Finly Stadium. Although the Fairgrounds area is outside the ten-mile area, the annual traffic tie-ups which occur at such times are a matter of public record and special plans need to be made to

clear the area quickly in the event of an evacuation required by a cloud moving toward the area from the plant site. Provision must also be made for notifying fairgoers and football attendees of the existence and nature of such plans.

Proposed Contentions 20, 21. and 22 each claim a specific inadequacy in the evacuation planning contained in the ERP. Applicants oppose all three of these contentions because they lack the requisite basis.

Proposed Contention 20 asserts the need for the ERP to give special consideration to the evacuation of individuals under the influence of alcohol and other drugs. Not only is there no requirement that the State treat this very small, undefinable subset of the population differently than the rest of the public during an evacuation but, as a practical matter, such planned differentiation probably would only exacerbate any individual problem experienced by emergency workers when responding to any difficulties posed by a drunk or drugged evacuee. In general, the ERP relies upon State and local law enforcement officials to man traffic control points, to warn and evacuate persons in designated zones and to conduct other law enforcement activity necessary for the protection of life and property. See, e.g., ERP Part I, Section III.c.2; see also Attachment 1 to Part 1 of the ERP, Section C (discussion of responsibilities of North Carolina Department of Crime Control and Public Safety, which includes responding to riots and civil disobediences, and making arrests). Alcohol Law Enforcement,



one branch of the Department of Crime Control and Public Safety, normally, and in the event of a radiological emergency, enforces the alcohol control laws. ERP Part 1, Section III.C.5. The existence of a drunk or drugged evacuee needing assistance or control precisely fits into the assigned emergency response functions of law enforcement. Moreover, this kind of incident is precisely of a sort with which law enforcement officials are familiar and adept at handling.

Proposed Contention 21 isolates churchgoers as a subset of the population in need of special treatment in the event of an evacuation order. CHANGE does not here challenge the adequacy of the proposed siren system to fulfill its designed purpose. See 10 C.F.R. § 50.47(b)(5); NUREG-0654, Appendix 3 at 3-1 (system does not guarantee 100 percent notification); cf. San Onofre, supra, LBP-82-46, 15 N.R.C. at 1534-35 (1982) (nothing unique or unusual presented to suggest normal warning system inadequate). There is no basis for concluding that churchgoers will not be made aware, in ample time, of an evacuation order. CHANGE provides no basis why churches should be treated differently than other gathering places, nor why evacuation of a church presents any unique problems that require special planning. In fact, it is likely that where individuals are centrally gathered, they are more likely to rapidly hear information they need to know, in contrast to individuals in isolated rural settings. Accordingly, proposed Contention 21 should be rejected.

Proposed Contention 22 asserts the need for special evacuation planning of the State Fairgrounds in Raleigh and Carter-Finly Stadium, because largely attended events may transpire at both places at the same time, viz., during an N.C. State University home football games. Both the Fairgrounds and Carter-Finly stadium are located considerably outside the plume exposure EPZ (approximately 17 miles from the Harris plant). Consequently, planning for the evacuation of these sites is not necessary or required. As to CHANGE's concern about notification of fairgoers and football attendees of evacuation plans for them, in the event any notification of these populations is necessary, both the Fairgrounds and Carter-Finly stadium have public address systems which could serve this purpose. Moreover, both sites are located within the emergency broadcast system (EBS) notification distance; hence, individuals leaving these events would immediately be notified of the accident. In sum, there is no regulatory or factual basis for proposed Contention 22. See Shoreham, supra, LBP-82-75, 16 N.R.C. at 996 (1982) (contention rejected because no basis for assuming large facilities in general lack adequate in-house paging or alerting capabilities).

23. The plan is inadequate because there is no indication therein that "the exact size and configuration" of the EPZ has been "determined in relation to local emergency response needs and capabilities" as mandated by 10 C.F.R. 50.47(c)(2).

Proposed CHANGE Contention 23 generally alleges that the ERP is not in conformity with the Commission's regulations, 10 C.F.R. § 50.47(c)(2), because there is no indication that the exact size and configuration of the EPZ has been determined in relation to local emergency response needs and capabilities. This proposed contention should be rejected as lacking both adequate basis and specificity for a litigable contention. In addition, the contention is untimely since it could have been raised on the basis of the Evacuation Time Estimates (served on Dec. 29, 1983).<sup>11/</sup>

The Commission's regulations, at 10 C.F.R. § 50.47(c)(2), establish that the plume EPZ shall consist of an area of approximately 10 miles in radius around each nuclear power plant and that the ingestion path for EPZ shall consist of an area of approximately 50 miles in radius from the plant. Given those general standards, § 50.47(c)(2) states that the "exact size and configuration of the EPZ's surrounding a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries."

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<sup>11/</sup> In particular, the ETE also reflects (sections 1.2, 4 and <sup>11</sup>) consultation with local agencies on establishment of the EPZ.



The considerations involved in the choice of a 10-mile radius plume exposure pathway EPZ for the Harris plant are described in the ERP at Part 1, Section II.A.3. Similarly, considerations regarding the determination of a 50-mile ingestion exposure EPZ are described in Part 1, Section II.A.4. The considerations identified in these sections are consistent with the criteria in NUREG-0654 at pp. 12-13. Proposed Contention 23 identifies no basis upon which to suggest that these considerations are inappropriate to determination of the size of the Harris EPZs or that any special circumstances exist that justify variation from the regulatory prescribed norms. CHANGE does not address how, if at all, any of the conditions listed in § 50.47(c)(2) ought to result in different sizes and configurations for the Harris EPZs. Thus, the bases of the contention are not stated with sufficient specificity to allow Applicants to defend against it.

24. Applicants have been fined in the past for among other things failure to conduct tests required by Commission regulation, failure to properly dispose of radioactive waste in accordance with Commission regulations, and failure to maintain proper security in restricted areas in accordance with Commission regulations. This history of failure to comply with Commission regulations, along with other management inadequacies, and the natural public relations reluctance to announce an emergency at the plant, render the proposed reliance of the plan on timely notification by Applicants of emergency conditions inadequate to provide reasonable assurance of timely notification to the public.

Proposed Contention 24 essentially asserts that because of past noncompliances by Applicants, it is inappropriate for the State to rely on Applicants for timely notification of emergency conditions at the Harris site. Applicants oppose the admission of proposed Contention 24.

The regulations specifically identify the licensee as the party responsible for notifying the State and local governments of the existence of emergency conditions at the Harris site. See 10 C.F.R. § 50.47(b)(4); NUREG-0654, Evaluation Criteria E.3, 4; Duke Power Co. et al. (Catawba Nuclear Station, Units 1 and 2), Order (Concerning Miscellaneous Matters), August 17, 1983, attached transcript at 1092-93 (rejecting independent notification contentions 9(e) and 10); see also ERP Part 1, Section IV.B and Figure 2. As a practical matter, this is the only way for the State and local governments to receive immediate notification of such plant conditions. CHANGE's challenge is either a challenge to this pragmatic emergency planning requirement, or it is a vague attack on Applicants' management capability. In either case, the contention should be rejected by the Board.

24A. Because of the inadequacies alleged in 24 supra, the plan is inadequate because it does not provide for independent on- and off-site continuous monitoring systems capable of instantaneous warnings and independent of Applicants' control.

This proposed contention falls with CHANGE 24, on which it is based. In addition, the contention is hopelessly

non-specific in that it does not identify what is to be monitored, the subject of proposed warnings or the recipients of them, or the organization proposed to control such monitoring systems.

The State of North Carolina has an off-site accident assessment capability. See ERP Part 1, Section IV.C (pages 36-42). CHANGE 24A does not address that capability. To the extent CHANGE would substitute another organization for CP&L's role in notifying State and local response organization, the contention constitutes an impermissible attack on Commission regulations. See 10 C.F.R. § 50.47(b)(5); Section IV.D.3, Appendix E to 10 C.F.R. Part 50.

25. The plan is inadequate because it fails to address the problem of families with one private vehicle, which private vehicle is used to drive the principal wage-earner to work, leaving dependents at home. This situation is critical in low-income areas especially during the working day and particularly should an evacuation be ordered in the mid-afternoon, after approximately three o'clock, when many schoolchildren ordinarily have already been delivered to their homes by their school buses.

Proposed Contention 25 challenges the ERP because it allegedly "fails to address the problem of families with one private vehicle, which private vehicle is used to drive the principal wage-earner to work, leaving dependents at home." This assertion is incorrect and, therefore, lacks a reasonable basis. It also lacks any specific references to the alleged shortcoming in the ERP.



The ERP recognizes that some evacuees will not have their own transportation. In order to ensure that these people are evacuated, the State plans to establish pickup points for such persons. The ERP also provides for the supply of supporting transportation from a number of sources. ERP Part 1, Section IV.E.4. The four county plans reflect the fact that (i) news releases will urge the sharing of rides with persons without transportation; and (ii) pickup points will be established for such persons, who will be instructed to start walking to the nearest traffic control point. See ERP Parts 2-5, Section IV.E.8. The evacuation time study for the Harris plant also includes consideration of all non-auto owning households by furnishing rides with neighbors or through efforts by state and county emergency management officials. See Evacuation Time Estimates at Section 3.1.2.

CHANGE does not explain why the planned approach addressed in the ERP to evacuating individuals without their own means of transportation is inadequate; in fact, CHANGE appears to be unaware of either the ERP or the Evacuation Time Estimates' consideration of this issue. Because proposed Contention 25 lacks the requisite basis with reasonable specificity, it should be rejected by the Board.

26. The plan is inadequate because school bus drivers are expected to transport children from schools. These buses are driven for the most part by high-school students, many of whom, based on information and belief, are less than 18 years old. There is no reasonable assurance that these drivers (1) will

perform their function in an emergency, particularly if that involves driving to elementary schools, (2) are qualified under Commission regulations to operate in areas where exposure to significant amounts of radiation is likely, or (3) will be able to adequately supervise their passengers under emergency conditions.

The thrust of proposed Contention 26 is that many school bus drivers are high school students who -- because of their age -- would be either unwilling to or unable to evacuate school children.

The proposed contention is several months late, with no showing of "good cause." Although the proposed contention is framed with general reference to "[t]he plan," the Evacuation Time Estimates filed with the NRC Staff -- and served on the Board and parties here -- on December 29, 1983, expressly noted that, in an emergency, school children would be evacuated in school buses driven by the high school students who drive them on a daily basis. See Evacuation Time Estimates at 6-4 to 6-5. Thus, under the Board's standing rule requiring the filing of new contentions no later than thirty days after receipt of the document on which they are based, proposed Contention 26 was required to be filed no later than the end of January, 1984. See LBP-82-119A, supra, 16 N.R.C. at 2073 (1982).

Moreover, the proposed contention includes no references whatsoever to the offsite emergency plans. And CHANGE has not even suggested a reason why the bus drivers might not perform their function in an emergency, or indicated why they might be

unable to "adequately supervise their passengers." Nor has CHANGE specified the "Commission regulations" which it suggests may preclude high school students who normally drive school buses from driving buses in a radiological emergency. Thus, the proposed contention is utterly lacking in the specificity required under the Commission's Rules of Practice.

Finally, given the absence of specificity, Applicants are left to speculate as to the reasons why CHANGE doubts that the high school students would perform their functions in an emergency and supervise their passengers. But -- whatever those unspecified reasons might be -- CHANGE was required to provide some basis for its allegations. CHANGE has completely failed to support its broad allegations here with reference to any indications whatsoever that, for example, in past emergencies, the high school bus drivers have failed to perform their functions or have been unable to "adequately supervise their passengers." Nor has CHANGE provided any foundation whatsoever for its assumption that bus drivers would be required "to operate in areas where exposure to significant amounts of radiation is likely." Indeed, the State Plan indicates that, to the contrary, sheltering would be the protective action of choice unless, for example, evacuation could be "completed prior to significant release and arrival of radioactive material in the affected area." See e.g., ERP Part 1, Section IV.A.4.c (page 32). Thus, CHANGE's assumption that the evacuation of school



children would "likely" involve "exposure to significant amounts of radiation" is unsupportable. In addition, CHANGE has completely failed to acknowledge the provisions for availability of personnel to serve as "back-up" bus drivers, if needed. See, e.g., ERP Part 1, Section III.C.3.b (page 13) (National Guard will "[p]rovide operators to drive school buses ... as required during an evacuation.").

CHANGE's proposed Contention 26 is thus untimely, lacking in the requisite specificity and without basis. Accordingly, the proposed contention must be rejected.

27. The plan is inadequate because school buses are not equipped with dependable two-way radios for providing evacuation drivers with information and allowing these inexperienced individuals to obtain clarification on their duties in an accident situation.

Proposed Contention 27 asserts that school buses must be equipped with two-way radios so that the "inexperienced" high school student bus drivers can be provided with unspecified "information " and can "obtain clarification on their duties." However, neither the Commission's emergency planning regulations nor its guidance documents on the subject provide for the installation of radios in buses used for evacuation. And CHANGE has completely failed to suggest in any way what "information" or "clarification" the drivers might need that they cannot be provided with either in advance of an emergency or at the time the school students board the buses for evacuation. Accordingly, the contention must be rejected as lacking the basis and specificity required by the Commission's regulations.

28. The plan is inadequate because commercial buses are supposed to evacuate non-school, patient, and prison populations. There are insufficient buses located in sufficient proximity to the plant to assure that evacuation of such individuals will take place in a timely manner.

In proposed Contention 28, CHANGE asserts that there are insufficient commercial buses in proximity to the plant to "timely" evacuate "non-school, patient, and prison populations." Proposed Contention 28 effectively constitutes an impermissible challenge to the Commission's regulations, by its implicit assumption that evacuation must be accomplished within some particular (albeit unspecified) time frame. To the contrary, as the Appeal Board has recognized, "the Commission's emergency planning regulations do not specify the time within which the plume EPZ must be evacuated in the event of a nuclear emergency. 10 C.F.R. Part 50, Appendix E, § IV, requires only that applicants provide 'an analysis of the time required to evacuate...' \* \* \*." The Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-730, 17 N.R.C. 1057, 1069 n. 13 (1983). Thus, it matters not whether there are many buses or few. CHANGE might conceivably have proposed a contention alleging, e.g., that the plans did not provide for the most efficient use of available transportation resources, or that the evacuation time estimate assumed the availability of more resources than would actually be available in an emergency. But CHANGE's contention that some number of buses must be available within some distance of the plant to ensure "timely" evacuation plainly cannot be sustained.

In addition, both the Evacuation Time Estimates and the offsite emergency plans are replete with information about the populations to be evacuated and the resources available for evacuation, yet the proposed contention is drafted without reference to those documents. Moreover, the contention is lacking in basis. Contrary to CHANGE's apparent assumption, the primary means of evacuation for the "non-school" population (i.e., the general public) would be private vehicles. See, e.g., ERP Part 2, Section IV.E.8.a. Non-ambulatory patients would be evacuated by ambulance by the county rescue squads or ambulance services. See, e.g., ERP Part 1, Section IV.E.4.b (page 47). And CHANGE has failed to identify any "prison populations" to be evacuated; indeed, it cannot -- there are no prisons within the plume exposure pathway EPZ. See ETE, Sections 3.3, 6.2.5. Further, ignoring the wealth of specific demographic data available in the Evacuation Time Estimates and in the plans, CHANGE has failed to even hazard an estimate of either the number of ambulatory individuals who would need transportation assistance in an emergency or the number of vehicles available to provide such transportation. See, e.g.; ETE Section 3.1.2 (identifying number of households in EPZ not owning a car); Table 3-5 (providing estimated censuses for all hospitals, nursing homes and family care facilities, broken into ambulatory/non-ambulatory). Given the documentation available to CHANGE to frame its contentions, its allegations here can only be considered bald speculation.



Finally, CHANGE appears to assume that commercial buses would be relied upon to the exclusion of other vehicles for the evacuation of ambulatory members of the public requiring transportation. This assumption is contradicted by the plans themselves. See, e.g., ERP Part 1, Section III.C.3.b(1) (National Guard); III.G.1.b (Division of Forest Resources); III.H.6 (Wildlife Resources Commission); III.J.1.d (Division of Highways); III, Fig. 4 (page 26) (re: "Transportation"); IV.E.4.f (listing State organizations which will provide supporting transportation). See also ERP Part 5, Section IV.E.8.d. (indicating the use of school buses). In sum, because proposed Contention 28 constitutes a challenge to the Commission's emergency planning regulations, and because it is lacking in basis and specificity, the proposed contention must be rejected.

29. The plan is inadequate because it assumes that parents will allow their children to be evacuated from schools and ignores the likely reaction of many parents who will upon notification of an emergency drive to the school to pick their children up.

Proposed Contention 29 asserts simply, and without reference to the plan, that the plan is inadequate because "it assumes that parents will allow their children to be evacuated from schools" in an emergency when, CHANGE alleges, parents would instead drive to the schools to pick up their children. However, as another licensing board has recognized:

[T]he public will comply with a plan and with instructions; but it is the lack of a plan or clear instructions that may present a problem. \*\*\* Therefore, to ensure the

validity of an assumption that most parents will not rush to the schools to pick up their children, the plans \*\*\* must contain clear instructions for the evacuation of school children, and the public must be properly educated.

Consolidated Edison Co. of New York (Indian Point, Unit No. 2), LBP-83-68, 18 N.R.C. 811, 959-60 (1983). Here, CHANGE has failed to even acknowledge that the plan expressly provides that, in an emergency, EBS announcements would advise parents of the shelter to which each school's students have been taken. ERP Part 1, Section IV.E.4. Thus, CHANGE has failed to provide any basis whatsoever for its assumption that the parents in the area around the Harris plant would ignore the EBS announcements and insist on driving to the evacuated schools.

Moreover, CHANGE's contention is wholly lacking in specificity. CHANGE has completely failed to indicate the precise nature of its concern. The parties are thus left to speculate both as to the scenario envisioned by CHANGE should the plan be implemented as is, and as to remedial measures CHANGE would recommend to resolve whatever particular concern it has. Under these circumstances, CHANGE's proposed Contention 29 must be rejected as lacking the basis and specificity by the Commission's regulations.

30. The plan is inadequate because local rescue squad members have to date received no training in handling radiological emergencies and because the training such squads will receive is not specifically described. Intervenor has talked with such persons and spouses of such persons about this problem. Intervenor also believes that rescue squad leaders occupy

merely titular posts and do not possess sufficient authority over the members of their squads to assure continuing participation in emergency activities in the event of a radiological emergency.

It is not an admissible contention simply to assert that local rescue squads to date have received no training on radiological emergencies, when fuel loading at the plant is 14 months away. The plan does provide for radiological emergency response training for local rescue personnel. The plan provides that initial training and retraining will be done annually, with training assistance from the plant staff, and identifies the following subjects to be included in the training:

- a. Notification procedures.
- b. Basic radiation protection.
- c. The Standard Civil Defense Radiological Monitoring Course (Basic Radiation Emergency Preparedness Course).
- d. Expected roles in support of radiological emergency response plans.
- e. For those local support organizations who will enter the Shearon Harris Plant site, training shall also include site access procedures and on-site control procedures.

ERP Part 2, Section VII.C (pages 45-46); Part 3, Section VII.C (pages 42-43); Part 4, Section VII.C (pages 43-44); Part 5, Section VII.C (pages 51-52).

CHANGE does not address these portions of the plan, and therefore does not explain why a more specific description of the training to be provided should be stated in the plan.



Consequently, there is no asserted specific basis for the proposed contention and it should be rejected.

CHANGE next proceeds to assert its "belief" that rescue squad leaders do not possess sufficient authority over their squads to assure continuing participation. No facts are asserted to describe the basis for this belief, and CHANGE does not assert the kind of authority it believes would assure participation. Again, the allegation is without basis and should be rejected.

31. The plan is inadequate because no provision is made for increased telephone traffic during the early stages of an emergency, which will tend to hamper notification efforts, and delay evacuation and other response times. The recent tornado disaster in North Carolina showed an increase of approximately 25% in telephone traffic; however this was, based on information and belief, over a period of approximately 24 hours; a more dramatic increase in the shorter time immediately following a sudden emergency would result in serious communications problems.

Section VI of Part 1 of the ERP contains a detailed discussion of the primary and backup emergency communications systems available for use by the various emergency response groups. As described therein, dedicated telephone lines will be used for communications among the plant and state and local governments; commercial telephone lines and two-way radios provide alternate methods of communication. ERP Part 1 at 75-76. CHANGE does not address these backup methods nor does it provide any basis for assuming that such methods would be ineffective or unavailable. Given the level of detail on

communications provided in the plan, it is inexcusable that CHANGE has not specified which notification it contends would be hampered. The proposed contention thus must be dismissed as lacking basis and specificity.

32. The evacuation time estimates are totally unrealistic in that they do not take into account (1) the effect of winter weather, or (2) the likelihood of delaying accidents on the two-lane highways which provide most of the evacuation routes from the plant.

Proposed CHANGE Contention 32 asserts that "[t]he evacuation time estimates are totally unrealistic in that they do not take into account (1) the effect of winter weather, or (2) the likelihood of delaying accidents on the two-lane highway which provide most of the evacuation routes from the plant." This contention should be rejected as lacking basis.

As discussed in response to CCNC Contention 5, the Evacuation Time Estimates prepared by HMM Associates, Inc., which was the basis for evacuation time estimates in the ERP, considered an adverse weather scenario that would reduce the capacity of the road network within the 10-mile EPZ by 25%. CHANGE has provided no basis to suggest that either "winter weather" (whatever that term is intended to mean) or possible accidents would result in significantly different evacuation times from those identified in the Evacuation Time Estimates and the ERP for this adverse weather scenario.

As discussed in Sections 5.2 and 5.3 of the Evacuation Time Estimates, the evacuation highway network consists of

multiple, interlocking routes. If one route is blocked by an accident, traffic can be diverted to another route. See also Annex H to the Shearon Harris Nuclear Power Plant Emergency Plan, Rev. 2 (February 1984), which identifies evacuation routes and which was served upon the parties to this proceeding on March 8, 1984. In Part 1, Section III.C.2 of the ERP, the State Highway Patrol is assigned the responsibility for traffic control during evacuation and for reporting traffic problems to the State Emergency Response Team. Assistance will be provided by the National Guard. ERP Part 1, Section III.C.3. The North Carolina Department of Transportation, Division of Highways will be responsible for erecting traffic control devices, and monitoring and reporting road conditions. ERP Part 1, Section III.J.1. Thus, the ERP makes adequate provision for any traffic conditions that may occur, and the second portion of proposed Contention 32 is without basis.

Contention 32 also is untimely filed because the Evacuation Time Estimates has been available to the parties since December 29, 1983. Pursuant to the Board's September 22, 1982 Memorandum and Order, any contentions relating to new information found in that document should have been filed within thirty days after its service upon the parties.

33. Local hospitals have plans to treat only approximately 85 patients. This is clearly inadequate, as is evident from comparison of the probabilistic risk estimates in the FEIS. This inadequacy is exacerbated by the fact that the hospitals are located at various directions from the plant, so that some of



them may only be reached from the opposite side of the EPZ or a contaminated area by long and/or circuitous routes. The hospital plan is also inadequate in that no provision is made for the likely increased number of arriving patients likely to have been injured in evacuation traffic accidents and/or home-care patients who have not made prior arrangements to evacuate elsewhere.

Litigation of CHANGE Contention 33 is precluded by the Commission's decision in the San Onofre case. See discussion in Applicants' response to CCNC Contention 9 in "Applicants' Response to CCNC Contentions Arising from Review of Emergency Response Plan," April 23, 1984.

34. There is no reasonable assurance that [the] SEOC will be able to continue to operate in the event of major contamination in the Raleigh area.

This contention is similar to proposed Contention 12. As stated in our response to that contention, the State EOC is located over 20 miles from the Harris site. Consequently, there is no need to plan for contamination of the SEOC. A contrary finding would constitute an impermissible attack on the regulatory definition of the plume exposure EPZ, which is defined as "about 10 miles." 10 C.F.R. § 50.47(c)(2); see, in this proceeding, LBP-82-119A, supra, 16 N.R.C. at 2082, 84 (1982) (rejecting CHANGE 3 and 46(e)-(f)); see also Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 & 3), LBP-82-39, 15 N.R.C. 1163, 1182-84 (1982), clarified, LBP-82-40 (1982), 15 N.R.C. 1293, intervenors' motion for stay denied, ALAB-680, 16 N.R.C. 127, 131-32 (1982), immediate

effectiveness review, CLI-82-14, 16 N.R.C. 24 (1982) (Section 50.47(c)(2) allows leeway for a mile or two in either direction, based on local factors; however, it precludes a plume EPZ radius of 20 or more miles); Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1555-57 (1981); Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-82-19, 14 N.R.C. 601, 618 (1982). Certainly, CHANGE offers no special circumstances that might warrant consideration of some particular and necessary modification to the established EPZ, e.g., to better delineate the EPZ boundary. See Duke Power Co. et al. (Catawba Nuclear Station, Units 1 and 2), ASLBP No. 81-463-01 OL, Memorandum & Order of Sept. 29, 1983 at 1-5 and Memorandum & Order of Dec. 30, 1983 at 3. Accordingly, proposed Contention 34 should be rejected.<sup>12/</sup>

35. There is no reasonable assurance that the projections in the plan will be realized in the event of a real-life accident. No full scale evacuation exercises are planned, only occasional carefully structured and limited scenarios. This is clearly evidenced by the NRC's own consultations during the TMI accident.

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<sup>12/</sup> In any event, given CHANGE's averred concern about the operability of the SEOC in the event of an accident, Applicants also note that the State EOC is an approved FEMA civil defense emergency operations center. The SEOC therefore has a radioactive protection factor in excess of that required by NRC for the Harris Emergency Operations Facility (EOF). Thus, there is no basis in fact for proposed Contention 34.

Proposed Contention 35 presumably is directed at the absence of an evacuation exercise that includes public participation, since the ERP does include plans for the full-scale exercise required by NRC's regulations. See 10 C.F.R. Part 50, Appendix E, Section F.i.1 and 2; ERP Parts 1-5, Section VII. This contention constitutes an attack on NRC's regulations, which expressly preclude mandatory public participation in a full-scale exercise. See 10 C.F.R. Part 50, Appendix E, Section F.i.1; Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ASLBP No. 81-463-01 OL, Memorandum & Order of September 29, 1983 at 6-7.

36. The plan is inadequate because much information is apparently contained on a purported operations map at Annex I thereof. No such map is included in the materials served on Intervenor.

CHANGE is correct that the Operations Map is not presently included in Annex I to the North Carolina ERP. The map is currently under development and is expected to be completed by September 1984. However, the information which will be included in the map (shelter locations, monitoring points, population densities, evacuation routes, etc.) is currently available in other documents, such as the Harris Plant Emergency Plan, the Evacuation Time Estimates and the ERP itself.<sup>13/</sup> The map itself will merely combine and summarize this information and,

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<sup>13/</sup> Indeed, a precursor to the ERP Annex I Operations map may be found in Annex H to the Harris Plant Emergency Plan.

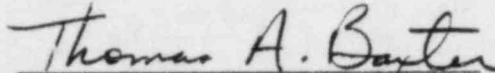


as such, is an implementation detail which may be left to the Staff for resolution. See discussion of this point under proposed Contention 2, supra. This contention should be rejected.

Conclusion

Applicants oppose admission of all of the proposed CHANGE contentions.

Respectfully submitted,



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DATED: April 23, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket Nos. 50-400 OL
and NORTH CAROLINA EASTERN	)	50-401 OL
MUNICIPAL POWER AGENCY	)	
	)	
(Shearon Harris Nuclear Power	)	
Plant, Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Answer to Change Proposed Contentions on SHNPP Off-Site Emergency Response Plan" were served this 23rd day of April, 1984, by deposit in the U.S. mail, first class, postage prepaid, upon the parties on the attached Service List.

Thomas A. Baxter  
Thomas A. Baxter, P.C.



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