

James M. Taylor
Executive Director for Operations
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

13 February 1996

Dear Mr. Taylor:

I enclose an unresolved DPV/DPO, dated 28 July 1994, which was written because of an order to this petitioner from his EELB managers (C.Berlinger and E.Weiss) to accept a Catawba Nuclear Station (CNS) proposal to change their FSAR so that CNS could continue to operate with uncoordinated safety circuit breakers, contrary to the CNS FSAR commitment.

The DPO process (vide:Management Directive 10.159) requires resolution of the DPO within 30 days and requires that both the DPO and the record of its resolution be put in the Public Document Room. Neither has happened and both are unlikely to, unless public pressure is brought to bear; hence this 2.206 petition. Page 5, part 7, ibid, also says, "Extenuating circumstances may cause the EDC or Commission to delay in making a final decision." The NRC will hardly argue that because CNS is unable to produce the rigorous statistical analysis required in attached reference, Proposed Change to Catawba Nuclear Station Final Safety Analysis Report (TAC NOS.: M-86367, M-86368), the NRC need do nothing until CNS does. Since any respectable statistical analysis is impossible without data, such a sequence could result in the outcome both CNS and the NRC seem so much to want; viz., an indefinite delay in considering the need to fix the uncoordinated safety circuit breakers.

That this 2.206 petition is needed is shown by other long lasting safety issues which were not resolved by the NRC until it was forced to do so by public exposure; e.g. the Millstone spent fuel cooling pool (20 years), and the less well known reactor trip breaker life test, which was finally "resolved" nine years (1983-1992) after licensees had been given sixty days to respond; there are others.

I ask that the NRC forthwith suspend the operating license of the CNS because the plant is not in compliance with some of its license conditions. Because a nuclear power plant cannot legally operate unregulated, and because the NRC has shown that it will not enforce some of its own regulations at CNS, which is to leave the plant unregulated, I further ask that the plant be defueled and prevented from loading fuel again until such time as the NRC demonstrates that it is prepared to enforce its rules at CNS and to not assist this licensee in keeping from the public violations of safety regulations. The increased economic competition facing nuclear power plants is insufficient reason for the NRC to increase its support of nuclear power, to this extent.

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I ask that enforcement action be taken against CNS which has operated with a known safety deficiency of which they did not inform the NRC until an EDSFI in March 1992 discovered the non-conforming condition. The licensee in its response to the Deficiency Notification says that it was "a design oversight" to not inform the NRC. Right!

The situation is urgent, given the ten or more years that the condition has persisted. All the above has been known to the N and to J.M. Taylor, EDO and to W. Russell, NRR/DO, at least since the filing of the attached DPV/DPO, on 28 July 1994.

I would also, at this time, ask for an OIG investigation had not numerous past experiences, some personal, convinced me that the OIG does not have the required independence from the NRC to effect such an investigation.

The particulars of the CNS license violation are, as they have long been, amply carried in the attached documentation, so I will not repeat them here. In your reply to this 2.206 petition, please do not tell me that the staff has determined that the condition is of low safety significance. In order to do so, data would be needed that is not available; and competence to recognize what one does and does not know, which may not be. In this connection, I include a memorandum, dated 22 June 1994, from C. Berlinger, B/C, EELB, NRC to D. Mathews, PD II-3, NRC asking him to tell CNS to do a formal and rigorous statistical analysis to show that the probability of an accident being aggravated because of uncoordinated safety circuit breakers is so low that it is reasonable to allow them to continue to operate "as is." I would not be surprised to learn that CNS has been unable to. Neither would I be surprised to learn that the licensee has not been given the substance of this memorandum.

In Memorandum to E. Weiss; Subject: Catawba Breaker Coordination, page 2, dated 21 September 1993, also attached, the petitioner surveyed some ten other licensees with uncoordinated breakers, licensees who had not then decided how to resolve the matter. These licensees, in the two to three years since EDSFI discovered their deficiencies, if they have not removed them, should also have their operating licenses suspended, until the lack of safety circuit breaker coordination has been remedied.

Petitioner also asks that the NRC hold an enforcement conference on each of these cases.

The question of allowing defects in one train of safety equipment to continue because a redundant safety train might be able to save a nuclear power plant during an accident, a question which was said in the DPV/DPO to be my "major concern," a concern which has persisted unresponded to and ignored like the defective

safety circuit breaker configuration, which gave birth to it, is not, of course, a part of this 2.206 petition, since the CNS cannot change this de facto NRC policy, and the NRC will not.

The response to the DPO, entitled, Report on Review of Differing Professional Opinion (DPO), September 23, 1994, also attached, is, in my opinion, evasive and nonresponsive when it says, "It should be noted that in the panel's limited review of the Catawba issue...no instances were cited in which a simple redundancy argument was used as justification for not meeting specific design commitments... and the panel found no evidence where redundancy was used as the sole basis for accepting deficiencies in other systems or components."

The principle defect in this sentence, but not the only one, is that if a redundancy argument is commingled with other arguments, they cannot later be separated without vitiating the conclusion, because the extent to which redundancy is relied on cannot be determined. The only purpose for adding the redundant train argument to any safety rationalisation is to lend it a spurious authority, which a lack of assurance tells the reviewer he may be in need of.

The pervasive atmosphere in which the NRC seeks to minimize the safety significance of every deficiency means that staff engineering judgement is not to be trusted.

In the DPV submitted to W. Russell, on 09 May 1994, petitioner referred to the lack of a requirement in NRC regulations for a basic good engineering practice; viz., that all circuit breakers should be coordinated, but did not request that it be made so. However petitioner now asks that this good engineering practice, found in the most undemanding applications, should be added to NRC requirements for nuclear power plants. And this rule should not be grandfathered to future plants, which may well never be built, but should be backfitted, to all nuclear power plants.

I appreciate any attention the Commission may give to this petition.

Yours truly,

C. Morris

C. Morris

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cc: S. Jackson, Chairman

Enclosures

1. Memorandum to JMTaylor from CEMorris, "Differing Professional Opinion Concerning Uncoordinated Circuit Breakers at Catawba Nuclear Station", dated 7/28/94 (3 pages)
2. Memorandum to JEDyer from CHBerlinger, "Staff Actions Resulting from the Diagnostic Evaluation at Quad Cities NPS (TAC Nos. M88667/M88668, dated 7/13/94 (4 pages)
3. Memorandum to CEMorris from WTRussell, "Follow-up Actions to NRR Standing Panel re DPV on Uncoordinated Breakers at Catawba Nuclear Station, dated July 22, 1994 (42 pages)
4. Memorandum to NRR Technical Staff from TEMurley, "Cost Beneficial Licensing Actions", dated September 17, 1993 (2 pages)
5. Memorandum to TKing, PBaranowsky, JVora from JMTaylor, "Tasking of Panelists for Review of A Differing Professional Opinion (DPO)", dated August 10, 1994 (2 pages)
6. Memorandum to JMTaylor from TLKing, "Report on Review of Differing Professional Opinion (DPO)", dated September 23, 1994 (3 pages)
7. Memorandum to DPO Panel from CMorris, "Catawba Breaker Coordination DPO Discussion", dated August 8, 1994 (2 pages)
8. Memorandum to TKing from CMorris, "Requested Comments", dated August 9, 1994 (1 page)
9. Memorandum to DEMatthews from CHBerlinger, "Proposed Change to Catawba Nuclear Station Final Safety Analysis Report (TAC Nos. M86367, M86368)," dated June 22, 1994 (4 pages)