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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
Carolina Power & Light Company and)	Docket No. 50-400 OL
North Carolina Eastern Municipal)	
Power Agency)	
)	
(Shearon Harris Nuclear Power Plant))	

MOTION TO STAY PROCEEDINGS ON CONTENTION WB-3 (DRUG ABUSE)

Now comes the Conservation Council with a motion to stay the proceedings on Contention WB-3 (Drug Abuse During Construction) until the workers who were arrested at the Harris facility on or about January 10, 1985, have been afforded criminal trial, have had charges dropped, or have cases against them otherwise resolved. In support of this motion is the following:

1. During phone discussions, Major T. W. Lanier of the Wake County, North Carolina, Sheriff's Department, stated that he and his department would not comment on the investigation of drug abuse at the Harris plant until after the criminal legal proceedings against the arrested workers were resolved. The Sheriff's Department's position is that discussions of this matter could jeopardize the proceedings and would be unfair to both the workers and the Sheriff's Department. Although it is difficult to estimate the time period which cases like these may come to trial, Major Lanier stated that it might take another two to six months.

2. As the law enforcement official with primary responsibility for the investigation of drug abuse at the Harris plant and whose general comments in the newspaper article (which was attached to Contention WB-3), Major Lanier's testimony at hearing would be crucial for the Board to understand the degree in which illicit drugs are being used at the plant during construction. Without this information, the Board cannot make its determination of the effect of workers who are abusing drugs on safety-related matters.

3. If we are afforded the opportunity to discuss this matter fully with Major Lanier, it might provide the basis for resolving this contention without the need for hearing. It would certainly narrow the areas to be litigated to those where serious concerns still remained.

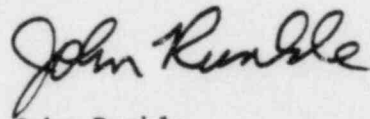
4. As an attorney, it would appear to be irresponsible to discuss matters with the arrested workers which very well may be detrimental to their interests in the pending criminal proceedings. Depositions, whether formally ordered, or informally with friendly witnesses, could easily be used against the workers in any criminal proceeding. Matters which may, in the Fifth Amendment sense, tend to incriminate the workers should be left to other forums at this time. The testimony of these workers has the potential of being highly relevant to the resolution of this contention.

5. In at least two instances in the Operating License proceedings in the recent past, the Board has stayed matters until other information became available or until witnesses were available. In Contention 41G (Van Vo), the going forward with litigation was delayed until the completion of investigations and formal report by OI. In the emergency planning contention on the warning system's capacity to wake up residents near the

plant, the hearing on the contention was delayed several months solely on the availability of witnesses and FEMA's ability to contract with them.

6. A stay at this time would not harm the discovery process due to the continuing nature of discovery requests. Both Applicants and Intervenor can be expected to keep abreast of the criminal proceedings so that the continuation of this matter would be made in a timely manner after Major Lanier and the workers were better able to provide testimony. Again, Major Lanier's testimony is the most crucial (as our answers to Applicants' discovery requests will bear out).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John Runkle".

John Runkle
Counsel for Conservation Council
of North Carolina

cc. Service List

Major T. W. Lanier
Wake Sheriff's Department

CERTIFICATE OF SERVICE

I hereby certify that copies of Conservation Council's Answers to Applicants' Discovery Requests on Contention WB-3 (Drug Abuse) and Motion to stay proceedings on Contention WB-3 (Drug Abuse) were served on the following persons by deposit in the U. S. Mail, postage prepaid, or by hand-delivery.

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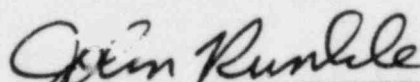
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This is the 24th day of May,
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