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December 16, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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))	

CONSERVATION COUNCIL'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW
ON CONTENTION WB-3 (DRUG ABUSE DURING CONSTRUCTION)

Now comes the Conservation Council, Intervenor in this proceeding, with proposed findings of fact and conclusions of law on our contention WB-3 (Drug Abuse During Construction). Pursuant to the schedule adopted at the November 12, 1985, hearing we were to file these findings to the other parties on or before December 13. We requested from the other parties and received no objections an extension until December 16 with delivery to the Applicants and the Staff by December 17.

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We urge the Board to adopt these findings in support of the conclusion that there is not a reasonable assurance that, if an operating license is subsequently granted for the Harris facility, the authorized activities can be conducted without endangering the health or safety of the public and that such activities will be conducted in compliance with applicable NRC regulations. Drug abuse during construction at the Harris facility has been and continues to be widespread and as such raises serious questions as to the Applicants' ability and commitment to safely construct and operate the Harris facility.

INTRODUCTION

1. <Applicants' proposed finding no. 2 with an addition to the second sentence to read, "The Board subsequently modified Contention WB-3 by deleting allegations of widespread alcohol abuse and admitted it.">

2. Contention WB-3 refers to a newspaper article for details and the initial basis in support of the allegations contained in the contention. The article appeared in the Raleigh NEWS & OBSERVER on January 11, 1985, and was attached to the Request for Admission of a New Contention, dated January 18, 1985. This newspaper article reported the results of a brief undercover investigation conducted by the North Carolina State Bureau of Investigation ("SBI") and Wake County Sheriff's Department of drug abuse at the Harris facility. Major Lanier of the Sheriff's Department was quoted as saying that drug abuse at the site was "widespread." The article also reported on the arrest of six workers at the plant, and the issuance of warrants for the arrest of two other workers.

3. After discovery, the Applicants moved for summary disposition on July 12, 1985. On July 31, 1985, the NC Attorney General petitioned for leave to intervene pursuant to the provisions of 10 C.F.R. 2.715(c). Attached was the Attorney General's opposition to the motion for summary disposition supported by an affidavit by Ms. S. L. Burch, Assistant Supervisor of Drug Investigation of the SBI, which raised questions about actions taken by the Applicants which had the effect of hindering the undercover investigation. The unopposed petition to intervene was granted. Tr. 8176. The Conservation Council also opposed the granting of summary disposition and supported its position with an affidavit by Ms. Patty Miriello, a former worker at the plant, alleging serious safety matters and drug involvement.

4. <Applicants' proposed finding no. 4.>

5. <Applicants' proposed finding no. 5 with a listing of each of the witness called by each party and the deletion of the last sentence.>

EXTENT OF DRUG ABUSE ON SITE

6. Drug abuse by workers on site, from craft workers to inspectors and supervisors, is widespread and raises serious questions about the quality of construction and the ability of the Applicants to safely operate the Harris facility. This finding is supported by reliable, overwhelming, and in many areas uncontroverted testimony provided by many of the witnesses and will be addressed further in the following findings.

7. Ms. S. L. Burch, Assistant Supervisor of Drug Investigations for the SBI, testified, "(p)ersonal observations and intelligence gathered by the officers indicated that drug dealings and drug use were widespread at the Harris plant." (Pre-filed p. 8; Tr. 9310). This was based on

information gathered by the undercover agents, the availability of drugs, and other information received by the SBI. (Tr. 9313).

8. Agent Williams, undercover agent for the SBI, although unwilling to use the word "widespread," stated that based on his undercover operation, the workers he came in contact with and purchased drugs from, and data gathered from the informant, drug use at the Harris site "was a problem, a major problem." (Tr. 9302).

9. Ms. Miriello, former worker at the plant, testified that based on her experience at the plant, "drug abuse is widespread throughout the Daniel Construction Company and Carolina Power & Light at the Harris plant." (Prefiled, p. 6). Her observations included seeing construction workers up on boilers smoking marijuana in plain view of the administration building. (Prefiled, p. 4).

10. Agent Hensley, an experienced undercover agent for the Sheriff's Department, testified that based on his work during an eight-week undercover operation, drug use at the Harris site was widespread. (Tr. 9243). He testified that although he was not an expert, drug use on site was at least in the 5 to 12 percent range. He testified further that during his investigation he observed or suspected several hundred people involved with drugs, defining "several" as between 100 and two hundred, and that the actual number drug users on site is "a lot more." (Tr. 9175, 9254, 9251). He reported that there were several cliques or groups dealing drugs which involved several hundred people. (Tr. 9178). These workers were all over the site and not limited to any work area. (Tr. 9181). He stated that he observed people involved in drugs doing safety-related work. (Tr. 9223).

11. The undercover operation performed by the Sheriff's Department and the SBI occurred in December 1984 to early January 1985. An informant originally supplied approximately 20 names to the Applicants. (Tr. 8516). At the conclusion of the investigation, six workers were arrested for dealing drugs, another two had warrants issued (and were arrested later), and an additional 53 were identified as being involved in drugs but not arrested. All 61 of the workers identified and/or arrested were terminated by the Applicants or contractors at the site. (Tr. 8486).

12. The undercover operation was terminated prematurely in the opinion of the witness from the Sheriff's Department. (Tr. 9190). Both Applicants' witnesses and those from the Sheriff's Department testified that the reason Sheriff Baker gave for the termination was that the agents were in physical danger because of the introduction of drug dogs onto the site. (Tr. 9189, 8562, 8498). Ms. Burch also testified that the investigation was prematurely terminated stating that "(1)t was terminated far too early because actions by CP&L would have potentially endangered the lives of the undercover officers." (Tr. 9273, 9300).

13. Applicants witness Mr. Hindman testified that he did not support extending the investigation because of information supplied by the confidential informant and that in his view the activity was trending down. (Tr. 8489). The company made the decision to initiate drug dog searches over the objections of the local law enforcement agencies. (Tr. 8494 ff.). Mr. Bensinger's statement that the drug dog searches would actually enhance the investigation by binding the agent's contacts to him was disagreed with by Agent Hensley. (Tr. 8565, 9239).

14. Agent Hensley testified that when the investigation was terminated he had been attempting to make purchases from an unidentified supervisor who dealt in pound quantities in cocaine. (Tr. 9185). This supervisor was alleged to be making regular trips to Florida. (Tr. 9228). This supervisor was described by workers at the site as "high up on the hill" or highly placed in management at the site. (Tr. 9209). Although this supervisor was not identified one of the identified suspects from the investigation was distributing for him. (Tr. 9188).

15. The undercover agents made drug purchases of marijuana, cocaine, hashish and "crystal" (metamphetamine) from eight different workers, in various quantities, with values from \$30 to \$300. (Applicants' Panel Two, Attachment 5). Agent Hensley testified that each of the dealers had larger amounts than the amounts that he purchased, in several instances in pound amounts of marijuana and hashish. (Tr. 9226).

16. The investigation was flawed in that Agent Hensley was limited in his purchases to primarily the same group that had been identified by his informant. (Tr. 8537, 9234, 9248). Most of the workers in the group which Agent Hensley purchased his drugs were electricians in the fuel handling building as were six of the eight arrested. (Tr. 8602).

17. Mr. Joyner initially objected to the informant because some of the workers on site knew he had been terminated for drug involvement. (Tr. 8529). Mr. Joyner also testified about initiating hand-held metal detectors at the gates to control tool theft which went into effect six days after the investigation began. This had the effect of making drug users "skittish." (Tr. 8519 - 20, 8524, 8555). Gate searches also began during the investigation and indeed found two workers with drugs. (Tr. 8614).

18. There have been approximately 26,000 workers at the Harris site since construction began in 1978. The present figure is approximately 6000, with 5200 on the first shift and the remaining 800 on the second. (Tr. 8346 ff.). These include CP&L employees as well as contractors, primarily Daniel Construction which has 70 percent of all workers. (Tr. 8347).

19. Applicants' witnesses presented a breakdown of the 218 workers who had their employment terminated for actual or suspected involvement with drugs since construction began until October 15, 1985. (See Applicants Panel Three, Prefiled, p. 11 ff.). The "matrix" as this was called at the hearings was originally presented as 201 employees and the earlier testimony uses that number repeatedly; an additional 17 employees were terminated for drug involvement from September 15 to October 15. (Tr. 8342, 8802, 8806, 8933, 9997). Of the initial 201, 19 were terminated because of the presence of drugs confirmed through urinalysis drug screening; 53 were found to be in possession of a controlled substance on site; 5 were arrested off site, 8 were arrested on site, 41 refused to submit to a urinalysis test or a search of their person, property or vehicle; and 75 because of suspicion, based on less than search or testing.

20. A stipulation between the Applicants and the Conservation Council required the Applicants to treat an additional four workers employed by Conam, a subcontractor which conducted eddy current analysis, as if they were suspected of drug involvement, thus causing a reexamination of their work. In return the Conservation Council withdrew allegations in Ms. Miriello's testimony about drug involvement by those workers. (Tr. 8888 ff.).

21. The matrix broken down annually (excluding the five Conam workers) is as follows:

<u>Year</u>	1979	1980	1981	1982	1983	1984	1985 (thru 10/15)
<u># Employees terminated</u>	1	2	9	8	8	27	163
						total	218

22. Mr. Hindman explained the increase in the number of employees terminated for several reasons--the increase in society at large, the doubling of the site population since 1983, more areas of concealment on site, heightened awareness, and the undercover drug investigation with the use of the informant. (Tr. 8899).

23. The matrix includes the 61 individuals from the 1984 - 1985 undercover operation as well as another 29 individuals identified from another six-week investigation in 1982. (Tr. 8504). Mathematically, over 40 percent of all workers terminated because of drug involvement have been identified through the two undercover investigations. (Tr. 8612). Mr. King testified that the matrix includes the 29 individuals from the 1982 investigation although not all of them were terminated that year and further that some of them were laid off in the course of normal operations. (Tr. 8812).

24. Mr. Joyner and Mr. King testified repeatedly that they could not estimate the number of workers involved with drugs currently at the site because they had "no knowledge" which to base an estimate. (Tr. 8815 - 16). This position that there are no workers on site involved with drugs is unrealistic in light of observations by the undercover agents, common sense, and is inconsistent with Mr. Bensinger's testimony as he characterized the users identified in 1985 as within 20 to 30 percent of the total possible

users currently at the site. (Tr. 8967). NRC witnesses also testified that no drug program can be 100 percent effective. (Tr. 8701 ff.).

25. NRC Staff witness, Mr. Tobin and Mr. Long testified about a survey they performed in 1982 and 1983 which looked at drug abuse in Region II and including CP&L. The results of the survey were that on the average drug abuse at nuclear plants were slightly less than one percent. (Tr. 8701, 8747, 8767).

26. Mr. Bensinger testified that in the national work force, between 5 and 12 percent of the workers abused drugs. (Tr. 8953). He also stated that in his opinion and based in part of on his past position as **** of the US Drug Enforcement Agency, he would consider eight percent as being "widespread" but went on to testify that he would be concerned if five percent of the workers were involved in drugs. (Tr. 8967, 8971). NRC Staff witness, Mr. Long testified that the Staff considered ten percent to be widespread. (Tr. 8722 -8723). He went on to testify that if there were:

any significant increase from what we have seen in the past, something less than one percent...I would say that it was a problem. I don't believe I would define it as widespread, but to us as a safety agency, I would recognize that as a significant problem and we would definitely want to follow up on it. (Tr. 8728).

27. Mr. Bensinger testified that the dealing of drugs on site was more of concern than simple use. (Tr. 8597). NRC Staff also distinguished between dealers and buyers. (Tr. 8747).

28. Drug use was especially heavy in the main parking lot. Ms. Miriello testified that at least three or four times a week when she walked from her car she could smell marijuana or see several workers smoking

marijuana around their cars. (Tr. 9151 - 53). Ms. Markonis, contract handler of the drug detection dog at the site, testified that during one of her eight hour searches the dog identified eleven cars out of the 200 to 500 cars it searched in the parking lot. (Tr. 9028; Prefiled p. 11). Ms. Miriello testified that there were usually several thousand cars in the parking lot. (Tr. 9154). Mathematically, there means there would be an average of 60 to 150 cars in the parking lot which would have drugs or residue from drugs in them.

ADEQUACY OF DRUG PROGRAM

29. The testimony by the Applicants' at the hearing contain considerable written material on their drug detection and prevention program. Much of this program has been recently developed and very little is effectively implemented in the field. The program has several glaring deficiencies which will be discussed in the findings below.

30. The Supervisor's Reference Manual (Applicants Exhibit 33) was substantially revised on February 15, 1985, to include sections on administering the company policy on drug and alcohol abuse, behavior and job performance warning signs, and questions and answers for supervisors regarding drug and alcohol abuse. (Tr. 8379 - 81). Mr. Bensinger's consulting firm had developed training material on drug abuse for supervisors in August 1984. (Tr. 8381). Prior to that time there was little supervisory training on the drug abuse detection.

31. The Applicants' drug detection program relies heavily on its urinalysis program. (Tr. 8358). There are however only two different groups of workers that may be required to undergo urinalysis--those workers

that have been employed less than three years and are being transferred into areas requiring unescorted access and those where there is "good cause for reasonable suspicion" for involvement in drugs. (Tr. 8357, 8362, 8831).

32. For many of the drugs tested, there is only a short duration when it is detectable in urine. For amphetamines, barbituates, valium, cocaine, methadone, and opiates, the drug is detectable for 6 to 18 hours. (Tr. 8362 - 65). Mr. Ferguson testified that for marijuana, the time period was up to 30 days while Mr. Bensinger stated that that time period was very unlikely and that two to three weeks was correct. (Tr. 8365).

33. Several people must be involved in making the determination of "good cause for reasonable suspicion" and the process can take overnight. (Tr. 8833). A worker that is believed to be involved in drugs may be escorted to a doctor's office for the taking of the urine sample. (Tr. 8359). The worker with less than three years service and who is transferred may schedule a doctor's appointment at his or her convenience. (Tr. 8362). Ms. Miriello testified that she was allowed to pick a day in a two week period to have a urine sample taken. (Tr. 9129).

34. The Employee Assistance Program is not an effective part of the Applicants' drug program. Although the program is voluntary, employees can be terminated if they participate in the program. Since April 1982 there have been only two workers who have participated in the program. There is no rehabilitation component to the program. (Tr. 8367, 8369 - 72).

35. Mr. Joyner is the only security person on site with training in drug detection. (Tr. 8629). Contract security does not have as its primary purpose drug detection and only infrequently does so. (Tr. 8825, 8904). The

program relies on any detection of drug involvement on the worker's immediate supervisor. (Tr. 8379 ff.).

36. Testimony by various witnesses on the use of hard hats for identification purposes as it relates to drug investigations was nonconclusive as identification numbers could be difficult to read, especially from a distance. (Tr. 8975).

37. From February 25 to September 26, 1985, Ms. Makonis conducted fourteen searches at the Harris site with her drug detection dogs. Mr. Mathias, her subcontractor, conducted two searches. (Prefiled p. 10 - 12; Tr. 8996). As a result of the searches five individuals were identified as being involved in drugs. (Tr. 8947). Each search took place over a five-hour period with frequent breaks, including lunch. (Tr. 9004). The dogs did not go out on scaffolding or into dangerous areas. (Tr. 9010). The dogs were unloaded in full view of the construction site at the security area by the main administration building or by the main gate by the parking lot. This was within the view of at least 100 workers. (Tr. 9000). Mr. Privatte testified that he had seen the drug dogs during his normal operation of walking around and checking on things. (Tr. 8682). Ms. Miriello testified that she also had seen the dog being unloaded and that "(a)s soon as a drug dog is spotted being taken out of the truck, the news is spread across the site in a few minutes by word of mouth." (Prefiled, p. 5) The dogs are trained not to fix on drugs carried on people, that is there were no "body searches." (Tr. 9032).

38. The Harris facility's Quality Check program has been in operation for the last year and a half since April of 1984. During that time there has been 6169 inputs into the system (exit and random interviews, drop

boxes), with 46 of those concerning drug use, or 0.75% of the total. (Tr. 8389 ff., 8805). Twenty workers were identified through the Quality Check program and placed in the matrix. (Tr. 8839).

39. The corporate policy regarding drug use on site is unclear. (Tr. 8406 - 08). CP&L's Drug and Alcohol Abuse Statement of Practice, is as follows:

The use, possession, or sale of narcotics, hallucinogens, depressants, stimulants, marijuana, or other controlled substances by an employee while on Company business or on Company property will result in disciplinary actions, including possible termination.

Any other use, possession, or sale of (above listed drugs) by an employee that may adversely affect the employee's job performance, or that may reflect unfavorably upon public or governmental confidence in the manner in which the Company carries out its responsibilities, may result in disciplinary actions, including termination. (Panel One, Prefiled p. 8).

40. Daniel employees, Mr. Pannill and Mr. Flowers testified that prior to January 1, 1985, Daniel did not have an urinalysis program for the purpose of drug screening and detection at the Harris site. An amendment that consent to search provisions include urinalysis was added into the Daniel contract with CP&L in February 1985. (T. 8374, 8377 ff.). About that time supervisory training concerning drug abuse was started at the Harris facility by Daniel. (Tr. 8386). Prior to that time Daniel relied on its routine orientation for new workers, only a part of which included drug education and the company policy. (Tr. 8417).

41. NRC Staff witness, Mr. Bush, testified that the NRC has no rules, regulations, or policy guidelines regarding control and prevention of drug use for holders of construction permits. Various regulations requiring a general fitness for duty disqualify drug dependent persons from obtaining licenses, security clearance, and the like. The Edison Electric Institute

(EEI) published in August 1985 revised guidelines for establishing drug control programs at operating nuclear reactors and the Staff expects the industry to use these guidelines in their programs. (Tr. 8654 ff.; Prefiled pp. 3 - 6).

42. NRC Staff witnesses Mr. Tobin and Mr. Long conducted a paper review of the Applicants' drug control program, comparing it to the ten elements in the EEI guidelines. (Tr. 8656, 8666). During this paper review Mr. Tobin and Mr. Long did not review Ms. Miriello's affidavit with its allegations of widespread drug abuse. (Tr. 8672). Conclusions drawn by the NRC Staff are based on the assumption that what is on paper is the actual program and further that it is being effectively implemented in the field. (Tr. 8672, 8756).

43. Staff witness Mr. Privatte has read the Applicants' drug control program but has not investigated, audited, or inspected any aspect of the program. He relies on information supplied him by the Applicants on a voluntary basis. Mr. Privatte could not identify the documents he had reviewed in making his conclusion and had not investigated any allegations of widespread drug abuse. (Tr. 8677, 8683).

44. The Staff concluded that they did not have enough specific knowledge to form a conclusion whether the program is effective or not. (Tr. 8715, 8717).

THE NEED FOR REINSPECTION

45. The Applicants rationale for not reinspecting work done by workers or inspectors known or suspected to be involved in drugs is that their Quality Assurance (QA) and inspection programs will pick up any mistakes

made by these workers. This position is unrealistic in light of the following findings and the evidence and testimony in the record on this contention.

46. Applicants' consultant, Dr. Dupont, testified that drug users did not make qualitatively different mistakes than did other workers suffering from alcohol intoxication, fatigue, mental illness, or conflicts with supervisors or coworkers. (Tr. 10011). He made this conclusion based on an analogy between alcohol and drug abuse but only looked at the physical effects of drug use, rather than the illegal aspects of purchase and sale of the drugs. (Tr. 10000). He further testified that drug abusers are more likely involved in income-generating theft, drug sales, and other violations of laws than nonusers. (Tr. 10027).

47. Dr. Dupont testified that quantitatively a person using drugs makes more errors than someone not using drugs. This is a matter of common sense. (Tr. 10017 - 21).

48. Dr. Dupont testified that workers would check on each other's work and that this would reduce the number of drug-induced errors but admitted that if work was done in isolation (such as by inspectors) or where the entire work crew used drugs, errors could not be controlled. (Tr. 10003 ff.). Additionally there were social or work situations where drug use is accepted and in these cases, social pressures against using drugs would not be effective. (Tr. 10007). Besides increasing the availability of drugs, sales on site would have a detrimental effect on employee attitudes about drug use. (Tr. 10030).

49. Dr. Dupont testified that young males in the age range of 18 through 25 were more likely to abuse drugs than others. (Tr. 10010, 10063). The Harris work force is primarily young males. Currently at the Harris site for CP&L employees are the following:

<u>Age</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>
18-25	77	37	114
26-35	444	91	535
36-66	279	27	306
total	<u>800</u>	<u>155</u>	= <u>955</u>

(Tr. 10158 - 59).

50. Applicants panel on Phase II of the hearings testified that there were 27 field front-line or lead inspectors in the matrix of 218. (Tr. 10129). For several of them the inspection work they performed could not be reinspected, such as the inspection of concrete placement, reinforcing steel bars, and embedded plates which cannot be verified. (Tr. 10130). Mr. Privatte of the NRC Staff testified that there was a safety significance to the placement of concrete and reinforcing steel bars. (Tr. 10177).

51. Applicants witnesses testified about their QA attribute surveillance program known as CQA-7 which is used to check on the work of inspectors. (Applicants Exhibit 50). This program has been in effect for one and a half years. (Tr. 10091). Prior to June 1984, the surveillance system focussed on work packages (similar to components) and there was no survey on how many were reinspected. (Tr. 10104).

52. The acceptance rate standards the Applicants currently follow is one of 95 percent for objective attributes and 90 percent for subjective attributes. (Tr. 10089). These standards are purported to come from the Byron decision which developed them in an operating license proceeding.

(Commonwealth Edison (Byron Nuclear Power Station, Units 1 and 2), LBD-84-41, 20 NRC 1203, 1220 - 1233, aff'd ALAB-793, 20 NRC 1591, 1598 - 99, 1607 (1984); discussed in Trainor Prefiled p. 11). Mr. Trainor, a consultant with CYGNA Energy Services (doing 90 - 95 percent business with utilities), further testified that Byron looked at components rather than attributes. (Tr. 10116).

53. Applicants Exhibit 51 contains a listing of various components with their reverifiable attributes. For example there are 15 attributes to complete a pipe weld (p. 19). For other components there may be well over 100 attributes. (Tr. 10100).

54. Attachment 4 to Mr. Banks and Mr. Parsons testimony is a tabulation of summary of the attributes surveillance program. A fourth column of the number of components in the reinspection sample should be added to complete the picture. There are 4249 components. (Attachment 3). When observed deficient attributes are compared to the number of components reinspected the inspection proficiency is a substantially lower number. The total for all activity becomes 91.5 percent, with structural steel at 82.4 percent, pipe hangers at 82.6 percent, and others even lower. Granted, these are the minimal percentages which could be reported as it is possible that two or more attributes within one component may be deficient.

55. The 27 inspectors in the drug involvement matrix have had or are in the process of having their work reinspected pursuant to CQA-7. The craft workers in the matrix have had their work evaluated by a manger team to determine if any safety-related work has been done. (Tr. 10095). Mr. Privatte of the NRC staff has reviewed the paper relating to the reinspection of between 15 and 17 of the 27 inspectors on the matrix. (Tr.

10172). Mr. Fredrickson of the NRC staff has also made primarily a paper review of the reinspection program. (Tr. 10184).

56. Comparing the number of deficiencies to the number of components reinspected alters substantially the basis on which the Applicants make their conclusion that the inspectors who were involved with drugs do not need to have all of their work reinspected. All of the reinspections addressed by Mr. Forehand are lower when one compares deficiencies to components.

(Prefiled p. 9 - 12). For example, the three inspectors who had performed inspections on the installation of expansion anchors, the inspector proficiencies become 93.75 percent, 90 percent, and 97.6 percent. There are serious reasons to doubt the validity of the inspection activities of these inspectors especially as two of them did substantial inspection work on concrete and grout placements and installation of embedded and reinforcing bars in concrete. (Tr. 10073 - 75).

57. Mr. Privatte of the NRC Staff testified to a recent Construction Assessment Team evaluation found four potential enforcement findings at the Harris plant. The four areas involved electrical separation between cable trays and a conduit; minimal wall thickness of piping supplied by a vendor; and sliding feet on various equipment; and most importantly to this contention, reinforcing steel and concrete coverage. (Tr. 10179 ff.).

58. The Board sustained objections to further cross-examination on the effectiveness of the Applicants' QA program and specifically on the findings of the CAT evaluation. (Tr. 10182 ff.).

CONCLUSION

59. Based on its review of the entire record on Conservation Council Contention WB-3, the Board concludes, as to the contested safety matter addressed herein, there is not a reasonable assurance that, if an operating license is subsequently granted for the Harris facility, the activities authorized by an operating license could be conducted without endangering the health or safety of the public or that such activities will be conducted in compliance with applicable NRC regulations.

60. In reaching this decision, the Board has considered all the evidence submitted by the parties and the entire record of this proceeding. The Board's findings of fact are supported by reliable, probative and substantial evidence in the record.

ORDER

61. <Proposed Order by Applicants, Finding 133>.

Respectfully submitted,



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919/942-0600, 942-7935

This is the 16th of December, 1985.

CERTIFICATE OF SERVICE

I hereby certify that this Proposed Findings of Fact and Conclusions of Law on Contention WB-3 were served on the following persons by deposit in the U. S. Mail, postage prepaid, or by hand-delivery. (** for overnight delivery).

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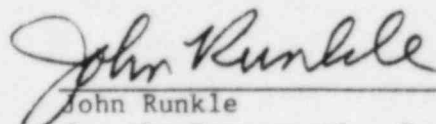
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This is the 16th day of
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