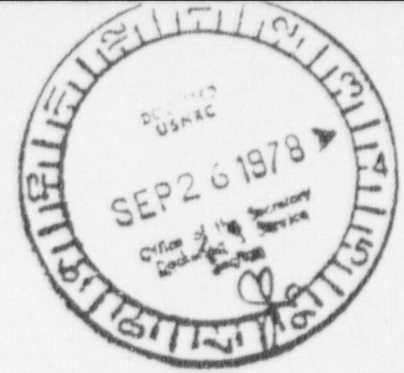


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

DUKE POWER COMPANY)

(Amendment to Materials License)
SNM-1773 for Oconee Nuclear Station)
Spent Fuel Transportation and Storage)
at McGuire Nuclear Station))

Docket No. 70-2623

RESPONSE OF CAROLINA ENVIRONMENTAL STUDY GROUP
TO APPLICANT'S MOTION FOR ESTABLISHMENT OF A SCHEDULE AND
NRC STAFF RESPONSE TO SAME

On September 5, Applicant filed a Motion to Establish a Schedule for these proceedings. NRC Staff responded to same on September 15, 1978. Both parties seek to set a pre-hearing conference on October 6, 1978. As staff points out, 10 CFR § 2.714(a)(4) requires a date for submittal of contentions by September 22, 1978. Alternate dates of October 5 and September 21, respectively, are also suggested. Intervenor finds this schedule fails to have much sense behind it. This response is being dictated on September 21, 1978. Intervenor has heretofore filed a Motion and an outline of the areas in which contentions will be filed, and Intervenor's concerns. No response has yet been made to either of these documents. Similarly, Intervenor has not received any response to the first set of interrogatories, mailed September 11, 1978. Applicant suggested informal discovery prior to formal consideration of a timetable in this matter. Intervenor believes that some discovery is necessary before contentions can be framed. In particular, we asked questions that would allow us to take a reasonable position in this matter. Without response, we would be setting forth on a moonlight sail.

In discovery, we asked for a copy of the application by Duke in this matter. Staff response to that (September 15, 1978) was that the materials were

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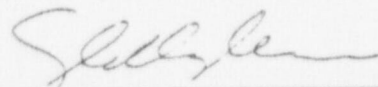
deposited at the public document room. Intervenor requested certain information that would allow it to calculate the rate at which the Ocone and McGuire storage tanks fill up or would be expected to fill up. We wanted copies of tests run on the trucks. We wanted any alternatives that might have been considered to truck transportation of the spent nuclear fuel. We wanted any studies done on the routes to be followed. It is simply difficult to frame intelligent contentions without such information, and therefore, the entire schedule depends on the receipt of this preliminary discovery.

It seems to us that requiring contentions to be formulated prior to the formal allowance of intervention by each of the parties seeking intervention is putting the cart before the horse. If the various parties are not to be allowed to intervene, it is difficult to justify putting them through the process of formulating contentions.

Based on the foregoing, we suggest that preliminary discovery go on, and that a formal board ruling on intervention of each of the parties be made. Subsequently, a pre-hearing conference should be set, sufficiently far into the future to allow an adequate time for the formulation of contentions. Based on a guess as to when the board will rule on these matters, and when discovery will be made, a date in January of 1979 would seem to be appropriate for the pre-hearing conference.

Respectfully submitted,

by



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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached in the captioned matter have been served on the following by depositing same in the United States mail this 22 day of Sept, 1978

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