

December 14, 1979

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
) 401
(Shearon Harris Nuclear Power) 402
Plant, Units 1, 2, 3 and 4) 403

APPLICANT'S RESPONSE TO CONSERVATION
COUNCIL OF NORTH CAROLINA AND
WAKE ENVIRONMENT, INC.'S PETITION
TO REOPEN THE RECORD

On December 12, 1979, Applicant was served with a copy of "NRC Staff Response to Intervenors Petition to Reopen the Proceeding to Reconsider Energy Plans", dated December 11, 1979. Thereby, Applicant first became aware of Conservation Council of North Carolina and Wake Environment, Inc.'s ("Intervenors") "Petition" to reopen the record in the above captioned proceeding, dated November 5, 1979, filed with the Atomic Safety and Licensing Board. On December 13, 1979, Applicant received a copy of the Petition from NRC Staff; Staff counsel informed Applicant's counsel that neither a certificate of service nor service list was attached to the Petition.

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Applicant joins with NRC Staff and respectfully submits that the Board should deny the Petition. As noted by the NRC Staff, the Licensing Board lacks jurisdiction to grant Intervenor's Petition. The Commission, in denying an earlier motion by Intervenor's to remand and reopen this proceeding, clearly defined the status of the Harris proceeding:^{1/}

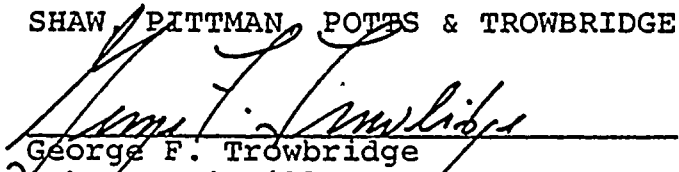
The Commission has decided the Shearon Harris proceeding is now concluded except for the radon question pending before the Appeal Board and the management qualification issue which we remanded to the Licensing Board. In the future, the appropriate remedy for those seeking to modify, amend, suspend or revoke the construction permits is by means of a request for enforcement action under our regulations. See 10 CFR 2.206

The Licensing Board has since issued its Supplemental Initial Decision (Construction Permit) on the management qualification issue. Thus the Licensing Board has no further jurisdiction in this proceeding.

Intervenor's Petition must be denied.

Respectfully submitted,

SHAW, PITTMAN, POTES & TROWBRIDGE


George F. Trowbridge
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Counsel for Applicant

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Dated: December 14, 1979

^{1/} CLI-79-5, 9 NRC 607, 610 (May 2, 1979)

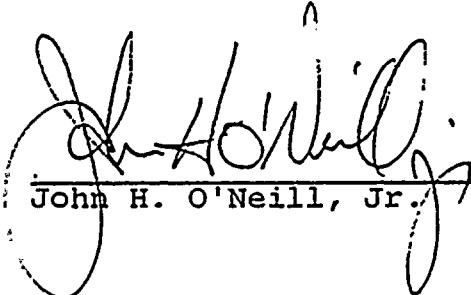
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing
"APPLICANT'S RESPONSE TO CONSERVATION COUNCIL OF
NORTH CAROLINA AND WAKE ENVIRONMENT, INC.'S PETITION TO
REOPEN THE RECORD" have been served upon each of the persons
listed on the attached service list by mail, postage prepaid,
or by hand-delivery, this 14th day of December, 1979.



John H. O'Neill, Jr.

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