

November 7, 2007

W. Lee Cox, III, Manager
Radioactive Materials Branch
Radiation Protection Section
Division of Environmental Health
Department of Environment and Natural Resources
1645 Mail Service Center
Raleigh, NC 27699-1645

Dear Mr. Cox:

This is in response to your September 4, 2007, letter regarding the June 1, 2007, request by Carolina Power and Light Company (the licensee), also doing business as Progress Energy Carolinas, to dispose of dredged sands and sediments containing small amounts of radioactive material from the discharge canal of the Brunswick Nuclear Plant. The licensee proposed to dispose of the dredged sands and sediments at an on-site spoil pond. Your letter asked whether the Nuclear Regulatory Commission (NRC) or the State has jurisdiction over the proposed action.

Pursuant to North Carolina's Agreement State status, under section 274.b(1) of the Atomic Energy Act (AEA), North Carolina has jurisdiction over the licensee's disposal of low level radioactive waste. The NRC, however, retains jurisdiction over the "operation of any production or utilization facility" under section 274.c(1) of the AEA. The NRC interprets "operation of any production or utilization facility" to include "the storage and handling of radioactive wastes at the facility site by the person licensed to operate the facility."¹

We understand that the licensee intends to categorize its proposed action as storage of radioactive waste rather than as disposal. If categorized as storage, the NRC would have exclusive jurisdiction over the action. This approach would require the licensee's retraction of its June 1, 2007, request to the State.

The NRC will continue its ongoing regulation of the licensee's operations, including the monitoring and inspection of any on-site storage of radioactive waste. Upon decommissioning of the plant, any on-site radioactive material, whether licensed or unlicensed, will be subject to the NRC's decommissioning regulations.

If you have any questions regarding this letter, please contact Dr. Stephen N. Salomon by telephone at 301-415-2368 or email: SNS@NRC.GOV.

Sincerely,

/RA/ Patrice M. Bubar for

Dennis K. Rathbun, Director
Division of Intergovernmental Liaison
and Rulemaking
Office of Federal and State Materials
and Environmental Management Programs

¹ 10 CFR 150.15(a)(1)(i)

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Division of Environmental Health
Department of Environment and Natural Resources
3825 Barrett Drive
Raleigh, NC 27609-7721

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