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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of CAROLINA)
POWER AND LIGHT COMPANY)
and NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)
(Shearon Harris Nuclear Power)
Plant Units 1 and 2).)

Docket No. 50-400-OL

OFFICE OF SECRETARY
DOCKETS & SERVICE

FEMA STAFF RESPONSE TO APPLICANTS'
MOTION FOR SUMMARY DISPOSITION OF
EDDLEMAN CONTENTION 240

I. INTRODUCTION

On January 2, 1985, the Applicants moved for summary disposition on Eddleman 240, (hereinafter Applicants' Motion) pursuant to 10 CFR § 2.749 of the Commission's regulations. FEMA staff supports Applicants' Motion for Summary Disposition on the grounds that they have demonstrated an absence of a genuine issue of material fact, and that they are entitled to a favorable judgment as a matter of law.

II. BACKGROUND

Eddleman 240 was admitted as a contention in this proceeding by the Board on August 3, 1984. As stipulated by the parties and approved by the Board, Eddleman 240 contends:

What agency of Chatham County government is responsible for the decontamination of evacuees at the Chatham County Shelters? and (2) Which emergency response organizations are assigned the responsibility of providing support for the decontamination of evacuees?

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FEMA staff did not serve any discovery requests on the subject of Eddleman 240. Mr. Eddleman served two sets of interrogatories on the NRC Staff and FEMA on the subject of Eddleman 240. See "Wells Eddleman's Interrogatories to NRC Staff and FEMA (6th Set) (August 31, 1984), and Wells Eddleman's General Interrogatories and Request for Production of Documents to FEMA/NRC Staff (October 8, 1984). FEMA responses to the two set of interrogatories were filed on September 28, 1984 and October 25, 1984, respectively.

III. ARGUMENT

A. Standards for Summary Disposition

FEMA staff response to Applicants' previous Memoranda of Law in Support of Motions for Summary Disposition of Emergency Planning Contentions previously filed is fully applicable to this Motion and is incorporated by reference herein.

B. There is No Genuine Issue of Material Fact to be Heard with Respect to Eddleman 240.

Section 50.47 of NRC's Emergency Planning Rule (10 CFR Part 50 [Appendix E]) as amended and NUREG 0654/FEMA-REP-1, Rev. 1, November 1980, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" are used by FEMA pursuant to 44 CFR § 350(a) in reviewing, evaluating, and approving State and local radiological emergency plans and preparedness."

10 CFR § 50.47(b)(1) provides:

Primary responsibilities for emergency response by the nuclear facility licensee and by State and local organizations within the Emergency Planning

Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its staff on a continuous basis (see also 44 CFR § 350.5(a)(1)).

NUREG 0654/FEMA-REP-1 provides at Part II, A.1:

a. Each plan shall identify the State, local, Federal and private sector organizations (including utilities), that are intended to be part of the overall response organization for Emergency Planning Zones.

b. Each organization and suborganization having an operational role shall specify its concept of operations, and its relationship to the total effort.

Revision 1 of the North Carolina Emergency Response Plan in Support of the Shearon Harris Nuclear Power Plant (ERP) dated September 1984 provides at Part 2, III.E.3. that the Chatham County Fire Marshal:

b. Provide(s) equipment and personnel for decontamination operations.

Part 2, III.E.2 provides that Rescue Squad Captains:

d. Support volunteer fire departments in decontamination operations.

Part 2 IV.E. at page 33 provides in pertinent part that:

(2) ...Decontamination will be done by Radiological Response Teams.

(6) The North Carolina RPS may provide more expert personnel to assist and consult in the event of major shelter contamination problems.

The affidavits of Mark Scott, (Emergency Management Coordinator, Emergency Services Director and Fire Marshal of Chatham County) and Jesse T. Pugh, III (Director of the Division of Emergency Management of the North Carolina Department of Crime Control and

Public Safety) clarify which organizations have responsibility for decontamination of evacuees at the specific shelter sites. (See Scott Affidavit, para. 4; Pugh Affidavit paras. 3-5).

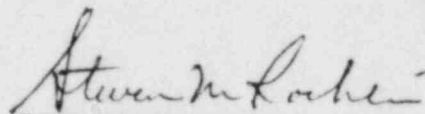
Mr. Pugh states that the ERP will be amended to reflect which organizations have decontamination responsibilities. County SOP's will assign decontamination responsibilities for specific shelter sites.

FEMA staff concurs with the Applicants' assessment that the questions raised by the Licensing Board in admitting Eddleman Contention 240 have been resolved and that the Applicants are entitled to Summary Disposition as a matter of law.

IV. CONCLUSION

Based on the foregoing discussion, the Applicants' Motion for Summary Disposition should be granted.

Respectfully submitted,



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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CAROLINA POWER AND LIGHT COMPANY AND
NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

(Shearon Harris Nuclear Power Plant,
Units 1 and 2)

Docket Nos. 50-400-OL
50-401-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of "FEMA STAFF RESPONSE TO APPLICANTS' MOTION FOR SUMMARY DISPOSITION OF EDDLEMAN CONTENTION 240" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 1st day of February, 1985:

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