

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
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
GENERAL INVESTIGATIVE SERVICE

FEMA STAFF RESPONSE TO APPLICANTS' MOTION
FOR SUMMARY DISPOSITION OF EDDLEMAN 57-C-7

I. INTRODUCTION

On January 2, 1985, the Applicants moved for summary disposition on Eddleman 57-C-7 (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 57-C-7 was admitted as a contention in this proceeding pursuant to the Board's order of August 3, 1984. On October 12, 1984, Applicants, Wells Eddleman and the NRC Staff, entered into a "Joint Stipulation Codifying Certain Admitted Contentions", agreeing to the following language for the contention:

Neither the State ERP nor the county ones make clear whether the hospitals listed in Section V.B.3 of the State ERP are prepared to treat severe radiation exposure per se. Plans should include lists of local and regional hospitals with the necessary capabilities to provide medical services for those seriously injured by radiation alone.

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The Board approved the stipulated wording of the contention. See "Order Approving Joint Stipulation Codifying Certain Admitted Contentions" (December 6, 1984).

Mr. Eddleman served two sets of interrogatories on NRC Staff and FEMA (See Interrogatories to NRC Staff and FEMA [6th Set], dated August 31, 1984, and Interrogatories and Request for Production of Documents to FEMA/NRC Staff dated October 8, 1984). NRC Staff and FEMA's responses 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 57-C-7.

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.

The applicable criteria with regard to Eddleman 57-C-7 are found at:

10 CFR § 50.47 (b) (12) which provides:

Arrangements are made for medical services for contaminated injured individuals (see also 44 CFR § 350.5(a) (12).

NUREG 0654/FEMA-REP-1 at Part 2.L.1. provides:

Each organization shall arrange for local and backup hospital and medical services having the capability for evaluation of radiation exposure and uptake, including assurance that persons providing these services are adequately prepared to handle contaminated individuals.

NUREG 0654/FEMA-REP-1 at Part 2.L.3. provides:

Each State shall develop lists indicating the location of public, private and military hospitals and other emergency medical services facilities within the State or contiguous States considered capable of providing medical support for any contaminated injured individual. The listing shall include the name, location, type of facility and capacity and any special radiological capabilities. These emergency medical services should be able to radiologically monitor contamination personnel, and have facilities and trained personnel able to care for contaminated injured persons.

FEMA staff concurs with the Applicants that "the listing of medical facilities at Part 1, § V.B.3. of the N.C. ERP satisfies these requirements" (See Affidavit of Thomas I. Hawkins in Support of Applicants' Motion). In Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC 528 (1983) ("San Onofre") the Commission stated in pertinent part:

With respect to individuals who may be exposed to dangerous levels of radiation, treatment requires a lesser degree of advanced planning and can be arranged for on an as needed basis during an emergency. Emergency plans should, however, identify those local or regional medical facilities which have the capabilities to provide appropriate medical treatment for radiation exposure.

In admitting Contention 57-C-7 the Board focused on the distinction between facilities prepared for treating "contaminated" individuals versus those individuals with "severe radiation exposure" and the San Onofre requirement of listing regional hospitals in addition to local hospitals which have the capability to treat radiation exposure. In the opinion of the FEMA staff these concerns of the Board have been satisfied by the Applicants.

A review of the affidavit of Dr. Fred A. Mettler, Jr. establishes that, in his opinion, all of the hospitals listed in the ERP are capable of treating severe (in excess of 100 rems of penetrating whole body radiation) radiation exposed patients for the first 48 hours after exposure (Mettler Affidavit, para. 7). According to Dr. Mettler, Duke University Medical Center, Rex Hospital, and North Carolina Memorial Hospital have the capability of treating cases involving substantial cellular damage as a result of severe radiation exposure (Id, para. 9).

The Affidavit of Dayne H. Brown, Chief of Radiation Protection Section (RPS), Division of Facilities Services, North Carolina Department of Human Resources, provides information on a facility in a contiguous state that is capable of specialized radiation treatment (Oak Ridge Radiation Emergency Assistance Center/ Training Site (REAC/TS), Oak Ridge, Tennessee. Services and facilities of REAC/TS are available upon request of the RPS through FEMA or the NRC. (Brown Affidavit, para. 4).

The affidavit of Jesse T. Pugh, III, Director, Division of Emergency Management of the North Carolina Department of Crime Control and Public Safety provides that the ERP will be updated

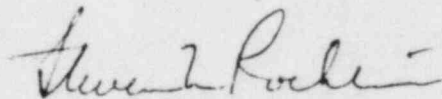
to include the capabilities of Duke University Medical Center, North Carolina Memorial Hospital and Oak Ridge REAC/TS to treat severe radiation cases.

FEMA staff concurs with the applicants that the requirements of the regulations, guidance documents and case law have been adequately met 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,



STEVEN M. ROCHLIS
Regional Counsel
Federal Emergency Management Agency