

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)

THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)

(Perry Nuclear Power Plant,)
Units 1 and 2))

) Docket Nos. 50-440 and 50-441
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SUNFLOWER'S MEMORANDUM IN OPPOSITION
TO SUMMARY DISPOSITION OF CONTENTION 0

By 10 CFR Section 2.749 (d), Applicant must show that there is no genuine issue as to any material fact and that it is entitled to a decision as a matter of law. The record is to be viewed in the light most favorable to the party opposing the motion. Poller v. Columbia Broadcasting System, Inc., 368 U.S. 464, 473 (1962); Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2), LBP-81-8, 13 NRC 335, 337 (1981).

Applicant maintains that state and county plans address means for relaxing protective measures within the EPZ, and that Lake, Ashtabula and Geauga Counties' plans all contain such. Applicant's "Statement of Material Facts," paras. 3 and 7.

This is simply not true. Ashtabula County's discussion consists of three sentences merely promising to coordinate with state agencies on reentry procedures. While perhaps plans for reentry may be general, they may not be nonexistent.