

876

May 2, 1985

UNITED STATES OF AMERICA  
v. NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'85 MAY -6 P12:06

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

Docket No. 50-400-OL

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

FEMA STAFF RESPONSE TO APPLICANTS'  
MOTION FOR SUMMARY DISPOSITION OF  
EDDLEMAN CONTENTION 213

I. INTRODUCTION

On January 14, 1985, the Applicants moved for summary disposition on Eddleman 213, (hereinafter Applicants' Motion) pursuant to 10 CFR §2.749 of the Commission's regulations. On that date, the Applicants requested that the Board hold the Motion in abeyance and toll the parties' response times, pending availability of a technical report from Acoustic Technology, Inc. (ATI) on the fixed siren alert system for Harris Lake. The NRC Staff filed a response on behalf of the NRC and FEMA on February 6, 1985 indicating that it had no objection to tolling the parties response times. Mr. Eddleman did not file an objection to the Applicants' request. ATI's report, "Analysis and Evaluation of Siren Notification For Boaters, Waterskiers, and Swimmers on Harris Lake" (March 1985) was served on the parties concurrent with Applicants' Supplement to Motion For Summary Disposition of Eddleman 213 (April 5, 1985). FEMA staff

8505070343 850502  
PDR ADOCK 05000400  
G PDR

DB07

supports the Applicants' Motion For Summary Disposition on the grounds that there is an absence of a genuine issue of material fact, and that the Applicants are entitled to a favorable judgment as a matter of law.

## II. BACKGROUND

Eddleman 213 was admitted as a contention in this proceeding in the Board's Memorandum and Order (Further Rulings on Admissibility of Offsite Emergency Planning Contentions Submitted by Intervenor Eddleman) (June 14, 1984). As admitted by the Board, Eddleman 213 contends:

The boater notification plan (part 5, p. 15) does not include the Harris Lake, does not guarantee sufficient boats or personnel to conduct warnings, and in particular makes no provisions for boat or traffic accidents during evacuation of potentially thousands of boaters from the lake. This violates 10 C.F.R. 50.47(a)(1) which requires appropriate protective measures. Such measures should include limiting the number of boaters on the lake when the Harris reactor is critical or whenever fuel handling operations are in progress at Harris. Logically, adverse consequences to boaters can be reduced by reducing the number of boaters. The same logic applies even more to swimmers and water-skiers who will be harder to get out.

The Board, in admitting the contention, indicated that essentially, 213 alleged that there should be analogous provisions for the Harris reservoir (analogous to the Boater Notification Provisions for Jordan Lake contained in Annex G of the Emergency Response Plan).

Mr. Eddleman served two sets of interrogatories on the NRC Staff/FEMA on the subject of Eddleman 213. See "Wells Eddleman's

Interrogatories to NRC Staff and FEMA (4th Set, dated June 29, 1984 and 5th Set, dated August 9, 1984). The FEMA Staff Response was filed on August 14, 1984 and September 18, 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 213.

Section 50.47 of NRC's Emergency Planning Rule (10 CFR, Part 50) 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)(5) provides in pertinent part:

...means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established. (See also 44 CFR §350.5(a)(5)).

NUREG-0654/FEMA-REP-1 Criterion E.6 provides in pertinent part:

Each organization shall establish administrative and physical means, and the time required for notifying and providing prompt instructions to the public within the plume exposure pathway Emergency Planning Zone. (See Appendix 3).

Appendix 3 to NUREG 0654/FEMA-REP-1 provides:

The initial notification when appropriate, of the affected population within the plume exposure pathway Emergency Planning Zone (EPZ) must be completed in a manner consistent with assuring the public health and safety. The design objective for the system shall be to meet the acceptance criteria of Section B of this Appendix.

Section B.2 of Appendix 3 provides:

The minimum acceptable design objectives for coverage by the system are:

- a) Capability for providing both an alert signal and an informational or instructional message to the population on an area wide basis throughout the 10 mile EPZ, within 15 minutes.
- b) The initial notification system will assure direct coverage of essentially 100% of the population within 5 miles of the site.
- c) Special arrangements will be made to assure 100% coverage within 45 minutes of the population who may not have received the initial notification within the entire plume exposure EPZ.

FEMA staff, in response to Mr. Eddleman's 5th Set of interrogatories stated "that a plan for Harris Lake similar to the plan for Jordan Lake should be included in the emergency planning for Lake Harris". According to the affidavit of Thomas I. Hawkins, FEMA Emergency Management Program Specialist, FEMA Region IV staff received a revised copy of the North Carolina Emergency Response Plan in Support of the Shearon Harris Nuclear



Power Plant, Feb. 1984, Rev. 1, Sept. 1984 in October 1984. The revised plan contains Annex J, "Warning and Notification of Boaters On Harris Lake and the Surrounding Recreation Areas" (Attached as Exhibit 1 hereto).

Annex J provides at III.D.:

The warning and notification of boaters on the lake within a 10 mile radius of the Shearon Harris Plant will be accomplished using fixed sirens, a boat and one emergency vehicle equipped with siren and PA system, red smoke signals, a fixed winged aircraft and a helicopter.

These provisions are analogous to the provisions contained in Annex G (Boater Notification for Jordan Lake) of the Emergency Response Plan.

Although the Board's focus in admitting contention 213 was on a plan for Harris Lake similar to the Lake Jordan Notification Plan, the Applicants have committed to an enhanced siren system of 10 additional sirens as the primary means of notification to comply with the criteria set forth in 10 CFR §50.47(b)(5) and Section B.2, Appendix 3, NUREG 0654/FEMA-REP-1 and to erect 15 instructional billboards in prominent locations around Harris Lake. The instructional billboards will advise recreational users that upon siren alert or the sending off of flares, persons are to leave the lake immediately and turn on radios and televisions for instructions. (See Supplemental Affidavit of Robert G. Black, Jr.).

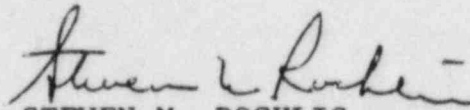
It is the opinion of the FEMA Staff that the questions raised by the Board in admitting Eddleman Contention 213 have been resolved, and that the Applicants are entitled to Summary

Disposition as a matter of law. Annex J to the ERP coupled with an enhanced siren system resolve the issues surrounding the contention as admitted by the Board.

IV. CONCLUSION

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

Respectfully submitted, .

A handwritten signature in dark ink, appearing to read "Steven M. Rochlis", is written over the typed name.

STEVEN M. ROCHLIS  
Regional Counsel  
Federal Emergency Management Agency