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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Glenn O. Bright
Dr. James H. Carpenter
James L. Kelley, Chairman

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SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

CAROLINA POWER AND LIGHT CO. et al.
(Shearon Harris Nuclear Power Plant,
Unit 1)

Docket 50-400 OL

ASLBP No. 82-468-01
OL

Wells Eddleman's Response to Applicants (EPX)
Emergency Planning Interrogatories and Request for Production
of Documents (Third Set)

Wells Eddleman hereby responds to Applicants' Interrogatories
dated 11/25/85 as follows:

RESPONSES TO INTERROGATORIES

General Interrogatories: 1(a) See answers to specific interrogato-
ries below: (b,c) same as (a).

2(a) Lisa Finaldi, address at present not known, telephone 755-
Also (see G-3) Betsy Levitas, 212 N. Bloodworth St. Raleigh 27601
0361 or 832-2971; see also responses to specific interrogatories.

Last known employer was Sierra Club Radioactive Waste Campaign, 78
Elmwood Ave, Buffalo, NY, 14209. (b) see specific interrogatory

answers below. (c)(i) the evaluators presumably have expertise or
knowledge in the fields or parts of the exercise they evaluated,
although I have not yet independently assessed their expertise.

(ii),(iii) N/A at this point. (d) see (a) although I do not believe
that response is required by the Licensing Board's memorandum and order
of 5/27/83 and other objections could be raised; I do not here waive
any right to object to this interrogatory or its presumptions about the
5/27/83 licensing board order.

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3(a) Although I have not completed planning what witnesses to call, it is fair to assume I will call the evaluators whose comments form part of the basis for, or relate to, any part(s) of Contentions EPX-2 or EPX-8 or both. These would include (info. supplied by B. Levitas and/or L. Finaldi, most of these people being identified in the state evaluation report on the exercise, which Finaldi has; I cannot locate a copy here):

EPX-2: Max Powell, Special Assistant to Commissioner, NC Dept of Insurance, 733-7343 (statewide designated frequency use and public information ~~and~~ office communications, ^{telephone overload &} other communications problems); Bob Bailey, Chief of Office of Emergency Medical Services (State of NC), Raleigh, 733-2285 (delay in getting messages back to EMS; information EMS did not receive (e.g. when controlled release happened); other communications difficulties; any relationship of communications to difficulties in moving ambulances at Apex staging area); Crystal Stowe, NC Dept of Crime Control and Public Safety, State Public Information Officer, 733-5027: any communications difficulties in public information, etc, and in emergency response (attempts, repeated, to communicate with Ms. Stowe have not been successful. Mr Al Joyner (Joiner?) of NC dept CCPS Office of Emergency (Management), 733-3867, referred Finaldi to Ms. Stowe.) ; Capt. Teem, NC State Highway Patrol, Raleigh District, Troop C, Wake Country, 733-3911, (telephone problems, difficulties with radio systems, lack of information from the plant to Emergency Operations, capabilities of radio systems, communications with troopers being called in from across the state during an emergency, other communications difficulties); possibly Gil Green of Radiation Protection Section: 733-2162 Johnny James of RPS, NC Dept Human Resources, says he did not do the evaluation although his name appears on it; Green did it, and Finaldi will try to reach him Monday (12/23) while I'm out of town. /

possibly Lieutenant (formerly Sgt.) G.S. Ake, 779-1704, Highway Patrol Evaluator, who has not been reached yet; possibly others as both conversation and meeting with persons having knowledge of the exercise and measures being taken to deal with the problems revealed is ongoing, and after discovery other persons or problems (e.g. with attempted or proposed resolutions) or communications difficulties may be revealed;

EPX-8:

possibly the author of the comments on EBS at pp 17-18 and 19 of the FEMA interim findings (re, EPX-8 and problems with EBS and conference call, problems with EBS activation, verification, etc.); possibly, person who has custody of the EBS logs at WQDR-FM and WPTF-AM, Raleigh, if the validity of copies of these logs cannot be established by affidavit (this may be Charles Stegall, 832-8311), concerning timing and content of messages that ran, any indications of difficulties, etc). again, conversation, inquiries on this contention continue, authors of other comments on the EBS's problems and problems getting info through it to the public may be called, and discovery may reveal (I expect it should) further information).

(b) see (a) but note the information is incomplete at present;

(c) see response to 2(c)(1) above; I expect more information to be revealed on discovery and become available through talking with persons named and with others, interviews, etc.

4(a) I relied on my knowledge of the UCS v NRC decision establishing that emergency planning exercise deficiencies are litigable; on the requirements of 10 CFR 50.47(a)(1) that there must be reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency; on the fact that real emergencies are not usually announced in advance and thus will create difficulties that do not exist in an exercise, compounding any problems revealed in an exercise which depend on responses by personnel or equipment in place

that might have to be delivered or brought in or used suddenly (e.g. under emergency communications conditions with heavier loads on phones and communications equipment, under heavier loads of real pressure on personnel during a real emergency, under uncertainty and confusion as the real emergency does not have a knowable or predictable scenario or course of events, etc.; on the fact that 10 CFR 50.47(a)(2) says FEMA findings are a rebuttable presumption; on the requirement that actual performance and the fact of noncompliance is litigable even if there are promises to correct problems (i.e. promises to fix things have no legal standing to support a finding as required by 50.47(a)(1)); on the requirements of 10 CFR 50.47(b), including the requirements of (b)(1) and (b)(2) to be able to augment response on a continuous basis (presumably to take care of difficulties as they arise, and overcome them) (presuming that could be done), (b)(3)'s requirement for effectively using resources, (b)(5)'s requirement for notification (presumably this has to be prompt and effective and communicate needed information), (b)(5)'s requirement for early notification and clear instruction communicated to persons in the EPXZ, (this and (b)(6) are most heavily relied on for EPX-8), (b)(6)'s requirement of provisions for prompt and effective communications among principal response organizations, to emergency personnel and to the public (obviously, if communication is not working well, these provisions are not effective and may not be prompt where communication is delayed) (this provision is also strongly relied on re EPX-2); (b)(8)'s requirement for adequate emergency facilities and equipment (e.g. for the IBS and communications with the field, the public and among emergency response organizations and personnel) (this provision is relied on throughout EPX-2 and -8) (b)(9)'s requirement of adequate methods, systems (including communication to report results) and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency

condition, which must be in use, more re EPX-2, but relates to EPX-8 in that inadequate info or communications problems, erroneous communications or delays may delay activation of EBS or cause misleading info to be given to the public); (b)(10,11, and 12 insofar as communications or EBS problems can lead to these requirements not being met); (b)(14) requiring problems to be corrected if detected during the exercises; (c)(1) requiring that all the paragraph (b) standards be met before an operating license is issued; 10 CFR 50.57(a)(2)(a)(3) and (a)(1) requiring compliance with all the NRC's rules and regulations to get an operating license;

Evaluation Report, Shearon Harris Nuclear Power Plant Exercise, (EPX-2) pp. 14,15,16 ("could have severe bad effects in a real emergency" (emph added), overloading of mutual aid frequency made communications with ground units on the mutual aid frequency impossible, recommendation to upgrade also supports this and the "real world emergency problem, see pp 14-15; SHP system quickly overworked, but was the only reliable source of contact, p.14), p.5, insufficient Harnett Co. telephones; extra radio traffic overloaded personnel in Chatham Co., p.4, also supports later remarks about misuse, overload of common emergency frequency (p.4, comments "later", p.14); p.6, delay of messages received both by hard copy and phone in Wake Co. ("could have severe bad effects in a real emergency, including ... etc.") p.8, highway patrol communications problems : "equipment, which is designed to support our statutory mission, is not yet capable of adequately handling the impact of so many units responding to an emergency of this type" (cf. contention, "The Highway Patrol evaluator found ...type"), p.9 recommendation 1, supports could have severe bad effects and supports statement just quoted from contention and supports statement on p.8 ; p.11, EMS "excessive delays" of almost an hour, "evacuation messages and messages pertaining to administering

potassium iodide ("iodine" in evaluation), etc, could have negative consequences if not received rapidly", this last directly supports "could have severe bad effects ... etc." and supports it even more strongly in conjunction with the "almost an hour" delays, which could make KI administration useless, e.g., or easily avoid prompt notification of the public or emergency response personnel. P.12, communications difficulties in item 6, cf. contention "communications from the mobile radiation lab ... State radiation protection evaluator", direct support; lack of training etc., procedures, checklist, items 1-5, indirect support for this part of contention since "delayed and/or incorrect information" can cause problems. This all also supports the "could have severe bad effects". Note that these are only examples; their interaction, and the effects of the real world on those parts that don't mention real-world (real accident) effects, would only compound the problems, leading to more support for the "could have severe bad effects ... etc." section of the contention. I consider the contention as a whole, dealing with communications, and not as a catalogue.

EPX-8: See contention; procedures for activation and use of FBS before state assumes control, FEMA Interim Report, p.12 bottom; p.13, G.4.b; inadequate coverage, ibid (p.12 bottom, p.13 G.4.b); incomplete messages, p.12, see also p.13 G.4.b. Need to resolve problems: ^{10 CFR} 50.47
a(2)
(b)(5), (b)(6), (a)(1), (b)(14), 10 CFR 50.57(a)(2), (a)(3), (a)(1), etc.
see above also, applies to both EPX-8 and EPX-2 down to "Epx-2" section)
(b), (c), see (a)

5(a) one page of notes from Betsey Levitas, undated; two pages of typed notes from Lisa Finaldi, 12/20/85; one page written notes by me from phone call from Lisa Finaldi, 12/19/85; other documents as cited.
(b) Epx-2 and Epx-8; Levitas document appears to be EPX-2 only but not certain. See specific responses, to both general and specific ints.

6(a) Advice of unidentified expert (identity withheld). I object to revealing this person's identity because they will not testify and would be subject to harassment, etc. I also object to revealing

any documents, notes or identities re my legal strategy on these contentions since these are work product of me and/or advisers acting as my legal counsel. (b) Objection, see (a)

7(a) not identified yet, but you can expect relevant portions (including those listed above, or others) of emergency plan evaluations by FEMA (Interim Findings dated 8/21/85) and State of NC "Evaluation Report," SHNPP Exercise), appropriate regulations and requirements, NUREG-0654, legal cases (eg. UCS v. NRC), and/or documents received from persons contacted about these issues, or received via discovery.

(b) not yet identified, except as noted in specific responses, these are pages which may be used

EPX-2-1 (entire) see response to 3(a) above, current state of discussions by Finaldi for me; see also Finaldi summary 12/20

EPX 2-2 see Finaldi 12/20 summary

EPX 2-3 Yes, see response to G-4 above, G-5, G-6, (answers both (a) and (b))

EPX 2-4 Communications equipment and backup equipment, personnel and systems must be able to eliminate all difficulties identified. For example, on the common emergency frequency a band width *(even under adverse conditions with good to excellent quality communications)* sufficient to accommodate all the traffic to be expected in a real emergency (more than in an exercise) must be available, through the use of other frequencies and equipment that can contact and communicate on all those frequencies, which must be known, and with sufficient training of personnel that they can effectively use this equipment. These are not changes in the plan, really, but are changes in the equipment required to execute the plan. The Highway patrol equipment must be fully upgraded to meet the demands of all units that would respond to an emergency, providing reliable communications to all these units and extra capacity for relaying other messages as the Highway Patrol may be called on or required to do; ground units of all types,

especially the mobile radiation labs and monitoring personnel and mobile monitoring equipment, must be provided with redundant, reliable communications equipment capable of directly reaching the emergency response organizations without relays; sufficient telephones and other communications equipment must be provided, not only for Harnett County, but to prevent telephone overload as cited by the communications/public info evaluator for the State, and to provide reliable communications when telephones are all tied up, for all emergency response organizations, NRC, FEMA, CP&L etc; sufficient personnel must be provided, via the plan or otherwise, to prevent extra radio traffic from overloading them; delays in giving info to Emergency Medical Services must be minimized (cut to a minute or two, especially for health and safety related information) and the fax/hard copy machines must be fully reliable and dual communications of info must not interfere with prompt action -- this evidently requires both management and training changes, and reliable communications for quickly checking messages that come through, to confirm them. This is especially vital for health and safety related info, e.g. plant status, radiation readings, response personnel status.

(b) see responses to G-4 above, the contention, and use a little common sense for once, please. To solve a problem, you need to have the equipment, personnel, training, reliability and systems in place to actually solve it.

EPX-~~2~~-2-5(a) Review continues, more detailed descriptions may well be realized and more info or requirements added. The number of communications personnel and the redundancy and reliability of equipment *and quality of communications channels provided, even under limiting conditions* must be adequate to a "real world" (actual accident) emergency.

(b) see h(b).

EPX-8-1. I don't recall. See response to General Interrogatory 3-(a) above. There will be followup after discovery.

EPX-8-2. See Response to EPX-8-1.

EPX-8-3. Not yet, except of course for the requirements of the rules, the need for the system to work promptly, and the other factors (including elaboration of these) given in response to your general interrogatory #4 above, and General Interrogatory 5 above. This is response to both (a) and (b).

EPX-8-4. I presume you refer to the FEMA "Interim Findings" as the "FEMA Exercise Report". These indications are not specified in that report. FEMA has been under a FOIA to provide the evaluators' notes and all other documents relating to this report since summer, 1985, but to the best of my knowledge has not provided any. It is possible that FEMA evaluation criteria give some of this information.*

EPX-8-5. Same presumption as to identity of "Report" as in EPX-8-4 above. The specification is not provided on that page. Again, FEMA is under a FOIA request to provide the evaluator's notes and all other documents relating to this matter (and every matter they evaluated during the exercise). No documents have been received, to my knowledge. It is possible that the FEMA operational or evaluation guides give some of this information but it is not specified.

EPX-8-6. As in the answers to EPX-8-4 and -5 above, FEMA has not provided this information, is under a FOIA request to provide it, and does not specify at the page indicated, how this occurred. However, the "public announcement of the escalation to General Emergency was not made until almost an hour after it was declared", (FEMA Interim Findings, p.12) and this may be related. Also related may be the statement at page 18 that "Verification of the FBS was not managed effectively through the use of established plans.

See also responses to general interrogatories 3 and 4, above.

EPX-8-7. FEMA has not provided this information, is under a FOIA to provide it, and has not provided the content of a complete message either; evaluator's notes and related documents have not been provided under the FOIA request.

EPX-8-8. FEMA is under the same FOIA about this information, evaluator's notes and related documents. They have not provided it. It may exist in the evaluation guide in some form but is not specified. Page 17 clearly gives no detail about these numerous problems.

The same FOIA situation applies to EPX-8-9, 8-10, 8-11. The FOIA will be renewed 12/23 if nothing comes in by then.

EPX-8-9. Page 18 provides no details on this. See note about FOIA and FEMA in EPX-8-8 above and other interrogatory responses supra.

EPX-8-10. FEMA does not explain on that page, except to refer to verification. See FOIA/FEMA note in EPX-8-8 response above, and other responses supra. Direct communication with the EBS stations to verify what they did and when they did it would be another obvious meaning. Having the EBS stations know what needs to be in a nuclear power emergency message, instructing them to call in (to a dedicated phone line with non-published confidential number) or giving them dedicated radios on a clear frequency to communicate with the EBS activators (SERT or CP&L or both and/or others) would also be an obvious improvement. Need to promptly send out EBS messages when they are asked to be sent is something everyone involved with the EBS should have had communicated to them.

EPX-8-11. Making the EBS messages available to all members of the EOC Staff (FEMA Interim R~~a~~ Findings, "report" at 18, and the support for the statement (ibid p.19) that EBS procedures should be improved relate to this. But again, FEMA has not provided additional info. See FEMA/FOIA note in EPX-8-8 and other responses supra.

One obvious problem is getting the message out promptly, i.e. with delay minimal (at most a minute or two) once activation of the EBS is decided on by appropriate authority.

EPX-8-12. The execution, not just the plan, needs to be changed. Obviously they should find out what all the problems FEMA refers to were, and take action that assures the problems have been solved and that there is backup that independently will function if the "solution" doesn't work or fails in a real emergency. (b) See response to General Interrogatory 4(a) above; also, use common sense and put a priority on making the system really work in a real (unannounced, unscripted) accident. This EBS is not a toy -- it is the primary means to meet the requirement of getting an instructional message to everybody in the EPZ within 15 minutes, as required by 10 CFR 50 Appendix E IV. D. 3 and its implementing regulations, including NUREG-0654. Thus, it has to be certain to work in a test if it is to be relied on in a real emergency, and all the components of activating it -- promptness, complete information, effective coverage of the EPZ, having people alerted to tune to it, repeating it as necessary within 15 minutes to reach virtually 100% of those in the EPZ, verifying the message has gone out, verifying it can be received and is being received within the EPZ, being sure the message is on the air within not more than 2 minutes after activation, making sure problems and mismanagement of any sort do not interfere with the activation or effectiveness (or any of the other above-mentioned capabilities) of the EBS -- must work in a test. If you can't do it right in a test announced in advance, how can you do it right in a real accident, under pressure, when you don't know it's going to happen, when it catches you asleep or on a bad day or night, etc?

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It doesn't make sense to accept anything less than performance with no real flaws, in testing a system on which people's lives can depend.

Obviously, the EBS is the key to taking protective action. What does the emergency information distributed in the EPZ say? Tune to the EBS, it says, and do what the EBS tells you. A lot of good that will do if the EBS is giving wrong, delayed or incomplete information, or isn't activated when needed. This heavy dependence on the EBS for communication with the public about WHAT PROTECTIVE ACTIONS TO TAKE or NOT TAKE is another key reason why the EBS has to be flawless in its test performance. In a real accident, worse performance is to be expected since no one knows the accident is coming and they can't get ready for it, repair things to be sure they'll work on-cue, test things right before the official test, and so on. Thus, the EBS in a test must be flawless in tests to give reasonable assurance that it will work in a real accident. The EBS is key to getting protective action taken because it alone will tell the vast majority of persons (virtually all of them) in the EPZ what to do in a nuclear accident. (This answer is to both parts (a) and (b) -- more reasons may be detailed later. I'm not through analyzing this issue.) One other reason is the FACT of performance is the key here, not a promise. Ineffective use cannot give assurance of effective use especially when the real use will be under surprise, more demanding conditions of a real accident.

EPX-8-13(a)(b) See response to EPX-8-12 a and b above. Other changes that would be helpful would be CP&L putting as much energy into solving the problems as it evidently does into fighting off contentions. Improvements by the state and improvements in the EBS system and training of personnel who actually put out the EBS messages, and communications with the EBS as explained in response to EPX-8-10 above, and solving all EBS problems referred to above, or asked about in your interrogatories --, are all necessary. Why? See EPX-8-12 above, but the basic reason is that the EBS has to work or emergency response will not have a public response when one is necessary.

Update response to general interrogatories 4, 5 and 6.

I am not sure if I relied on recommendation 1 at page 16 of the state "Evaluation Report / SHNPP Exercise." in formulating EPX-2. I think I did. It certainly supports contention EPX-2, and thus is responsive to EPX-2-3(a), EPX-2-4(a) and EPX-5(a).

Update response to EPX-8--4, 8-5, 8-7(?), 8-10, 8-9, 8-11

FEMA, page 16, says "The manager sought clarification from the plant," but clarification was never received; he "received no response to his calls for clarification." The manager "should have followed SOP describing siren and EBS coordination during a Site Area Emergency."

Update EPX-8-12

Likewise, p.17, "the mechanics of activating the EBS" was what necessitated terminating a conference call, causing "numerous problems" (FEMA Interim Findings) so those mechanics need to be redone or given an alternative so that they will not cause those problems or other problems. FEMA also says (p.19) that EBS procedures should be improved. Presumably these procedures, whether in the plan, in ERP implementing procedures, or in other procedures, need to be improved to avoid the problems found in the test while not causing or tending to cause other problems for real emergencies or future tests.

RESPONSE ON PRODUCTION OF DOCUMENTS

CP&L possesses most of the documents referred to herein, but I will gladly produce the others for inspection and/or copying at a mutually agreed-on time and place, preferably within normal business hours. *NB There is another Levitas document used in EPX contention*

I affirm that my typewriter ribbon is about worn out and that *Prep* the above responses are true to the best of my present knowledge and belief.

Wells Eddleman
Wells Eddleman, 12/22/85

FOIA REQUEST

Federal Emergency Management Agency
Attn: FOIA Requests
500 C St. SW
Washington DC 20740

Dear FEMA:

I am the same Wells Eddleman on whose behalf FOIA requests were filed concerning the May 17-18, 1985, emergency planning exercise at the Shearon Harris Nuclear Power Plant in North Carolina. I hereby renew the FOIA requests ^{Under 3 U.S.C. 552} _A for the notes (handwritten and otherwise) and documentation for the deficiency G.H.b, and for all documentation relating to any statements concerning the EBS at Harris on pages 12,13,15, 14, 16,17,18 and 19 of FEMA's Interim Findings re the Shearon Harris Plant exercise. Jack Gælover of FEMA was the evaluator responsible for pp 12-13; Wake County evaluators were ~~XXXXXX~~ Cheryl Stovall, FEMA; Elliott Levine, FEMA, and Phil Kier, FEMA. These are shown on the "Federal Evaluator Assignments (SHNPP) May 17-18, 1985, attached to the interim findings. Wake County section beings on pp 15 and runs beyond p.19. It is not clear who evaluated the matters on pp 14-15.

I request that all documents, notes and other information relating to the Harris Emergency Broadcast system activation, messages, evaluation, use, deficiencies in use, management of use, or any other documents related to the EBS during that May 17-18 exercise, or since, be provided. I request a waiver of fees since this information is being used to attempt to protect the health and safety of the public, and not for any private gain.

Wells Eddleman
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23 December 1985