

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CV-00265-H

MICHAEL BATEMAN, VIRGIL GREEN,)
FORREST MINGES, JR., GRNC/FFE, INC.,)
and SECOND AMENDMENT FOUNDATION,)
INC.,)

Plaintiffs,)

v.)

BEVERLY PERDUE, REUBEN F. YOUNG,)
STOKES COUNTY, and CITY OF KING,)

Defendants.)

**AFFIDAVIT OF
DOUG HOELL**

I, Doug Hoell, being duly sworn, do depose as follows:

1. I am over 18 years of age, am competent to testify, and have personal knowledge of the matters referred to herein.

2. I am the Director of the North Carolina Division of Emergency Management. I have served as Director of the Division since July of 2005 and have worked in the Emergency Management field since March of 1976.

3. My responsibilities as Director of the North Carolina Division of Emergency Management include managing an agency with 178 employees, serving as the leader of the State Emergency Response Team, which includes all state agencies, serving as Vice-Chair of the State Emergency Response Commission, and advising state government leaders on matters related to emergency and disaster management.

4. I have had a direct role in response and recovery regarding a number of disasters. Among them were Hurricane Hugo in 1989, Hurricane Andrew in 1992, Hurricane Fran in 1996, Hurricane Floyd in 1999, the terrorist attacks of 2001, and Hurricane Katrina in 2005. I have also had experience in responding to dozens of lesser disasters, and hundreds of site specific emergencies.

5. When disasters threaten the State of North Carolina, my staff and our partners who make up the State Emergency Response Team must evaluate the potential risks and mobilize the appropriate personnel and equipment to be able to address the potential impact. One of the first actions required in an approaching disaster is for the Governor to declare a State of Emergency. The State of Emergency is a pre-requisite to any request for federal disaster assistance that the Governor may choose to seek during the response or recovery phases of the operation.

6. Disasters, be they natural, technological, or acts of terrorism, have the potential to damage, interrupt, and destroy critical infrastructure and to eliminate services and processes that we take for granted in our daily lives. Electricity is a good example. Many disasters damage or destroy electrical distribution systems. As a result, lights, heating and air conditioning, refrigeration, communications (phones, computers, radios and televisions), traffic signals, critical facilities (i.e. nursing homes, hospitals, and emergency services facilities), retail businesses such as grocery stores and pharmacies, schools, and day care facilities are all affected. Unless auxiliary power sources are available, the darkness will prevail until the systems can be restored.

7. Emergency services are kept extremely busy in addressing the immediate needs of disaster victims. Emergency medical service, fire departments, law enforcement personnel, hospitals, public shelters, emergency communications systems, public works, transportation systems,

and the media are all at work 24/7 providing response and mitigation efforts to the effects of the disaster.

8. A State of Emergency is necessary for the purpose of maintaining order during these types of conditions. The State of Emergency allows for the Governor to ask for help from the federal government and mutual aid from other states, and to enforce rules and regulations that will aid in the public safety. A restriction on the transport of weapons off of one's premises is an example of an important safety measure in these circumstances. Otherwise, a very real concern exists that innocent people will be injured or killed.

9. Local governments typically ask for support from the Highway Patrol to assist with traffic control and area security, and such governments also seek assistance from the National Guard regarding traffic control, the movement of commodities, delivery of auxiliary power, and a variety of other missions. During such circumstances, presence of uniformed officers helps to ensure the public safety.

10. I vividly recall a number of noteworthy states of emergency over the years in which I have been involved. In the fall of 1990, a dredge, the Northerly Island, was at work in Oregon Inlet working to keep the channel clear. The crew set anchors in the face of a blowing nor'easter, but the vessel dragged anchor and struck the Bonner Bridge, severing the bridge and isolating Hatteras Island. At the time, there were thousands of residents and tourists on the island, and it was necessary to set up an evacuation route across Hatteras Inlet to Ocracoke, and then across Pamlico Sound to Cedar's Island and Swan Quarter by ferry. Citizens had to wait in their cars in lines of traffic miles long to be loaded onto the ferries. Armed Coast Guard personnel patrolled the lines of cars to

provide a law enforcement presence and to protect the safety of the affected citizens. With round the clock ferry service, it took about five days to evacuate the tourist population.

11. After Hurricane Andrew in south Florida in 1992, North Carolina sent 300 personnel and roughly 200 pieces of heavy equipment to Homestead, Florida on a mission to assist with debris clearance. We established a base camp in a city park. We were supported by the North Carolina National Guard, and due to the circumstances in the impacted area, we re-installed a chain link fence around the park that had been knocked down by the storm. We established security lighting on all perimeters, and we had armed guards patrolling our camp to protect our personnel and equipment. Everything in the City of Homestead was damaged or destroyed. People had campfires burning in their yards because there was no electricity and thus no light. Helicopters with bright searchlights flew over the city constantly at night, and law enforcement units patrolled in packs of eight to ten patrol cars. It was a dangerous environment, and allowing weapons in the hands of highly stressed disaster victims outside of their own property would have been a recipe for further disaster.

12. When the terrorists attacked the World Trade Center and the Pentagon, North Carolina had just accepted responsibility for the management of the Emergency Management Assistance Compact, the nation's mutual aid system. We sent personnel to New York and to Washington, D.C. to work in support of FEMA and the New York Emergency Management office. Our people were on missions to help restore order and to deliver the correct resources for response and recovery operations. This was one of many examples of a situation in which the presence of armed citizens in public areas would have made a bad situation even more dangerous.


13. Our personnel responded to Waveland, Mississippi after Hurricane Katrina. One of our staff members was approached by armed hoodlums intent on stealing his disaster supplies. Fortunately, he was rescued by local law enforcement personnel.

14. Disaster environments are unstable places where a traumatic event has just been experienced. Because of the likely damage to infrastructure and the heavy demands on emergency services, it is important to eliminate weapons from that environment to the fullest extent possible so that emergency workers can do their jobs and protect both the public and themselves. Disaster response and recovery is focused on rescuing people in need, providing temporary shelter to persons who have nowhere else to go, and fulfilling basic needs until the infrastructure can be restored. Restricting weapons in public areas during such circumstances is a highly prudent action to take in protecting the safety of our citizens and our responders.

This the 13 day of December, 2010.


Doug Hoell

Sworn to and subscribed before
me, this the 13 day of December, 2010.


Notary Public

My commission expires: 8-15-2012

Respectfully submitted, this the 15th day of December 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on this day, December 15, 2010, I electronically filed the foregoing **AFFIDAVIT OF DOUG HOELL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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