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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'95 SEP -7 P2:56

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Before Administrative Judges:

Charles Bechhoefer, Chairman  
Dr. Jerry R. Kline  
Dr. Peter S. Lam

! SERVED SEP - 7 1995

In the Matter of  
  
GEORGIA INSTITUTE OF  
TECHNOLOGY,  
Atlanta, Georgia  
  
Georgia Tech Research Reactor  
  
(Renewal of Facility License  
No. R-97)

Docket No. 50-160-Ren

ASLBP No. 95-704-01-Ren

September 7, 1995

MEMORANDUM AND ORDER  
(Responses Concerning Mootness)

In our Memorandum and Order (Consideration of Mootness of Contention 5), dated August 1, 1995, we invited parties' comments on questions raised by the Commission in CLI-95-10, 42 NRC 1, 3 (July 26, 1995). Our Memorandum and Order referenced a potential "revised" or "new" contention that GANE might submit and permitted other parties to respond.

The foregoing reference was intended to assist us in determining whether a valid contention existed concerning material that was not included in the Applicant's offer to remove material from the site but nonetheless was among the materials for which GANE in its initial contention sought relief during the 1996 Olympic Games. In Paragraph 3 of

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CLI-95-10, the Commission had inquired whether the security of such residual material might constitute a valid contention.

GANE in its August 31, 1995 response to our August 1, 1995 Memorandum and Order has defined Cobalt-60 as the only material with respect to which its contention is not moot. GANE recognizes that the Commission has transferred regulatory authority over this material to the State of Georgia but cites authority for the Commission to override this transfer.

Prior to our advising the Commission as to its mootness inquiries, we invite the Applicant and Staff to respond to GANE's claims in this regard and to delineate whether the Commission, and this Licensing Board as its delegee, has authority to take any action with regard to overriding the State's control of the Cobalt-60. The Applicant's response should be filed by Monday, September 18, 1995, the Staff's by Friday, September 22, 1995. After receiving these responses, we will decide whether GANE's claims constitute a valid contention.

For the Atomic Safety and  
Licensing Board

  
Charles Bechhoefer, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Md.  
September 7, 1995

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

GEORGIA INSTITUTE OF TECHNOLOGY  
ATLANTA, GEORGIA

Docket No.(s) 50-160-REN

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMO & ORDER (RESPONSES...) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)50-160-REN  
LB MEMO & ORDER (RESPONSES...)

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Dated at Rockville, Md. this  
7 day of September 1995

  
Office of the Secretary of the Commission