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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

ATOMIC SAFETY AND LICENSING BOARD

'84 NOV -6 A10:04

Before Administrative Judges:

Morton B. Margulies, Chairman
Gustave A. Linenberger, Jr.
Dr. Oscar H. Paris

SERVED NOV. 6, 1984

In the Matter of
GEORGIA POWER COMPANY, ET AL.
(Vogtle Electric Generating
Plant, Units 1 and 2)

Docket No. 50-424-OL
50-425-OL

ASLBP No. 84-499-01-OL

November 5, 1984

MEMORANDUM AND ORDER
(Ruling On Intervenors' Objections To
Order Of September 5, 1984 And Other Matters)

On September 5, 1984, we issued a Memorandum and Order, in the captioned proceeding ruling on the admissibility of proposed contentions of Intervenors Campaign for a Prosperous Georgia and Georgians Against Nuclear Energy. Georgia Power Company, et al. (Vogtle Electric Generating Plant, Units 1 and 2), LBP-84-35, 20 NRC ____ (September 5, 1984). Intervenors timely filed objections on September 27, 1984 to the Board's rulings on Contentions 10.2 and 11. Pursuant to our recommendation Intervenors had consolidated their efforts and are acting jointly. We consider their contentions consolidated and movants as joint intervenors, hereinafter to be referred to as CPG/GANE.

Applicants, Georgia Power Company and the other owners in accordance with our order, filed a reply to Intervenors' objections on

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October 12, 1984, and Nuclear Regulatory Commission Staff (Staff) did so on October 22, 1984.

In our Memorandum and Order of September 5, 1984, we asked the parties to confer for the purpose of rewording Contention 8, which relates to quality assurance. They were unable to agree and instead filed statements of position. This subject will be treated in this Memorandum and Order along with that above and a schedule will be set forth for submitting contentions on emergency planning for Plant Vogtle. Contention 10.2

Intervenors had asserted for their subcontention that synergistic effects in environmental qualification of equipment had not been considered by Applicants. We found Applicants had addressed synergistic effects on cable and that Intervenors had not identified any equipment or components which they believed to be susceptible to synergisms, and to which a contention would be directed. The subcontention was found to lack a specific basis and its admissibility was denied.

The September 27, 1984 objection to our ruling was in the nature of a petition for reconsideration. It offered nothing in support of their position that had not been previously submitted and considered. They continue not to identify any equipment or components that is alleged to be subject to environmental qualification requirements and for which synergism has a significant effect on equipment performance. Intervenors have not presented us with any valid grounds that would warrant the reconsideration of our prior ruling. The subcontention remains without basis and we reaffirm our prior ruling.

Contention 11

Intervenors asserted in the proposed contention that Applicants failed to consider defects in the Vogtle steam generator system that constitute an undue risk to health and safety. In support CPG/GANE cited an NRC summary of Unresolved Safety Issues (August 20, 1982) that stated that the steam generator tubes, of a manufacturer that was to supply those for Plant Vogtle, had shown degradation from several causes.

To overcome some of the causes, the Vogtle FSAR recited specific measures which are to be taken to protect against water hammer effects and corrosion effects that include denting and stress corrosion cracking in the steam generator tubes. Intervenors failed to indicate in what specific manner any of these corrective measures, adopted by Applicants to overcome the possible deficiencies, are inadequate. Cited unresolved safety issues, consisting of bubble collapse or vibration-induced fatigue cracking mechanisms for tube degradation that could contribute to accidents associated with tube failure occasioned by these mechanisms were not addressed by Applicants in the FSAR.

Absent the submittal of basis by Intervenors to support a claim that deficiencies will exist in the Vogtle steam generator system arising from water hammer effects or corrosion effects, we narrowed the scope of Contention 11 to address only bubble collapse and vibration-induced fatigue cracking mechanisms for tube degradation.

Intervenors' objection to the Board's ruling is nothing more than a repetition of their original assertions made in support of the

contention, which we found wanting. They provide no grounds for the Board to reconsider its prior ruling, which is affirmed.

Contention 8

In our Memorandum and Order of September 5, 1984, we determined that further inquiry was justified to determine whether Applicants have formulated and implemented an adequate quality assurance program for the facility. At that time CPG and GANE were individually participating in the proceeding. We found grounds to admit a contention of CPG (CPG Contention 8) whose interest was in the area of welds; and of GANE (GANE Contention 8), the scope of which extended to matters in addition to welds. We instructed the parties to confer about the language of the contentions with the objective of rewording them in a manner that would permit more focused litigation on the issue. CPG and GANE were asked to consider consolidating the two contentions.

The parties reported back to the Board that their efforts have been unsuccessful. CPG/GANE on October 10, 1984, submitted a revised contention on quality assurance covering "proper welding, placement of concrete, the use of properly trained personnel, inspection/testing, material preservation, procurement, and adequate and complete corrective action in response to violations." Applicants proposed that the scope of the contention be limited to welding of both the reactor coolant and containment systems. Staff asserted that the CPG/GANE revised contention was overly broad and lacked specificity. Its position was that the CPG contention involving welds, that had been initially submitted, was close to admissibility.

Our review of the bases previously submitted by CPG and GANE to support the contentions on quality assurance, in the area of welds, found them to be sufficient to raise the issue in a broad context extending to such matters as inspection and the adequacy of radiographs made of the welds. Additional bases exist for a contention focusing on improperly documenting the placement of concrete, the inadequate testing of concrete and falsification of concrete quality test records. Sufficient grounds were provided for inquiry into the procurement practices of the Applicants insofar as they may result in the acquisition of substandard materials and into whether corrective action by Applicants is timely accomplished. Another area warranting development in the quality assurance program is whether Applicants' procedures for the protection of equipment are followed.

Intervenors have provided the grounds for a litigable contention in the specified areas, as to the adequacy of Applicants' quality assurance program for safely operating the subject facility.

CPG/GANE in their October 10, 1984 submittal, seek amendment of the bases for Contention 8 in the area of Applicants' procurement practices predicated upon two newspaper articles, of late August and early September 1984. The articles raised the possibility of costs having been increased for the Vogtle facility because of favoritism in the bidding process having been extended to a supplier of the Applicants, through the unauthorized release of bid information. Georgia Power

Company discharged seven employees because of the practice. Intervenors request that an investigation be pursued to ascertain if the alleged favoritism extended to the quality of materials and to ascertain why the quality assurance program did not uncover the program deficiency long ago.

Applicants object to the amendment because Intervenors do not allege any connection between the procurement irregularities and Applicants' quality assurance program. They claim no link is established between the irregularities and the need for an investigation. The owners contend that the request to amend the bases for Contention 8 is inexcusably late and untimely. Furthermore, in an affidavit submitted by the Vice-President and Project General Manager of the Vogtle Project, it was stated Georgia Power Company conducted an investigation which disclosed that the bidding practices primarily involved the purchase from one vendor of expendable supplies, which were not part of the power plant structure and systems and not related to the quality of the plant. It was further recited that there was a minimal amount of safety related work and material provided by the vendor, which audits and reviews by Georgia Power Company disclosed conformed to quality standards. Affiant reported that Georgia Power Company had also determined that adequate controls existed and were applied at Plant Vogtle to ensure that the subject vendor met the requirements of the engineering requisitions and purchase orders.

In a response of October 22, 1984, Staff believes that Intervenors requested amendment of the bases of Contention 8 "is a step in the direction of providing a basis for a properly focused contention on whether the recent firing of seven of Applicants' workers and alleged favoritism to equipment suppliers extends to or affects the quality of the materials purchased from the suppliers in question or other suppliers." Staff suggests that the Board grant the parties additional time within which to attempt to agree on the wording of a Contention 8 limited to the recent allegations reported in the press.

The Board finds no grounds to permit the amendment of the bases underlying Contention 8, as sought by CPG/GANE. The newspaper articles on which the request is predicated do not in any way relate the reported procurement irregularities to any safety inadequacies at Plant Vogtle. A concern expressed in the articles was how the practices affected the costs of the plant and their being passed on to ratepayers. The purpose of the Commission's requirement for a quality assurance program is to assure the safe operation of the plant and is not imposed to promote cost effectiveness. Intervenors recognized the absence of an established nexus between the procurement irregularities and plant safety. At this stage what they seek is an investigation to determine if any exists. In that Applicants reported the findings of their investigation after Intervenors' request was made, it is unknown whether CPG/GANE now consider that further inquiry is unnecessary.

The request for an investigation does not provide the basis for broadening a litigable contention dealing with the merits of an existing quality assurance program. It would be premature to base a contention on matters that are wholly in the realm of speculation and may be non-existent. For that reason we deny the request to amend the bases of the contention, as requested.

Evidently Staff believes an investigation might establish a link between Applicants' procurement practices and the effectiveness of their quality assurance program. The action we have taken here should not in any way be construed as dissuading Staff from making an inquiry into this area. Licensing of the plant is dependent on Applicants' ability to operate the plant safely. We should be advised of the results of any inquiry Staff makes and informed if action is required by the Board.

Based upon our findings in the Memorandum and Order of September 5, 1984 and the above, we restate the consolidated CPG/GANE Contention 8 as follows:

Applicants have not and will not implement a quality assurance program for Plant Vogtle for welding, for properly documenting the placement of concrete, for adequately testing concrete, for the preparation of correct concrete quality test records, for procuring material and equipment that meet applicable standards, for protecting equipment and

for taking corrective action as required, so as to adequately provide for the safe functioning of diverse structures, systems and components, as required by 10 CFR Part 50, Appendix B, such that reasonable assurance exists that operation of the facility will not endanger the public health and safety.

Contentions on Emergency Planning

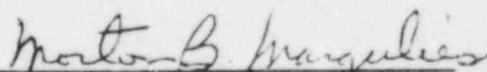
In the September 5, 1984 Memorandum and Order, Intervenors were authorized to submit revised contentions on emergency planning, within 30 days of Applicants' issuance of the emergency plans. It was expected Applicants would do so about October 1, 1984. Applicants now expect to file on-site emergency plans in December 1984. Official state and county emergency plans are expected to be filed in May 1985 but a draft is expected to be made available before then. The parties have agreed and we concur that any CPG/GANE contentions relating to on-site emergency plans and the arrangements which Applicants have made with the Department of Energy Savannah River Project, concerning the latter's response within the Savannah River site to an emergency at Vogtle, shall be filed within 30 days after each of the respective filings are made with the parties. Contentions related to the state and county emergency plans shall be due within 30 days of the time of their filing with the parties, or if draft plans are provided, within 30 days after furnishing of the draft.

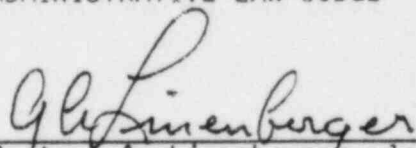
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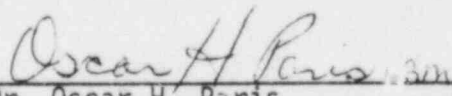
Based upon all of the foregoing, it is hereby Ordered:

1. Intervenors' objections to the Boards Rulings on Contentions 10.2 and 11, in the Memorandum and Order of September 5, 1984, are overruled.
2. Intervenors' Contention 8 is restated and admitted as set forth above. The request to amend the bases of Contention 8 is denied.
3. The time for filing revised contentions on emergency planning is as set forth above.

THE ATOMIC SAFETY AND
LICENSING BOARD


Morton B. Margulies, Chairman
ADMINISTRATIVE LAW JUDGE


Gustave A. Linenberger, Jr.
ADMINISTRATIVE JUDGE


Dr. Oscar H. Paris
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 5th day of November, 1984.