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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

DOCKETED
USNRC

'84 SEP 19 P3:43

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Administrative Judges:

September 19, 1984

Alan S. Rosenthal, Chairman
Dr. Reginald L. Gotchy
Howard A. Wilber

SERVED SEP 19 1984

In the Matter of)

COMMONWEALTH EDISON COMPANY)

(Byron Nuclear Power Station,
Units 1 and 2))

Docket Nos. STN 50-45402
STN 50-45502

ORDER

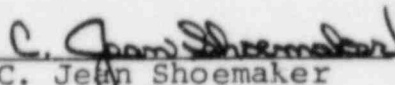
On September 12, 1984, the intervenors filed a motion with the Licensing Board seeking to reopen the record in this operating license proceeding for the purpose of "includ[ing] the Byron station design as an issue." As matters now stand, the Licensing Board's jurisdiction over the proceeding is limited to the matters remanded to that Board in ALAB-770, 19 NRC ___ (May 7, 1984). We entertain considerable doubt that the issue sought to be raised by the intervenors' motion comes within the scope of the remand, which was confined to questions relating to "whether, notwithstanding quality assurance deficiencies, reasonable assurance exists that the Byron facility has

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been properly constructed." ALAB-770, 19 NRC at ____,
n.72.^{1/} Nonetheless, we believe it appropriate for the
Licensing Board to consider the motion in the first
instance and, thus, hereby authorize it to do so.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board

^{1/} That we treat design quality assurance issues as
being separate and distinct from construction quality
assurance issues is clear. See, e.g., Pacific Gas
and Electric Co. (Diablo Canyon Nuclear Power Plant,
Units 1 and 2), ALAB-756, 18 NRC 1340, 1342-43 (1983).