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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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USNRC

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Before Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

SERVED DEC 12 1984

In the Matter of
Georgia Power Company, Et Al.
(Vogtle Generating Plant,
Units 1 and 2)

Docket Nos. 50-424-OL
50-425-OL

(ASLBP No. 84-499-01-OL)

December 10, 1984

MEMORANDUM AND ORDER
(Denying Applicants' Motion
Seeking Revision Of An Order)

On November 14, 1984, Applicants filed a "Motion To Correct ASLB's Memorandum and Order Dated November 5, 1984." They seek to revise Contention 8, on quality assurance, which was drafted by the Licensing Board. Intervenors CPG/GANE replied to the motion on November 30, 1984, requesting that it be denied. Staff in a response dated November 27, 1984, asserted it considers Applicants' motion to be one for reconsideration, under 10 CFR 2.752(c), which does not permit replies unless the board so directs. Staff chose not to seek leave to file a response to Applicants' motion.

Contention 8 evolved from individual contentions filed by CPG and GANE, on the issue of alleged deficiencies in Applicants' quality

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assurance program. In our Memorandum and Order of September 5, 1984, we found there were grounds for such contentions and requested Intervenors to consolidate their contentions and the parties to draft the contention in a more focused manner. The contentions were consolidated but the parties were unable to agree as to the substance and wording of the contention.

Based on the material of record, in our Memorandum and Order of November 5, 1984, we restated 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 5Q, Appendix B, such that reasonable assurance exists that operation of the facility will not endanger the public health and safety.

The gravamen of Applicants' motion of November 14, 1984, is that we should eliminate from Contention 8 the matter of the "preparation of correct concrete quality test records" as it relates to its quality assurance program. The basis for doing so is Applicants' presumption that in restating the contention the Licensing Board relied on a statement contained in an NRC SALP report (IE Report 83-106) and that we did not have before us the report to which the SALP report referred. A copy of that report was furnished with the motion. Applicants assert that the investigation resulted in a finding that the allegation of

falsification of concrete quality test records was unfounded.

Intervenors would deny Applicants' motion on the grounds that the report to which the SALP report referred shows Applicants failed to maintain adequate inspection and test records, as required by 10 CFR 50, Appendix B, Criterion XVII, and that Contention 8 therefore should be maintained in its entirety as stated by the Board.

What we have before us is not an attempt at correcting a contention but an effort to litigate a part of the contention. When we drafted the contention we did so on the basis of material of record that was before us. It supports an allegation on quality assurance, inquiring into the area of the preparation by Applicants of correct concrete quality test records.

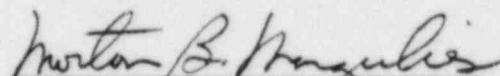
Following our statement of the contention on November 5, 1984, Applicants' introduced new matter on November 14, 1984, bearing on its preparation of concrete quality test records. The thrust of Applicants' motion is that the new material disproves the allegation in the contention. Intervenors dispute that it does so. It is a matter in controversy.

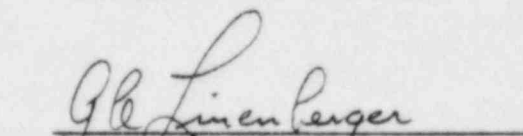
It is premature to look to the Licensing Board to adjudicate the subject allegation in Contention 8 at this time. Under Commission practice the matter may be resolved under a motion for summary disposition or at an evidentiary hearing. It is now inappropriate to decide the issue on the pleadings before us.

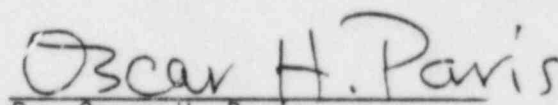
The motion is hereby denied.

It is so Ordered.

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 10th day of December, 1984.