

March 3, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

'86 MAR -5 P12:03

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF REGULATORY
DOCKETING & SERVICE
BRANCH 1

| | | |
|------------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | |
| GEORGIA POWER COMPANY |) | Docket Nos. 50-424 |
| <u>et al.</u> |) | 50-425 |
| |) | (OL) |
| (Vogtle Electric Generating Plant, |) | |
| Units 1 and 2) |) | |

NRC STAFF RESPONSE TO "APPLICANTS' MOTION FOR
SUMMARY DISPOSITION OF JOINT INTERVENORS' CONTENTION
EP-7 (EMERGENCY PLANNING IN SOUTH CAROLINA)"

I. Introduction

On February 10, 1986, Applicants filed a Motion for Summary Disposition of Joint Intervenors' Contention EP-7. This contention involves an asserted lack of information concerning emergency planning in the State of South Carolina. ^{1/} For the reasons presented below and in the attached Stovall Affidavit, the NRC Staff submits that Applicants' Motion should be granted.

II. Legal Standards Government Summary Disposition

The Staff has previously set forth the applicable legal standards governing motions for summary disposition in its July 26, 1985 "Response

^{1/} The text of the Intervenors' Revised Contention EP-7, filed on June 24, 1985, is set out in full at page 2 of Applicants' Motion and at ¶ 2 of the attached Affidavit of Cheryl L. Stovall, an Emergency Management Program Specialist at the Federal Emergency Management Agency (FEMA) (Stovall Affidavit).

8603060245 860303
PDR ADOCK 05000424
G PDR

DS07

to Applicants' Motion for Summary Disposition of Contention 10.3 (Cables in Multiconductor Configurations)" (at pp. 1-3). In order to avoid unnecessary repetition, that discussion is incorporated by reference herein.

III. Applicants' Motion

A. Background

The Licensing Board in admitting Contention EP-7 stated the concern that the emergency planning material submitted by Applicants lacked information relating to emergency planning for that portion of the Vogtle emergency planning zone (EPZ) within the State of South Carolina. Memorandum and Order of August 12, 1985. The Board ruled, based on the information before it, that the emergency planning materials provided by the Applicants were incomplete and that Contention EP-7 was admissible. Id. at 33-34.

Subsequently, in response to a Motion for Reconsideration and Clarification filed by Applicants, the Board issued a Memorandum and Order dated October 1, 1985 providing a further elaboration of its prior ruling admitting Contention EP-7. The Board again emphasized the lack of planning materials for that portion of the Vogtle plume EPZ lying within South Carolina and concluded that "the litigable issue extant in EP-7 is Applicants' alleged failure to provide an emergency response plan for the VEGP which encompasses that part of the plume EPZ within South Carolina." (Order of October 1, 1985 at 8.) As a result of its finding that more information concerning emergency planning in South Carolina was required, the Board ruled that at such time as the Applicants provided additional information concerning emergency planning in South

Carolina Intervenors would have thirty days to submit proposed contentions relating to this new information. Id.

On February 7 and 20, 1986, FEMA received response plans apparently developed to deal with emergencies arising at Vogtle. Stovall Affidavit at ¶ 5. Those plans were prepared by the State of South Carolina, and the United States Department of Energy's (DOE) Savannah River Operations Office, respectively. Id. at ¶ 5. The plans, which have not yet been reviewed by FEMA, ostensibly establish the framework within which the different governmental authorities having jurisdiction over the areas in South Carolina within the Vogtle plume FPZ would respond to an emergency at Vogtle.

B. Basis for Staff's Support of Applicants Motion for Summary Disposition

The Staff supports Applicants' Motion for Summary Disposition for the reasons set out in the motion and in Applicants' Statement of Material Facts as to Which No Genuine Issue Exists to Be Heard Regarding Contention EP-7," the "Affidavit of Jean M. DiLuzio on Contention EP-7." which are attached to the motion, and in the attached Stovall Affidavit.

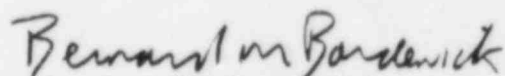
In sum, since the "litigable issue extant in EP-7 is Applicants' alleged failure to provide an emergency response plan for the VEGP which encompasses that part of the plume EPZ in South Carolina" (Order of October 1, 1985 at 8), Staff believes that the Applicants' submission of these emergency plans to the Board and the other parties on February 5, 1986 factually resolves the contention in question. Stovall Affidavit at ¶ 6. It may well be that Intervenors will challenge the efficacy of the recently submitted South Carolina and DOE plans. However, pursuant to the Board's Order of October 1, 1985, any challenge by the Intervenors

to the substance of these recently submitted emergency plans must be made within 30 days thereafter in the form of specific proposed contentions together with statements of bases. Order of October 1, 1985 at 8. The current availability of emergency response plans for those portions of the Vogtle plume EPZ lying within South Carolina, however, satisfies the only issue raised by Contention EP-7, as defined by the Board, and warrants the granting of summary disposition in favor of the Applicants on Contention EP-7.

IV. Conclusion

For the reasons presented above, the Staff submits that Applicants' motion and supporting papers, and the attached Stovall Affidavit, establish that the Joint Intervenors have raised no genuine issue of fact as regards Contention EP-7. ^{2/} The Staff therefore submits that the Motion for Summary Disposition of Contention EP-7 should be granted.

Respectfully submitted,


Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 3rd day of March, 1986

^{2/} Staff has reviewed "Applicants' Statement of Material Facts as to Which no Genuine Issue Exists to be Heard [etc]" and is in agreement with the Statement in question.