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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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



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| In the Matter of | Docket Nos. 50-424 OL<br>50-525 OL |
| GEORGIA POWER COMPANY, ET AL. | (ASLBP No. 84-499-01 OL) |
| (Vogtle Electric Generating Plant, Units 1 and 2) | April 29, 1986 |



Memorandum And Order
(Ruling On Applicants' Motion For
Summary Disposition Of Contention EP-4)

By motion dated March 6, 1986, Applicants seek summary disposition of Contention EP-4. The contention alleges that the offsite emergency response plans for Plant Vogtle are inadequate because the plans do not adequately identify medical service facilities capable of treating contaminated injured individuals. NRC Staff (Staff), on April 15, 1986, filed a response in support of Applicants' motion. No reply has been received from the Intervenor, Georgians Against Nuclear Energy. For the reasons discussed below, we grant the motion.



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In an unpublished Memorandum and Order dated August 12, 1985, we admitted Contention EP-4 for litigation. As admitted, it provides:

> The offsite emergency response plans for Plant Vogtle do not meet the requirements of 10 CFR 50.47(b)(12) as to arrangements made for medical services for contaminated injured individuals whose condition results from a radiological emergency at VEGP, because the plans do not adequately identify medical service facilities capable of treating contaminated injured individuals.

The bases for the contention are that the plans differ and are confusing in naming hospitals that are available in Georgia for treating contaminated injured individuals, and also that the plans fail to identify treatment facilities for those contaminated injured individuals within the South Carolina portion of the plume EPZ.

The need for a listing of area medical facilities for the treatment of contaminated injured individuals stems from 10 CFR 50.47(b)(12). It states that offsite emergency response plans for nuclear power reactors must provide that "[a]rrangements are made for medical services for contaminated injured individuals."

The Commission interpreted the regulation in Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC 528, 536-37 (1983) stating that contaminated injured individuals include seriously irradiated members of the public and that for individuals who become injured and contaminated and individuals who may be exposed to dangerous levels of radiation all that need be done for emergency planning is to identify medical facilities capable of treating the individuals.

Subsequently, in Guard v. NRC, 753 F.2d 1144 (D.C. Cir. 1985) the Court of Appeals vacated and remanded that part of the San Onofre decision which stated that the identification of treatment facilities constitutes adequate arrangements for medical services for offsite individuals who might be exposed to high levels of radiation in the event of an accident at a nuclear power plant. The Court appeared to give the Commission wide latitude in determining the meaning of 50.47(b)(12).

In response to the Guard decision, the Commission issued a "Statement of Policy" providing interim guidance to Licensing Boards and the Staff that may be employed until such time as the Commission determines how it will respond to the remand. Statement of Policy on Emergency Planning Standard 10 CFR 50.47(b)(12), 50 Fed. Reg. 20,892 (May 21, 1985). We accepted the Commission's guidance that it would be appropriate to litigate the subject, to the extent it pertains to issues that could have been heard before the Court's decision in Guard, i.e., as to whether the plans adequately identify existing treatment facilities. Thus, we admitted the contention.

In their motion, Applicants assert that the matters complained of in Contention EP-4, i.e., that the plans do not adequately identify medical facilities capable of treating contaminated injured individuals, have been rectified and that no genuine issue exists to be heard as to any material fact with respect to the contention and that Applicants are entitled to a decision in their favor on the contention as a matter of law, as provided in 10 CFR 2.749.

The corrective actions were stated to be:

(a) an amendment will be made to the Georgia Plan, which plan identifies Burke County Hospital (Waynesboro, Georgia) as the primary medical facility for any members of the general public in Georgia who might be contaminated and injured, with Humana Hospital (Augusta, Georgia) as a back-up facility, and if neither hospital can provide the needed care, treatment will be furnished at the Oak Ridge Hospital of the Methodist Church (Oak Ridge, Tennessee). The Georgia Plan will be revised to delete reference to Burke County Hospital and Humana Hospital as facilities for the care of individuals who are injured but not contaminated;

(b) an amendment will be made to the Burke County Plan which will bring it into conformity with the Georgia Plan. The revised Burke County Plan will name the Oak Ridge Hospital of the Methodist Church as the treatment facility for those who require care that cannot be provided at the Burke County Hospital or Humana Hospital;

(c) as to the South Carolina Plan and the plans for Aiken, Allendale and Barnwell Counties, South Carolina, they all identify Aiken Community Hospital (Aiken, South Carolina) and Humana Hospital (Augusta, Georgia) as the medical facilities for the treatment of any members of the general public in South Carolina who might be contaminated and injured as the result of an accident at Plant Vogtle; and

(d) the Savannah River Plant, a Federal facility that is partially within the plume EPZ within South Carolina is reported to identify in its plan the Savannah River Plant Medical Building (outside of the Vogtle plume EPZ) and the Dwight D. Eisenhower Medical Center (Fort Gordon, South Carolina) as the medical facilities for the treatment of any Savannah River Plant employees or transients who may be contaminated and injured as the result of an accident at Plant Vogtle.

All of the facilities named, except the Savannah River Plant Medical Building, were identified as being accredited by the Joint Commission for the Accreditation of Hospitals, which required for accreditation approved procedures for treatment of contaminated injured individuals. The Savannah River Plant Medical Building was identified

as having a special Decontamination and Treatment Unit dedicated to the treatment of contaminated injured individuals.

The corrective actions, some of which are to be implemented by amendment of the plans and others that already have taken place, were verified by affidavits from individuals qualified to discuss the matters. The capability of the medical facilities was similarly substantiated.

Certain anomalies were noted in regard to the affidavits pertaining to the plans for the South Carolina segment of the plume EPZ. The affidavits submitted in regard to the plans for South Carolina and the counties of Aiken, Allendale and Barnwell each state that the respective plans identify the medical service facilities capable of treating contaminated injured individuals, although in each of the affidavits it is also stated that when published the plans will contain that information. Copies of the plans dated January 1986, distributed separately from the affidavits, contain the information on the medical service facilities. Also, the Savannah River Plant plan, dated December 1985, which was distributed to the Licensing Board separately, at III-15, lists only the Dwight D. Eisenhower Army Medical Center for the treatment of radiologically contaminated patients. It makes no mention of contaminated injured individuals.

We find that despite the foregoing discrepancies, it is clear from the affidavits, upon which we rely, that each of the planning organizations in Georgia and South Carolina is committed to adequately identifying medical service facilities capable of treating contaminated

injured individuals and will do so in a manner that will overcome the cause for complaint in Contention EP-4. Inconsistencies and confusion in the plans as regards identifying medical facilities in Georgia will be eliminated and the plans will extend to the entire plume EPZ including that part within South Carolina.

In its response of April 15, 1986, Staff takes the position that summary disposition of Contention EP-4 is appropriate. In so doing, it relies upon the affidavit of the Emergency Management Program Specialist for the Federal Emergency Management Agency (FEMA).

Based upon the affidavits of those representing the planning organizations, the FEMA representative concluded that medical services requirements will be met if the plans are revised as indicated in the affidavits. She stated that the plan revisions will remove any confusion about the medical treatment available. The representative agreed with Applicants that all emergency plans for Plant Vogtle adequately identify medical facilities capable of treating contaminated injured persons and that no material issue of fact remains.

The remaining Intervenor in the proceeding, Georgians Against Nuclear Energy, did not respond to the motion.

10 CFR 2.749(d) provides for the granting of a motion for summary disposition if the filings in the proceeding show that there is no genuine issue of fact and that the moving party is entitled to a decision as a matter of law.

Applicants have satisfied the requirements of the regulation and the motion should be granted. They have established, without

contradiction, that the emergency plans for the plume EPZ, as changed, will adequately identify medical facilities capable of treating contaminated injured persons and in so doing will eliminate the cause for complaint under Contention EP-4. No genuine issue of material fact is left for litigation. The corrective action satisfies the contention and renders it nugatory. Applicants are entitled to a decision as a matter of law.

All that is required to be done is to make the agreed changes in the written plans and to assure that the revisions correctly appear in the plans. These are but implementing details. The ministerial act of inspecting the plans to assure that the changes are reflected should be left for verification by Staff and FEMA. See Louisiana Power & Light Co. (Waterford Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1103-04, 1106-07 (1983); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-808, 21 NRC 1595, 1600 (1985). All of the above, including verification, should be accomplished by June 30, 1986 to give finality to the matter.

## ORDER

Based upon all of the foregoing, the Licensing Board hereby orders:

(1) That Applicants' Motion For Summary Disposition Of Contention EP-4 is granted and the contention is hereby dismissed;

(2) That the agreed upon changes in the emergency plans identifying medical service facilities capable of treating contaminated injured individuals be made; and

(3) That Staff and FEMA verify by June 30, 1986 that the changes in the plans have been made.

THE ATOMIC SASFETY AND
LICENSING BOARD

Morton B. Marguiles

Morton B. Marguiles, Chairman
ADMINISTRATIVE LAW JUDGE

G A Linenberger

Gustave A. Linenberger, Jr.
ADMINISTRATIVE JUDGE

Oscar H. Paris

Dr. Oscar H. Paris
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 29th day of April 1986.