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August 20, 1985

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822-1051

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Dr. Oscar H. Paris
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Washington, D.C. 20555

In the Matter of
Georgia Power Company, et al.
(Vogtle Electric Generating Plant, Units 1 and 2)
Docket Nos. 50-424 and 50-425 *OL*

Gentlemen:

In its Memorandum and Order on Special Prehearing Conference Held Pursuant to 10 C.F.R. 2.715a (Sept. 5, 1984), the Board deferred ruling on that part of Joint Intervenor's Contention 5 relating to the 1886 Charleston earthquake until after issuance of the Safety Evaluation Report (SER) for Plant Vogtle. The Board rejected the portion of the contention relating to the postulated Millett Fault. The Safety Evaluation Report has now been issued, and the deferred part of proposed Contention 5 is ripe for a ruling on its admissibility.

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Morton B. Marquies, Chairman
Mr. Gustave A. Linenberger, Jr.
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For the convenience of the Board, the pleadings and arguments of the parties are summarized below.

Joint Intervenors proposed Contention 5 in their Supplements to Petitions for Leave to Intervene on April 11, 1984. Georgians Against Nuclear Energy (GANE) Supplement to Petition for Leave to Intervene and Request for Hearing (April 11, 1984) at 11-13; Campaign for a Prosperous Georgia (CPG) Supplement to Petition for Leave to Intervene and Request for Hearing (April 11, 1984) at 9-11. See also CPG Amendment to Supplement to Petition for Leave to Intervene and Request for Hearing (May 27, 1984) at 10-11. The gravamen of the deferred portion of proposed Contention 5 is that Applicants have not properly assessed the geology of the site because of the alleged possibility of a high intensity earthquake, such as was recorded in Charleston in 1886, occurring near the Vogtle site. As a basis for the contention, Joint Intervenors referred to a November 18, 1982 U.S. Geological Survey letter stating that "no geologic structure of feature can be identified unequivocally as the source of the 1886 Charleston earthquake."

In Applicants' Response to GANE and CPG Supplements to Petitions for Leave to Intervene (May 7, 1984) at 33-38, Applicants described their consideration of the 1886 Charleston earthquake and their compliance with 10 C.F.R. Part 100. Applicants pointed out that Petitioners made no attempt to address Applicants' analyses in the FSAR or treatment of the Charleston earthquake. Applicants also observed that the USGS letter did not address the geology of the Vogtle site but rather addressed the remote possibility that an earthquake similar to the Charleston earthquake could occur anywhere on the eastern seaboard. This remote possibility is the subject of ongoing studies. Applicants opposed the contention as lacking basis. The NRC Staff similarly opposed proposed Contention 5 as lacking specific basis. NRC Staff Response to Supplement to Petition for Leave to Intervene and Request for Hearing Filed By Georgians Against Nuclear Energy and Campaign for a Prosperous Georgia (May 14, 1984) at 10-11.

By letter dated July 12, 1984, the Board requested that the parties address the significance of NUREG/CR-3756, Seismic Hazard Characterization of the Eastern United States: Methodology and Interim Results for Ten Sites (April 1984). NUREG/CR-3756 contained the preliminary results of a probabilistic

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study conducted for the NRC by the Lawrence Livermore National Laboratory in response to the November 18, 1982 USGS letter.

On July 23, 1984, the NRC Staff submitted its response to the Licensing Board's July 12 letter. The NRC Staff maintained that Joint Intervenor's proposed Contention 5 lacked basis, being centered on a description of the Charleston earthquake rather than on the seismic design of the plant. The Staff, however, proposed deferring the contention until after issuance of the SER and its discussion of the 1886 Charleston earthquake studies.

On July 27, 1984, Joint Intervenor's submitted "Response to Licensing Board Inquiry Concerning Seismic Contention." Joint Intervenor's argued that NUREG/CR-3756 constituted "substantial new information requiring a reevaluation of the seismic qualifications. . . ." Applicants responded to the Board's request by letter dated July 27, 1984. Applicants again pointed out that their compliance with the deterministic requirements of 10 C.F.R. Part 100, Appendix A was ignored and unchallenged by Joint Intervenor's. Applicants also pointed out that the probabilistic results of NUREG/CR-3756, although still preliminary, indicated that Vogtle's design basis is less likely to be exceeded than the seismic design bases of seven of the other nine sites studied.

In its Memorandum and Order on Special Prehearing Conference Held Pursuant to 10 C.F.R. 2.715a (Sept. 5, 1984), the Licensing Board granted Joint Intervenor's thirty days after issuance of the SER in which to amend their contention. The Board stated that absent the filing of an amendment, the Board would rule on proposed Contention 5. LBP-84-35, 20 N.R.C. 887, 896-97 (1984).

On July 2, 1985, the NRC provided copies of the Vogtle SER to Applicants and Joint Intervenor's. The geology and seismology of the Vogtle site are addressed in section 2.5. In that section, the NRC Staff concludes that Applicants have satisfied the requirements of 10 C.F.R. Part 100, Appendix A. SER at 2-38. The NRC Staff also addressed in section 2.5.2.4 the most recent (April 1985) results of the probabilistic study conducted by the Lawrence Livermore National Laboratory.^{1/}

^{1/} D. Bernreuter et al., "Seismic Hazard Characterization of the Eastern United States," Lawrence Livermore National Laboratory, UCID-20421 (April 1985).

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When uniform hazard spectra for various return periods are compared with the Vogtle safe shutdown earthquake spectrum, the most recent results of the Livermore study indicate that the probability of the Vogtle safe shutdown earthquake being exceeded is about 10^{-4} per year. The Staff compared the seismic hazard estimates for Plant Vogtle with those for the other sites evaluated. The Vogtle seismic hazard estimates fall in the middle of the sites studied. The Staff therefore concluded that the Vogtle site does not have a perceptively higher hazard than the other test sites. SER at 2-47.

Joint Intervenors have made no attempt to amend their proposed contention to address the Livermore study or the SER. The time afforded them to do so has now expired. The proposed contention lacks basis. It does not address Applicants' seismic analyses and compliance with 10 C.F.R. Part 100, Appendix A, which were described in depth in the FSAR and in Applicants' original response to proposed contentions. Instead, Joint Intervenors in effect do no more than refer to the November 1982 USGS letter. The Appeal Board, however, has held that the information in that letter does not provide a basis for reexamining a site suitability determination made at the construction permit stage. South Carolina Electric & Gas Co. (Virgil C. Summer Nuclear Station, Unit 1), ALAB-710, 17 N.R.C. 25, 26-27 (1983). Moreover, the probabilistic studies that have been conducted in response to the USGS letter further demonstrate the lack of basis to challenge this prior determination. Accordingly, Joint Intervenors' proposed Contention 5 should be rejected.

Sincerely yours,



Bruce W. Churchill
Counsel for Applicants

cc: Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
GEORGIA POWER COMPANY, <u>et al.</u>)	Docket No. 50-424
)	50-425
(Vogtle Electric Generating Plant,)	
Units 1 and 2))	

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