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December 9, 1985

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

GEORGIA POWER COMPANY )  
et al. )

(Vogtle Electric Generating Plant, )  
Units 1 and 2) )

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

NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR  
SUMMARY DISPOSITION OF JOINT INTERVENORS'  
CONTENTION EP-6

(AVAILABILITY OF EMERGENCY PUBLIC INFORMATION/EDUCATION MATERIALS)

On November 18, 1985, Applicants filed a motion for summary disposition of Intervenor's Contention EP-6, which addresses the (previous) unavailability of certain emergency-planning related information (the emergency brochure, telephone directory advertisement, and warning notices). The Staff herein responds to Applicants' motion. For the reasons stated below, the Staff submits that Intervenor's have not raised any issues for litigation and that the contention should therefore be dismissed.

I. ARGUMENT

On June 24, 1985, Intervenor's filed a "revised contention" relating to emergency response. In its Order of August 12, 1985, the Licensing Board subdivided Intervenor's contention into various subcontentions and ruled on the admissibility of the subcontentions. The subcontention

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denominated as Contention EP-6 reads:

Applicants have not shown, pursuant to 10 CFR Part 50 Appendix E, IV D.2 and 50.47(b)(7) that adequate and credible education and notification procedures will be followed during normal plant operation and in the event of an accident at Vogtle. These requirements include "basic emergency planning information," "general information as to the nature and effects of radiation," "signs or other measures ... helpful if an accident occurs." 10 CFR Appendix E, IV, D.2.

Board Order of August 12 at 30.

The Board found that Intervenors had not provided specific challenges to the notification information that was contained in the emergency plans for Vogtle. The Board further found, however, that the plans provided for the distribution of printed brochures to all residents of the emergency planning zone (EPZ), for the placement of an advertisement in the local yellow pages, and for the placement of signs on the banks of the Savannah River to provide information to hunters and fishermen. As to this aspect of the plans, the Board concluded:

Applicants have not made known the contents of the printed brochure, the advertisement and the warning notices. Whether the information to be contained therein will meet the regulatory requirements cannot be determined at this time. Absent knowing what information is to be provided to the public, there is no way to reach a conclusion as to its adequacy and credibility. It is on the foregoing basis alone that we find the proposed contention admissible.

Id. at 32 (emphasis added).

Applicants moved on September 5, 1985 for reconsideration and clarification of the Board's August 12th Order. In response to this motion, the Board made clear that the admitted contention did not challenge the adequacy of the missing information, but merely the fact that the information had not yet been provided. Memorandum and Order of October 1, 1985, at 3. The Board went on to note that "should Joint

Intervenors wish to challenge the adequacy of the content of the public education and information materials, then Joint Intervenors are to file specific proposed contentions with statements of bases within [30 days] after the contents of each of the three specified types of public educational and informational materials are made known to the parties." Id. at 3-4.

By letter dated October 4, 1985, Applicants provided to the Board and parties the text of the emergency brochure, telephone directory ad, and sign for transients. Forty-five days later, on November 18th, Applicants filed their motion for summary disposition of Contention EP-6. The motion was accompanied by a "Statement of Material Facts as to Which no Genuine Issue Exists to be Heard" and the affidavit of Jean M. DiLuzio. The motion recites the procedural history surrounding the admission of the contention, points out that the missing information has now been provided and that Intervenors have not submitted any challenge to that information, and asks that the contention therefore be dismissed.

The Staff supports Applicants' motion. The Staff has previously described in depth the legal standards that govern the application of summary disposition in NRC proceedings. See Staff Response to Applicants' Motion for Summary Disposition of Joint Intervenors' Contention 10.3, dated July 26, 1985. Briefly stated, summary disposition is appropriate when there are no questions of material fact in dispute between the parties, and when the moving party is otherwise entitled to a decision in its favor as a matter of law. In the instant case, the originally admitted contention asserted nothing more than the

absence of various pieces of information. As noted, this information was made available to the Board and parties on October 4, 1985; it is evident that there are no material issues in controversy concerning whether the information is now available. As to the adequacy of the contents of the printed material, Intervenors were provided the opportunity to raise specific challenges within thirty days of their receipt of the material. No challenges have been filed; Intervenors have not placed in issue any questions with respect to the adequacy of the emergency notification documents. The original contention has now been answered; the notification materials have been prepared. No new contention challenging the adequacy of the materials has been proffered to the Board. It is thus clear that there are no material issues of fact in controversy concerning Contention EP-6 and that, as a matter of law, the contention has been satisfied and should be dismissed.

## II. CONCLUSION

For the reasons presented above, the Staff supports Applicants' motion for summary disposition of Contention EP-6.

Respectfully submitted,



Robert G. Perlis  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 9th day of December, 1985

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR SUMMARY DISPOSITION OF JOINT INTERVENORS' CONTENTION EP-6 (AVAILABILITY OF EMERGENCY PUBLIC INFORMATION/EDUCATION MATERIALS)" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 9th day of December, 1985.

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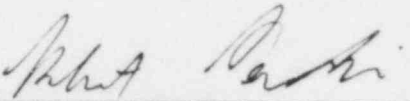
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