

ATTACHMENT 5

TO

NRC STAFF INITIAL STATEMENT OF POSITION ON
JOINT INTERVENORS' CONTENTIONS EC 1.2, EC 1.3,
and EC 6

January 9, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-011-ESP
)
(Early Site Permit for Vogtle ESP Site))

U.S. ARMY CORPS OF ENGINEERS TESTIMONY OF WILLIAM G. BAILEY,
CAROL L. BERNSTEIN, LYLE J. MACIEJEWSKI, AND STANLEY L. SIMPSON
CONCERNING ENVIRONMENTAL CONTENTION EC 6.0

Q1. Please state your names, occupations, and by whom are you employed.

A1(a). (WGB) My name is William G. Bailey (WGB). I am employed as Chief of the Savannah Planning Unit, Savannah-Mobile Regional Planning Center (Environmental Resources, Plan Formulation, and Economics), by the U.S. Army Corps of Engineers ("USACE" or "Corps"), Mobile District. A statement of my professional qualifications is attached hereto.

A1(b). (CLB) My name is Carol L. Bernstein (CLB). I am employed as Chief of the Coastal Branch, Regulatory Division, by the USACE, Savannah District. A statement of my professional qualifications is attached hereto.

A1(c). (LJM) My name is Lyle J. Maciejewski (LJM). I am employed as Operations Project Manager in the Navigations Branch, Operations Division, by the USACE, Savannah District. A statement of my professional qualifications is attached hereto.

A1(d). (SLS) My name is Stanley L. Simpson (SLS). I am employed as the Savannah District Water Control Manager, Engineering Division, by the USACE, Wilmington District. A statement of my professional qualifications is attached hereto.

Q2. Please describe your current job responsibilities.

A2(a). (WGB) As the Chief of the Savannah Planning Unit, Savannah-Mobile Regional Planning Center (Environmental Resources, Plan Formulation, and Economics), I manage the Savannah District Unit's planning program, which includes feasibility investigations, continuing authority studies, floodplain management services, flood insurance studies, planning assistance to states, environmental impact statements, and environmental assessments for pre-authorization and post-authorization studies. I evaluate environmental impacts of complex civil works and regulatory projects. I provide advice and direction, and review the work of environmental staff.

A2(b). (CLB) I serve as Chief of the Savannah District Coastal Branch, Regulatory Division, with full responsibility for planning, programming, administering and enforcing the Regulatory Program, including permit evaluation, enforcement, noncompliance, and mitigation under the Rivers and Harbors Act and the Clean Water Act. I manage and execute the \$4.5M regulatory program for the southern half of Georgia (GA) and supervise 18 interdisciplinary staff including two section chiefs and one field office.

A2(c). (LJM) I am the Operations and Maintenance Project Manager for Savannah Harbor and the Savannah River Below Augusta Project. I budget, schedule work, coordinate, monitor funding and serve as technical point of contact with internal and external customers for work involving maintenance dredging of the harbor and river basin.

A2(d). (SLS) I perform the daily functions of a Water Control Manager, which requires a technical understanding of projects, their purposes, and their interaction with others in the Georgia-Alabama-South Carolina system. I manage the water resources to maximize benefits to the public and minimize negative impacts. I also communicate on a daily basis with project personnel, district elements, and other entities outside the Corps. I manage projects on a daily basis according to guidelines set forth in the Reservoir Regulation Manual. I prepare periodic reports and data-calls on Water Control activities and Water Control Data System. I provide

technical support to Engineering, Planning and Operations Divisions, serving as the Systems Administrator for the CWMS and Water Control Data System and as South Atlantic Division Technical expert on Water Management and data dissemination. I also maintain and implement state-of-the-art computer programs to manage the multipurpose projects of the Savannah River Basin.

Q3. What is the purpose of this testimony?

A3. (ALL) Our understanding is that this proceeding concerns an application by Southern Nuclear Operating Company, Inc. ("Southern") for an early site permit ("ESP") for a site within the existing Vogtle Electric Generating Plant ("VEGP") site near Waynesboro, Georgia. Pursuant to a request from the staff of the U.S. Nuclear Regulatory Commission ("NRC staff"), the USACE, Savannah District, has authorized the participation of Corps personnel in this proceeding to address specific topics within the USACE's authority. The purpose of this testimony is to describe the knowledge of USACE personnel on limited topics concerning the jurisdiction and procedures of the USACE and the present status of certain activities within the USACE's jurisdiction.

Q4. Are you familiar with Contention 6.0?

A4. (ALL) Yes. Our understanding is that Contention EC 6.0 as admitted in this proceeding alleges that:

Because Army Corps of Engineers (Corps) dredging of the Savannah River Federal navigation channel has potentially significant impacts on the environment, the NRC staff's conclusion, as set forth in the "Cumulative Impacts" chapter of the FEIS, that such impacts would be moderate is inadequately supported. Additionally, the FEIS fails to address adequately the impacts of the Corps' upstream reservoir operations as they support navigation, an important aspect of the problem.

It is our understanding that the contention challenges the NRC staff's environmental analysis of potential cumulative impacts of the proposed new Vogtle reactors on the aquatic biota in the Savannah River.

Q5. Does your professional experience include experience with topics raised in this contention?

A5(a). (WGB) Yes. I am responsible for the comprehensive water resources development and management program of the Savannah District. I serve as Savannah Planning Unit's technical expert on the National Environmental Policy Act ("NEPA") and other environmental issues. I prepare environmental compliance documents, including Environmental Assessments and Environmental Impact Statements. I coordinate projects and environmental documentation with Federal and state resource agencies, and I negotiate environmental compliance issues with Federal and state natural resource agencies.

A5(b). (CLB) Yes. As Chief of the Savannah District Coastal Branch, Regulatory Division, I have full responsibility for planning, programming, administering and enforcing the Regulatory Program, including permit evaluation, enforcement, noncompliance, and mitigation under the Rivers and Harbors Act and the Clean Water Act. I develop policy and ensure compliance with a variety of statutes, executive orders, and environmental laws including the NEPA, the Endangered Species Act, and the National Historic Preservation Act.

A5(c). (LJM) Yes. As the Operations and Maintenance Project Manager for Savannah Harbor and the Savannah River Below Augusta Project, I budget, schedule work, coordinate, monitor funding and serve as technical point of contact with internal and external customers for work involving maintenance dredging of the harbor and river basin.

A5(d). (SLS) Yes. I communicate with project personnel and Southeastern Power Association (SEPA) on a daily basis to coordinate changes in schedules to optimize management of our water resources while attempting to minimize impacts on the needs of others. I provide private and municipal interests with project information, pool projections, weather forecasts, and river forecasts. I also prepare on a weekly basis a power declaration incorporating a balance between current lake levels, desired lake levels (in accordance with the

Reservoir Regulation Manual), and weekly power contract commitments. I coordinate between SEPA, the South Atlantic Division Office of the Corps, and the Corps' Mobile District to ensure all needs are met and water resources are being optimized. I maintain and implement state-of-the-art computer programs to manage the multipurpose projects of the Savannah River Basin.

Among my duties, I have coordinated Thurmond Dam releases and Stevens Creek discharge with the City of Augusta. I have also coordinated the Savannah River Basin projects operating agreement with Duke Power. I have prepared periodic updates/briefings for the Public Affairs Officer & District Commander on system status. I coordinated the use of seasonal forecasts to reduce winter drawdown, maintained adequate flood-storage enabling projects to prevent roughly \$4,200,000 in flood damages, and enacted a Drought Plan update conserving significant pool elevation. I also serve on the HEC Software Development Team focusing on the design of the future Water Control Software.

Q6. Did you consider any specific documents in order to prepare this testimony?

A6(a). (ALL) No.

Q7. Given the current maintenance of the Savannah River Federal navigation channel, is it possible to transport large industrial components upstream by barge? If so, how far upstream is barge traffic reasonably possible?

A7. (SLS) Transportation of large industrial components upstream by barge is not currently possible due to the shallow river depths. However, transportation of large components upstream by barge has occurred several times in the last 10 years. Shipment was made by Chem Nuclear of contaminated power plant reactor vessels to Barnwell, South Carolina (SC) for disposal. However, it required about a 10,000 cubic feet per second (cfs) discharge.

Q8. Has the USACE developed a plan or received a formal request or authorization for dredging of the Savannah River Federal navigation channel in the near future to facilitate barge traffic as far north as the Vogtle Electric Generating Plant?

A8. (LJM) No.

Q9. If the USACE were to undertake dredging activities for the Savannah River Federal navigation channel, what, if any, types of authorizations, approvals, consultations, licenses, or certifications would be required under the USACE's process?

A9. (WGB) We would prepare an environmental assessment of the proposed action. That document would identify the dredging that would be performed, the locations where the sediment would be deposited, and the environmental impacts of those actions. We would coordinate the document with the public and natural resources agencies. The process would conclude with either an Environmental Assessment (with a Finding of No Significant Impact) or an Environmental Impact Statement (with a Record of Decision). Through the coordination, we would hope to obtain clearances under NEPA, the National Historic Preservation Act, the Coastal Zone Management Act, the Magnuson Fishery Conservation and Management Act, the Endangered Species Act, the Clean Water Act, and the Clean Air Act.

Q10. Assuming that such dredging of the Federal navigation channel were to occur, would the USACE conduct an environmental review under NEPA, the Clean Water Act, and other relevant environmental statutes?

A10. (WGB) Yes. If the proposed dredging remains a Federal Project, the USACE, Savannah District, Planning Division would conduct an environmental review under NEPA, Clean Water Act and other environmental statutes. (CLB) If Southern opted to perform the dredging work independent of the USACE, then Southern would be required to obtain a permit from the USACE, Savannah District, Regulatory Division. Such an action would require that Southern apply for a Corps permit pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Initially, Regulatory Division would host a pre-application meeting with other federal/state agencies and work with Southern to scope the proposed project and explain requirements for environmental studies and processing of permit application.

Southern would then be required to: (1) conduct all of the necessary environmental studies; (2) submit a Section 404/Section 10 joint permit (i.e., federal and state) application with supporting exhibits and (3) provide results of environmental studies with data for review by the Regulatory Division. In turn, the Regulatory Division would: (1) determine if the application is complete; (2) prepare a Joint Public Notice, (3) seek public comments on the proposed project; (4) coordinate with other federal/state agencies; (5) evaluate the project with respect to Section 404(b)(1) analysis, 31 public interest factors, and cumulative impacts; (6) prepare an Environmental Assessment/Case document; and (7) render a permit decision.

The USACE anticipates that Southern will apply for a USACE permit in winter 2009 to construct fill pads, access roads, intake structures, discharge pipes, and a barge slip at the Vogtle Plant. To date, Southern has not indicated that the dredging activity would be included in that permit application. If the USACE, Regulatory Division begins processing a permit application or has issued a permit specific to work at the Vogtle Plant, and Southern later decides to apply for a permit to conduct the dredging activity, then the Regulatory Division would be required to re-evaluate all aspects of the entire project as a single and complete permit action (33 CFR 325.1.d.2). Thus, issuance of a site-specific permit could be delayed, or an already issued permit could be revoked, pending a subsequent USACE review/ analysis of a single and complete project (i.e., cumulative analysis of impacts at Vogtle Plant site and river dredging).

Q11. Does the USACE currently know whether any applicable Federal or state regulatory agencies, including the USACE, would have a time-of-year restriction on dredging activities in order to protect aquatic biota?

A11. (WGB, CLB) No. We currently do not know if dredging activities would have a time-of-year restriction. Special requirements/conditions for the dredging activities would likely result if a review of the project scope warrants such action. Likewise, coordination with other

federal and state agencies may result in a determination that time-of-year restrictions would be required in order to prevent impacts to threatened and endangered species or aquatic resources.

Q12. If the USACE were to develop a dredging plan, what guidance documents, if any, does the USACE utilize to develop such a plan, meet any necessary permitting requirements (associated with Question 9 above), and complete an environmental review pursuant to NEPA and other relevant environmental statutes?

A12. (WGB) Corps project planning and environmental review requirements are set out in the following Engineer Regulations: Engineer Regulation (ER) 1105-2-100 and ER 200-2-2. ER 1105-2-100 provides the overall direction by which Corps of Engineers Civil Works projects are formulated, evaluated and selected for implementation. It contains a description of the Corps of Engineers planning process, Corps of Engineers missions and programs, specific policies applicable to each mission and program, and analytical requirements. ER 200-2-2 provides guidance for implementation of the procedural provisions of the National Environmental Policy Act (NEPA) for the Civil Works Program of the U.S. Army Corps of Engineers. It supplements Council on Environmental Quality (CEQ) regulations 40 CFR 1500-1508, November 29, 1978, in accordance with 40 CFR 1507.3, and is intended to be used only in conjunction with the CEQ regulations. This regulation is applicable to all Headquarters USACE elements and all Field Operating Activities having responsibility for preparing and processing environmental documents in support of Civil Works functions.

(CLB) As discussed above in my response to Question 10, if Southern opted to perform the dredging work independent of the USACE, then Southern would be required to obtain a permit from the USACE, Savannah District, Regulatory Division. Such an action would require that Southern apply for a Corps permit pursuant to Section 404 of the Clean Water Act and

Section 10 of the Rivers and Harbors Act. USACE regulatory policies and authorities for reviewing such an application are described in 33 CFR parts 320-332.

Q13. Based on historic USACE experience, if the USACE were to develop and/or execute such a dredging plan for the Federal navigation channel, does the USACE have an estimate of the likely amount of time necessary to complete that process?

A13. (LJM) This is uncertain at this time. The primary factors would be the extent of dredging required, magnitude of impact to environmental resources, and whether an Environmental Impact Statement would be required.

Q14. Are the resources necessary to conduct dredging of the Savannah River Federal navigation channel currently included in USACE budgets?

A14. (LJM) No. There are no funds currently available in the budget for dredging of the Savannah River Federal navigation channel. In addition, there are currently no funds available for the environmental scoping, review and documentation that would be necessary prior to the start of any dredging project.

Q15. Is there a minimum river flow that would eliminate the need for any dredging of the Savannah River Federal navigation channel? Has the USACE determined whether scheduled releases from upstream reservoirs would also be necessary to enable barge traffic to reach as far upstream as the Vogtle Electric Generating Plant?

A15. (SLS) The USACE has made no study of minimum river flow needed to eliminate the need for dredging of the Savannah River Federal navigation channel or whether releases from upstream reservoirs could enable barge traffic to reach as far upstream as the Vogtle Electric Generating Plant. The region is presently experiencing a drought and excess water is not available in the lakes for such purposes. But from previous experience with nuclear waste shipments, it has required about 10,000 cfs discharge for more than one week to get a barge to Jackson, SC and back from Savannah Harbor.

Q16. Has Southern contacted the USACE to discuss the needs for dredging of the Savannah River Federal navigation channel or for changing the water level of the Savannah River? If so, what is the status of those discussions?

A16. (LJM) Southern and USACE have had several general meetings in which the scope of the Vogtle Electric Generating Plant work and Georgia Power's desires for river transportation were discussed. There are currently no ongoing activities since the USACE is not funded to pursue this work on the Savannah River. At every meeting, Southern has indicated that dredging of the Savannah River would be a Federal project conducted by the USACE. (CLB) If at some point Southern proposes to perform the dredging independent of the USACE, then, as stated above in my response to Questions 10 and 12, Southern would be required to obtain a Section 404/Section 10 permit from the Savannah District, Regulatory Division. The application and review process would be as I described in response to Question 10 above. As I stated in response to Question 10, Southern has not indicated that dredging activity would be included in the permit application that the USACE anticipates will be submitted by Southern in winter 2009.

Q17. If dredging the Federal navigation channel is deemed necessary to allow for barge transportation on the Savannah River, does the USACE currently know how much dredged material would need to be disposed and where it would be disposed? Does the USACE currently know what the nature of the dredged material would be – i.e. sand, silt, clay, etc.?

A17. (LJM) The USACE does not currently know how much sediment would need to be removed, the nature of those materials, or where they could be deposited.

Q18. If dredging were necessary to facilitate barge traffic, does the USACE currently know whether all such dredging would occur within the Federal navigational channel?

A18. (LJM) No.

Q19. Does the USACE know whether such dredging of the Federal navigation channel would occur within the coastal zone of either South Carolina or Georgia and therefore require a coastal zone consistency certification?

A19. (WGB) No, but such a requirement is possible.

Q20. Is it possible that dredging of the Federal navigation channel may occur in areas identified as essential fish habitat by the National Marine Fisheries Service? If so, does the USACE currently know what steps would or could be taken to mitigate the impact to fisheries?

A20. (WGB) Yes, dredging may well be needed within areas identified as essential fish habitat. The USACE has not evaluated what steps could be taken to mitigate the impact to fisheries if such dredging were to occur.

Q21. If any sediments in the Savannah River Federal navigation channel have been sampled, does the USACE currently know what types and quantities of radiological and non-radiological contaminants are expected to be present in any dredged materials?

A21. (WGB) The USACE has not sampled sediments in the Savannah River Federal navigation channel and can not accurately predict what contaminants may be present in those sediments. (CLB) If Southern elects to apply for a permit to dredge the Savannah River, Southern would need to comply with Savannah District sediment testing requirements in addition to identifying the disposal site.

Q22. Does this conclude your testimony?

A22. (ALL) Yes.

January 8, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-011-ESP
)
(Early Site Permit for Vogtle ESP Site))

AFFIDAVIT OF WILLIAM G. BAILEY CONCERNING
PREFILED TESTIMONY ON ENVIRONMENTAL CONTENTION 6

I, William G. Bailey, do declare under penalty of perjury that my statements in the foregoing testimony and my attached statement of professional qualifications are true and correct to the best of my knowledge, information, and belief.

**Executed in Accord with
10 C.F.R. § 2.304(d)**

William G. Bailey

Executed at Savannah, Georgia
This 8th day of January, 2009

William George Bailey

U.S. Army Corps of Engineers
P.O. Box 889
Savannah, GA 31402-0889
(912) 652-5781

WORK EXPERIENCE:

11/01/2005 to present. Physical Scientist, GS-1301-13. US Army Corps of Engineers, Mobile District. Supervisor: Paul Bradley, 251-694-4101.

Serve as Savannah District's technical expert on NEPA and other environmental issues. Evaluate environmental impacts of complex civil works and regulatory projects. Provide advice and direction, and review the work of environmental staff. Prepare environmental compliance documents, including Environmental Assessments and Environmental Impact Statements. Coordinate projects and environmental documentation with Federal and state resource agencies. Negotiate environmental compliance issues with Federal and state natural resource agencies.

10/01/2005 to 10/30/2005. Physical Scientist, GS-1301-13. US Army Corps of Engineers, Savannah District. Supervisor: Leroy Crosby, 912-652-5789.

Serve as the District's technical expert on NEPA and other environmental issues. Evaluate environmental impacts of complex civil works and regulatory projects. Provide advice and direction, and review the work of environmental staff.

05/02/2005 to 09/30/2005. Acting Chief, Planning Division, GS-1301-13. US Army Corps of Engineers, Savannah District. Supervisor: Colonel Mark Held, 912-652-5227.

Serve as the Chief of Planning Division (Environmental Resources, Plan Formulation, and Economics). Managed the District's planning program, which includes feasibility investigations, continuing authority studies, floodplain management services, flood insurance studies, planning assistance to states, environmental impact statements, and environmental assessments for pre-authorization and post-authorization studies. Supervised economic and environmental activities supporting new construction and O&M activities at military installations. Responsible for the comprehensive water resources development and management program of the District. Planned and assigned work to subordinates based on priorities. Evaluated long range goals for Planning Division and made specific recommendations on restructuring and measures to allow valuable employees to continue to provide service to PD and the District.

11/18/2001 to 05/01/2005. Physical Scientist, GS-1301-13. US Army Corps of Engineers, Savannah District. Supervisor: David Coleman, 912-652-5237.

Serve as the District's technical expert on NEPA and other environmental issues. Evaluate environmental impacts of complex civil works and regulatory projects. Provide advice and direction, and review the work of environmental staff. Prepare environmental compliance documents, including Environmental Assessments and Environmental Impact Statements. Coordinate projects and environmental documentation with Federal and state

resource agencies. Negotiate environmental compliance issues with Federal and state natural resource agencies. Prepare scopes of work for consultant contracts for planning activities.

03/16/2000 to 11/17/2001. Physical Scientist, GS-1301-12. US Army Corps of Engineers, Savannah District. Supervisor: David Coleman, 912-652-5237. Served as a Team Leader for the Impact Analysis Team, which evaluates environmental impacts of civil works projects. This included both proposed new projects and modifications to projects currently in an O&M status. Assigned work, provided advice and direction, and reviewed the work of environmental staff on environmental evaluations for complex water resource and regulatory projects. Prepared environmental compliance documents, including Environmental Assessments and Environmental Impact Statements. Coordinated projects and environmental documentation with Federal and state resource agencies including the U.S. Environmental Protection Agency, National Marine Fisheries Service, Georgia Department of Natural Resources, South Carolina Department of Natural Resources, South Carolina Office of Ocean and Coastal Resource Management, and the South Carolina Department of Health and Environmental Control. Negotiated environmental compliance issues with those listed Federal and state resource agencies. Provided expertise to the District Engineer on NEPA issues and environmental policy matters.

01/16/2000 to 03/15/2000. Supervisory Civil Engineer, GS-0810-13. US Army Corps of Engineers, Savannah District. Supervisor: M.J. Yuschishin. Served as the temporary Chief of the Environmental Resources Branch of Planning Division. Directed and planned environmental research and studies in support of Civil Works, Military, Work for Others, and Support For Others projects. Coordinated the work and funding of multiple environmental resource specialists.

02/04/1996 to 01/15/2000. Physical Scientist, GS-1301-12. U.S. Army Corps of Engineers, Savannah District. Supervisor: Paul Metz, Jr. Served as Team Leader within Environmental Resources Branch of Planning Division. Reviewed the work of team members within the Environmental Resources Branch and several specific Project Delivery Teams. Served as the NEPA specialist on an Independent Technical Review team for a Hydropower Rehab project proposed by the Little Rock District.

10/1992 to 02/03/1996. Supervisory Physical Scientist, GS-1301-12. U.S. Army Corps of Engineers, Savannah District. Supervisor: Paul Metz Jr. Served as Supervisor within the Impact Analysis Section of Planning Division's Environmental Resources Branch. In addition to the responsibilities of a Team Leader, was also responsible for formal performance evaluation and counseling of a team of up to 8 environmental specialists at the GS-12 and GS-11 levels, as well as support personnel.

12/1980 to 10/1992. Civil Engineer, GS-0810-12. U.S. Army Corps of Engineers, Savannah District. Supervisor: Leroy Crosby, 912-652-5789.

Served as a Project Manager for civil works projects. Responsible for overall management of feasibility studies. This consisted of developing scopes of work, scheduling, budgeting, monitoring progress, preparing reports, and contracting for A/E services. Coordinated the work of teams of professional engineers, economists, and environmental specialists. Functioned as the day-to-day contact between the Corps and the project's non-Federal sponsor. Was the Project Manager for a Continuing Authorities project from the initial evaluation through the completion of construction and project closeout.

COLLEGE EDUCATION:

MS, 1980, Civil Engineering, North Carolina State University
BS, 1976, Biology, SUNY College of Environmental Science & Forestry
BS, 1976, Forestry, Syracuse University

MAJOR TRAINING:

Environmental Leadership and Communication Skills; 09/2001; Front Royal, VA;
Smithsonian Institution

Leadership, Education and Development; Train-The-Trainer; 09/1999; Redstone Arsenal,
AL; US Army Center for Army Leadership

Army Management Staff College; 01-04/1995; Fort Belvoir, VA; US Army Management
Staff College

Planning Associates Program; 08/1985-06/1986; Fort Belvoir, VA; US Army Corps of
Engineers

AWARDS:

Excellent performance evaluation in each of the last ten years

LICENSES/CERTIFICATES:

Professional Engineer, GA #17031, 02/1988
LEAD Trainer, US Army Center for Army Leadership

OTHER INFORMATION:

Member of American Society of Civil Engineers

January 8, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-011-ESP
)
(Early Site Permit for Vogtle ESP Site))

AFFIDAVIT OF CAROL L. BERNSTEIN CONCERNING
PREFILED TESTIMONY ON ENVIRONMENTAL CONTENTION 6

I, Carol L. Bernstein, do declare under penalty of perjury that my statements in the foregoing testimony and my attached statement of professional qualifications are true and correct to the best of my knowledge, information, and belief.

**Executed in Accord with
10 C.F.R. § 2.304(d)**

Carol L. Bernstein

Executed at Savannah, Georgia
This 8th day of January, 2009

Carol L. Bernstein
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Work: (912) - 652-5503

Work Experience

USACE, Headquarters CECW-CO (03/01/2008 – 08/02/2008)

Washington, D.C., United States; Duties: Developmental detail as Senior Regulatory Program Manager, Directorate of Civil Works, Operations and Regulatory Community of Practice. Responsible for a variety of programmatic areas that support the National Regulatory Program goals and mission. Coordinate, communicate, and strategize program areas and activities with Director, Office of Water, EPA, Office of Management & Budget, Council on Environmental Quality, and OASA-CW to revise and reissue Regulatory Guidance Letter 07-01, a direct result of the Supreme Court Carabell- Rapanos decisions; specifically contributed to negotiations on traditional navigable waters and relevant reach, key terms of the guidance. Developed 5-year National Regulatory Strategic Plan, leading coordination with 38 districts, 8 MSCs and presented plan at the National Joint EPA and Corps Conference. Tracked national performance indicators including, budget execution and shortfalls or projected carry-over, and jurisdictional determination (JD) processing times to reduce backlog. Coordinated with Nuclear Regulatory Commission to revise the MOU between agencies and improve coordination and expedite reviews on nuclear power projects nationwide. Participated in briefings of ASA-CW, Chief Regulatory and other constituents as needed to address specific regional issues and assist with coordination through MSC or district.

USACE, Savannah District (07/01/2001 - Present) - Supervisory Biologist

Savannah, Georgia United States; Duties: Serve as Chief, Coastal Branch, Regulatory Division, with full responsibility for planning, programming, administering and enforcing the Regulatory Program, including permit evaluation, enforcement, noncompliance, and mitigation under the Rivers and Harbors Act and the Clean Water Act. Develop policy and ensure compliance with a variety of statutes, executive orders, and environmental laws including the NEPA, the Endangered Species Act, the National Historic Preservation Act. Manage and execute the \$4.5M regulatory program for the southern half of Georgia (GA) with an estimated construction value of over \$6B of residential, commercial, municipal and industrial development throughout GA. Supervise 18 interdisciplinary staff including two section chiefs and one field office, with a full range of supervisory duties including managing workload, reviewing work, establishing performance standards, evaluating performance, developing training plans, supporting EEO and addressing performance and conduct issues. Act as Division Chief on numerous occasions. Senior technical and policy expert to the Div. Chief, District Commander (DC), MSC and HQUSACE. Administer programmatic/regional initiatives including general permits and regional programmatic general permits. Led implementation of new performance measures adjusting resources and schedules to meet new national standards for enforcement and compliance, Rapanos Guidance and SWANCC policy. Developed strong partnerships with GA Ports Authority, GA DOT and other Savannah and Brunswick Harbor customers/stakeholders to ensure timely and efficient permitting services. Developed partnering agreements with regional directors of sister agencies including USFWS, NMFS, EPA, and GA EPD resulting in measurable improvements in permit processing time and agency coordination. Currently leading partnering effort with Georgia Non-governmental Organizations (NGOs) to improve communication and reduce litigation. Led development of SAS mitigation banking program, one of the most advanced in the country with 45 active banks. Proactive in conducting outreach activities with the public, university and other NGOs both to recruit and promote diversity, and to improve coordination and reduce violations resulting from lack of program knowledge. Coordinate interagency efforts resulting in improved permitting processes for major infrastructure projects (e.g. highways, reservoirs) including development of a GA Regional Reservoir Consistency Plan streamlining reservoir permitting, with Region 5 EPA Administrator, Region 5 USFWS Director and the Commissioner of GA DNR. Participated in regional initiatives including SAD regulatory regional rates and emergency regional permit procedures for proactive and consistent natural disaster response. Led development of SOP for wrecks and obstructions resulting in clarified roles for Navigation and Regulatory and expedited responses. Continue to clarify district policy as guidance and case law develops regarding isolated wetlands, a high profile and controversial issue in coastal Georgia due to a prolific amount of depressional, non-tidal wetlands. Successfully met and reached agreement on numerous legal challenges to permit and jurisdictional decisions by Southern Environmental Law Center or River Keeper groups.

USACE, Mobile District (02/03/2007 – 06/23/2007) - Chief, Regulatory Division
Mobile, Alabama United States;

Duties: Temp promotion as Chief, Regulatory Division, responsible for leading and managing a 35-person \$5M Regulatory program with three field offices during a dynamic period following Hurricane Katrina and during release of the Carabell Rapanos Guidance. Completed reissuance of the Nationwide Permits for AL and issued Regional General Permit SAM-20 to facilitate post Hurricane Katrina residential rebuilding efforts along the Mississippi Gulf Coast, expediting permit reviews of low quality impacts without compromising protection of aquatic resources; received honorable mention by the ASA-CW for the first annual Outstanding Achievement in the Regulatory Program Team Award for 2007. Led coordination with Planning Division and the Environmental Advisory Board to ensure consistency with the Coastal MS restoration projects. During this period, led the conversion of ORM I to ORM II, executed the FY 07 budget exceeding CMR goals, and developed budgets through FY 09. Revamped the entire division training plan developing METLs for all personnel, and continued momentum on reorganization of the Division through continuing to stand up field offices and fill positions. Completed first round NSPS materials and assessments on personnel, providing significant input to mock and final pay pool within SAM.

USACE, Savannah District (04/06/2003 - 09/02/2003 and 02/08/2004 - 05/02/04) - Chief, Planning Division; Savannah, Georgia United States;

Duties: Temporary promotion as Chief, Planning Division, Savannah District, serving two semi-consecutive competitive assignments. Responsible for managing/ leading the 30-person \$5M Planning Program. As an element of the PMBP managed, supervised, and coordinated the civil works, military and support for others programs. Responsible for liaison and coordination with congressional interests, Federal, state and local agencies, and NGOs. Senior technical and policy advisor to the DC, MSC, and other Division Chiefs on planning, environmental and economic matters related to the mission. Conducted Congressional briefings and served on Corporate Board providing input to RMB, as needed. Managed the Floodplain Management Services and Planning Assistance to States Programs. Hosted the Alternative Formulation Briefing for the Augusta Flood Control Study. Initiated the first Section 22 water resource study for the State of GA Environmental Protection Division in the Altamaha watershed. Addressed project management issues, by initiating a project tracking system for civil works projects to assist staff and first line supervisors.. Executed GI and CAP projects. Significantly contributed to the District's execution of 100% of GI funds, exceeding all CMR planning goals. Major contributor in implementing the Planning Excellence Program in SAD including developing proposal materials for the Planning Centers of Expertise (Deep Draft Navigation, Storm Damage Reduction, and Ecosystem Restoration), and position descriptions for SAD regional technical GS-13s, the precursor to the SAD regionalization and USACE 2012 in the Planning Community of Practice.

USACE, Baltimore District (10/01/1998 - 07/24/2001) - Section Chief

Baltimore, Maryland United States; Duties: Served as Section Chief, Planning and Environmental Services Branch, Planning Division supervising 15 employees with a full range of supervisory duties; supervised planning investigations pertaining to the environmental, economic, engineering, and cultural aspects of civil, military, and support for other (SFO) projects. Served as Program Manager for \$5M Military and SFO program. Acted as Branch Chief (\$10M program; 170 separate studies). Represented the Division and/or Branch Chief in District Program Review Board meetings. Coordinated program issues with congressional interests and with MSC and HQUSACE reps. Developed and maintained customer base sustaining branch workload; served on inter and intra-district task forces. Acted as Chief, Military Section GS-408-13 Jun 97-Feb 98. Corps Project Manager of the Chesapeake Bay Program reporting to ASA-CW, serving as lead for NAO, NAP and NAB, responsible for interagency coordination among 26 Federal agencies and the States of MD, VA, PA, and the District of Columbia, and liaison to the Office of the ACSIM. Promoted from GS 12 Ecologist 07/01/1995 - 10/01/1998 and GS 11 Ecologist 1/94 through 7/95.

USACE, Baltimore District (02/01/2001 - 06/30/2001) - Chief, Civil Section, HTRW Branch
Baltimore, Maryland United States; Duties: Section Chief, Civil Hazardous, Toxic, & Radioactive Waste (HTRW) Section, Engineering Division - Developed program goals for \$42M Civil Works HTRW program (Superfund, FUDS, FUSRAP, SFO); tracked workload, execution, and formulated work plans and schedules to meet changes in program funding; allocated existing resources among staff and supervised 12 design team leaders (DTLs) and support staff. Maintained coordination with customers, and EPA staff as well as higher authority throughout the district, division, and HQUSACE. Acted as Branch Chief during his absence, developed training plan for the HTRW Branch, and held

interviews and recommended selections for new DTLs.

During the period 05/01/1985 - 01/02/1994, I Worked for State of Maryland and in private sector as a senior ecologist in planning and environmental science division for regional civil engineering firm. As consultant, conducted wetland delineations and prepared Section 404 and Section 10 DA permit applications for private and public projects. Worked directly with the Baltimore District Regulatory Branch and MD Department of Environment. Designed environmental restoration projects and wetland mitigation in a variety of tidal and non-tidal, coastal and inland habitats. Held contract supporting MD State Highway Administration for wetland delineation and highway alignment studies. Provided expert testimony.

Education

College/University

Johns Hopkins University (08/04/1993 - 03/13/1995)

Baltimore, Maryland

United States

Degree: Master of Science - Major: Interdisciplinary Environmental Sciences Studies

Minor: Water Resource Management

GPA: 3.9 Semester Hours: 30

Description: Course work for the interdisciplinary environmental science studies degree included public policy and the environment, wetland ecology, environmental law, environmental geology, estuarine ecology, plant ecology/ taxonomy, soils ecology, stream ecology, and a thesis. Thesis project focused on a five year analysis of a created wetland, its establishment and success. Each course was three semester credits for a total of 30.

College/University

University of Arizona (01/01/1981 - 05/18/1985)

Tucson, Arizona

United States

Degree: Bachelor of Science - Major: Renewable Natural Resources- Wildlife Ecology

GPA: 2.67 Semester Hours: 134

Description: Coursework included wildlife management, forest policy and administration, fish and wildlife science, natural resource recreation, forest and range plants, wildlife ecology, range management, plant diversity and evolution, animal anatomy and physiology, natural resource measurements and statistics, etc. Each course was 3 to 4 credits for a total of 134 semester hours.

Additional Information

SPECIALIZED TRAINING

Personnel Management for Executives II (PME II) 40 hours, Sep 06; Personnel Management for Executives I (PME I) 80 hrs., Oct 04; Graduate of the CP-18 Army Leadership Development Program (LDP) Oct 01; Regulatory VII, June, 08, 07, 02; Executive Regulatory Seminar, Mar 08, 02; Fiscal Law, 40 Hours, Nov 02; Contracting Officer's Representative class, 40 hrs., May 01; OPM Seminar for New Managers, 40 hrs., Oct 00; Army Management Staff College (AMSC) - Sustaining Base Leadership and Management (SBLM), 640 hrs., Mar 00; OPM Developing Customer Focused Orgs., 40 hrs., Dec 99; Supervisor Dev. Course, Nov 99; Opportunity Mgmt. and Marketing, Apr 98; Organizational Leadership for Execs. (OLE), 80 hrs., Sep 97; Interagency Wetland Delineation Course (Reg. IV), 40 hrs., Apr 97; Leadership Education and Development (LEAD), 40 hrs., May 96; Rosgen Fluvial Geomorphology & Stream Restoration, 80 hrs., Mar 96; Incremental Economic Analysis, Nov 95; Organizational Managerial Courses, Oct 95; 3-Civil Works Planning courses Oct 95- Jun 96; Environmental Compliance and Mitigation, May 94.

CERTIFICATIONS

Professional Wetland Scientist, 1995 and recertified in 2008; Hydrogeomorphic Approach to Functional Wetland Evaluation, 1994; U.S. Fish and Wildlife Service Habitat Evaluation Procedures, 1989.

AWARDS

Commander's Award for Civilian Service, May 2004

Army Achievement Medal, June 2006

Performance Awards for exceptional performance during all USACE rating periods 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006;
Three Special Act Awards May 98, Jan 97, and Jul 94;
On-the-Spot Award, May 98 and Sep 07;
Professional Service Award from the MD/DE Chapter of The Wildlife Society, 2001;
Team Awards for Savannah Harbor Expansion and Reservoir Consistency Teams, Oct 2003

PUBLICATIONS

Published the following articles: North Georgia Environmental Database compilation for Cumulative Impact Assessments of Reservoirs. Presented at the 2003 Water Resources Conference in Athens, GA. 2003;
Evaluating Success of a Wetland Creation Site on Maryland's Coastal Plain. 1995;
Protecting Maryland's Atlantic Coastal Bays Through Regulation: A Program Overview and Assessment. 1990; and
Identification of Potential Wetland Creation Sites within Three Maryland Estuaries. 1989.

PROFESSIONAL MEMBERSHIPS

Society of Wetland Scientists; The Wildlife Society: Past President (MD/DE Chapter) 1999-2001, President 1997-1999, President-Elect 1995-1997, Secretary 1993-1995, Legislative Review Committee Chair 1989-1993.

January 8, 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-011-ESP
)
(Early Site Permit for Vogtle ESP Site))

AFFIDAVIT OF LYLE J. MACIEJEWSKI CONCERNING
PREFILED TESTIMONY ON ENVIRONMENTAL CONTENTION 6

I, Lyle J. Maciejewski, do declare under penalty of perjury that my statements in the foregoing testimony and my attached statement of professional qualifications are true and correct to the best of my knowledge, information, and belief.

**Executed in Accord with
10 C.F.R. § 2.304(d)**

Lyle J. Maciejewski

Executed at Savannah, Georgia
This 8th day of January, 2009

Relevant Work Experience
Lyle Maciejewski

From January 1996 to Present

Project Manager - Savannah Harbor Operations and Maintenance, Savannah District
Duties - I budget, schedule, coordinate with internal and external customers, monitor funding and serve as point of contact for all harbor maintenance activities. I am responsible for scheduling and developing harbor dredging contracts. During the time period I was detailed as head of the hydrographic survey section and was responsible for planning conducting and producing the District hydrographic surveys including dredging payment surveys.

From June 1990 to June 1996

Project Manager - Navigation, Savannah District
Duties - I managed budgets, developed dredging contract, and represented Operations in new work dredging planning for District dredging maintenance activities.

From August 1988 to September 1990

Project Engineer - Hydropower, Savannah District
Duties - I served a project engineer coordinating administrative duties in the Hydropower Branch of the District.

From November 1987 to August 1988

Project Engineer - Navigation, Savannah District
Duties - I served as Contracting Officers Representative for District maintenance and construction dredging contracts.

From April 1980 to November 1987

Assistance Chief - Dredging and Navigation Section, Memphis District
Duties - I assisted the Section Chief directing District owned towboat and dredges. I led the hydrographic survey operations for dredging work in the Mississippi River and adjacent ports.

Education:

Bachelor Degree in Civil Engineering from the South Dakota School of Mines and Technology

Master's Degree in Civil Engineering from the South Dakota School of Mines and Technology

Statement of Professional Qualifications for Stanley L. Simpson

Stanley L. Simpson
Savannah District Water Control Manager, Engineering Division
U.S. Army Corps of Engineers
Wilmington District
P.O. Box 889
Savannah, GA 31402-0889
(912) 652-5501

Work Experience:

Savannah District, Engineering Division, Water Control Manager (1988-Present)

Savannah District, Engineering Division, Hydraulic Engineer (April 1985-1988)

Savannah District, Construction Division, Clemson Upper Diversion Dam (1983-1984)

CO-OP Student, Clemson University
Charleston District (1980)
Savannah District, Richard B. Russell Dam (1981-1982)

Education:

Bachelor of Science in Civil Engineering, Clemson University (1983)