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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED  
10/12/83

Before Administrative Judges:

Peter B. Bloch, Chair  
Dr. James H. Carpenter  
Thomas D. Murphy

'93 JUN -4 P/129

In the Matter of	)	)
GEORGIA POWER COMPANY	)	Docket Nos. 50-424-OLA-3
<u>et al.</u> ,	)	50-425-OLA-3
(Vogtle Electric Generating	)	Re: License Amendment
Plant, Unit 1 and Unit 2)	)	(transfer to Southern Nuclear)
	)	ASLBP No. 93-671-01-OLA-3

INTERVENOR'S RESPONSE TO THE  
FIRST SET OF INTERROGATORIES OF GEORGIA POWER COMPANY

Intervenor, Allen L. Mosbaugh, files his responses to the interrogatories filed by Georgia Power Company ("GPC"). Intervenor will be supplementing these responses, particularly the response to interrogatory No. 12 when he further formulates additional issues.

GENERAL OBJECTIONS

Intervenor objects to the interrogatories and request for the production of documents to the extent that they seek documents or information in the custody or control of entities or persons other than Intervenor, as such request is burdensome and oppressive.

Intervenor further objects to the extent that the interrogatories and requests for production of documents to the extent that they seek documents or information containing confidential communications between Intervenor and its attorneys as these sources are protected by attorney/client privilege; to the extent that they seek documents or information compiled or prepared by Intervenor in anticipation of litigation or which contain

Intervenors's mental impressions, opinions or theories, which documents or information are therefore protected by the work product doctrine; to the extent that they seek documents or information received on a promise of confidentiality (see, e.g., Houston Lighting and Power Co., 13 N.R.C. 469, 473 (1981); 10 C.F.R. § 212); to the extent that they seek documents or information which Intervenor is not entitled to disclose pursuant to any statute, law or regulation, including any federal regulations; to the extent that they seek any documents or information generated pursuant to a confidential investigation by any governmental entity or agent; to the extent that they seek documents or information protected by any investigatory privilege or exemption (see, e.g., Bredice v. Doctors Hospital, Inc., 50 F.R.D. 249 (D.D.C. 1970)); and to the extent that they seek irrelevant documents and information not reasonably calculated to lead to the discovery of admissible evidence, that licensee has not shown a substantial need for the material, cannot obtain the substantial equivalent by other means or otherwise not within the permissible scope of discovery as described in Federal Rule of Civil Procedure 26 (b) and 10 C.F.R. § 2.740 (a)(2).

INSTRUCTIONS: OBJECTIONS

Intervenor objects to the instructions as they are unduly burdensome and oppressive given the detail requested, cost involved, time required for such detail, the limited amount of time available to answer, and are inconsistent with 10 C.F.R. § 2.740(a)(2). Further, the necessity of the extended instructions

is questionable as licensee may obtain much of the information already requested through other means, already has access to all but seventy-six of the tape-recordings, and because the benefit that licensee gains by requesting such unnecessary specificity is significantly outweighed by the burden placed on the Intervenor.

INTERROGATORIES

1. Identify each tape recording that you have reviewed of conversations involving or relating to the [sic] Plant Vogtle, GPC, Southern Nuclear, Southern Company Services, Inc., or any of their employees or representatives. Include:

- a. the date and time of the conversation;
- b. the participants in the conversation; and
- c. the subject matter of the conversation.

Response

Intervenor objects to this interrogatory on the grounds that it is overly broad and burdensome. Moreover, this interrogatory is not likely to lead to discoverable material because all of the tapes in existence are already known to licensee. Moreover, licensee has already duplicated all of the complete original tape recordings currently in the possession of Mr. Mosbaugh. The only complete tape recordings not in the possession of licensee are the tape recordings that Mr. Mosbaugh turned over to the NRC. These recordings remain in the custody and control of NRC. Mr. Mosbaugh has not made a verbatim duplicate of any tape recording in the possession of NRC. Information concerning the date of the tapes returned from the NRC was obtained by the licensee at the time these tapes were duplicated by the licensee.

With respect to tape recordings remaining in the control and custody of NRC, intervenor awaits return of the tape recordings and will supplement this response when these tapes are returned by NRC.

The only other tape recordings concern six tapes identified in intervenor's May 14, 1993 response to the Board's April 21, 1993 Scheduling Order ("May 14, 1993 ASLB Response"), and intervenor objects to the release of these tapes on the grounds set forth in intervenor's May 14, 1993 pleading. In addition thereto, intervenor objects to the release of these six tapes because these tapes represent intervenor counsel's preparation of anticipated "rebuttal evidence." Release of these tapes would unduly prejudice intervenor's ability to present an effective rebuttal case and will otherwise reveal the workings of intervenor counsel's legal strategy.

Intervenor does not object to the release of the entire tape recordings in the possession of NRC as these recordings are not privileged and would not interfere with intervenor's trial preparation.

2. With respect to each tape recording referred to in interrogatory 1 above, have any copies been made? If so, identify each tape recording that has been copied, the date or dates when each tape was copied, the number of copies of each tape recording that were made on each occasion of copying, and for each occasion of copying the purpose of the copying.

Response

Intervenor objects on the grounds that this interrogatory is not likely to lead to discoverable material. Without waiving this objection, intervenor states as follows: In September of 1990, all

original tape recordings made by Allen Mosbaugh were turned over to the NRC. Prior to that time, no duplicate copies of these tape recordings were made. Thereafter, NRC returned a substantial portion of the tapes back to Allen Mosbaugh. These returned tapes were then given to the licensee for duplication. Intervenor is not aware of any other duplication of the tapes, although he believes that NRC has duplicated some or all of the tapes.

Between May and August of 1990, intervenor and his counsel discussed Mr. Mosbaugh's initiation of proceedings before the NRC pursuant to 10 C.F.R. §2.206, and were generally discussing matters related to the filing of a proceeding under §210 of the Energy Reorganization Act. In order to formulate legal strategies and to prepare a strategy to rebut the licensee's anticipated denial of allegations raised in the 2.206 petition, intervenor and his counsel worked closely in extracting selected portions of tape recordings that counsel planed to used as rebuttal evidence when the licensee responded to 2.206 petition. A total of six such tape recordings were made. These six tapes contain bits and pieces of the entire conversations of tapes that have already been duplicated by licensee as well as nortions of conversations of tape recordings that remain in the control and custody of NRC. Intervenor objects to the release of these six tape recordings based on the grounds set forth in intervenor's May 14, 1993 pleading. In addition thereto, intervenor objects to the release of these six tapes as their release would expose counsel's hearing strategy by identifying anticipated "rebuttal evidence" intervenor anticipates

relying upon at the trial of the instant matter. In this respect, release of these tapes would unduly prejudice intervenor's ability to present an effective rebuttal case and will otherwise reveal the workings of intervenor counsel's legal strategy.

3. With respect to each tape recording referred to in interrogatory 1 above, identify all persons to whom the tape recording, or any copy thereof, has been provided. For each such person, identify:

a. the specific tape recordings that were provided to such person;

b. the date or dates upon which each tape recording was provided to such person;

c. the purpose for providing each tape recording to such person;

d. whether you have the right or ability to retrieve each tape recording from such person;

e. whether such person has returned any of the tape recordings and, if so (i) which tape recordings, (ii) on what [sic] dates they were returned, (iii) provide the reason for the return, and (iv) detail any subsequent disposition of each returned tape.

f. all communications referring or relating to the provision or return of each such tape to such person;

g. all communications referring or relating to the custody or control of each such tape, or to the circumstances under which the tape would be returned to you;

h. all documents referring or relating to the provision or return of each such tape to such person; and

i. all documents referring or relating to the custody or control of each such tape, or to the circumstances under which the tape would be returned to you.

Response

Intervenor objects to this interrogatory on grounds that it is unduly burdensome and because this interrogatory requests

information that cannot lead to discoverable material. To the extent that this interrogatory seeks information that is not objectionable, intervenor states as follows: All original tape recordings were provided to the NRC. The NRC subsequently returned a substantial portion of these tape recordings. These returned recordings were provided to the licensee for duplication. With respect to the tape recordings retained by NRC, no exact duplicates were made by intervenor. The only other recordings concern six tapes identified in interrogatory response No. 2 above. A complete set of these recordings are in the possession of intervenor's counsel. Copies of the six recordings in the possession of intervenor's counsel were provided to congressional oversight committees at the written request of the subcommittees. Prior to complying with written requests from these committees, intervenor's counsel obtained the assurance that the tape recording would be kept confidential. Intervenor objects to providing information concerning his contact with the United States Congress on the grounds of privilege and confidentiality.

4. Has any tape recording referred to in interrogatory 1, or any copy thereof, been destroyed or erased, in whole or part? If so, for each tape recording, or copy thereof, that was destroyed or erased, in whole or part, identify:

- a. the specific tape recording, or copy thereof, that was destroyed or erased, in whole or part;
- b. the date upon which each such destruction or erasure occurred;
- c. the person who effected the destruction or erasure;
- d. the reason for the destruction or erasure;

e. all communications relating or referring to the destruction or erasure; and

f. all documents relating or referring to the destruction or erasure.

Response

To the best of intervenor's knowledge, no.

5. Identify all documents that index, transcribe (in whole or part), summarize, or otherwise discuss each tape recording referred to in interrogatory 1 above.

Response

Intervenor filed a §2.206 petition filed the NRC on September 11, 1990. Thereafter, at the written request of NRC, the licensee filed a response to the §2.206 petition. As anticipated, licensee denied wrongdoing and attempted to place blame of intervenor. Intervenor then relied upon excerpts of tape recordings to rebut licensee's response.

Intervenor objects to this interrogatory to the extent it seeks to obtain information intervenor provided to NRC-OI on a confidential basis.

With respect to indexing of the tapes, licensee is already in possession of the indexing information that accompanied the tapes returned from the NRC.

With respect to the indexing of tapes still in the possession of NRC, licensee is in possession of the same information as intervenor.

6. With respect to each tape recording referred to in interrogatory 1 above, identify all persons to whom any transcript,

partial transcript, summary, or other document discussing the tape recording have been distributed. For each such person, identify;

- a. the specific tape recordings that were transcribed (in whole or part), summarized or otherwise discussed in the documents provided to each person;
- b. the date or dates upon which each such document was provided to such person;
- c. the purpose for providing each such document to such person;
- d. all communications referring to or relating to the provision of each such document to such person; and
- e. all documents referring to or relating to the provision of each such document to such person.

Response

Intervenor objects to this interrogatory question on the ground that it is overly broad and not calculated to lead to discoverable information, and on the ground of undue burden. Without waiving that objection, intervenor states that after the tape recordings were turned over the NRC, the NRC requested Mr. Mosbaugh's assistance to review transcripts NRC had made of numerous tape recordings. Mr. Mosbaugh complied with this request and reviewed numerous transcripts for accuracy, name identification and to decipher unintelligible portions of the recordings. Mr. Mosbaugh has no record of the dates of the recordings, but does recall reviewing most, if not all, excerpts of the 76 tapes remaining in the custody of NRC. This includes tapes related to the 1990 site area emergency as well as the filing of a licensee event report covering said site area emergency. Moreover, Mr. Mosbaugh was not provided with any copies of such transcripts. His

review of these recordings generally occurred between the Fall of 1990 and the Summer of 1991.

Intervenor is unaware of everyone who has knowledge of the NRC transcripts, but he does know that at least Mr. Larry Robinson (NRC-OI) and Mr. Craig Tate (NRC-OI) were present when Mr. Mosbaugh reviewed the transcripts and took the transcripts after their meetings with Mr. Mosbaugh concluded.

Finally, intervenor objects to responding to this interrogatory with respect to his communications with the United States Congress and NRC-OI on grounds of confidentiality and privilege.

7. Identify all communications relating to the provision, custody, control, or return of tape recordings referred to in interrogatory 1 above, other than those communications identified in response to interrogatory 3 above.

Response

Intervenor object to this interrogatory question as it seeks information that is not calculated to lead to discoverable material. All tape recordings have been identified and no other tape recordings exist. To the extent this interrogatory is not objectionable, intervenor states that his counsel has been contacted by members of the media seeking access to tape recordings, but at no time has intervenor, his counsel, or anyone acting as an agent for intervenor made any tapes available to the media. The only other communications intervenor or his counsel have had concerning the tapes have been with offices within the NRC, with counsel to the licensee, members of congressional

subcommittees, Administrative Law Judges with the U.S. Department of Labor and with the NRC's Atomic Safety and Licensing Board.

8. Identify all documents referring or relating to the provision, custody, control, or return of tape recordings referred to in interrogatory 1 above, other than those documents identified in response to interrogatory 3 above.

Response

Intervenor objects to this interrogatory question on the grounds that it is not calculated to lead to discoverable information. All of the original tape recordings are either in the possession of intervenor or NRC. Licensee already has copies of all of the tapes in the possession of intervenor. Moreover, licensee has as much, if not more, knowledge about the NRC's custody and control of the tapes remaining in their possession than intervenor. Without waiving this objection, intervenor states that the only documents related to the custody or control of tape recordings are communication intervenor has had with the United States Congress and NRC. Intervenor objects to the release of any information pertaining to his contact with Congress and NRC based on the informer's privilege.

9. Identify any recordings that you have made of conversations involving the NRC (including OI), or the Department of Justice.

Response

With respect to the NRC, Mr. Mosbaugh recalls recording the first conversation he had with NRC-OI investigator Larry Robinson (but does not recall making any other tape recordings of his conversations with OI). He also recorded some NRC inspection

meetings he attended, including the 1990 RER exit meeting, monthly exit meetings, Site Area Emergency meeting, and the OSI exit meeting. Mr. Mosbaugh also recalls tape recording conversations he had John Rogge, Ron Aiello, and probably Doug Starkey. NRC has already returned tape recordings which include recordings of some of Mr. Mosbaugh's recordings of NRC and intervenor incorporates any additional conversations with NRC that may be contained in the tapes in the possession of licensee.

No recordings of conversations of anyone associated with the Department of Justice have been made.

10. Identify all communications, including but not limited to meetings, interviews, telephone conversations and correspondence, which you have had concerning the allegations in the Petition or the Amended Petition or any other allegations which you intend to or may raise in this proceeding, including but not limited to those with:

- a. the NRC;
- b. the U.S. Department of Justice;
- c. the U.S. Congress; and
- d. other persons (other than such communications which were provided to G.P.C. in connection with the Department of Labor cases Nos. 90-ERA-30, 91-ERA-1 and 91-ERA-11).

Response

Intervenor objects to the extent that this interrogatory question is not calculated to lead to discoverable material and on the basis of undue burden. Without waiving these objections, Intervenor states as follows:

A. The NRC: Mr. Mosbaugh's communication with the NRC initially was done in writing. These communications concern the

intentional violation of a technical specification related to the opening of a dilution valve while Unit 1 was at midloop. Copies of this communication was turned over to licensee during the course of Mr. Mosbaugh's Section 210 proceedings. A full account of Mr. Mosbaugh's initial contact with the NRC is contained in the hearing record of Mr. Mosbaugh's Section 210 hearing, known as Mosbaugh v. GPC, Case No. 90-ERA-11. Intervenor incorporates this information herein with respect to communication he had with NRC prior to June of 1990.

Commencing in June of 1990 and lasting for about one year, Mr. Mosbaugh estimates that he had in the area of 160 hours of in-person meetings with the NRC, primarily with members of NRC's Office of Investigations. In addition thereto, on average he would have one or more phone conversation per week.

After mid 1991 and continuing to the present, Mr. Mosbaugh would have in-person meetings with the NRC every two months or so. He would also have telephone contact about every month. These estimates are based solely on Mr. Mosbaugh's recollection of events occurring between June 1991 and present. Mr. Mosbaugh kept no notes or other documentation pertaining to these conversations.

In addition, intervenor incorporates by reference information contained in the hearing record of Mr. Mosbaugh's Section 210 proceeding that concerns his contact with the NRC after June of 1990.

B. The U.S. Department of Justice. Mr. Mosbaugh has had no direct communication with the U.S. Department of Justice.

C. The U.S. Congress. Intervenor objects to identifying his communication with Congress on the grounds of confidentiality and privilege.

D. Other persons. Mr. Mosbaugh has spoken with current and former employees of the licensee by phone.

11. With respect to each communication identified in interrogatory 10 above, if a written communication, in addition to the information required by Instruction II.D, identify all persons who received a copy.

Response

Mr. Mosbaugh acknowledges that he and his counsel have had written communication with NRC and Congress. Information concerning all such written communications are objected to on the grounds of privilege.

12. Describe in detail each specific incident which Intervenor intends to or may raise at the hearing in this case in order to prove the Board-admitted contention and, with respect to each such incident:

- a. identify all witnesses who will testify on behalf of Intervenor;
- b. identify all documents which Intervenor or Intervenor's witnesses will rely on at the hearing;
- c. state when Intervenor became aware of such specific incident;
- d. identify the participants in such incident;
- e. state when such incident occurred;
- f. describe the aspects of such incident, if any, that constitute willful wrongdoing;
- g. describe how such incident shows a lack of character;
- h. describe how such incident shows a lack of competence;

- i. describe how such incident shows a lack of integrity;
- j. describe how such incident shows a lack of candor;
- k. describe how such incident shows a lack of truthfulness;
- l. describe how such incident shows a lack of willingness to abide by regulatory requirements;
- m. identify whether Intervenor has any direct, personal knowledge of such incident and, if so, what is the basis of such direct, personal knowledge.

Response

Mr. Mosbaugh identifies the following incidents he may raise at the hearing with respect to the Board-admitted contention:

1. Site Area Emergency and Diesel Generator Verbal Presentation to NRC

On March 20, 1990 Georgia Power's Plant Vogtle experienced a Site Area Emergency caused by the failure of its diesel generators to provide back up power to safety systems. The NRC issued a Confirmation of Action letter and placed a hold on further power operations of Vogtle Utility.

On April 9, 1990 Georgia Power Officials made a formal verbal presentation to the Director of NRC Region II in Atlanta as part of their effort to get the NRC's hold on power operations released. Information was presented to the NRC verbally and on slides to show Vogtle's Unit 1 Diesel Generators had been fixed, were reliable and had been successfully started 18 and 19 times each since the Site Area Emergency. This information was false by commission and omission. There had been numerous failures to start, trips after start and other problems as documented on the Vogtle Utility

control room logs and the shift supervisors logs between the Site Area Emergency and 4-9-90. It was the opinion of responsible engineers and managers associated with the maintenance department that the performance of the Calcon demonstrated that they were of substandard quality for use on safety-related equipment, such as the diesel generators.

A. Intervenor has identified, to date, the following witnesses: Allen Mosbaugh.

B. Intervenor may rely on the following documents:

- 1) Diesel logs
- 2) slides
- 3) tapes in the possession of NRC
- 4) control logs maintained by licensee
- 5) shift supervisor interviews conducted by NRC
- 6) All documents obtained by NRC-OI in the course of its investigation.

C. Intervenor learned of the site area emergency on March 20, 1990 and the content of the oral presentation on when he received a copy of the COA response on April 10, 1990.

D. Participants to the incident include:

- 1) Bockhold
- 2) McCoy
- 3) Bailey
- 4) Cash
- 5) Burr

E. The incident occurred on 4-9-90

F. George Bockhold, Plant Manager and those who assisted in preparing the verbal presentation information were aware or should have been aware of the failures since they were clearly documented in 2 sets of Official Plant Logs.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has no direct personal knowledge of the April 9, 1990 oral presentation.

2. Issuance of Confirmation of Action Response.

On April 9, 1990, Georgia Power responded in writing to the NRC's Confirmation of Action letter to obtain release from the NRC's hold on Vogtle Unit 1 power operations. This response was signed by SONOPCO Senior Vice President George Hairston. In this response the licensee stated that "since the events" the Vogtle Unit 1 diesels have been started "18 and 19 times each" and that "no problems or failures" have occurred on "any of these starts."

This information was false by commission and omission. Between the Site Area Emergency and 4-9-90 there were numerous failures to start, trips after start and other problems as documented in the Vogtle Utility Control Logs and Shift Supervisors logs. Moreover, SONOPCO waited until late August, 1990 before notifying the NRC that the COA response contained false information.

The COA response also states that the Diesel Control Air Quality "was satisfactory." This statement was false by commission and omission. Serious operational problems with Diesel Air Dryers being left out of service and poor air quality readings were well known. Less than satisfactory air quality readings had been measured just before 4-9-90 as documented on Maintenance Work Orders.

A. Intervenor has identified, to date, the following witnesses: See part 1 above.

B. Intervenor may rely on the following documents:

- 1) Documents identified in part 1 above
- 2) 4-10-90 memo to Bockhold from Mosbaugh
- 3) 4-30-90 memo to Bockhold from Mosbaugh

C. Intervenor learned of the submission of the corrective action letter response on April 10, 1990.

D. Participants to the incident include:

- 1) Bockhold
- 2) McCoy
- 3) Hairston
- 4) Bailey

E. The incident occurred on April 9, 1990.

F. The COA response letter was not received and approved by the Plant Review Board as was required for Vogtle NRC correspondence. Those preparing and approving the COA response were aware or should have been aware of the failures of the diesels and the poor diesel control air readings.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Intervenor has no direct first hand knowledge of events that transpired on April 9, 1990, with respect to issuance of the confirmation of actin response.

3. Issuance of LER

In accordance with 10 CFR 50.73, within 30 days of the Site Area Emergency, a License Event Report (LER) was required to be submitted to the NRC explaining the cause and corrective actions Georgia Power had taken for this event.

On 4-19-90 George Hairston signed LER 90-006 Rev.0 for the Site Area Emergency. The LER states with respect to the diesel generators that: "subsequent to this program, DGIA and DGIB have been started at least 18 times each and no failures or problems have occurred during any of these starts." This information was false by commission and omission. There had not been 18 successful starts without failures and problems since the completion of the comprehensive test program as documented by the Vogtle Utility Control Logs and Shift Supervisor Logs. GPC did not correct the false information in the LER until the end of June 1990.

A. Intervenor has identified, to date, the following witness: Allen Mosbaugh.

B. Intervenor may rely on the documents identified in the 2.206 petition and documents, including tape recordings, in the possession of NRC.

C. Intervenor learned of the specific incidents between 4-19-90 and 4-30-90.

D. Witnesses to the event are Bockhold, Shipman, McCoy, Hairston, Mosbaugh, Aufdenkampe & Stringfellow.

E. The incident occurred on April 19, 1990.

F. Jack Stringfellow was told by Mosbaugh and Aufdenkampe that LER statement was materially false before LER was signed.

Bill Shipman was told about specific trips the diesels experienced and that the "without failures and problems" statement was "not true" before this LER was signed.

Both Stringfellow and Shipman acknowledged the need to take the statement of "no problems or failures" out of the LER prior to the LER being signed on 4-19-90.

Before LER 90-006 was sent to the NRC, both Stringfellow and Shipman acknowledged that the COA response letter previously transmitted to the NRC contained false information concerning the diesel generators.

Both Stringfellow and Shipman stated to Mosbaugh that they intended to immediately inform management, including George Hairston, about Mosbaugh's concern regarding the inclusion of a material false statement in the LER.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence

of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has fist hand knowledge of these events based on his participation in conversations occurring on 4-19-90.

4. Submission of False Information in the Cover letter accompanying the Revision to the LER.

On June 29, 1990 the licensee corrected the false statements in LER 90-006 Rev. 0 by issuing LER 90-006 Rev. 1. A cover letter (explaining the cause of the errors contained in LER-90-006 as poor record keeping practices) was prepared under the direct supervision of George Hairston, who eventually signed the cover letter knowing that it contained false information concerning the cause of the error. The true cause of the error was a willful false statement and the stated desire to use the same words as was used in the COA response.

In order to present a more believable cause for the revision to the LER, George Hairston used the Quality Assurance department to do a review and provide him with a report. This report attributed the error to poor record keeping. This was the reason reflected in the cover letter to the LER. George Hairston directly supervised the preparation of this cover letter.

A. Intervenor has identified, to date, the following witnesses: Allen Mosbaugh.

B. Intervenor may rely on the documents identified in his 2.206 petition and amendments thereto.

C. Intervenor learned of the specific incidents a few days after June 29, 1990.

D. Participants are Aufdenkampe, Stringfellow, Bockhold, Shipman, McCoy, Hairston, Harry Majors, George Fredericks, Mark Ajuluni, QA engineer(s).

E. A few days after 6-29-90

F. QA found no records keeping errors in the control logs or Shift Supervisor logs that were identified as the basis for the errors contained in the LER. Moreover, LER 90-006 Rev 0 can be shown to be false based on information contained in the Control Shift Supervision logs in and of itself. Likewise, the statements can be shown to be false based solely on the contents of the control room logs. Moreover, the QA personal conducting the review were not party to any of the talks on 4-19-90 and were not aware of personnel being advised that the language contained in LER-90-006 was materially false prior to its submission. In this respect, QA's review did not consider aspects of willfulness as a potential reason.

Since QA personnel did not review how the wording was actually created on the 4-19-90 call, they could not accurately determine a cause.

Rev 1 to LER 90-006 was delayed until after the conclusion of the 6-8-90 meeting GPC officials had with the NRC commission to discuss the Site Area Emergency.

Ken McCoy stated on 4-19-90 that he wanted the LER 90-006 Rev0 worded for the diesel start information to be the same as was used in the 4-9-90 presentation to the NRC.

Multiple draft cover letters were drafted with diverse and contradictory reasons that even contradicted the QA report.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has direct knowledge of the cause of the error and has had direct contact with QA engineers.

##### 5. Response to OSI Inspection

In August 1990 the NRC sent an operational safety inspection team ("OSI") to Vogtle to investigate Mosbaugh's allegations. In responding to the NRC's inspection, GPC prepared a "white paper" and provided it to the NRC to explain its actions and state its position on the issues. Included in the "white paper" were answers to specific NRC questions on the Diesel Generators. Answers to several questions and false and misleading responses to question #3 and #5 state who was on the phone call where the final LER 90-006 wording was prepared. Omitted are two SONOPCO Vice Presidents McCoy and Hairston, even though they were both on the phone call.

The response to question #4 falsely describes the "intent" of the wording about the number of diesel starts and the "well defined

point" "subsequent to the test program." Licensee's counsel assisted in preparing the "white paper."

A. Intervenor has identified, to date, the following witnesses: Allen Mosbaugh.

B. Intervenor may rely on the "white paper" licensee gave to NRC as well as other documents identified in his 2.206 petition and amendment thereto.

C. Intervenor learned of the specific incidents in August of 1990.

D. In addition to the individuals identified 3(D) above, participants include licensee counsel, George Fredericks, attendees to an OSI planning session held at the plant Vogtle site during which time the "White paper" was discussed.

E. During the August, 1990 OSI inspection.

F. McCoy was present in the meeting when the answers to questions #3 and #5 were prepared but did not correct the answers about his presence on the call or George Hairston's presence. The "well defined point" "subsequent to the test program" was never defined on 4-19-90 and later caused confusion for the PRB trying to correct the LER.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge of events related to the issuance of the LER, and that McCoy did not correct the statements during the course of the OSI preparatory meeting when the "White paper" was being discussed.

6. Submission of the response to the 2.206 Petition formed by Mosbaugh and Hobby

On April 1, 1991 GPC responded to the 2.206 Petition Filed by Mosbaugh and Hobby. NRC required GPC to file the response under oath or affirmation. Mr. Pat McDonald signed the response under oath. False statements contained in Pat McDonald's response to the 2.206 petition are detailed in allegations Mosbaugh submitted to the NRC in about June 1991. They include the following assertions:

- 1) That "George Hairston" "was not a participant" on the late afternoon 4-19-90 call that revised the wording of LER 90-006.
- 2) That George Hairston had "every reason" to believe that the final draft LER was "accurate and complete" before he signed off on it.
- 3) That A. Mosbaugh did not inform SONOPCO management of false or inaccurate Diesel start count data until 4-30-90 (after the LER was signed).
- 4) That A. Mosbaugh failed to take action to alert SONOPCO personnel of the errors in the LER and get it corrected before it was signed on 4-19-90.
- 5) That the draft cover letters to the LER dated 6-29-90, 7:55 a.m., and 6-29-90, 11:42 a.m., are correct

in stating the cause of the errors contained in the LER.

- 6) That the site Technical Support Department (which reported to Mosbaugh) provided the false statement that was signed out in the final LER and was the cause for its inclusion in the LER.

A. Intervenor has identified, to date, the following witnesses: Allen Mosbaugh.

B. Intervenor may rely on the documents identified in amendments filed to the 2.206 petition and tape recordings in the possession of NRC.

C. Intervenor learned of the specific incidents sometime after April of 1990.

D. Individuals identified in the June 1991 written allegation filed with the NRC.

E. The events occurred when SONOPCO was drafting the response to the 2.206 petition and when the response was filed with the NRC.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge that certain facts set out in the 2.206 response are false.

7. McDonald's Presentation of False testimony in DOL proceedings

On September 17, 1990, Pat McDonald was deposed and was asked repeatedly about his involvement in reading, reviewing, shaping, commenting on draft LER 90-006 Rev 0 before it was signed on 4-19-90. He asserted that he had not seen or read the LER and had no role in reviewing or commenting on it. Contrary to the above, Mr. McDonald called the Vogtle site before LER was approved and made numerous detailed comments and corrections on the draft LER to be incorporated.

A. Pat McDonald, Allen Mosbaugh.

B. Intervenor may rely on tape recordings in the possession of NRC and McDonald's deposition.

C. Intervenor learned of the specific incidents in the Spring of 1991.

D. Aufdenkampe, McDonald, Swartzwelder & Shipman.

E. September 17, 1991.

F. LER 90-006 concerned the Vogtle Site Area Emergency, the most significant nuclear emergency in Vogtle's history and one of major significance nuclear events Pat McDonald and SONOPCO were ever involved with. It is incredible that Pat McDonald would not remember his detailed involvement in the LER comments five (5) months later.

G-L. Making false statements in a Section 210 proceeding is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has no first hand knowledge.

8. McCoy's Presentation of False testimony in DOL proceedings

On September 12, 1990, Ken McCoy presented false testimony during the course of a deposition taken in DOL case No. 90-ERA-001. Therein, McCoy was asked questions concerning the submission of false statements contained in the LER. McCoy stated that he recalled that Mosbaugh raised the issue of a false statement with Bill Shipman but that he was out of town that day. Mosbaugh raised the false statement issue with Shipman on 4-19-90. On 4-19-90 Ken McCoy participated in the late afternoon telephone call from Birmingham, Alabama and was involved in the drafting of the false statements contained in LER 90-006.

A. Witnesses: Allen Mosbaugh.

B. Documents: McCoy DOL deposition and tapes in the possession of NRC.

C. September 12, 1990.

D. Mosbaugh, Shipman, McCoy, Stringfellow, Hairston, Bockhold, Aufdenkampe.

E. September 1990

F. McCoy's participation during the 4-19-90 call about LER 90-006 was substantial. It is not credible that McCoy could recall the fact that Mosbaugh had, in fact, raised with Shipman an issue concerning the false information contained in the LER prior to its submission on 4-19-90 (a call which he was not a party) but could not remember his own participation in the late afternoon call on

LER 90-006, even though he played a leading role in the wording of the LER.

G-L. Providing false testimony in a Section 210 proceeding is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has direct knowledge of facts related to the 4-19-90 submission of the LER and McCoy's role in the submission.

9. Conspiracy to submit false information to the NRC

On 4-19-90 Ken McCoy, Bill Shipman and George Hairston conspired to submit a material false statement to the NRC. Bill Shipman, Ken McCoy and George Hairston knew that Vogtle's diesel generator had tripped and had problems since the Site Area Emergency. Contrary to the statements made to the NRC, when George Hairston said on 4-19-90 "we got the starts...so we don't have no, we don't have no trips?", McCoy replied, "let me, I'll testify to that," and Shipman volunteered "just disavow." Thereafter, Mr. Hairston signed out LER-90-006 containing materially false information concerning the reliability of the diesel generators after the Site Area Emergency. They have since engaged in a conspiracy to keep the truth from the NRC. In furtherance of that conspiracy, have submitted numerous misleading and false statements to the NRC. This includes responses to the 2.206 petition filed by intervenor, the "white paper" given to the NRC during the course of the OSI, as well as statements contained in the cover letter to revision 1 of LER-006.

A. Witnesses: Allen Mosbaugh.

B. Documents: Tapes in the possession of NRC, LER 90-006

C. Mr. Mosbaugh learned of the facts related to conspiracy after the Site Area Emergency occurred, predominately on 4-19-90.

D. Shipman, Hairston, McCoy, Stringfellow, Bockhold, Aufdenkampe, Mosbaugh.

E. 4-19-90

F. Conspiracy to submit false information to NRC.

G-L. By definition, the intentional submission of false information to the NRC is criminal in nature and is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge concerning events occurring on 4-19-90.

10. McCoy made false statements to the NRC during an enforcement Conference held at the Plant Vogtle site on May 22, 1990

On May 22, 1990 the NRC held an enforcement conference to address Plant Vogtle's continuing violations of safeguards documentation. The extent of these violations had been limited to problems occurring at the Vogtle site. At the conference McCoy stated: "we have reviewed the controls in corporate -- in Birmingham and safeguards documents there are all controlled by document control under a sound program." This assertion was false when made. The SONOPCO program was not sound and all safeguards documents were not controlled by document control.

On 7-23-90 Vogtle made a "red phone" notification of multiple safeguards document problems in Birmingham. The problems in corporate included unprotected, uncontrolled and unreported violations of safeguards document controls dating back to November of 1989. These problems were known to management.

A. Intervenor has, to date, identified the following additional witnesses: Allen Mosbaugh.

B. Intervenor may rely on the documents in the posession of NRC-OI, including the tape recordings.

C. Intervenor learned of the specific incidents in July of 1990.

D. Mosbaugh, McCoy, participants at NRC enforcement conference.

E. May 22, 1990.

F. Ken McCoy knew or should have known about the safeguards document problems when he made his statement at the enforcement conference.

G-L. Making false and misleading statements to NRC Staff during an enforcement conference is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge of event occurring at the enforcement conference.

11. Management Covered up False Statements Subsequent to the issuance of LER-90-006 by Resorting to "Valid Starts and failures" Terminology.

False statements contained in the verbal presentation and COA response were recognized by SONOPCO personnel as being false. SONOPCO personnel then began covering up this false information by adding wording to the LER related to "valid starts and failures."

A. Mr. Mosbaugh will testify for intervenor.

B. Tapes in the possession of NRC and documents identified in intervenor's 2.206 petition and amendments thereto, and documents in the posession of NRC-OI.

C. 4-19-90

D. Participants were Shipman, Stringfellow, Aufdenkampe, Odom, Mosbaugh.

E. 4-19-90

F. Attempt to coverup of false information.

G-L. Attempting to coverup false information previously transmitted to NRC is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge of these events.

#### 12. Willingness to Violate NRC Regulations

SONOPCO created an atmosphere which precipitated a general willingness to violate NRC regulations. In this respect, SONOPCO and licensee personnel made statements expressing a willingness to violate NRC regulations and to be untruthful with the NRC. Intervenor has identified the following examples:

a) Bockhold stated:

I'll deny this if you ever repeat it, but, given the value of generation of these plants, sometimes its better to take the violations.

This statement occurred in 1988 and was witnessed by Mosbaugh and Bellamy.

- b) To the best of Mosbaugh's recollection, McCoy stated:

SONOPCO is like a family. Say someone from the outside like INPO or the NRC asks you; 'how's your corporate engineering support?', you say: 'I got the best engineering support in the world,' then you turn around and get on the phone with engineering and tell them you need that DCR or whatever your waiting for and how there not supporting you.

This statement occurred during an in-house coordination meeting for the August, 1990 OSI and was witnessed by the entire management staff.

- c) Operations Superintendent of Plant Vogtle stated:

"It can be done if you can take the LER's."

This statement occurred after the Site Area Emergency, on March 22, 1990, and was witnessed by participants to the 7:00 p.m. shift turnover meeting.

- d) Bockhold instructed Cash on the diesel generator starts information: "Just get the good stuff."

This statement occurred prior to 4-9-90.

- e) Art Domby (attorney with Troutman Sanders) advised Mosbaugh to withhold first-hand information from NRC-OI concerning the dilution valve violation investigation. In addition, he attempted to persuade Mosbaugh that his recollection of events occurring at the site was incorrect, based on "privileged" information he had

obtained. This occurred out of the presence of the NRC during a break in a transcribed statement NRC-OI was making of Mr. Mosbaugh.

- f) Statements made by SONOPCO/GPC counsel to John Aufdenkampe attempting to persuade Mr Aufdenkampe into signing an affidavit denying that Hairston was on the 4-19-90 call.
- g) Maintenance Instrument and Control supervisor's statement about the Calcon switches that caused the diesel failure in the Site Area Emergency:

These are the worst temperature switches you ever set in your life. They're junk. I don't know if we need to advertise that or not. How the hell can we put this on something like a diesel?

This statement occurred on or about 3-22-90, and was witnessed by the Site Area Critique Team.

G-L. Statements concerning a willingness to violate NRC requirements and otherwise mislead NRC about facts is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge with respect to the statements identified in a, b, c, e and g above.

### 13. Previous false statements made by McCoy

Upon information and belief, Ken McCoy is alleged to have made false statements to the NRC during his previous employment at another nuclear facility. It is alleged that the then director of

NRC's Region II refused to grant an operating license to that facility as long as Ken McCoy was employed there. It is further alleged that McCoy then left the facility. It is further alleged that in the process of forming SONOPCO, Mr. McDonald hired McCoy with full knowledge of the allegation.

McDonald indicated his knowledge of this fact during his September, 1990 deposition taken in conjunction with Case No. 90-ERA-01.

G-L. Prior false statements made by McCoy to NRC are is an indicator, and SONOPCO's knowledge of this allegation, is an indicator that SONOPCO management lacks character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh does not have first hand knowledge.

14. McDonald encouraged licensee employees to engage in questionable activity

Senior operations management at GPC's plant Vogtle were found by NRC-OI to have willfully violated technical specifications concerning the opening of locked closed dilution valves while Unit 1 was in a midloop condition during a fall, 1988 outage. The NRC also concluded that the action of opening the dilution valves placed the plant in an analyzed condition. NRC Staff did not find the actions willful as did OI and instead concluded that the licensee has misunderstood the technical specification, but GPC was fined \$100,000 for their actions. After the NRC-OI investigated the first violation, the licensee again violated the same technical specification in March of 1990. Upon information and belief, Pat

McDonald called Skip Kitchens (the Operations Manager whom OI had determined willfully violated the technical specifications) and told him that he had "done the right thing" and that the company was "100% in back of him." During the course of Pat McDonald's deposition in Case No. 90-ERA-01, he was asked if he ever had called Skip Kitchens to tell him that Kitchens had "done the right thing" and McDonald denied speaking to Mr. Kitchens.

A. Witnesses who may testify are Kitchens, McDonald, Tynan, Mosbaugh.

B. Dilution valve violations issued by NRC, civil penalty issued by NRC, tape recordings in the possession of NRC.

C. Intervenor became aware of this in the Spring of 1990, and when he reviewed McDonald's deposition.

D. Participants were Kitchens and McDonald.

E. The incident occurred in the Fall of 1989.

G-L. Top management's unwavering support of actions by managers NRC OI found to constitute willful misconduct and which NRC Staff issued a \$100,000 penalty indicates a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh does not have first hand knowledge.

15. False statements concerning the response to the 2.206 petition.

When responding to the 2.206 Petition, the licensee claimed that a review of telephone logs indicated that members of its management and executive staff informed the NRC about false

statements in the COA reply and LER 90-006 promptly after discovery and before the June 8, 1990 meeting with the NRC Commission on the corrective actions to the Site Area Emergency. Upon information and belief, the dates provided in the 2.206 petition conflict with the dates contained in prior documentation provided to the NRC in August of 1990, which indicates that the contacts only occurred after rather than before the 6-8-90 meeting with the Commission.

A. Intervenor has, as of yet, not identified any witnesses who will testify.

B. 2.206 response, and "white paper."

C. Intervenor discovered the discrepancy in April of 1993.

D-F. Intervenor does not have enough information at this time to respond.

G-L. Intervenor does not have enough information at this time to respond.

M. Mr. Mosbaugh does not have first hand knowledge.

16. Intentionally failing to report safeguards violations to the NRC on time.

NRC regulations in effect in 1990 (10 C.F.R. §73.71) required the licensee to make a report, via red phone, to the NRC operations center within one hour of the time of discovery. On 7-19-90, Allen Mosbaugh notified Tom Green, Bill Shipman and Paul Rushton of the compromise of safeguards information at the SONOPCO Birmingham offices and advised them of the one hour reporting requirement. These individuals had direct line responsibility for security and for reporting events to the NRC, but failed to make the required notification to the NRC. On 7-23-90, at 10:30 a.m., the Vogtle

security manager having returned from a trip, determined that the compromise of safeguards was reportable and was to be red phoned to the NRC within one hour. The security manager notified the plant Vogtle general manager and SONOPCO Vice President of his conclusion that a one hour report was due by 11:30 a.m. SONOPCO management delayed the reporting by arguing with the security manager that the violation was just "hearsay." The NRC has subsequently concluded that a violation of the reporting requirements did occur.

A. Intervenor may call Allen Mosbaugh, but has not identified other witness as of this date.

B. Tapes in the possession of NRC.

C. Intervenor became aware of these events on 7-19-90 and 7-23-90.

D. The participants to the events are identified above.

E. The incident occurred on 7-19-90 and 7-23-90.

F. Shipman, Rushton, Bockhold, Green, and McCoy knew the reporting requirements and they had reasonable cause to know that the compromise had occurred, but failed to report it.

G-L. Intentionally delaying the report of safeguards violations to NRC is direct evidence of a lack of character, competence, integrity, candor, truthfulness and demonstrates a total unwillingness to abide by regulatory requirements.

M. Mr. Mosbaugh has first hand knowledge, as identified above.

17. McDonald's March 30, 1989 False Statement to the Commission

On March 30, 1989, Mr. McDonald made false statements directly to the Commissioner during discussions related to a vote on the full power operating license for Vogtle Unit 2. Specifically, when the then Chairman of the Commission voiced a regulatory concern about the management structure at plant Vogtle and requested Mr. McDonald to state the management chain from the plant manager to the CEO, Mr. McDonald failed to identify an entire line of management. Moreover, Mr. McCoy was present as were and he likewise failed to correct the false statement.

- A. Attendees to the 3-30-89 meeting.
- B. Transcript of 3-30-89 meeting.
- C. Intervenor became aware of this issue in 1990.
- D. Attendees to the 3-30-89 meeting.
- E. 3-30-89.
- F. As stated in the above narrative.

G-L. Failing to identify Mr. McDonald's direct report when he was stating the management structure to the Commission in response to a concern raised by the Chairman of the Commission demonstrates a lack of competence, candor, and willingness to abide by regulatory requirements.

M. Intervenor does not have first hand knowledge of these events.

13. Identify all communications, whether written or oral, between the Plant Vogtle staff and the GPC corporate office on April 19, 1990 concerning the language of LER-90-006. For each such communication;

- a. describe the portions of oral communications which you listened to and the portions which you did not;
- b. describe the portions of such oral communications which you tape recorded;
- c. identify the participants in the oral communications listened to by you;
- d. describe the statements made by Intervenor with respect to the Plant Vogtle Unit 1 diesel generators;
- e. describe the statements made by each other participant with respect to the Plant Vogtle Unit 1 diesel generators and identify which participant made each statement;
- f. identify any documents comprising, referring or relating to such communications.

Response

Intervenor's best recollection of the events that occurred on April 19, 1990 concerning the language of LER-90-006 is set out in transcripts and tape recordings in the posession of NRC. Intervenor will supplement this response when documents are obtained from NRC staff.

14. Describe in detail the specific problems with or failures of the Plant Vogtle Unit I diesel generators of which you notified GPC management between March 20, 1990 and April 19, 1990, inclusive; identify each GPC employee who was notified of such problems or failures; detail the circumstances of that notification; and identify all documents referring or relating to each such notification.

Intervenor incorporates the transcripts of tape recordings and the tape recordings in the posession of NRC. Intervenor will be able to provide a more detailed response when tapes are returned from the NRC.

15. Describe in detail the information contained in GPC's April 9, 1990 letter to the NRC, GPC's April 19, 1990 presentation transparencies and GPC's April 19, 1990 LER-90-006 which Intervenor

alleges were willful material false statements when made or submitted to the NRC, and with respect to each inaccuracy, state:

- a. on what basis Intervenor concludes that such inaccuracy was willful;
- b. the specific dates when Intervenor learned of such inaccuracy;
- c. the actions taken by Intervenor to correct such inaccuracy;
- d. all documents referring or relating to such inaccuracy;

Response

Intervenor incorporates his response to interrogatory No. 12.

16. State the Intervenor's definition of each of the following terms as they relate to the Board-admitted contention:

- a. character;
- b. competence;
- c. integrity;
- d. candor;
- e. truthfulness; and
- f. willingness to abide by regulatory requirements.

Response

A. Intervenor defines "character" as follows: An aggregate of ethical qualities entrusted to a licensee to guarantee the safe operation of a nuclear facility.

B. Intervenor defines "competence" as follows: Possessing the natural and legal qualifications necessary to guarantee the safe operation of a nuclear facility.

C. Intervenor defines "integrity" as follows: Possessing a firm commitment and adherence to regulatory requirements to the point of incorruptibility; fidelity in the discharge of regulatory requirements regardless of self interest or other motivation.

D. Intervenor defines "candor" as follows: Unreserve, honest and sincere communication to the point of volunteering information of interest to the NRC.

E. Intervenor defines "truthfulness" as follows: Disposed to tell the truth; fidelity to truth.

F. Intervenor defines "willingness to abide by regulatory requirements" as follows: The state of mind of a licensee which outwardly manifests a desire and willingness to faithfully comply with all regulatory requirements.

17. With respect to the tape recordings referred to in interrogatory 1 above, identify each tape (by the date and number marked thereon) and the portion or portions of each tape which the Intervenor intends to rely on in this proceeding.

Response

Intervenor has not yet determined which tapes returned from the NRC he intends to rely upon during this proceeding. With respect to the tapes in the possession of NRC, Mr. Mosbaugh cannot, at this time, accurately detail the tape numbers nor the portions of which tapes he intends to rely, and cannot do so until said tapes are returned. Nonetheless, intervenor will, in all probability, rely on tapes which were made on the dates identified in the 2.206 petition and supplements thereto, as well as in the

write-ups intervenor presented to NRC and the response to interrogatory 12.

18. Identify each person whom you contend has any information or knowledge relating to any facts supporting any of the allegations made in the Amended Petition, and for each person identified, provide a brief summary of the knowledge or information possessed.

Response

Intervenor objects on the grounds that this interrogatory is overly vague, broad, excessive, and unduly burdensome in that it refers to "any facts supporting any of the allegations made in the Amended Petition." Without waiving this objection, intervenor incorporates his response to interrogatory Nos. 12, 23, 25, 26, 28, 36, 37, 39, 40.

19. Identify each person you expect to call as an expert witness at the trial of this matter, and for each person state the subject matter, the facts and the opinions or conclusions to which he or she is expected to testify and give a summary of the grounds for each opinion or conclusion.

Response

At this time intervenor has not identified any expert witnesses.

20. Identify each person retained, employed or consulted by you in anticipation of litigation or in preparation for the trial of this matter who is not expected to be called as an expert witness at trial.

Response

Michael D. Kohn, Stephen M. Kohn, David K. Colapinto.

21. State each and every fact which supports your claim that GPC illegally transferred control of the operation of Plant Vogtle without the knowledge or consent of the co-owners of Plant Vogtle, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

At this time intervenor does not know all the facts which supports the contention that GPC illegally transferred control of the operation of Plant Vogtle. Nonetheless, intervenor understands that Oglethorpe Power Corporation's ("OPC") Director of Power Production raised a concern to several GPC employees. His opinion that the license had been transferred was based upon his personal observations of how business was conducted. He eventually raised an official concern to the Subcommittee on Power Generation in April of 1989. Also see response No. 36.

22. State each and every fact which supports your claim that The Southern Company has a "corrupt corporate policy," as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Information relating to The Southern Company corrupt corporate policy currently known to intervenor is set out in articles that appeared in the Atlanta Business Journal. As of this date, intervenor does not have copies of these articles. Intervenor will supplement this response when copies of these articles are located.

23. State each and every fact which supports your claim that The Southern Company or Southern Nuclear and its management chain of command lacks character, competence, integrity candor or truthfulness as alleged in the Amended Petition; identify all

individuals who have knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory No. 12. With respect to individuals who are believed to have knowledge of facts related to character, competence, integrity, candor and truthfulness, intervenor identified the following persons:

Dahlberg

Farley

McDonald

Hairston

Shipman

Bockhold

Stringfellow

Majors

Aufdenkampe

Schwartzwelder

Kitchens

Bailey

Tynan

Jerry Kane

O'Reily

Cash

Burr

Mosbaugh

Hobby

McHenry

Webb

Ajuluni

Rushton

Employees of GPC

Employees of SONOPCO

Dannimiller

Streetman

Robinson

Tate

Ebnetter

Rogge

Aillo

Brockman

Attorneys representing Yonker and Fuchko

Attorneys representing GPC in the Yonkers and Fuchko Section 210 matter, including Jay Schaudies

Art Domby, Esq.

John Fuchko

Gary Yunker

All persons listed on the witness list or called to testify in the case of Fuchko and Yunker v. GPC, 89-ERA-9 and 89-ERA-10.

Rogers Day

All persons listed on the witness list or called to testify in the case of Day v. GPC, 88-ERA-42.

Randy Bidwell

All persons listed on the witness list or called to testify in the case of Bidwell v. Pullman Power/GPC, 86-ERA-1.

Steve McNally

Billy Weatherford

James Register

Suzanne Register

Leslie Price

All persons listed on the witness list or called to testify in the consolidated case of McNally, et. al. v. GPC, 85-ERA-27, 29-32.

Donald Hadden

All persons listed on the witness list or called to testify in the case of Hadden v. GPC, 89-ERA-21.

Joseph w. Durham

All persons listed on the witness list or called to testify in the case of Durham v. GPC, et. al., 86-ERA-9.

All persons listed on the witness list or called to testify in the case of Allen Mosbaugh v. GPC, 91-ERA-1/11.

Shannon T. Doyle

All persons listed on the witness list or called to testify in the case of Doyle v. Alabama Power Co, 87-ERA-43.

All persons listed on the witness list or called to testify in the case of Hobby v. GPC, 90-ERA-30.

All persons listed on any witness list and all complaining witnesses in all cases filed against GPC and/or any company owned by the Southern Company under Section 210 of the Energy Reorganization Act, Section 211 of the Energy Reorganization Act, 29 C.F.R. Part 24 and 10 C.F.R. 50.7.

All persons listed on any witness list, interviewed by the NRC, and/or persons who filed harassment and intimidation complaints with the NRC and or DOL concerning GPC and/or any utility owned by the Southern Company.

All persons listed on any witness list prepared by the NRC Office of Investigations, interviewed by the NRC Office of Investigations and/or any person who filed a complaint which was investigated by the NRC Office of Investigations.

Any person with evidence relevant to the admitted contention.

Any person necessary to lay the foundation for the admission of documents relevant to the admitted contention.

Every person interviewed by the NRC in connection with any allegation raised by Allan Mosbaugh, Marvin Hobby and/or any person listed in this witness list.

The intervenor will supplement this list.

24. State each and every fact which supports your claim that The Southern Company or Southern Nuclear and its management chain lacks a willingness to abide by regulatory requirements," as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory No. 23.

25. State each and every fact which supports your claim that The Southern Company controls and directs the management of Southern Nuclear, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Joseph Farley, in his May 7, 1990 deposition, described a tentative Board of Directors for Southern Nuclear. He stated it would be determined by whomever had the proxy to decide, namely, Mr. Addison, President of The Southern Company. Upon information and belief, the tentative Board of Directors was determined by Mr. Addison, Mr. Dahlberg, Mr. Harris and Mr. Farley.

The individuals identified above have knowledge of these facts. Mr. Farley's deposition testimony supports the claim.

26. If you contend that the Southern Company improperly formed Southern Nuclear, state each and every fact supporting your claim; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

The contention is that the license and control of GPC's nuclear power plants were transferred to SONOPCO prior to obtaining permission from the NRC and the co-owners of Hatch and Vogtle.

In addition to GPC and SONOPCO employees, individuals with knowledge of this claim include Marvin Hobby, A. Mosbaugh, and OPC (including Dan Smith).

Documents supporting this claim include deposition testimony of R. P. McDonald (May 8, 1990 and August 23, 1990); J.M. Farley (May 7, 1990); H.G. Baker (May 23, 1990); A.W. Dahlberg (May 8, 1990); J.P. Schaudies (August 23, 1990); Lee Glenn (August 23, 1990); W.R. Evans (August 23, 1990); M.B. Hobby (May 9, May 23, August 23, August 24, 1990); and the hearing transcript presented during the Department of Labor hearing transcript in the matter of Hobby v. GPC, case No. 90-ERA-30.

27. State each and every fact supporting your claim that GPC lost touch with the operation of Plant Vogtle as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory Nos. 36 and 37.

28. State each and every fact supporting your claim that Mr. McDonald made misleading statements about the staffing of the SONOPCO Project and about the role he played in said project as alleged in the Amended Petition; describe each such statement; identify to whom such statement was made; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Mr. McDonald stated under oath during his deposition in the Fuchko/Yonker section 210 case that candidates for positions in the Administrative and Technical Services groups at SONOPCO were chosen "from the top down" (that is, management picked the vice presidents, the vice presidents picked the general managers, the general managers picked their managers, the managers picked their supervisors, etc.) He offers the same explanation at the Fuchko/Yonker trial, and thereafter when deposed in the Hobby v. GPC Section 210 matter as well as during the hearing held in that matter.

The Statement made at the Fuchko/Yonker deposition was heard by Ms. Laurie Fowler, Mr. John Fuchko, Mr. Charles Whitney, Mr. James H. Miller, III and the court reporter, Mr. Charles S. Barrington. At the Fuchko/Yonker trial, numerous persons in attendance heard the statement. However, the trial transcript provides his statement. At the deposition in the Hobby case, in attendance were Mr. Hobby, Mr. Jesse Schaudies, Mr. James Joiner, Mr. Michael Kohn, and the court reporter, Ms. Susan E. Reynolds. At the Hobby trial, Mr. Hobby, Mr. Kohn, Mr. Joiner, Mr. Whitlow, Judge Williams and several other people were present.

Documents supporting this claim are Mr. McHenry's testimony at the Hobby trial and the affidavit of Mr. McHenry accompanying intervenor's 2.206 petition.

In addition, at the Fuchko/Yonker deposition on December 23, 1988, Mr. McDonald stated that he did not know who selected Mr.

Louis Long and Mr. Charles McCrary for their position at SONOPCO but that he did not. Whereas, at this May 7 deposition in the Hobby case, McDonald stated that he indeed was involved in the selection and he alone made the recommendation to the Board of Directors that Messrs. Long and McCrary be selected for their positions.

Mr. Farley, at his deposition on May, 1990, stated that Mr. McCrary was chosen by a selection process and that he (Mr. Farley) made the final selection. Mr. Farley also stated Mr. Long was selected by a consensus of the people concerned -- himself, Mr. Baker, and Mr. McDonald.

People with knowledge of the facts are the selection committee who chose Mr. McCrary, Mr. Farley, Mr. McDonald and numerous other GPC and SONOPCO personnel. Documents supporting this allegation are the depositions of Mr. McDonald's testimony in the Fuchko/Yunker trial and in the Hobby case, Mr. Farley's deposition and trial testimony in the Hobby case.

29. If you contend that GPC did not keep the NRC informed about GPC organizational structure, allocation of responsibilities and authorities, and personnel qualification requirements, state each and every fact which supports your claim; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

At this time intervenor does not have sufficient information to answer this interrogatory question. Intervenor is not aware of each individual filing of an organization chart with the NRC. Intervenor is nonetheless aware that on January 11, 1991, in a

presentation to the NRC staff, Mr. McDonald described the reporting structure in going from Phase I to Phase II of the SONOPCO project. In doing so, Mr. McDonald stated that prior to December, 1990, "he (Mr. Farley) had no responsibilities for this administrative support." And that during Phase II, Mr. Farley would assume additional responsibilities.

However, at his May 7, 1990 deposition in the Hobby case, Mr. Farley stated that in moving from Phase I to Phase II, Mr. McDonald would report to him on certain administrative matters as he currently did in Phase I; and, "our relationship would not change."

Knowledge of the facts are known by Messrs. Farley and McDonald and numerous other GPC and SONOPCO personnel. The transcript of the NRC meeting, Mr. Farley's and Mr. McDonald's deposition in the Hobby case, and their testimony at the Hobby trial support the claim.

30. State each and every fact which supports your claim that Southern Nuclear and The Southern Company do not have the requisite corporate ethics to operate Plant Vogtle; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory Nos. 12 and 23.

31. If you contend that Southern Nuclear or The Southern Company has exhibited behavior which bears a connection to unsafe operation of Plant Vogtle, state each and every fact which supports your claim; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory Nos. 12 and 23.

32. Identify the "other documentation" in the possession of the NRC which you contend supports your claim that Southern Nuclear or GPC submitted materially false information to the NRC as alleged in the Amended Petition.

Response

Intervenor objects to this interrogatory inasmuch as it seeks to obtain information protected by the informant's privilege. Without waiving this objection, intervenor states that the "other documentation" concerns written explanations intervenor provided to the NRC.

33. State each and every fact which supports your claim that Southern Nuclear or GPC conspired to cover up wrong-doing in order to obstruct the NRC's investigation allegations set forth in the Hobby-Mosbaugh Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory Nos. 12 and 23.

34. State each and every fact which supports your claim that there was a "conspiracy" regarding submission of material false information to the NRC in LER-90-006; identify all members in this alleged conspiracy; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his response to interrogatory Nos. 12 and 23.

35. State each and every fact which supports your claim that a Plant Vogtle license transfer to Southern Nuclear would increase the risk of the possibility of an accident and represents an unsafe operating condition, as alleged in the Amended Petition; identify any and all documents supporting your claim.

In addition to the facts previously articulated in the pleading, ASLB orders, and at the pre-hearing conference, intervenor incorporates his response to interrogatory No. 12.

36. State each and every fact which supports your claim that Joseph M. Farley was given the responsibility for and served as the de facto chief executive officer of the SONOPCO project, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Mr. Dahlberg stated at the Hobby trial that Mr. Farley headed up the formation of SONOPCO and that entity. During his deposition in the Hobby case, Senior Executive Vice President Baker stated that "The appropriate level of oversight of SONOPCO exists, in that the chief operating officer, Pat McDonald and the CEO of -- not the CEO because it's not a corporation -- but Farley and McDonald are officers of Georgia Power Company, reporting to the president, Bill Dahlberg."

As shown in Mr. W. R. Evans's deposition in the Hobby case, Mr. Farley had responsibility for making major staffing decisions in GPC's nuclear operations. Mr. Farley travelled to Plant Vogtle and Plant Hatch to inform staff of changes in Georgia Power Company's compensation policy. Mr. McCoy, VP of Plant Vogtle, stated that an on-going outage philosophy was created by Mr. Farley, Mr. McDonald, Mr. Hairston and by other SONOPCO vice

presidents. Mr. McCoy in or about August, 1990, addressed Vogtle management and stated that in the case of any significant event, the project vice president would call the president of the company. The Manager of Technical Support stated the president referred to was Mr. Farley, who at the time was the senior executive. Mr. Jesse Schaudies stated at his deposition in the Hobby case that the officers for Plant Hatch and Plant Vogtle were selected by Mr. Farley and Mr. McDonald. Lastly, Mr. Farley stated in his deposition in the Hobby case, that he reported to the Board of Directors of The Southern Company on the progress of SONOPCO and the performance of the nuclear plants.

The facts are known by the people who made the statements, by A. Mosbaugh, M. Hobby, and in the case of Mr. Farley's trip to Hatch to discuss employee compensation , by Dan Smith and Dave Self of Oglethorpe Power, and numerous employees at Plants Hatch and Vogtle.

Evidence to support these claim are the depositions of Mr. Baker, Mr. Evans, Mr. Farley, perhaps others, the testimony of Mr. Dahlberg at the Hobby trial, and the Hobby/Mosbaugh petition to the NRC of October 1, 1990.

37. State each and every fact which supports your claim that the Southern Company established a de facto SONOPCO project Board of Directors headed by Mr. Farley, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Responses

Mr. Dahlberg in his deposition on May 8, 1990 admitted to a proposed Board of Directors headed by Mr. Farley as the CEO and he

stated that group had met. Additionally, Mr. Farley in his May 7, 1990 deposition, admitted to an informal Board of Directors of SONOPCO and indicated that they had several meetings.

Mr. Farley and Mr. Dahlberg know the facts related to this issue as do others in the Southern system which we cannot identify. The depositions of Mr. Farley and Mr. Dahlberg support the claim. Mr. McDonald's and Mr. Dahlberg's calendar's indicate that a SONOPCO project Board of Directors had regular meetings. Also see the response to Interrogatory #38.

38. State each and every fact which supports your claim that The Southern Company Board received all of its information concerning the performance of GPC's nuclear plants directly from Mr. Farley, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Other than the information alleged in the amended petition, intervenor, at this time, does not know of any additional facts. Information related to this allegation is believed to be known to Mr. Hobby. Intervenor will supplement this response should he obtain from Mr. Hobby additional information.

39. If you contend that R. P. McDonald reported to Mr. Farley regarding the operation of GPC's nuclear plants, state each and every fact supporting such a claim; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

The operation of a nuclear power plant includes many things. Mr. Farley, in his deposition of May 7, 1990, testified that on certain matters Mr. McDonald reported to him; although on the same

day Mr. McDonald denied that in his deposition. Mr. Farley has significant responsibilities for human resources at the plants including determining staffing levels. Additionally, please see responses to questions #36 and #38.

Mr. McDonald, Mr. Farley, Mr. Beckham, Mr. McCoy, Mr. Louis Long, and numerous people at Georgia Power company and southern Nuclear have knowledge of these facts.

Documents supporting this allegation are the depositions of Mr. Farley (May 7, 1990), Mr. McDonald (May 7 and August 23, 1990), and Mr. W. R. Evans (August 23, 1990).

40. State each and every fact which supports your claim that Mr. McDonald and Mr. Farley selected Ken McCoy to serve as the new Plant Vogtle Project Vice-President as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates the portions of the record in the Department of Labor matter known as Hobby v. GPC, Case No. 90-ERA-30. Intervenor's knowledge is based on the record established in that matter and the information set out in intervenor's 2.206 petition and amendments thereto. The facts are known by Mr. Schaudies, Mr. McDonald, Mr. Farley, and perhaps others in Georgia Power Company and SONOPCO.

The document to support this allegation is Mr. Schaudies' deposition in the Hobby case.

In addition thereto, intervenor states that Jesse Schaudies, the GPC lead attorney at the outset of the Hobby case, Section 210, stated in his August 23, 1990 deposition that the GPC employees who

were assigned to the SONOPCO Project were selected by the people who had been selected as their supervisors. And, the positions were initially filled with Mr. Farley and Mr. McDonald and they selected the people immediately below them. These facts are known by Mr. Schaudies, Mr. McDonald, Mr. Farley, and perhaps others in Georgia Power Company and SONOPCO. The document supporting this assertion is the deposition Mr. Schaudies provided during the course of the Hobby Section 210 case.

41. State each and every fact which supports your claim that the SONOPCO project management team for Plant Vogtle was all selected over a two-day period by Messrs. McDonald, McCoy, Hairston and Beckham, as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Matters related to this interrogatory age generally known by Mr. Hobby. Should intervenor obtain additional information from Mr. Hobby, he will supplement this response. In addition, intervenor states that the testimony of T. J. McHenry at the Hobby trial plus his affidavit in the Hobby case clearly spells out the facts.

Knowledge of the facts are known by Mr. McHenry, and by Messrs. Beckham, McCoy, and Hairston.

Documents to support the allegation are Mr. McHenry's testimony at the Hobby trial, his deposition in the Hobby case, Mr. Farley's deposition in the Hobby case, and Mr. Farley's testimony at the trial.

42. With respect to the allegation in the Petition that "the conversations Mr. Mosbaugh captured on tape irrefutably demonstrates that SONOPCO management responsible for submitting LER-90-006 knew that said LER contained material false statements and that said management conspired to and did submit materially false information to the NRC that was significant to the regulatory process," please state the date and place of each conversation referred to; identify those persons involved in each conversation; describe the subject matter of each conversation; and identify all documents which reflect, refer or relate to each conversation.

Response

Intervenor incorporates his responses to interrogatory Nos. 12 and 23.

43. State each and every fact which supports your claim that Mr. McDonald's response submitted to the NRC on April 1, 1991 "contains numerous verifiable material false statements," as alleged in the Amended Petition; identify all individuals with knowledge of these facts; and identify any and all documents supporting your claim.

Response

Intervenor incorporates his responses to interrogatory Nos. 12 and 23.

Respectfully submitted,



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Attorney for Intervenor

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

93 JUN -4 PM 30

Before Administrative Judges:

Peter B. Bloch, Chair  
Dr. James H. Carpenter  
Thomas D. Murphy

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In the Matter of	)	
GEORGIA POWER COMPANY	)	Docket Nos. 50-424-OLA-3
<u>et al.</u> ,	)	50-425-OLA-3
(Vogtle Electric Generating	)	Re: License Amendment
Plant, Unit 1 and Unit 2)	)	(transfer to Southern Nuclear)
	)	ASLBP No. 93-671-01-OLA-3

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CERTIFICATE OF SERVICE

I hereby certify that copies of:

- 1) Intervenor's Response to the First Request for Documents by Georgia Power Company, and
- 2) Intervenor's Response to the First Set of Interrogatories of Georgia Power Company

were served on the following persons by United States mail, on

June 2, 1993:

Administrative Judge  
Peter B. Bloch, Chair  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Administrative Judge  
Dr. James H. Carpenter  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Administrative Judge  
Thomas D. Murphy  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

[continued on next page]

Charles A. Barth, Esq.  
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and on June 3, 1993 upon:

\*Office of the Secretary (\* Original and two copies)  
Attn: Docketing and Service  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
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