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TO: OSCAR DEMIRANDA, USNRC ALLEGATIONS COORDINATOR
CC. LARRY ROBINSON, USNRC OI

FROM: ALLEN L. MOSBAUGH

Allen L. Mosbaugh 3-18-94

HAIRSTON WAS ON THE LATE AFTERNOON CONFERENCE CALL 4-19-90

---THE CHRONOLOGY OF SOUTHERN NUCLEAR'S DENIAL
---THE COVER UP WITH THE LAR PIER. TROUTHAN SANDERS

APRIL 19, 1990 about 4:00 PM --Late afternoon Conference

Call: Conference Call "A"

On 4-19-90 a telephone conference call occurred between Vogtle site personnel and Southern Nuclear personnel in Birmingham, Alabama, late in the afternoon. In John Aufdenkampe's office at Plant Vogtle were John Aufdenkampe and Allen Mosbaugh and in Ken McCoy's office at Southern Nuclear, in Birmingham, were Jack Stringfellow, Bill Shipman, Ken McCoy and George Hairston. [See Tape #58, Tr. Pg.8-17].

George Bockhold was also on the call but probably from another phone on the Vogtle site. All the above personnel spoke on the call and were clearly identifiable by voice. In addition the names of these participants were used during the conversation including George Hairston's. Also believed to be party to the call in McCoy's office were Louis Ward, Jim Bailey, and Paul Rushton (but they were not heard speaking). [See Tape #253 Tr.Pg.19 and 20]. For a brief period Gus Williams and Tom Webb walked into Aufdenkampe's office during the call. Gus Williams may have made a brief comment on the call.

George Hairston participated and spoke on the call when the diesel generator starts were discussed, indeed he participated in the following exchange:

Hairston: "We got the starts-- So we didn't have no, we didn't have no trips?"
Shipman: No, not, not---
McCoy: Let me explain. I'll testify to that.
Shipman: Disavow.

This call revised the wording of the LER about the Diesel generator starts adding the wording about the "Comprehensive Test Program" (CTP) in the following exchange:

Stringfellow: Let me make sure I'm clear. Do we want to say, "Since 3-20-90, DG1A and DG1B have

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G PDR

been subjected to a comprehensive test program? Do we want to say that kind of stuff, or do we want to say---
Bockhold: Yes, you can say that.

The final wording agreed to on this call is indeed the wording that was in the signed LER 90-006 rev.0.

APRIL 19, 1990-- Shipman's Follow-up Call to Aufdenkampe:

Follow-up call "B"

One more call occurred after the above call within 15 minutes. Bill Shipman called John Aufdenkampe. Allen Mosbaugh was still in Aufdenkampe's office and Stringfellow was with Shipman [See Tapes #58, Tr. Pg. 20-32]. George Bockhold did not participate in this call. Hairston and McCoy were not on the call either.

No revisions of LER wording occurred on this call, in fact no revision were discussed. Shipman read portions of the wording changes made by the higher Vice president level personnel on the earlier call, and they remained unchanged in the final version. Shipman's purpose on this call was to get the site, specifically Aufdenkampe, to buy into the corporate revisions that had been made on the previous call. Shipman must have had a "gut feeling" that the site personnel were not "in the fold" on repeating the false statements. Mosbaugh commented to Shipman that he believed that the Comprehensive test program could not be claimed to be completed until the Undervoltage test, start #143 and #142 respectively (this definition of the CTF would have proved the LER statements false) but Shipman ignored Mosbaugh's definition. Aufdenkampe deferred to his boss 2 levels higher, Bockhold, and said that George must have had some basis and must have been right. Then the call turned to a discussion of Pat McDonald's LER 90-06 comments with Jim Swartzwelder who had entered Aufdenkampe's office. After "Call B" ended, Aufdenkampe still had reservations about the LER because he stated to Mosbaugh after the call:

Aufdenkampe: If they interpret it differently, we're sorry. We'll send a rev. out. -----
Aufdenkampe: And I'm not talking wrong or right, I'm just talking practical.

AUGUST 1990-- NRC OSI and THE "WHITE PAPER"

In August of 1990, during the NRC's OSI at Plant Vogtle, the NRC requested answers in writing to several written questions. Southern Nuclear responded in a "White Paper" which was given to the NRC on about 8-22-90. Later the "White" paper was also issued internally under cover letter of Mark Ajuluni of Southern Nuclear SAER. Southern Nuclear's lawyer, Art Dobby, of Troutman Sanders participated in the GPC/Southern Nuclear meetings the week of 8-13-90 where the OSI issues were discussed and is believed to have assisted in the preparation of the "White Paper". At this time Southern Nuclear did not know that Mosbaugh had made tape recordings.

NRC QUESTION #3 (with regard to LER 90-06, revision 0, dated 4/19/90) ?
Who prepared the LER ?

Answer: "Several drafts----- . "The final revision of LER 90-06 , revision 0 was prepared by a phonecon between site management and corporate management. Those participating are believed to be G. Bockhold Jr., A.L. Mosbaugh, J. G. Aufdenkampe, W. Shipman."

NRC QUESTION #5-- Who in corporate added the words "subsequent to the test program" in LER 90-06, revision 0?

Answer: "Corporate licensing personnel in conjunction with the phone conversation described above made editorial changes as directed. Those present during the phone conversation are thought to be W. Shipman, G. Bockhold Jr., A.L. Mosbaugh, J. G. Aufdenkampe, and J. Stringfellow

With these responses, Southern Nuclear twice identifies the call as being the one in which Bockhold participated. With these responses Southern Nuclear has clearly identified the call in which the draft LER was "revised" and the "final revision prepared" as Conference call "A". Southern Nuclear makes no mention whatsoever of the later call "B" in the above White paper reply to the NRC in describing how the LER was prepared revised and finalized.

Southern Nuclear intentionally failed to identify in their responses to the NRC, the "executives" (Vice President level and up) who participated on that call. Ken McCoy was present during the meeting in August 1990 when these "White paper"

responses were prepared but did not correct the omission of his participation. In so doing Southern Nuclear sought to distance the executives from involvement and to attempt to cover up their role. Specifically omitted were Ken McCoy and George Hairston.

Also omitted were the other corporate staff listening in McCoy's office in Birmingham even though they were identified by Shipman at the time of the response preparation as participants [See Tape #253 Tr.Pg.19-20].

APRIL 1, 1991--SOUTHERN NUCLEAR RESPONSE TO THE 2.206
MOSBAUGH HOBBS PETITION

At this time, Southern Nuclear did not know that there were tapes of the 4-19-90 conference call or what was on any tape retained by the NRC. The NRC specifically required Southern Nuclear to respond under oath and affirmation to Mosbaugh's 2.206 petition in early 1991. Pat McDonald, Southern Nuclear's executive vice president, signed the response and outright denied that Hairston was on the late afternoon conference Call "A".

Quoting from Southern Nuclear's 2.206 response Section II.b page 3, last paragraph footnote 3:

Footnote 3--- "The wording was revised by site and corporate representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe that the final draft LER presented to him after the call was accurate and complete."

Of calls "A" and "B", only during call "A" (the conference call in which Hairston participated) was "the wording revised".

Clearly Southern Nuclear's own words describe Call "A".

JUNE 1991-- MOSBAUGH CHALLENGES SOUTHERN NUCLEAR'S 2.206
PETITION RESPONSE

In June 1991 Mosbaugh filed two documents of allegations, one 11 and the other 18 pages, with Bruno Urich of the NRC alleging that Southern Nuclear had made numerous false statements in the 2.206 petition response. Among the false statements alleged was the one about Hairston's participation on the 4-19-90 late afternoon conference call.

JULY 8, 1991---MOSBAUGH AND HOBBY SUPPLEMENT THEIR 2.206 PETITION

On July 8, 1991 Mosbaugh supplements his 2.206 petition, incorporating portions of the allegations provided to Bruno Urich from June 1991. Among the supplements are the allegations about Hairston's participation on the 4-19-90 late afternoon conference call as well as the allegation of a cover-up.

AUGUST 22, 1991---NRC REQUESTS RESPONSE FROM SOUTHERN NUCLEAR TO THE MOSBAUGH/HOBBY PETITION SUPPLEMENT

On 8-22-90 the NRC requested that GPC respond in writing to the Mosbaugh/Hobby amended petition.

FALL/WINTER 1991 -- SOUTHERN NUCLEAR OBTAIN AFFIDAVITS FROM ALL ITS EMPLOYEES ON THE 4-19-90 CALL

In the fall/winter time frame of 1991 John Aufdenkampe was ask by lawyers from the Troutman-Sanders Law Firm representing Southern Nuclear and GPC, probably John Labberski, to sign an affidavit saying that George Hairston was not a participant on the 4-19-90 conference call "A". Aufdenkampe told the Southern Nuclear lawyers that contrary to their assertions he "remembered George Hairston being on the call". He went "back and forth" with the lawyers several times on his affidavit. The lawyers were "hounding" Aufdenkampe for the affidavit. The lawyers told Aufdenkampe that they were obtaining affidavits from all the call participants and Aufdenkampe was "the only one who remembered that Hairston was on the call". [The lawyers used this same tactic on Mosbaugh during the NRC's OI "dilution valves" investigation to try to dissuade Mosbaugh from his recollections about Skip Kitchens statements about opening the dilution valves when Art Dobby, the Troutman Sanders lawyer, said "I have privileged information from my interviews with other personnel",--- "I can tell you that you are 180 degrees out".]

Before Aufdenkampe signed his affidavit he discussed all the above with Allen Mosbaugh. During these conversations which took place in Aufdenkampe's residence in Augusta, Georgia, Aufdenkampe named all the personnel that he remembered that participated on the call that the lawyers were seeking the affidavit for. Aufdenkampe stated; himself, Mosbaugh, Stringfellow, Shipman, Bookhold, McCoy and Hairston. Mosbaugh confirmed his recollection of the same

personnel. There was some question whether Paul Rushton was on the call but no one remembered him speaking.

Mosbaugh then quoted to Aufdenkampe, mimicking Hairston's voice, one thing that Hairston had said on the call-- "That's just what the Shift Supervisor told me to do".

With that, Aufdenkampe responded that he guessed that he shouldn't be talking with Mosbaugh about this and that there was a "conflict of interest".

The Lawyers were so pressuring Aufdenkampe to sign the affidavit that they were frequently calling at his home. His wife became concerned about this pressure and mentioned it to Mosbaugh. When Aufdenkampe eventually signed the affidavit, Aufdenkampe's wife was sufficiently concerned about what her husband may have been persuaded to sign that she showed the affidavit to Mosbaugh. She opened the top drawer in a small table located against the east wall in between the kitchen and dining room and handed the affidavit to Mosbaugh. Mosbaugh handled the document by the edges but should have left some fingerprints. Mosbaugh read the entire affidavit. It was about one page in length and stated that Aufdenkampe "remembered that Hairston was on the call but he was on an earlier portion of the call and not on the portion of the call when the diesels were discussed".

Mosbaugh recognized that Aufdenkampe has erred in stating that Hairston had not participated in the diesel start portions of the call.

The information stated to Mosbaugh by Aufdenkampe about his conversations with the lawyers, the information he stated about the content of his affidavit and the actual affidavit that Mosbaugh read, conclusively shows that Southern Nuclear sought to support (via employee affidavits) its denial in their 2.206 petition response that Hairston was on Call "A".

It shows conclusively that the lawyers and the affiants understood that the call referred to in the 2.206 petition response, the call of interest, was Call "A", because only on Call "A" were Beckhold, McCoy, and Hairston participants. Aufdenkampe identified to Mosbaugh that both Beckhold and McCoy were participants on the call addressed in the affidavit the lawyers were seeking. Further Aufdenkampe remembered Hairston being a participant on the call of interest, "Call A". Hairston was not on the later "Call B".

OCTOBER 3 1991---GPC DENIES PROVIDES BASIS FOR SOCIAL
HAIRSTON WAS ON LATE AFTERNOON CONFERENCE
CALL IN SUPPLEMENTAL PETITION RESPONSE

On 10-3-91 Southern Nuclear responded to the Mosbaugh\Hobby supplements. Southern Nuclear states that the basis for Footnote #3 which denied that Hairston was on the 4-19-90 conference call that revised LER 90-06 was :

1. The collective recollection of GPC\Southern Nuclear personnel as documented in the 8-16-90 and 8-22-90 "White paper".
2. Hairston's personal recollections

The response notes that Southern Nuclear did not have a tape of the call and until there is credible evidence to the contrary, Southern Nuclear believes Footnote #3 is correct.

DECEMBER 10, 1991---GPC DENIES HAIRSTON WAS ON THE LATE
AFTERNOON CONFERENCE CALL BASED ON TAPE #71

On December 10, 1991 GPC wrote a letter (ELV-03293) providing additional information to Thomas Murley (NRC NRR) responding to the Hobby\Mosbaugh 2.206 petition. In this letter (section IV) GPC transcribes a portion of Tape #71.

GPC uses this transcript to identify the late afternoon conference call that was referred to in the 2.206 petition response. GPC refers to the referenced call as:

"the April 19, 1990 telephone conference call when the language concerning the emergency diesel generator start count was finalized in the LER."

And states that Tape #71:

"indicates that Hairston was not a participant during the April 19, 1990 telephone conference call when the language concerning the emergency diesel generator start count was finalized in the LER".

This is a new and different statement than that which had been made in Footnote 3 of the April 1, 1991 2.206 petition response, because now the denial is not the whole call, but only a specific portion of the call, "when the language" --"was finalized". This statement is similar to the statement that had been put in Aufdenkappe's affidavit.

In this tape sequence Mosbaugh and Aufdenkampe (whom GPC only identifies as "P"[participant]) are discussing "Call A". Aufdenkampe identifies George Bockhold 5 times in GPC's transcript segment as participating in the call.

By submitting this letter to Thomas Murley in December of 1991, GPC has provided the irrefutable evidence of which call McDonald and GPC/Southern Nuclear meant in their 2.206 petition response, "Call A". Only on "Call A" was Bockhold a participant.

Further GPC states that this is "consistent with collective recollection of participants during the August 1990 OSI". As of the August 1990 OSI, GPC/Southern Nuclear's stated collective recollection was that, Mosbaugh, Aufdenkampe, Stringfellow, Bockhold, and Shipman were on the "Call A".

DECEMBER 18, 1992---SOUTHERN NUCLEAR RESPONSE TO THE
UNITED STATES DEPARTMENT OF JUSTICE

In their letter dated 12-18-92 to Asst. U.S. Attorney Sally Quillian Yates, Southern Nuclear and its Law Firm Troutman Sanders, again uses same tape segment as above from tape #71 to identify "the conference call when the LER language was finalized". But this time they claim that Mosbaugh was not a participant. [See letter Pg.11 item B.6.]

--- "We do not believe that Allen Mosbaugh was a participant during the final stages of the telephone conference call when the LER language was finalized. See e.g., Mosbaugh Tape 71. John Aufdenkampe had to explain to Allen Mosbaugh what had happened during the conference call on April 19th."---

By submitting this letter to Asst. U.S. Attorney Sally Quillian Yates, on December 12, 1991, GPC has provided the irrefutable evidence of which call McDonald and GPC/Southern Nuclear meant in their 2.206 petition response, "Call A". Only on "Call A" was Bockhold a participant.

SUMMER/FALL 1993 ---SOUTHERN NUCLEAR LEARNS THE CONTENT OF
THE 4-19-90 TAPES---Fails to correct
previous statements.

In July 1993, Southern Nuclear obtained possession of the "six tapes" which included the "Call A". Once Southern Nuclear and its Law Firm Troutman Sanders was aware of the content of these tapes, they knew that contrary to the April 1, 1991 2.206 petition response as well as the October 3, 1991 supplemental petition response, as well as the December 10, 1991 additional information response letter from Ken McCoy, Hairston was on "Call A". Within 2 days a

correction of the false information was required to be made to the Regional Administrator under 10 CFR 50.9. Also requiring correction under 50.9 was the "White Paper" from the August 1990 OSI which failed to correctly identify all the "Call A" participants. They also knew that the 12-18-91 DOJ response was incorrect at that time as well.

When the NRC conducted it's OI interviews of current and former Southern Nuclear personnel, the NRC utilized portions of various 4-19-90 tape recordings during the interviews. Depending of the dates of these interviews Southern Nuclear may have learned that their previous statements were false first from the OI interviews rather than the "Six Tapes". Once Southern Nuclear learned of the existance and content of portions of these tapes, including the later Call "3", their story changed.

SOUTHERN NUCLEAR CHANGES ITS STORY

In testimony to the NRC OI and in response to the NRC, Pat McDonald and Southern Nuclear changed their story to claim that the telephone call they were referring to in Pat McDonald's sworn response to the 2.206 petition was Call "B", the call after Call "A". The obvious need to do this was Hairston's clear voice and extensive participation on call "A" including his participation in the diesel discussions.

By switching to call "B" they could "make" McDonald's sworn statements "come true" because indeed Hairston was not on Call "B".

The problem is that Southern Nuclear was not referring to call "B" when it responded to the 2.206 petition as exhaustively demonstrated above. They lied then, to cover up the involvement of the executives in the false statements of 4-19-90 and they are lying now because with the proof offered by the tape it's their way out.

GPC'S FAILS TO DISCLOSE EXISTENCE OF AFFIDAVITS DURING DISCOVERY IN ASLE PROCEEDING

In the course of discovery in the current Vegtle License transfer proceedings before the ASLE, extensive discovery requests were filed. Specifically in Mosbaugh's first set of interrogatories, Question #54 (f) required GPC to "identify all documents" that "relate in any manner" to conversations held on April 19, 1990 concerning LER 90-006. GPC failed to identify the affidavits in their response to question #54.

Having failed to disclose the existence of the affidavits Mosbaugh's lawyers pressed the issue.

A discovery meeting was held between Mosbaugh's lawyers and GPC/Southern Nuclear's lawyers in Washington, July, 1993. GPC's lawyers were ask about the response to Question #53 and were ask why they didn't identify the affidavits. Their response was "how'd you find out about those".

Subsequent to this meeting GPC filed a supplement to its response, stating that signed statements were obtained from John Aufdenkampe, Thomas Webb, Jack Stringfellow, and George Hairston but refused to turn over the documents. [See Intervener motion to compel production of affidavits, GPC's reply and GPC supplemental response to interrogatories]. Mosbaugh's lawyers then sought to obtain the affidavits thru the ASLB but the court upheld GPC's claim of Attorney-Client privilege.

EVEN MORE TELLING IS SOUTHERN NUCLEAR'S CURRENT STANCE ON THE AFFIDAVITS

Southern Nuclear failure to disclose the existence of their employees' affidavits, during discovery in this current ASLB proceeding is most surprising. This proceeding centers around admitted contentions that Vogtle's license was illegally transferred and that Southern Nuclear does not have the character, competence and trustworthiness to hold a nuclear operating license. Mosbaugh's allegations that George Hairston knowingly made material false statements to the NRC in LER 90-006 about Vogtle's diesel generators and specifically that Southern Nuclear lied in its 2.206 petition response about Hairston not being on the 4-19-90 conference call are central issues to the contentions.

After Southern Nuclear's lawyers finally identified to the court that affidavits were obtained from Aufdenkampe, Stringfellow, Webb, and Hairston they refused to turn them over. Why would Southern Nuclear want to hold back this supporting evidence? GPC's filings to the ASLB, the courts and the NRC, to previous Mosbaugh allegations, are filled with GPC's employees affidavits.

According to John Aufdenkampe's statements to Allen Mosbaugh, GPC's list of affiants is NOT complete. Aufdenkampe had stated to Mosbaugh that the lawyers told him that they were getting affidavits from everyone on the call and that he was the only one who remembered Hairston was on the call.

Furthermore, in filings with the ASLB Southern Nuclear's lawyers admitted that Aufdenkampe had conversations about

the affidavits with Mosbaugh, but denied that Mosbaugh had been shown Aufdenkampe's affidavit. This is false. Mrs. Aufdenkampe provided to Mosbaugh, her husband's affidavit to read, and witnessed Mosbaugh reading the affidavit. Mosbaugh also had follow-up conversations with Mrs. Aufdenkampe about what her husband could do to retract the affidavit.

A POINT OF LOGIC

Aufdenkampe's affidavits and others were intended to support the fact that Hairston was not a participant to diesel discussions on Call "A" or even presume for a moment, Call "B". Surely Southern Nuclear lawyers would have obtained affidavits from all the call's participants but Southern Nuclear only claimed to the ASLB that statements were obtained from 4 personnel:

For "Call A"

1. Two of the 5 "White Paper" identified participants
2. Two non-"White Paper" identified personnel
3. Altogether 4 of the total 12 known participants

For "Call B"

1. One of four speaking participants.

Regardless of their completeness, the statements were intended to bolster Southern Nuclear's case that Hairston did not knowingly submit false information to the NRC, then why is Southern Nuclear refusing to turn this evidence over to the court?

Or is the scope and the content of these affidavits now so damning that Southern Nuclear can not afford to reveal them?

Aufdenkampe's affidavit alone shows that call "A" was the call referred to in the 2.206 petition response.

But additionally if (as Aufdenkampe stated to Mosbaugh) Southern Nuclear obtained affidavits similar to Aufdenkampe's from Bockhold, McCoy or any participant not on call "B", that act alone would prove that Call "A" was what McDonald and the law firms originally intended in the 1991 2.206 petition response sworn under oath and affirmation, and the recent statements of Southern Nuclear, Pat McDonald and Troutman Sanders are mere lies to the NRC and ASLB.

Southern Nuclear is caught in their own web of lies. Now Southern Nuclear is claiming that the call that Pat McDonald was referring to in his 2.206 petition response was Call "B". These recent events constitute a continuing cover-up and wrongdoing by Southern Nuclear and its Law firm Troutman Sanders.

CONCLUSION

I request that the NRC investigate all the issues addressed above and specifically address the allegations stated below which are based on those facts.

- ALLEGATION 1:** Southern Nuclear and its Law Firm Troutman have engaged in a cover-up since 1990 and have made false statements, withheld information, failed to report information, and failed to correct information known to be incomplete and/or inaccurate to the NRC, DOE, and ASLB. This applies to the information and events surrounding the 4-19-90 conference call including the participation of corporate staff and executives on the 4-19-90 conference call.
- ALLEGATION 2:** Pat McDonald knowingly made false statements in sworn testimony to NRC OI in 1993 when he falsely identified conversation "B" as the conversation he was referring to in his sworn response to Mosbaugh's 2.206 petition.
- ALLEGATION 3:** Southern Nuclear and its Law Firm Troutman Sanders falsely denied in 1993 that Allen Mosbaugh had been shown John Aufdenkampe's affidavit, in its reply brief to the ASLB.
- ALLEGATION 4:** Southern Nuclear and its Law Firm, Troutman Sanders failed to identify to the ASLB in 1993 all the personnel from whom signed statements or affidavits were obtained, that relate to the conversations on 4-19-90, concerning LER 90-06 and the "Call A and/or B" participants.
- ALLEGATION 5:** In the "White Paper" responses to the NRC in August 1990, GPC/Southern Nuclear and its Law Firm Troutman Sanders, knowingly omitted identifying key personnel who had participated on the conference calls identified in NRC Questions #3 and #5.
- ALLEGATION 6:** When Southern Nuclear and its Law firm Troutman Sanders, had in their possession all the information necessary to recognize that their 2.206 petition responses and "White Paper" contained false statements about the 4-19-90 call, they failed to report this to the NRC as required by regulations 10 CFR 50.9.