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RELATED CORRESPONDENCE

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

DOCKETED  
USNRC

'94 JUN -1 P2:50

In the Matter of ) GEORGIA POWER COMPANY ) <u>et al.</u> , ) (Vogtle Electric Generating ) Plant, Unit 1 and Unit 2)	) Docket Nos. 50-424-OLA-3 ) 50-425-OLA-3 ) ) Re: License Amendment ) (transfer to Southern Nuclear) ) ) ASLBP No. 93-671-01-OLA-3
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INTERVENOR'S RESPONSE TO LICENSEE'S  
THIRD SET OF INTERROGATORIES AND REQUEST FOR DOCUMENTS

Response to Interrogatory No. 1.

Intervenor identifies the following additional material as supplementing the responses set out to interrogatory No. 12 of GPC's first set of interrogatories:

18) All issues identified and discussed in NRC OI Report No. 2-90-020R, the May 9, 1994 Notice of Violation and the Vogtle Coordinating Group's Analysis which were the subjects of Board Notifications 94-01 and 94-03.

a-m. See NRC OI Report No. 2-90-020R.

19) All issues pertaining to Board Notification 94-07.

a- . See attached memorandum to Board Notification 94-07 of Allen Mosbaugh.

20) All issues pertaining to Board Notification 94-08 concerning the failure to determine the real root cause of the 1A diesel failures associated with the Site Area Emergency.

21). Intervenor is investigating an issue concerning incompetence, willful deception, and integrity of Southern Nuclear concerning the waiver of tech specs to facilitate moda

DS03

change from mode 6 to mode 5 after the Site Area Emergency with both Diesels inoperable. The NRC did limited Board Notification on this issue.

22) Intentional or gross negligent omission from May 14, 1990 letter to NRC entitled Vogtle Electric Generating Plant Corrective Actions for Site Area Emergency (ELV-01632). Said document is believed to have been signed by Hairston and prepared by Stringfellow and is false by omission based on GPC's failure to adequately identify corrective actions taken relative to primary and secondary causes of the diesel generator during the Site Area Emergency.

Intentional or gross negligence concerning the failure to properly identify all findings, root causes, and corrective actions taken related to the diesel failure during the Site Area Emergency. Said information should have been included in LER 90-006, COA, verbal presentation in the 4-9-90 Atlanta presentation of Bockhold, and failure to alert NRC that NUREG 1410 is incorrect. At this time Intervenor has identified six potential omissions and findings:

1. Water in the diesel pneumatic air lines;
2. Significant air leaks in diesel pneumatic air lines;
3. Improperly installed pneumatic air lines (rolled tubing);
4. Change in orifice sizing (in diesel pneumatic controls);

5. Pneumatic logic board failures;
6. P3 pressure switch reset repeatability.
  - a. Allen Mosbaugh. Additional witnesses have not yet been identified.
  - b. Intervenor has not compiled any documents at this time other than the documents relied upon in the depositions of Mr. Burr, Mr. Fredericks and Mr. Majors.
  - c. Intervenor became aware of these matters in April of 1994 while reviewing tapes returned from NRC and transcripts provided by GPC.
  - d. Intervenor currently believes that participants to these events include Mr. Burr, Mr. Fredericks, and numerous other GPC/Southern Nuclear employees. Intervenor will supplement this response after he has concluded basic discovery on this matter.
  - e. None.
  - f. Intervenor is still analyzing the events for willfulness and does not, at this time, have specific information to respond.
    - g-1. Intentional or gross negligence concerning the failure to properly identify all root causes of the diesel failure during the Site Area Emergency would constitute an example of a fatal character flaw, that being the inability or unwillingness to provide the NRC with essential and required information required pursuant to 10 C.F.R. 50.9.

m. Intervenor's knowledge is limited to information contained in tape recordings and documents GPC filed with NRC, and inferences drawn therefrom.

Intervenor intends to supplement this interrogatory answer.  
Response to Interrogatory Nos. 2-3.

a. Intervenor interprets this interrogatory to exclude communications his counsel has had with NRC employees where GPC's counsel participated.

i) Intervenor has met and/or spoken with Larry Robinson, NRC Region II Office of Investigations, 101 Marietta Suite 2900, Atlanta, GA 30323, (404) 331-6509, on the following occasions:

- \* 11-4-93 to review testimony;
- \* 4-28-94 to give testimony on new issues;
- \* numerous phone contacts which are so extensive

Intervenor cannot recall the specifics, but which relate to Board notifications, and the OI Report and its preparation. The phone contacts occurred daily during the past week, 1-2 times a week during the previous 2 months, 1-2 times monthly in the previous year.

ii) Intervenor has spoken with Dave Mullins and Lee Norbeck about the OI Report findings and the enforcement action.

iii) In April 1994, Intervenor and his counsel had discussions with Larry Robinson, Carolyn Evans, Oscar DiMiranda about logistics of providing additional information. Mr. DiMiranda is Senior Allegations Coordinator Region II-NRC, P.O. Box 845, Atlanta, GA 30301. Carolyn Evans is Regional Counsel,

U.S. Nuclear Regulatory Commission Region II, 101 Marietta Street, N.W., Atlanta, Georgia 30323.

b. None

c. Intervenor spoke with Dan Berkevitz, Associate Counsel for Committee on Environment and Public Works, U.S. Senate, Washington, D.C. 20510, (202) 224-4039, and other staff personnel (who's names Intervenor cannot recall) relative to Senate Subcommittee proceedings. Information was related to Mr. Mosbaugh's tape recording.

d. i) After the July 1993 Senate Subcommittee hearings Intervenor spoke with numerous members of the press. Intervenor cannot recall the names of the persons to whom he spoke. The discussions centered on the information associated with the hearings.

ii) Intervenor appeared on Jack Anderson's Radio show after the Senate hearings.

iii) Intervenor was interviewed by the Houston Chronicle and believes he was quoted or mentioned in that paper in an article focusing on nuclear whistleblowers.

iv) Intervenor had some general discussions with Yohan Ritter without providing specific factual information.

v) Intervenor had some general discussions with Marvin Hobby about factual information of which Intervenor has no specific recollection.

iv) Intervenor was contacted by Glen Carol on two occasions, once before depositions in April 1994 and once after.

The specifics of the conversations cannot be recalled, but generally they probably centered around Intervenor's reaction to deposition testimony.

With respect to any other communications, Intervenor and his counsel have no specific recollection of other communication with the exception of communications identified in response to Interrogatory No. 3.<sup>1</sup>

Response to Interrogatory No. 3.

Intervenor objects to producing written communication to and from NRC counsel related to Intervenor's providing NRC with safety concerns on the following bases: 1) informant's privilege; 2) attorney-client and work product privileges (which Intervenor does not has not waived); 3) joint defense. Intervenor specifically notified NRC that he was providing certain information based on a concern that an unresolved safety problem may still exist at the plant and that the only documentation addressing this matter is set out in privileged communications in intervenor's possession. Intervenor advised NRC that Intervenor was not willing to waive said privilege. Eventually Intervenor provided certain documentation by way of a confidential written request made by NRC on Intervenor. As such, all such documents, including correspondence about the submission of documentation to

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<sup>1</sup> Intervenor's counsel is currently employed as General Counsel to the National Whistleblower Center. Any possible communications by NWC employees or its counsel to Congress or any other government agency or to any other individual are outside the scope of this proceeding; not discoverable and otherwise protected pursuant privilege.

NRC and the documents submitted are entitled to the informant's privilege and attorney-client and work product privileges.

Response to Interrogatory No. 4.

Intervenor objects to providing such information based on the response to Interrogatory No. 3. Without waiving this objection, Intervenor states that he provided NRC with:

- 1) approximately half-dozen transcripts Intervenor obtained from GPC in discovery;
- 2) 4-30-94 memorandum headed with the words: "ATTORNEY/CLIENT COMMUNICATIONS"; "To: Mike Kohn, From: Allen Mosbaugh"; "Subject: Preparation for ASLB stipulations, depositions, hearings on Diesel Generator related issues";
- 3) 4-12-94 memorandum headed with "ATTORNEY/CLIENT COMMUNICATIONS"; "To: Mike Kohn, From: Allen Mosbaugh"; "Subject: Preparation for ASLB Stipulations, Depositions, Hearings on Diesel issues";
- 4) 4-12-94 memorandum headed with "ATTORNEY/CLIENT COMMUNICATIONS"; "To: Mike Kohn, From: Allen Mosbaugh"; "Subject: Preparation for ASLB Stipulations, Depositions, Hearings on Diesel Generator related issues";
- 5) Pages 56 and 57 of a undated memorandum headed with "ATTORNEY/CLIENT COMMUNICATIONS"; "To: Mike Kohn, From: Allen Mosbaugh"; "Subject: Preparation for Stipulations, Depositions, Hearings on Diesel Issues"; a revision of this was given to Larry Robinson in April 1994;

6) NRC OI investigator Larry Robinson copied documents and/or written communications GPC previously provided to NRC by GPC (Intervenor previously provided this documentation to GPC when responding to prior document requests). Intervenor did not maintain an inventory or list of documents provided to NRC OI;

7) In or about 1993, Intervenor recollects provided Larry Robinson with a copy of the testimony he provided to the U.S. Senate Committee on the Environment and Public Works, Subcommittee on Clean Air and Nuclear Regulation on July 15, 1993.

Response to Interrogatory No. 5.

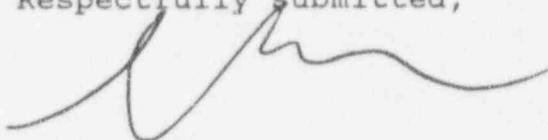
Intervenor has identified persons previously, in deposition and witness lists, whom he contends possess information or knowledge relating to this proceeding. Intervenor now identifies Bob Birch and Mark Ajoluni as persons whom Intervenor contends possess information or knowledge relating to this proceeding. At this time Intervenor is not aware of any additional persons, other than those persons previously identified in responses to interrogatories filed in this proceeding that related to allegations made in the Amended Petition. Nonetheless, Intervenor notes that he has received NRC OI Report 2-90-020R and exhibits thereto which do set forth additional facts of which he was previously unaware. Intervenor incorporates these additional facts by reference.



Response to Interrogatory No. 6.

None.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'S. M. Kohn', written in a cursive style.

Stephen M. Kohn  
Kohn, Kohn & Colapinto, P.C.  
517 Florida Ave., N.W.  
Washington, D.C. 20001  
(202) 234-4663

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

FROM: ALLEN L. MOSBAUGH

*Allen L. Mosbaugh 2-18-94*

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

--THE CHRONOLOGY OF SOUTHERN NUCLEAR'S DENIAL  
--THE COVER UP WITH THE LAW FIRM. TROTMAN BARRERE

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 #53, 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 LEX 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

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 Tape #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 #163 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 RESPONDS TO THE 2.206 MOSBAUGH/MOBBY 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 Lamberski, 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 Donby, 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, Rockhold, 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 Bockhold, McCoy, and Hairston participants. Aufdenkampe identified to Mosbaugh that both Bockhold 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 DENIAL  
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 NER) 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 RESPONDS 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 existence and content of portions of these tapes, including the later Call "B", 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 Vogtle 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.

03-10-1994 11:00 AM 0-1 5510 US NRC 80 11 P.11

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 2.306 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 more 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, DOJ, and ASLE. 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 ASLE.
- ALLEGATION 4:** Southern Nuclear and its Law Firm, Troutman Sanders failed to identify to the ASLE 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.

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

DOCKETED  
USNRC

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

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CERTIFICATE OF SERVICE

I hereby certify that the attached document has been served this 25th day of May, 1994, by first class mail upon the persons listed in the attached Service List (additional service by facsimile designated by "\*").

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
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(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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