

Nuclear concerning a violation of technical specifications with both diesels inoperable and the waiver of tech specs to facilitate mode 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.

- 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 deposition or reconvened deposition of Mr. Fredericks.
- c. Intervenor became aware of these matters in April of 1994 while reviewing tapes returned from NRC and transcripts provided by GPC. Also, Intervenor was initially under the impression that NRC was aware of these matters and was not aware that GPC had not fully disclosed them to NRC. Intervenor is still investigating the extent that these matters constitute NRC violations.
- d. Intervenor currently believes that participants to these events include Mr. Fredericks and numerous other GPC/Southern Nuclear employees. Intervenor will supplement this response after he has concluded basic discovery on this matter.
- e. In March 1990 after the Site Area Emergency.

- f. Intervenor is still analyzing the events for willfulness and does not, at this time, have specific information to respond.
- g-1. Intentional violation of a technical specification and providing false, incomplete or inaccurate information to the NRC would constitute an example of a fatal character flaw, that being the inability or unwillingness to comply with NRC Technical Specifications or to provide the NRC with essential and required information pursuant 10 CFR 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.

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 failure 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 deposition of Mr. Burr.
 - c. Intervenor became aware of these matters in April of 1994 while reviewing tapes returned from NRC and transcripts provided by GPC. Also, Intervenor was initially under the impression that NRC was aware of these matters and was not aware that GPC had not disclosed them to NRC. Intervenor is still investigating the extent that these matters constitute NRC violations.

- d. Intervenor currently believes that participants to these events include Mr. Burr and numerous other GPC/Southern Nuclear employees. Intervenor will supplement this response after he has concluded basic discovery on this matter.
- e. Between March 1990 and August
- 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 and corrective actions taken for 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

Intervenor interprets this interrogatory to exclude communications his counsel has had with NRC employees where GPC's counsel participated. Additionally, 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 and 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 NRC and the documents submitted are entitled to the informant's privilege and attorney-client and work product privileges. Without waiving Intervenor's objections based on these privileges, Intervenor provides the following responses:

a.

i) Intervenor has met and/or spoken with Larry Robinson, whose business address is NRC Region II Office or 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;
- * Mr. Robinson has sent Intervenor a copy of the "white papers" which Intervenor had previously provided him; and,

* numerous Phone Contacts.

Intervenor cannot recall the specifics of every conversation, but these contacts relate to Board notifications, and the OI Report and its preparation. The substance of these conversations includes:

the six items listed in response to Interrogatory No. 1, paragraphs 21-22, above; Board Notifications 94-07, 94-08, and 94-09; additional information which supports the allegations in Board Notifications 94-07, 94-08, and 94-09; brief comments on the testimony contained in OI Report Exhibits Nos. 28, 14, 13, and 10; informing Mr. Robinson of tape segments which Intervenor thought would be relevant to the investigation of which Intervenor did not keep a list; the OI Report being written independently by the Office of Investigations; John Aufdenkampe's affidavit; information omitted from a LER concerning Diesel failures involving excessive reactive power; information omitted from GPC presentations on April 9, 1990 regarding diesel reliability; tapes that had not been produced to Intervenor; Intervenor told Mr. Robinson he could find regulations pertaining to the accuracy of information which is to be provided to the NRC in 10 C.F.R. Part 2, Appendix C; the scheduling and reviewing of Mr. Mosbaugh's OI testimony; Intervenor's contact with Leo Norton; advice concerning where and how NRC inspectors

should look to determine whether water was present in the diesel control system; Charles Barth's comments to Glen Carol; the Vogtle Coordinating Group; A GPC exculpatory package; NRC's letter concerning the issues of Board Notification 94-08, addressed in Response 2-3 above; the Department of Justice turning the case back over to the Office of Investigations; Technical Specifications relating to Board Notification 94-09; and, dates of depositions scheduled by Intervenor and comments made during them.

The phone contacts occurred almost daily during the past weeks, 1-2 times a week during the previous months, 1-2 times monthly in the previous year. Intervenor has also left voice mail messages when Mr. Robinson has been unavailable asking that his call be returned and sometimes stating what his call was regarding.

ii) 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.

iii) Prior to and after the April 1994 meeting in (ii), above, Intervenor also had conversations with Mr. Robinson about providing new allegation material, Bob Birch's retirement

and his OI investigations at Plant Vogtle and Middle South Utilities' Grand Gulf facility.

iv) Intervenor was contacted by Mr. DiMiranda who informed Mr. Mosbaugh that there would be a board notification based on the allegations made by Mr. Mosbaugh. This was prior to Board Notification 94-07.

b. None

c.

i) 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.

ii) Intervenor sent a letter to John Liebermann after the Senate hearings thanking him for the opportunity to testify. The letter also contained comments about the hearings and Intervenor's feelings regarding the representations made by Mr. Dalhberg in his testimony. Mr. Liebermann is the chairman of the Subcommittee on Clean Air and Nuclear Regulation, United States Senate Committee on the Environment and Public Works, Washington, D.C. 20510-6175.

iii) Someone from the Senate sent Intervenor his Senate testimony to make any desired corrections. Intervenor does not recall this person's name or title.

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 with whom he spoke. The discussions centered on the information associated with the hearings.

ii) Intervenor was a guest 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. Generally, the substance of the discussions regarded what was said in depositions at which Mr. Mosbaugh or Mr. Hobby were in attendance.

vi) Intervenor was contacted by Glen Carol on three occasions, once before depositions in April 1994 and twice after. The specifics of the conversations cannot be recalled, but generally they centered around the upcoming deposition schedule, Carol's conversations with Charles Barth in which Mr. Barth questioned her about Intervenor's residency, and Intervenor's reaction to deposition testimony, as well as newspaper articles that Carol mailed to Intervenor. Carol also mentioned her conversation with an Atlanta newspaper who had expressed interest in speaking with Intervenor.

vii) Intervenor was contacted by Frank Timmons, a former employee of Georgia Power Company, who became aware of the Notice of Violation against GPC through the nuclear industry. They discussed the OI Report, the NOV and various newspaper articles. Intervenor sent Mr. Timmons a portion of the OI Report and an article from the Atlanta Constitution. Mr. Timmons address is P.O. Box 342, Wadsworth, TX 77483, (512) 792-7084.

viii) Intervenor was interviewed by FOX Television prior to the Senate hearings. Intervenor does not believe this interview was ever aired.

ix) Intervenor has spoken with Dave Williams, Bob Watkins and Leo Norton of the Office of Inspector General about the OI Report findings and the enforcement action. Additionally, Intervenor met with Mr. Watkins and Patty Walker on June 8, 1994 to discuss the same. The phone number of the IG's office is (301) 415-5925.

With respect to any other communications, Intervenor has no specific recollection of other communication with the exception of communications identified in response to Interrogatory Nos. 2-3.

Response to Interrogatory No. 4.

Intervenor objects to providing such information based on the response to Interrogatory Nos. 2-3. 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 providing 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.

8) At times Intervenor has provided information about or whole or partial copies of ASLB Orders, and motions and/or briefs from the licensing proceeding to Larry Robinson.

9) Intervenor believes he faxed the allegations that are the subject of Board Notifications 94-07, 94-08, and 94-09 to Mr. Robinson.

10) Intervenor recalls faxing a memo correcting a minor error in the allegation that is the subject of Board Notification 94-07 to Mr. Robinson.

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 Dave Lisenby, Bob Birch and Mark Ajluni as persons whom Intervenor contends possess information or knowledge relating to this proceeding.

Mr. Lisnby holds information and knowledge pertaining to the issues stated above in response to interrogatory no. 1, paragraphs 20 and 22.

Mr. Birch is a retired investigator for the NRC Office of Investigations. He holds information and knowledge pertaining to Mr. Ken McCoy's character and competence in his previous employment at Grand Gulf. In the course of an investigation to determine whether or not to grant a license to Middle South

Utilities to operate the Grand Gulf facility Mr. Birch interviewed Mr. McCoy. Middle South Utilities was given a license to operate after it released Mr. McCoy from it's employment.

It was learned by Intervenor and his counsel during recent depositions and reviewing exhibits to the OI Report, that Mr. Ajluni holds information and knowledge regarding communication links between Mr. Hairston and Plant Vogtle.

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,

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

DOCKETED
USNRC

'94 JUN 16 P1:52

In the Matter of)

GEORGIA POWER COMPANY)
et al.,)

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

Docket Nos. 50-424-OLA-3)
50-425-OLA-3)
OFFICE OF SECRETARY)
DOCKETING & SERVICE)
BRANCH)

Re: License Amendment)
(transfer to Southern Nuclear))

ASLBP No. 93-671-01-OLA-3)

CERTIFICATE OF SERVICE

I hereby certify that the corrected version of Intervenor's Amended Response to Licensee's Third Set of Interrogatories has been served this 13th day of June, 1994, by first class mail upon the persons listed in the attached Service List (additional service by hand-delivery indicated by "*").

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

In the Matter of)
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(Vogtle Electric Generating) Re: License Amendment
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_____) ASLBP No. 93-671-01-OLA-3

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