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RELATED CORRESPONDENCE

Dated: July 18, 1994

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

DOCKETED  
USNRC

'94 JUL 19 P4:50

In the Matter of )

GEORGIA POWER COMPANY )  
et al., )

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

Docket Nos. 50-4240-OLA-3

50-4250-OLA-3

Re: License Amendment  
(transfer to Southern Nuclear)

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

OFFICE OF SECRETARY  
OF LICENSING & SERVICE  
BRANCH

INTERVENOR'S RESPONSE TO GPC'S SECOND REQUEST FOR ADMISSIONS

I. INTRODUCTION

Intervenor hereby responds to GPC's Second Request For Admissions.

II. GENERAL OBJECTIONS

1. Intervenor objects to the admissibility by Licensee of portions of transcripts and/or tape recordings and/or paraphrasing portions of transcripts or recordings of any GPC or Southern Nuclear employees for the truth of the matter asserted therein. Licensee may not rely on such statements as they constitute hearsay (Intervenor notes that, with respect to Intervenor, statements made by Licensee may be introduced as admissions by a party opponent, but Licensee may not rely merely on hearsay statements made to Mr. Mosbaugh or in the presence of Mr. Mosbaugh to justify factual assertions contained therein). To any extent a request seeks an admission of a fact based only on hearsay statements contained in a transcript, Intervenor objects to the admissibility of the admission by the Board or any party.

2. Intervenor objects to Licensee's use of transcripts of tape recordings, witness interviews or deposition statements as evidence of events to which Mr. Mosbaugh has no first hand knowledge. Intervenor has no way to attest to the accuracy of such statements. In this respect, Intervenor notes that part of the basis for the admitted contention is that Southern Nuclear employees (including proposed GPC employees who will become Southern Nuclear employees) have a propensity for making false and misleading statements when it is in their interest to do so. Based on past observations, Intervenor is unable to accept as true hearsay declarations of individuals Intervenor believes to be lacking in truthfulness and candor. Intervenor notes that this objection pertains to all requests for admissions wherein Licensee seeks to rely on portions of tapes and/or tape transcripts and/or witness interviews. Intervenor incorporates this objection into all requests seeking admissions based on hearsay statements made by Licensee's managers and employees.

3. Intervenor objects to stipulating to tape transcripts where Licensee has not previously stated that they believe the transcripts are accurate. The parties have heretofore agreed to employ a process to reach agreement as to the accuracy of tape transcripts. This process has not been employed with respect to tape transcripts identified in the request for admissions under Section IV.B. Intervenor incorporates this objection into all requests seeking admissions based on the alleged accuracy of a tape transcript.

4. Intervenor generally objects to reliance on transcripts, including IIT transcripts, to establish facts alleged therein by Licensee for the truth of the matter asserted. In this respect, Intervenor notes that part of the basis for the admitted contention is that Southern Nuclear employees (including proposed GPC employees who will become Southern Nuclear employees) have a propensity for making false and misleading statements and to cover-up violations of NRC Requirements when it is their interest to do so. Based on past observations, Intervenor is unable to accept as true hearsay declarations of individuals Intervenor believes to be lacking in truthfulness and candor. Intervenor incorporates this objection into all requests seeking admissions based on hearsay statements of Licensee employees contained in any IIT tape transcript.

### III. RESPONSES TO REQUEST FOR ADMISSIONS AND DOCUMENT PRODUCTION

#### ADMISSION REQUEST A.1

##### Paragraph Nos. (Allegation Nos. 1 & 2)

4. Deny. Intervenor believes Mr. Hairston's intent was to further mislead the NRC about false statement made during the 4-9-90 presentation.
5. Neither admit or deny. Intervenor does not have sufficient information to either admit or deny.
12. Deny. Intervenor believes that Bockhold's instruction to Cash resulted in starting the count with respect to the A diesel on 3-20 with start No. 142; with respect to the B diesel on 3-21 with start 123.

14. Neither admit nor deny. Intervenor has not located the referenced IIT transcript and plans to engage in discovery with respect to the matters alleged.
19. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny. Intervenor currently believes that Bockhold called Aufdenkampe on the evening of 4-6-90 to ask him to assist with Bockhold's counting of diesel starts and that Aufdenkampe advised Bockhold that Horton normally does this and that Aufdenkampe had no further involvement with counting the starts for the 4-9-90 slide presentation.
32. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny. Intervenor is currently of the opinion that Cash counted the starts identified on March 22nd and 23rd.
33. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny. Intervenor is currently of the opinion that Cash did not count the starts identified (nos. 120-122).
34. Deny. Bockhold clearly understood the limitations of Cash's count and the basis for the count. He therefore knew that the count did or may have included starts with problems. Also, because Bockhold and Cash were both SRO trained, they would have understood that, based on the criteria established before the count by

both Bockhold and Cash, problems and failures occurring on normal starts would be deemed successful in the count and were not excluded.

38. Deny. Intervenor does not believe that Cash came up with the 18 and 19 starts listed on the 4-9 transparency. Cash is believed to have truthfully testified at his deposition where he indicated that he advised Bockhold that there were 27 on A diesel and at least 22 on the B diesel and that these numbers were transmitted to Bockhold.
52. Deny. Earlier versions of the 4-9 letter did not contain reference to the 18 and 19 starts or final statements about air quality. Who and what comments were made is speculative.
58. Deny. Burr was on the plane and, given his expertise and involvement with the diesels he would have been involved with the drafting of the letter. Moreover, Burr had in his possession the start list prepared by Cash which specifically states that there were failures and problems.
59. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny and plans to conduct discovery on this matter.
60. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny and plans to conduct discovery on this matter.

61. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny and plans to conduct discovery on this matter.
62. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny and plans to conduct discovery on this matter.
63. Neither admit nor deny. Intervenor does not have sufficient information to either admit or deny and plans to conduct discovery on this matter.

ADMISSION REQUEST A.2

Paragraph Nos. (Allegation No. 3)

16. Deny. Intervenor believes that Bockhold and other members of management referred to the CTP to conceal the fact that the April 9th COA response was false.
24. Deny. The final LER was not "approved" by the site. Only Bockhold has approval authority. Bockhold was on site and Birmingham was obligated to obtain site approval from him. Shipman and Aufdenkampe both acknowledged that they were unclear as to when the CTP ended. Mosbaugh stated that it was his believe that the final LER language, referring to the CTP, established that the starting point for counting occurred after "we did the UV testing."
28. Deny. Intervenor took exception to the fact that the CTP was not defined and specifically advised Shipman

and Aufdenkampe that the language indicated that the CTP would have at least included the UV test. Shipman refused to address the merits of Intervenor's exception to the language and responded by asserting that McCoy knew the definition and had already communicated this to the NRC. Moreover, with the definition stated by Mosbaugh, both Aufdenkampe and Shipman knew that the 18 and 19 numbers could not be accurate based on recent post-UV testing which, at the time, was fresh in everyone's mind. In this respect, Shipman acknowledges that Intervenor's definition would create a selling job to the NRC. It appears that Intervenor's exception was derailed by Shipman in conjunction with McCoy so that the NRC would not question the numbers contained in the April 9th letter as compared to the LER.

33. Deny. Intervenor stated "When I saw the draft of the LER that was making those statements, I was clearly aware from some of the early lists of diesel starts of these failures that had happened, and I -- as this LER was being prepared, you know, we were aware that there had been failures, but until we had the whole list of all the starts, you know, you couldn't say that the information was wrong." After an interruption, Intervenor continues his response, which states: "So, we started looking into that because we knew there were these failures mixed in, and it started becoming clear,

I think that there was kind of -- there were a couple of failures kind of right smack in the center of the starts, and so, you know, with the failure right in the center of all the starts, it was looking fairly unlikely that there was 18 successful starts after the failure that had been right about in the center..."

38. Deny. Intervenor believes Hairston knew or should have known that the information contained in the April 9th letter was false or misleading.
39. Deny. Intervenor believes Hairston knew or should have known that the information contained in the April 19, 1990 LER had not been recounted or verified.

ADMISSION REQUEST A.3

Paragraph Nos. (Allegation No. 4)

10. Neither admit nor deny. Intervenor has no first hand knowledge of the events stated and plans to conduct discovery on this matter.
12. Neither admit nor deny. Intervenor has no first hand knowledge of the events stated and plans to conduct discovery on this matter.
13. Neither admit nor deny. Intervenor has no first hand knowledge of the events stated and is awaiting to conduct discovery.
16. Admit.



17. Admit in part, object in part. Intervenor notes that the shift supervisor log was never used to verify the LER. Interjecting a fact about the shift supervisor log is objectionable inasmuch as this fact is irrelevant.
18. Admit in part, deny in part. Admit with respect to the first sentence. Deny the remaining portion. The wording in the remaining portion is contradictory at best. The report states that no specific cause for the error was identified and therefore statements in the report can not identify or be said to attributed to the cause of the error. Additionally, the summary of the audit makes no recommendations and states that no procedural non-compliance was identified and no corrective action were required. This is consistent with a finding of no specific cause.
24. Neither admit nor deny. Intervenor has no knowledge of the events stated and is awaiting to conduct discovery.
26. Object. Intervenor objects to the extent Licensee seeks to have the statement admitted for the truth of the matter asserted. Moreover, Intervenor has no personal knowledge of the events stated.
27. Admit.
28. Object. Intervenor objects to the extent Licensee seeks to have the statement admitted for the truth of the matter asserted. Moreover, Intervenor has no

personal knowledge of the events stated and can not admit or deny.

30. Deny. Intervenor is of the believe that McCoy knew how the error was made; that he spoke with Bockhold and Hairston and otherwise engaged in a cover-up which included the June 29, 1990 submittal.
32. Neither admit nor deny. To the extent Intervenor can respond, it appears that Hairston knew more than what is contained in the audit.
33. Neither admit nor deny. Intervenor has no first hand knowledge of the events stated and plans to conduct discovery on this matter.
38. Deny. Majors conclusively determined he was referring to Hairston.
39. Admit only that Majors made the statement. At this point in time Intervenor is unable to admit to the truth of the matter asserted until discovery is completed.
40. Deny the assertion that there was a "pretty good discussion" inasmuch as there had been a "heated discussion". Admit to the remainder of the paragraph.

#### ADMISSION REQUEST A.4

##### Paragraph Nos. (Allegation No. 5)

3. Neither admit nor deny. Intervenor did not attend the meeting and has no first hand information. Intervenor

plans to conduct discovery on this matter.

4. Admit that McCoy was briefed daily on the progress of the diesel testing after the March 20 event, and neither admits nor denies the remainder as Intervenor does not have sufficient knowledge.
5. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
6. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
7. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
8. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
9. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
10. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
11. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.

12. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
13. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
14. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
15. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
16. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
17. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
18. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
19. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.

20. Neither admit nor deny. Intervenor has no first hand knowledge and plans to conduct discovery on this matter.
21. Deny. Intervenor's purpose for attending the PRB meeting on August 30, 1990 was to report factual information to NRC-OI (as a confidential informant).
32. Neither admit nor deny. Intervenor has no first-hand knowledge and plans to conduct discovery on this matter.
33. Admit.
35. Deny. Based on prior inconsistent statements made by McDonald about his review of the LER, Intervenor believes McDonald knew and did ask managers in his chain of command about the issue (the 1991 [sic -- 1990] presentation).
36. Neither admit nor deny. Intervenor has no first-hand knowledge of the events stated and plans to conduct discovery.
37. Deny. Intervenor admits that Cash may not have counted the duplicate entry in the typed version of his diesel count; but the statement is inaccurate inasmuch as Cash had a starting point and did not count the starts above the starting point.

38. Admit in part, deny in part. Admit the phrase ending with a comma on line two, deny the remainder. Cash was not confused about what starts he was counting or when he started to count.
39. Neither admit nor deny to McCoy's ability to speculate.
40. Admit.

ADMISSION REQUEST A.5

Paragraph Nos. (Allegation No. 6)

1. Admit in part, deny in part. Admit with the exception that the letter did not focus on Unit 1; both units are identical with respect to the diesel generator and past dew point problems.
2. Neither admit nor deny. Intervenor has no first hand knowledge of the events and plans to conduct discovery on this matter.
3. Deny. Intervenor does not believe that faulty instrumentation was the cause of high dew point readings. Based on limited documentation reviewed by Intervenor, it appears that air quality at the time of restart was unsatisfactory. Dew point readings of 60 F on DG 2A were obtained between 4-9-90 and 4-12-90.
4. Deny. There was no PRB utilized and the final draft was done on the corporate plane and no one but the persons on board knew of the final language.
5. Admit.

6. Deny. The unsatisfactory dew point readings were attributable to high (out of specification) levels of humidity in the diesel control air system. The cause of the high humidity was a result of operator error in not returning either air dryer on the 2A to service following a Preventative Maintenance check.
7. Deny. On 4-9-90, prior to the submission of the letter, Bockhold was aware that drafts of the 4-9 letter stated that GPC had reviewed diesel air quality including dew point control and that diesel air quality was satisfactory. Also, before the 4-9 letter was submitted, Bockhold knew that air quality of the DG 2A diesel were out of specification.
8. Deny. Bockhold acknowledged in the meeting with Mosbaugh's engineers that the statements in the 4-9-90 COA response were false because Mr. Bockhold acknowledged that he believed that the high dew point readings were valid and not the result of faulty instrumentation. In fact, Mr. Bockhold acknowledged that he ordered a "feed and bleed" of the diesel air receiver to correct the unsatisfactory dew point problem.

ADMISSION REQUEST A.6

Paragraph Nos. (Allegation No. 7)

1. Admit.
2. Admit.
3. Deny. The 4-19-90 phone call involved more personnel than listed. The point in time that Mr. Hairston joined the call has not been established, but Mr. Mosbaugh who was on the same prior call with Mr. Hairston and on a different floor of the building was able to join the big conference call at a point prior to the point when diesel start language was developed.
4. Deny. By that point in time, one day before the due date of LER 90-06, responsibility transferred to corporate. The Vogtle PRB had reviewed and recommended approval of the LER to the General Manager, Mr. Bockhold. Under plant procedure it was not within Mr. Aufdenkampe's or Mr. Mosbaugh's authority to give Site approval. Only the General Manager could give Site approval for off-site correspondence.



ADMISSION REQUEST A.7

Response:

Intervenor does not have sufficient information to admit or deny that the referenced statement is true. Intervenor intends to conduct discovery on NRC Staff to determine the basis for this statement. It is also Intervenor's understanding that some members of the group disagreed with this assertion.

ADMISSION REQUEST B

Response:

Intervenor objects to verifying transcripts prepared by Brown Reporting and other transcripts as follows: 1) the Brown Reporting transcripts are wholly defective and GPC has not engaged in a sufficient effort to verify the content. In this respect highly audible sections of relevant information are not transcribed. 2) with respect to all of the transcripts, GPC asserts that these transcripts "have not been verified by those individuals who were recorded." GPC is therefore essentially asking Intervenor to correct defects to transcripts before GPC verifies them. 3) Intervenor objects because the process of verifying and correcting recordings is extremely time consuming and burdensome. It is imperative that the parties agree on the scope of all transcripts all the parties seek to admit and

that the parties jointly engage in a process to stipulate to the content of the transcripts to the fullest extent possible. In this respect, the parties have attempted to do this with tapes Nos. 57 and 58. It has taken more time to prepare these transcripts than any of the parties anticipated and GPC has yet to meet its commitment to the parties to produce a transcript of tape 58 based on input already received from NRC Staff and Intervenor.

Respectfully submitted,



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

DOCKETED  
USNRC

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

Re: License Amendment )  
(transfer to Southern Nuclear)

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

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'94 JUL 19 P4:50

CERTIFICATE OF SERVICE

I hereby certify that Intervenor's Response to GPC's Second Request for Admissions has been served this 18th day of July, 1994, by first class mail upon the persons listed in the attached Service List, with the exception that it was served by express mail as indicated by "\*".

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
Plant, Unit 1 and Unit 2)	)	(transfer to Southern Nuclear)
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