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X ADMITTED IN MA

October 1, 1990

CONFIDENTIAL

Hon. Kenneth M. Carr, Chairman
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Supplemental Information to the
September 11, 1990 Hobby/Mosbaugh
Petition Concerning the Illegal
Transfer of Control of Georgia Power
Company's Licenses to SONOPCO

Dear Mr. Chairman:

On September 11, 1990, Petitioners Marvin B. Hobby and Allen L. Mosbaugh filed a petition with your office which, inter alia, alleged that Georgia Power Co. ("GPC") improperly transferred control of its nuclear licenses to SONOPCO and that GPC misled the Commission about the reporting structure from GPC's CEO to the line management at its nuclear facilities. See Request for Proceedings and Imposition of Civil Penalties for Improperly transferring Control of GPC's licenses to the SONOPCO Project and for the unsafe and improper operations of GPC's licensed facilities ("petition") at pp. 5-9.

When considering whether the corporate reporting structure over GPC's nuclear facilities violates GPC's nuclear licenses and/or whether GPC actually transferred control of its nuclear licenses to SONOPCO, there is some additional information of which petitioners believe the Commission should be made aware.

1. Mr. Farley, SONOPCO's acting CEO, Chose the GPC Corporate Officers which would be staffing the SONOPCO Project Even Though He is Not an Officer or Employee of GPC

When providing sworn deposition testimony, Mr. Jesse P. Schaudies, an attorney representing GPC, stated that Mr. Farley along with Mr. McDonald actually chose all the GPC

corporate officers at SONOPCO. In this regard, when Mr. Schaudies was asked who initially staffed the SONOPCO project, he testified under oath "that positions [at SONOPCO] were initially filled with Mr. Farley and Mr. McDonald and then they began to select the people immediately below them..." Schaudies Deposition Transcript at p. 79 (attached as Exhibit 1).

Thus, not only was Mr. Farley placed in the SONOPCO chain of command over Mr. McDonald, he was responsible (along with Mr. McDonald) for selecting the GPC Vice Presidents associated with the SONOPCO Project.^{1/}

2. Mr. Farley and Not GPC's CEO Controls Matters related to the Staffing of GPC's Nuclear Facilities

William Evans, a GPC Corporate Concerns investigator, testified that he was charged with investigating a Corporate Concern regarding the transfer of GPC nuclear personnel from the SONOPCO project to other functions within GPC. Mr. Evans testified that transfers of GPC employees from the SONOPCO project (located in Birmingham) to GPC's corporate headquarters in Atlanta would be decided by Mr. Farley even though he is not an employee or officer of GPC. See, Evans Deposition Transcript ("Tr.") at pp. 17-18 ("my understanding would be that he [Farley] would decide what to do with the transfer..."). Clearly, Mr. Farley controls issues related to the staffing of GPC's nuclear-related positions even though he testified under oath that he was not an officer of GPC. See, Petition at p. 6, (exhibit D thereto).

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1. The positions staffed by Mr. Farley and Mr. McDonald include Mr. C.K. McCoy as the Vogtle Project Vice President. The Commission may wish to independently review internal NRC documentation concerning apparent possible prior material false statements made to the Commission by Mr. McCoy. Upon information and belief, these allegations directly resulted in Mr. McCoy's removal from the Grand Gulf nuclear station. Mr. McDonald admitted during the course of a deposition (not yet transcribed) that he was aware of Mr. McCoy's reputation of making incorrect statements and false representations to the NRC.

Thus, Mr. Farley controls GPC's nuclear facilities by virtue of the fact that he acts as SONOPCO's Chief Executive Officer ("CEO"). He does this despite the fact that SONOPCO currently functions as a project of GPC and as such is not supposed to have any independent corporate powers. As a result, the reporting structure of GPC's nuclear facilities should indicate that Mr. Farley currently acts, and has acted since November of 1988, as SONOPCO's CEO even though the U.S. Securities and Exchange Commission ("SEC") has not approved The Southern Company's request to create the SONOPCO corporation.

3. GPC's Concern Over Whether SONOPCO was Operating GPC's Nuclear Plants Without A License Continued Well After Mr. Hobby Raised the Issue in His April 27, 1989 Memo

On October 25, 1989, GPC's counsel advised Mr. Hobby that language in certain contractual matters should be reworded to avoid any accusation that the SONOPCO Project was operating GPC's nuclear plants without a license. When GPC was confronted with this document at the Deposition of Robert Edwards (an attorney with the Troutman, Sanders law firm), the document was physically confiscated from Mr. Hobby and his counsel. See Edwards Deposition at Tr. pp. 28-33 (attached as Exhibit 2). Moreover, Mr. Hobby was denied the right to even ask the witness any questions concerning the contents of the document. Had this document not been confiscated and questions permitted, it would demonstrate that GPC's counsel had a continuing concern over anyone filing an accusation about who was controlling GPC's nuclear facilities. This memo followed Mr. Hobby's April 27, 1989 over a half of a year later. (See Exhibit A to the Petition for a copy of Mr. Hoby's April 27th memo).

In this same regard, both the manager and investigator of GPC's Corporate Concerns program has testified that Mr. Hobby had raised with them "a concern regarding the reporting structure at SONOPCO," see Glenn Deposition Tr. at p. 25 (attached as Exhibit 3), as well as "...whether or not Mr. McDonald was indeed independent from Georgia Power Company or whether he was, in fact, a subordinate officer to Mr. Dahlberg..." See Evans Deposition at p. 19 (attached as Exhibit 4). Although Messrs. Evans and Glenn did not investigate these concerns, they nonetheless did investigate a related concern raised by Mr. Hobby that SONOPCO management was improperly interfering with Mr. Hobby's management of the GPC Nuclear Operations Contract Administration group of which Mr. Hobby was the General Manager. (This concern is related in number 2 above.)

That concern was never resolved. At first, Mr. Hobby was advised by Mr. Evans that Mr. Farley would be making the call as to whether Mr. Hobby would be allowed to interview candidates from SONOPCO for a GPC nuclear performance engineer position. Shortly after Mr. Hobby was advised that it was Mr. Farley's call, Mr. Hobby was advised that he was being permanently prohibited from hiring any additional employees although GPC management had authorized the nuclear performance engineer position.

As such, the question Mr. Hobby raised in his April 27, 1989 memo and raised with Corporate Concerns (i.e. whether Mr. McDonald was independent of GPC because he reported, in reality, to Mr. Farley) was answered when Mr. Hobby was advised that GPC's nuclear employees were subordinate to Mr. Farley inasmuch as it was Mr. Farley who would be making the call about the staffing of all GPC nuclear positions, including those not even associated with the SONOPCO project (i.e. GPC nuclear performance engineer position within the Nuclear Operations Contract Administration Group in Atlanta).

4. Vogtle Project Management Assumes that Mr. Farley and Not Mr. Dahlberg Controls Vogtle's Operation

Two specific facts demonstrate that Vogtle Project Management generally considers Mr. Farley rather than Mr. Dahlberg as their CEO. First, during a taped meeting prior to the scheduling of the current on-going outage at the Vogtle station, Mr. C.K. McCoy stated at a meeting that the outage philosophy was created by Mr. Farley, Mr. McDonald, Mr. Hairston and three other SONOPCO vice presidents. This statement is believed to have been tape recorded by Mr. Allen Mosbaugh. This tape recording is currently in the possession of the NRC. See NRC Motion and Order of U.S. Department of Labor attached as Exhibit 5).


Second, in or about August of 1990, Mr. McCoy addressed Vogtle management about the reporting structure of the plant duty managers. At that meeting, which upon information and belief may have been tape recorded (see Exhibit 5), Mr. McCoy stated that the site duty manager is to call the corporate duty manager and is to advise the corporate duty manager of any significant event. Mr. McCoy then stated that the corporate duty manager is to call the project vice president (Mr. McCoy in the case of the Vogtle project), who in turn calls the president of the company.

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October 1, 1990
Letter to Chairman Carr

After the conclusion of the meeting, Mr. Mosbaugh asked for clarification from a former SONOPCO manager, Mr. Steve Chestnut (currently Mr. Chestnut is the Manager of Technical Support at Plant Vogtle). Mr. Chestnut advised Mr. Mosbaugh that the actual president of GPC, Mr. Dahlberg, would never be called; rather he believed Mr. McCoy's reference to "president" was a reference to Mr. Farley who is, in fact, actually contacted. The conversation between Mr. Chestnut and Mr. Mosbaugh is, upon information and belief, also included in the tape recordings now in the possession of the NRC. See attached Exhibit 5.

The above facts as well as those set out in the Petition are not nearly exhaustive. Petitioners are willing to provide the Commission with additional examples and facts should the Commission deem it necessary before ruling on petitioners' requested relief. Once again, thank you for your consideration.

Respectfully submitted,



Michael D. Kohn,
Counsel to Marvin B. Hobby
and Allen L. Mosbaugh

EXHIBIT 1

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,)
4 Complainant,) CIVIL ACTION
5 vs.) FILE NO.
6 GEORGIA POWER COMPANY,) 90-ERA-30
7 Respondent.)

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14 DEPOSITION OF
15 JESSE PIKE SCHAUDIES
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

BULL & ASSOCIATES

1 with that definition I have a great deal of
2 difficulty answering your question.

3 Q Did Georgia Power Company employees
4 assigned to the SONOPCO project in Birmingham?

5 A All right. And then your question,
6 again, is what?

7 Q What's your understanding of how
8 that process and how those employees were
9 selected?

10 A My general understanding is that
11 Georgia Power employees who came to be
12 assigned to the SONOPCO project in Birmingham
13 were selected by the people who had been
14 selected to be their superiors.

15 Q Who made all the selections? Were
16 there just a few individuals who made all the
17 selections?

18 A My understanding is that is not
19 correct.

20 Q Okay. What is your understanding?

21 A That positions were initially
22 filled with Mr. Farley and Mr. McDonald and
23 then they began to select the people
24 immediately below them who, in turn, began to
25 select the people immediately below them for

EXHIBIT 2

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,

4 Complainant,

5 vs.

6 GEORGIA POWER COMPANY,

7 Respondent.

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14 DEPOSITION OF
15 DWIGHT EVANS
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

BULL & ASSOCIATES

1 Q Are you aware of whether Mr.
2 McDonald would review some of these data
3 requests and write comments on them to his
4 employees saying: Why do they want this piece
5 of information?

6 A I personally was not aware of that.

7 Q Were you ever aware of anyone from
8 SONOPCO contacting people in your department or
9 elsewhere in Atlanta saying: Why do you want
10 this information?

11 A No. I was not aware of that.

12 Q Are you aware of any problems with
13 support of the rate case?

14 A But now let me go a little bit
15 further than that. I personally had some
16 conversations with people in SONOPCO when the
17 question that came from the PSC staff, or the
18 consultant, was not clear to them and they
19 called to ask questions: What do you think
20 they meant by this? What do they really want?
21 So there was discussion and that discussion did
22 occur in between regulatory affairs and the
23 SONOPCO project to determine what was intended
24 by a particular data request, and can you get
25 clarification on this? So several of those

1 discussions did take place and I was aware of
2 those.

3 Q Was Mr. Hobby very supportive of
4 your efforts with the rate case?

5 A I felt that he was.

6 Q Was Mr. McDonald always very
7 supportive of your efforts with the rate case?

8 A On a couple of occasions Mr.
9 McDonald and I had differences of opinion as
10 to how we should respond, but he was
11 responsive.

12 Q Is the rate case part of Mr.
13 McDonald's responsibility?

14 A Well, no. He was responsible for
15 operating the plants and I had the overall
16 responsibility for the rate case.

17 Q Mr. Evans, are you aware that the
18 Public Service Commission was interested in
19 performance indicators back in 1987?

20 A I was not involved with the rate
21 case in 1987. I was aware in 1989, early 1989,
22 that they were interested in performance
23 indicators.

24 Q But you were aware that the request,
25 or interest, stemmed back from 1987?

1 A Yes. I had heard that it did.

2 Q Can you tell me what was Georgia
3 Power Company's strategy going to be to respond
4 to the Public Service Commission's interest
5 with performance indicators?

6 A We felt that performance indicators
7 were not good for the overall performance of
8 the plant. We were aware the NRC in our
9 industry generally felt that performance
10 indicators resulted in the company's operating
11 the plant to focus more on plant performance
12 and NRC and others within the industry felt
13 that it distracted from safety. So we felt
14 that performance indicators would not result in
15 the desired results that the Commission
16 wanted. However, there came a time in the case
17 when it was obvious that the Public Service
18 Commission was going to impose performance
19 standards whether we thought it was a good idea
20 or not. At that point in time Mr. McDonald and
21 I had a disagreement as to whether we should
22 provide certain data and responses to the
23 commission. I felt that the commission was
24 going to come forward. Mr. McDonald felt that
25 we should continue our argument. Since we were

1 time while I agreed with his arguments I felt
2 it was time to move forward. So there was a
3 difference of opinion between he and I.

4 Q Prior to learning of this difference
5 of opinion I assume then you were in charge of
6 the rate case but you felt everything was going
7 on to prepare the type of testimony you wanted
8 for that rate case?

9 A That's correct. And then all the
10 homework was being done and people were looking
11 at various --

12 Q And then Mr. McDonald and you had a
13 conversation and you then realized that that
14 was not the case?

15 A I realized that at that point in
16 time that there was a difference of opinion and
17 when two executive vice presidents don't agree,
18 then, you know, you take it to the president
19 and he makes a decision, which is what
20 happened.

21 Q And the normal procedure is that if
22 two VP's don't agree you go to the president of
23 Georgia Power Company and he would make the
24 determination?

25 A I don't understand the first part of

1 Fitzpatrick's testimony was submitted?

2 A I think that's the case, but I'm not
3 sure.

4 Q Okay. It would be either the
5 rebuttal testimony?

6 A Yes. I would have to refresh my
7 memory but that's the way I recall it.

8 Q Did you talk to Mr. Hobby about the
9 broken chair incident?

10 A It's possible. I don't recall. We
11 all thought it was a little bit humorous. So
12 it's possible I did. I don't recall whether I
13 did or not.

14 Q Do you have any recollection of a
15 conversation with Mr. Hobby regarding the
16 meeting on performance indicators?

17 A I don't recall the discussion.

18 Q And you were aware that Mr. Hobby
19 was involved in creating or working on the
20 performance indicator issue?

21 A I knew that he had been involved
22 early on but I didn't know any of the details.

23 Q Do you know how his involvement
24 ended on performance indicators?

25 A No.

EXHIBIT 3

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,)
4 Complainant,) CIVIL ACTION
5 vs.) FILE NO.
6 GEORGIA POWER COMPANY,) 90-ERA-30
7 Respondent.)

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14 DEPOSITION OF
15 LEE BROWN GLENN
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

EXHIBIT 4

1 not a nuclear safety issue.

2 Q Okay. So personnel issues have no
3 concern to nuclear safety?

4 A Not necessarily.

5 Q Not necessarily?

6 A Some may, some may not. This one
7 does not, in my mind, based on the limited
8 information I have, have nuclear implications.

9 Q So you would make a determination
10 whether it had nuclear implications or not if
11 you get a concern dealing in the nuclear area?

12 A Yes.

13 Q Okay. Now, are you aware that Mr.
14 Hobby had a concern regarding the reporting
15 structure at SONOPCO?

16 A I recall that he -- I do recall I
17 think he had mentioned that at breakfast, again
18 that type of scenario before.

19 Q Okay. What did you do with that
20 information?

21 A I do not do anything unless an
22 individual indicates that they are not getting
23 where they want to get to with their own
24 management and they desire corporate concerns
25 intervention involvement. As long as the

COPY

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,)
4 Complainant,) CIVIL ACTION
5 vs.) FILE NO.
6 GEORGIA POWER COMPANY,) 90-ERA-30
7 Respondent.)
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15 DEPOSITION OF
16 WILLIAM RUSSELL EVANS
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

BULL & ASSOCIATES

1 Q (By Mr. Kohn) Mr. Hobby raised, I
2 think you referred to it as a "generic concern"
3 regarding whether Mr. McDonald was reporting to
4 Mr. Farley or Mr. Dahlberg. Do you recall
5 that?

6 A I didn't take it to be a concern per
7 se. I know we talked about, you know -- there
8 was, I guess, an understanding that was still
9 to be reached as to whether or not Mr. McDonald
10 was indeed independent from Georgia Power
11 Company or whether he was, in fact, a
12 subordinate officer to Mr. Dahlberg. My
13 feeling was is that this was speculation about
14 what's going on in the politics of the two
15 groups. I did not perceive it to be a concern
16 that we were being asked to look into.

17 Q And those type of politics and stuff
18 like that, often, in my circles, makes good
19 gossip. Who else was talking about this stuff?

20 A I don't know specifically who.

21 Q Who else did you talk about it with?

22 A About that particular one?

23 Q Yeah.

24 A Only Lee.

25 Q Did Lee indicate that he was

EXHIBIT 5

U.S. DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

Allen Mosbaugh, :
v. : Case No. 90-ERA-58
Georgia Power Co. :

MOTION TO STAY DISCOVERY

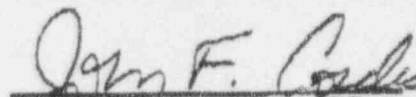
The Nuclear Regulatory Commission ("NRC" or "Commission"), hereby moves to stay discovery in the above captioned proceeding, to the extent described herein. The NRC has information that the Complainant has in his possession various tape recordings involving conversations between himself and others including, but not limited to, employees and officers of Respondent. As more fully set out in the Declaration of Larry L. Robinson,¹ filed this day with this Tribunal, the NRC has just learned of the existence of these tape recordings. The NRC has reasonable cause to believe that these recordings may contain material which is evidence in an ongoing NRC investigation into possible violations of NRC Regulations which are enacted to protect the public health and safety. The NRC also has reasonable cause to believe that release of any or all of these tape recordings to the Respondent could compromise the NRC's investigation.

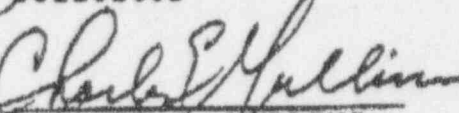
The Complainant has agreed to provide these recordings to

¹Mr. Robinson is an Investigator with the NRC's Office of Investigations ("OI").

the NRC in their entirety. The NRC will expeditiously review these materials and provide this Tribunal with a detailed statement describing the number and nature of the recordings, if any, which it wishes this Tribunal to protect from discovery. Accordingly, the NRC respectfully requests this Tribunal to stay any orders compelling discovery to the extent that the Complainant not be compelled to produce for discovery to Respondent various tape recordings of conversations regarding incidents involving the Vogtle Electric Power Station, owned by the Georgia Power Company.

Respectfully submitted,


JOHN F. CORDES, JR.
Solicitor


CHARLES E. MULLINS
Attorney
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(301) 492-1606

DATED: Sept. 13, 1990

cc: Michael D. Kohn, Esq.
Jesse Shaudies, Esq.

DECLARATION OF LARRY L. ROBINSON

I, Larry L. Robinson, do hereby declare that the following is true and correct, under penalty of perjury, to the best of my ability.

1. My name is Larry L. Robinson. I am employed as an Investigator with the Office of Investigations, United States Nuclear Regulatory Commission. My duties include the conduct of investigations of licensees, applicants, their contractors or vendors, including the investigation of all allegations of wrongdoing by other than NRC employees and contractors.
2. I make these statements based upon my own personal knowledge, or upon knowledge obtained by me during the course of my employment, and is relied upon by me in the performance of my official duties.
3. The Office of Investigations (OI), Region II (RII), NRC, currently has two pending investigations regarding allegations of intentional wrongdoing on the part of Georgia Power Company (GPC) Managers at the Vogtle Electric Generating Plant (VEGP). These investigations basically involve allegations of deliberate Violations of Technical Specifications, and Material False Statements. If these allegations are substantiated, they could constitute violations of NRC regulations enacted to protect the public health and safety. In addition, a recent Special Inspection, conducted by NRC at VEGP during the period August 6-17, 1990, addressed additional related allegations of wrongdoing by GPC Management at VEGP that will, in all likelihood, be referred to OI in the near future.
4. On September 12, 1990, Stephen Kohn, of the Law Offices of Kohn, Kohn, and Colapinto, telephoned me and advised me that their client, Allen L. Mosbaugh, a GPC employee at VEGP, was in possession of audio tape recordings that he, Mosbaugh, had made of conversations with VEGP Managers that may be pertinent to the ongoing NRC investigations/Special Inspection. Kohn advised me that Mosbaugh had been officially ordered to turn these tapes over to the Law Offices of Troutman, Sanders, Lockerman, and Ashmore, representatives of GPC in a Department of Labor (DOL) Case, No. 90-ERA-58, initiated by Mosbaugh. Kohn stated that his understanding was that Mosbaugh was going to have to turn over these tapes on Sept. 13, 1990.
5. Allen L. Mosbaugh had been interviewed by me on February 8, 1990, during the course of my investigation of one of the aforementioned allegations.
6. On September 12, 1990, I telephoned Mosbaugh, and he verified that he did make such tape recordings, that he was in possession of them, that he had been ordered by a DOL Administrative Law Judge to turn them over to the Troutman, Sanders Law Firm. Mosbaugh told me that, in his opinion, some of these tapes show evidence of intentional wrongdoing on the part of GPC Management at VEGP, and GPC Management at the offices of SONOPCO Project, Birmingham Alabama, in connection with the allegations in the ongoing OI investigations and the Special Inspection.
7. Also on September 12, 1990, in response to my message, Michael Kohn, also with the Law Firm of Kohn, Kohn, and Colapinto, telephoned me at my residence and advised me that his client, Mosbaugh, per an order from DOL Administrative Law Judge Bernard J. Bilday, Jr., was required to turn over the tapes to the

GPC attorneys by midnight, September 13, 1990. Michael Kohn said that he had not been able to personally review all the tapes, but that it was his understanding from conversations with his client that there was evidence of wrongdoing on the part of GPC Management, pertaining to the ongoing investigation/Special Inspection issues, contained in the conversations on the tapes. Kohn stated that his client would be willing to turn the tapes over to NRC for review for evidentiary purposes. Kohn stated that he would prefer to have the NRC subpoena the tapes.

8. The Office of Investigations has reasonable cause to believe that these tapes contain direct evidence of intentional violations of regulatory requirements by GPC personnel that pertains to ongoing NRC investigations/inspections.

9. OI has reasonable cause to believe that the review of these tapes by GPC personnel, or their representatives, prior to the completion of the aforementioned investigations, would severely compromise the integrity of these investigations.

Further, declarant sayeth naught.

Dated this 13th day of September, 1990 at Atlanta, Georgia.

Larry W. Robinson
Larry W. Robinson

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