

October 11, 1995

EA 95-171

Georgia Power Company
ATTN: Mr. W. George Hairston, III
Executive Vice President
P. O. Box 1295
Birmingham, AL 35201

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE SUMMARY - VOGTLE NUCLEAR PLANT
DOCKET NOS. 50-424 AND 50-425

Dear Mr. Hairston:

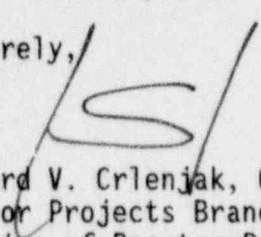
This letter refers to the Predecisional Enforcement Conference held at our request on October 4, 1995, at the Region II office in Atlanta, Georgia. The issue discussed related to an apparent violation of 10 CFR 50.7, involving Employee Protection. A list of attendees, the meeting transcript, and a copy of your handout are enclosed.

Your presentation provided additional information and clarification of the issues associated with the apparent violation. We are continuing our review of this apparent violation to determine the appropriate enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice", a copy of this letter and its enclosures will be placed in the NRC Public Document Room.

Should you have any questions concerning this letter, please contact us.

Sincerely,


Richard V. Crlenjak, Chief
Reactor Projects Branch 3
Division of Reactor Projects

Docket Nos.: 50-424 and 50-425
License Nos.: NPF-68 and NPF-81

Enclosures: 1. List of Attendees
2. Transcript
3. Handout

cc w/encls:
Mr. C. K. McCoy
Vice President
Vogtle Electric
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P. O. Box 1295
Birmingham, AL 35201

9510230343 951011
PDR ADOCK 05000424
G PDR

(cc w/encls cont'd - See page 2)

210184

IE45

(cc w/encls cont'd)

J. D. Woodard
Senior Vice President
Georgia Power Company
P. O. Box 1295
Birmingham, AL 35201

J. B. Beasley
General Manager, Plant Vogtle
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J. A. Eailey
Manager-Licensing
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P. O. Box 1295
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Office of the County Commissioner
Burke County Commission
Waynesboro, GA 30830

Harold Reheis, Director
Department of Natural Resources
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Atlanta, GA 30334

Thomas Hill, Manager
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Law Department
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Atlanta, GA 30334

(cc w/encls cont'd - See page 3)

(cc w/encls cont'd)
 Ernie Toupin
 Manager of Nuclear Operations
 Oglethorpe Power Corporation
 2100 E. Exchange Place
 Tucker, GA 30085-1349

Charles A. Patrizia, Esq.
 Paul, Hastings, Janofsky & Walker
 10th Floor
 1299 Pennsylvania Avenue
 Washington, D. C. 20004-9500

Distribution w/encls:

- R. V. Crlenjak, RII
- P. Skinner, RII
- D. Seymour, RII
- G. Hallstrom, RII
- J. Lieberman, NRR
- D. Wheeler, NRR
- D. Hood, NRR
- PUBLIC

NRC Senior Resident Inspector
 U.S. Nuclear Regulatory Commission
 8805 River Road
 Waynesboro, GA 30830

*SEE PREVIOUS CONCURRENCE

		SEND TO PUBLIC DOCUMENT ROOM?		YES		NO	
OFFICE	RII:DRP	RII:DRP	RII:EICS	RII:EICS			
SIGNATURE							
NAME	*RWright:tj	*BBonser	*LWatson	*BUryc			
DATE	10 / / 95	10 / / 95	10 / / 95	10 / / 95	10 / / 95	10 / / 95	10 / / 95
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

(cc w/encls cont'd)
 Ernie Toupin
 Manager of Nuclear Operations
 Oglethorpe Power Corporation
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 Tucker, GA 30085-1349

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In The Matter Of:

*IN THE MATTER OF MARVIN B. HOBBY v.
GEORGIA POWER COMPANY*

*PREDECISIONAL ENFORCEMENT CONFERENCE
October 4, 1995*

*BROWN REPORTING, INC.
ATLANTA, AUGUSTA, CARROLLTON, ROME
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SUITE 750
ATLANTA, GA USA 30309
(404) 876-8979 or (800) 637-0293*

*Original File 1004hobb.asc, 52 Pages
Min-U-Script® File ID: 1456496487*

Word Index included with this Min-U-Script®

ENCLOSURE 2

[1] BEFORE THE NUCLEAR REGULATORY COMMISSION
 [2]
 [3] IN THE MATTER OF)
 [4] MARVIN B. HOBBY)
 [5] vs.)
 [6] GEORGIA POWER COMPANY)
 [7]
 [8]
 [9]
 [10] OPEN PREDECISIONAL ENFORCEMENT CONFERENCE
 [11]
 [12]
 [13] October 4, 1995
 [14]
 [15] 2:00 p.m.
 [16]
 [17] NRC Region II Office
 101 Marietta Street
 Suite 2900
 Atlanta, Georgia
 [18]
 [19]
 [20] John P. Payne, CCR-8-1006, RPR
 [21]
 [22]
 [23]
 [24] BROWN REPORTING, INC.
 1100 SPRING STREET, SUITE 750
 ATLANTA, GEORGIA 30309
 [25] (404) 876-8979

[1] APPEARANCES
 [2]
 [3] Nuclear Regulatory Commission, Region II:
 [4] MR. L. REYES
 MS. L.J. WATSON
 [5] MR. B. URYC
 MR. J.R. GRAY
 [6] MR. E.W. MERSCHOFF
 MS. C. EVANS
 [7] MR. P.H. SKINNER
 MR. L.L. WHEELER
 [8]
 [9] Nuclear Regulatory Commission
 Office of General Counsel:
 [10]
 MS. MITZI YOUNG (By Telephone)
 [11]
 [12] Georgia Power Company:
 [13] MR. W.G. HAIRSTON, III
 MR. A.H. DOMBY
 [14] MR. F. WILLIAMS
 MR. J.A. BAILEY
 [15]
 [16]
 [17]
 [18]
 [19]
 [20]
 [21]
 [22]
 [23]
 [24]
 [25]

[1] **MR. REYES:** Good afternoon. I am Luis
 [2] Reyes. I'm the Deputy Regional Administrator for
 [3] the Nuclear Regulatory Commission's Region II
 [4] office.
 [5] This afternoon we will conduct a
 [6] predecisional enforcement conference between the NRC
 [7] and Georgia Power Company which is open to the
 [8] public for observation. This conference will be
 [9] transcribed. I request members of the public to
 [10] hold any questions they may have about the conduct
 [11] of the conference until the conference is
 [12] concluded. The NRC staff will stay after the
 [13] meeting to answer any questions concerning the
 [14] conduct of the conference.
 [15] The agenda for the conference is shown in
 [16] the viewgraph. We have a viewgraph in the room
 [17] showing our expectations of the meeting this
 [18] afternoon.
 [19] Following my brief opening remarks,
 [20] Mr. Bruno Uryc, Director of the Region II
 [21] Enforcement Staff, will discuss the agency's
 [22] enforcement policy. I will then provide
 [23] introductory remarks concerning my perspective on
 [24] the events to be addressed today, and then Mr. Ellis
 [25] Merschoff to my left, Director of the Division of

Page 4

(1) Reactor Projects, will then discuss the apparent
(2) violation.
(3) You will then be given an opportunity to
(4) respond to the apparent violation. In this regard,
(5) I wish to reiterate to the licensee and members of
(6) the public that the decision to hold this conference
(7) does not mean that the NRC has determined that a
(8) violation has occurred or that enforcement action
(9) will be taken. This conference is, however, an
(10) important step in arriving at that decision.
(11) Following Georgia Power Company's
(12) presentation, I plan to take about a ten-minute
(13) break so that the NRC can briefly review what it has
(14) heard and determine if we have any follow-up
(15) questions, and lastly, I will provide concluding
(16) remarks.
(17) At this point, I would like to have the
(18) NRC staff introduce themselves and then ask Georgia
(19) Power Company to introduce its participants.
(20) Linda?
(21) **MS. WATSON:** I'm Linda Watson, I'm with
(22) the enforcement staff.
(23) **MR. GRAY:** Joe Gray, Deputy Director,
(24) Office of Enforcement.
(25) **MR. URYC:** Bruno Uryc, Director of the

Page 5

(1) Region II Enforcement Staff.
(2) **MR. REYES:** I'm Luis Reyes, I'm the
(3) Deputy Regional Administrator.
(4) **MR. MERSCHOFF:** Ellis Merschhoff, Director
(5) of Reactor Projects.
(6) **MS. EVANS:** Carolyn Evans, Regional
(7) Counsel.
(8) **MR. SKINNER:** Perry Skinner, Section
(9) Chief of the Georgia Power Company here in Region
(10) II.
(11) **MR. WHEELER:** Duke Wheeler, Vogtle
(12) Licensing Project Manager.
(13) **MR. BAILEY:** Jim Bailey, Manager of
(14) Licensing.
(15) **MR. WILLIAMS:** I'm Fred Williams, Senior
(16) Vice President of Georgia Power Company.
(17) **MR. HAIRSTON:** I'm George Hairston,
(18) Executive Vice President of Georgia Power Company.
(19) **MR. DOMBY:** I am Art Dobby, I'm with the
(20) law firm of Troutman Sanders representing Georgia
(21) Power Company.
(22) **MR. REYES:** Thank you, Mr. Uryc will now
(23) discuss the agency's enforcement policy.
(24) **MR. URYC:** Thank you, Mr. Reyes. I will
(25) provide some background information on the

Page 6

(1) enforcement process for those who might not be
(2) familiar with this process.
(3) The NRC Enforcement Program is governed
(4) by the Commission's enforcement policy which was
(5) recently revised and became effective on June 30th,
(6) 1995. It has been published as NUREG-1600, and for
(7) those of you who desire, I have left some copies on
(8) the table behind me that you're welcome to take.
(9) For cases where there is a potential for
(10) escalated enforcement action, that is, where the
(11) severity level of the apparent violation may be at
(12) Severity Level I, II, or III, a predecisional
(13) enforcement conference is normally held.
(14) In this particular case, the decision to
(15) hold a predecisional enforcement conference is based
(16) on the Secretary of Labor's decision which was
(17) issued on August 4th, 1995, in the matter of
(18) Marvin B. Hobby versus the Georgia Power Company.
(19) In that decision, the Secretary of Labor concluded
(20) that discrimination occurred under the Energy
(21) Reorganization Act. The apparent violation derives
(22) from this decision. Copies of the Secretary of
(23) Labor's decision that we're going to discuss today
(24) are also available on the table should you desire
(25) one.

Page 7

(1) A predecisional enforcement conference is
(2) essentially the last step of the enforcement process
(3) before the staff makes an enforcement decision.
(4) Under the Commission's enforcement policy, these
(5) conferences are normally closed meetings between the
(6) NRC staff and the licensee. However, this
(7) conference, although initially designated as a
(8) closed conference, has been opened to public
(9) observation based on a formal request by an
(10) interested member of the public. The trial program
(11) to conduct selected conferences as open conferences
(12) was initiated by the Commission in July of 1992, and
(13) this program has been extended pending further
(14) evaluation.
(15) The purpose of a predecisional
(16) enforcement conference is not to negotiate a
(17) sanction. Our purpose here today is to obtain
(18) information that will assist us in determining the
(19) appropriate enforcement action, such as a common
(20) understanding of the facts, root causes, and missed
(21) opportunities associated with the apparent
(22) violation; secondly, a common understanding of the
(23) corrective action taken or planned; and a common
(24) understanding of the significance of the issues and
(25) the need for lasting comprehensive corrective

[1] action.

[2] At the predecisional enforcement

[3] conference stage of the process, we want to be sure

[4] that the licensee understands the significance of

[5] the issues and is taking effective corrective

[6] action. We are seeking information that may be

[7] relevant to either mitigation or escalation of any

[8] resulting sanction as well as determining the

[9] licensee's position relative to the decision issued

[10] by the Secretary of Labor in this case. A copy of

[11] that decision was enclosed with our letter of

[12] September the 1st which made initial arrangements

[13] for this conference.

[14] The apparent violation discussed at this

[15] conference is subject to further review by the NRC.

[16] It is subject to change prior to any resulting

[17] enforcement action. It is important to note, as

[18] Mr. Reyes has said, that the decision to conduct

[19] this conference does not mean that the NRC has

[20] determined that a violation has occurred or that

[21] enforcement action will be taken. I should also

[22] note that statements of views or expressions of

[23] opinion made by NRC employees at this conference, or

[24] the lack thereof, are not intended to represent

[25] final agency determination or beliefs.

[1] Now, following this conference, the

[2] regional administrator, in coordination with the NRC

[3] Office of Enforcement and other headquarters

[4] offices, will reach an enforcement decision, and

[5] this process normally takes about four weeks to

[6] accomplish. If the final enforcement action

[7] involves a proposed civil penalty or an order, the

[8] NRC will issue a press release 24 hours after that

[9] enforcement action is issued.

[10] Finally, if you have any comments

[11] regarding the Commission's trial program to allow

[12] public observation of the NRC's predecisional

[13] enforcement conferences, I have provided some

[14] comment sheets on the table behind me. These

[15] comments will be forwarded to the Director of the

[16] Office of Enforcement for review and consideration;

[17] and for any public participants, we ask that you

[18] sign the attendance sheet that's on the table so

[19] that we can judge the public interest in continuing

[20] this open conference policy.

[21] **MR. REYES:** Before we proceed with the

[22] agenda, did somebody just come in on the phone?

[23] Mitzi Young? We have a person participating on the

[24] phone.

[25] **MR. GRAY:** From the NRC Office of General

[1] Counsel.

[2] **MR. REYES:** Proceeding with the agenda

[3] this afternoon, let me summarize the issues as I see

[4] them, and then I will turn it over to Ellis

[5] Merschoff.

[6] The Secretary of Labor concluded in the

[7] Marvin Hobby case that in 1990, Georgia Power

[8] Company senior managers engaged in discriminatory

[9] actions by terminating Mr. Hobby for raising nuclear

[10] safety concerns. The NRC places a high value on the

[11] freedom of nuclear industry employees to raise

[12] potential safety concerns to licensee management.

[13] Section 211 of the Energy Reorganization Act and

[14] 10 CFR 50.7 establish strict requirements for the

[15] protection of employees against discrimination for

[16] raising nuclear safety concerns, and the NRC

[17] enforcement policy calls for strong enforcement

[18] sanctions in cases where these requirements are

[19] violated. Our purpose today is to provide you an

[20] opportunity to discuss the basis for your decisions

[21] in this case.

[22] In addition, the NRC is concerned about

[23] the potential of a chilling effect that may have

[24] resulted from Mr. Hobby's termination. The broad

[25] span of control and influence exercised by the

[1] senior Georgia Power Company managers who were

[2] involved in this matter could have a negative impact

[3] on your employees' perceptions regarding their

[4] freedom to raise safety concerns. Therefore, we

[5] expect you to address the actions taken or planned

[6] to assure that this adverse employment action does

[7] not have a chilling effect on other licensee or

[8] contractor employees raising real or perceived

[9] nuclear safety concerns.

[10] Georgia Power Company's steps to insure

[11] that senior managers of GPC are aware of their

[12] responsibilities to provide a work environment in

[13] which all employees may freely identify safety

[14] concerns without fear of retaliation or

[15] discrimination are a key element in establishing an

[16] effective employee concerns program. Whether or not

[17] you agree that a violation occurred, you should

[18] address the actions you have taken to insure

[19] managers are aware of these responsibilities. In

[20] addition, you should address the actions you have

[21] taken with respect to the Secretary of Labor's

[22] decision and the order to offer Mr. Hobby

[23] reinstatement.

[24] I would like to proceed with the agenda

[25] and have Ellis Merschoff, Director of the Division

(1) of Reactor Projects, discuss the apparent specific
 (2) violations that we are to consider today.
 (3) **MR. MERS HOFF:** On August 4th, 1995, the
 (4) Secretary of Labor issued a decision and remand
 (5) order in the Department of Labor Case 90-ERA-30.
 (6) The Secretary of Labor found that in 1990, senior
 (7) managers of Georgia Power Company discriminated
 (8) against Mr. Marvin B. Hobby, former general manager
 (9) of GPC's Nuclear Operations Contract Administration,
 (10) when Mr. Hobby's position was eliminated and he was
 (11) forced to resign from GPC. In addition, the
 (12) Secretary of Labor also found that other acts of
 (13) discrimination occurred, such as denial of executive
 (14) parking privileges and limiting access privileges.
 (15) The Secretary of Labor specifically
 (16) determined that Georgia Power Company's decision to
 (17) terminate Mr. Hobby was based solely on retaliatory
 (18) animus for his having raised safety concerns related
 (19) to the operation of the Vogtle Nuclear Plant,
 (20) principally those described in an April 27th, 1989,
 (21) memorandum that Mr. Hobby provided to Mr. Fred
 (22) Williams, Georgia Power Company's Vice President of
 (23) Bulk Power.
 (24) This is an apparent violation of
 (25) 10 CFR 50.7, Employee Protection, which prohibits

(1) severity of the violation; any escalation or
 (2) mitigation considerations; your plans to implement
 (3) corrective action; and any other application of the
 (4) enforcement policy relevant.
 (5) With that, Mr. Reyes, I will turn it over
 (6) to you.
 (7) **MR. REYES:** We will turn over the meeting
 (8) to Georgia Power and let you come forward with your
 (9) presentation.
 (10) **MR. HAIRSTON:** Thank you, Mr. Reyes.
 (11) We're ready to start our presentation.
 (12) I am George Hairston, Executive Vice
 (13) President of Georgia Power Company, and I am here
 (14) today to respond to the questions raised in the
 (15) NRC's letter of September the 1st, 1995. We ask
 (16) that you defer any enforcement action pending the
 (17) completion of Georgia Power's appeal of the
 (18) Secretary of Labor's decision.
 (19) Georgia Power had a legitimate,
 (20) nondiscriminatory reason for eliminating Mr. Hobby's
 (21) position in 1990. It has been five years since the
 (22) events in question, and Georgia Power's
 (23) demonstrative history of not retaliating for raising
 (24) safety concerns should be considered. Moreover, as
 (25) even the NRC staff has recognized in the Vogtle

(1) discrimination against an employee engaging in
 (2) protected activities such as providing an employer
 (3) information about alleged violations of NRC
 (4) requirements. This apparent violation is being
 (5) considered for escalating enforcement.
 (6) What you see up there is essentially the
 (7) concern and the violation as we understand it. It
 (8) says that the decision and remand order was issued
 (9) determining that Georgia Power had discriminated
 (10) against Mr. Marvin B. Hobby as a result of raising
 (11) safety concerns and the Secretary of Labor's finding
 (12) that Mr. Hobby was discriminated against as a result
 (13) of these protected activities as an apparent
 (14) violation.
 (15) In terms of what we hope to accomplish
 (16) today, the purpose of this conference is to afford
 (17) you an opportunity to provide a common understanding
 (18) of the facts, the root causes, and the significance
 (19) of these issues; to provide the basis for the
 (20) adverse employment action taken against Mr. Hobby;
 (21) whether or not a chilling effect resulted from
 (22) Mr. Hobby's termination and the recent Secretary of
 (23) Labor decision; the potential negative impact on the
 (24) reporting of safety concerns due to the senior GPC
 (25) managers who were involved in this matter; the

(1) license amendment proceedings, Mr. Hobby and his
 (2) group had no relation or effect upon the safe
 (3) operation of Georgia nuclear power plants. Thus,
 (4) there has not been and there will not be any
 (5) chilling effect as a result of Mr. Hobby's case.
 (6) Let me talk a minute about the order of
 (7) my presentation, just so you know what I'm going to
 (8) be doing.
 (9) I will begin our presentation by
 (10) providing you with an overview of the facts
 (11) surrounding the elimination of Mr. Hobby's
 (12) position. You will then hear from Mr. Williams, who
 (13) will respond directly to your questions about the
 (14) basis for the adverse employment action taken
 (15) against Mr. Hobby. He was the principal decision
 (16) maker, and he will tell you precisely why
 (17) Mr. Hobby's position was eliminated. After that, I
 (18) will address the basis for our appeal. I will then
 (19) conclude our remarks by addressing the issues of
 (20) whether any chilling effect has occurred as the
 (21) results of this decision or the underlying acts of
 (22) eliminating this job position.
 (23) Briefly, let me just go through the
 (24) chronology, and you do have these overheads in your
 (25) possession.

Page 16

(1) The chronology which I'd like to go
(2) through hits the major events covered by the
(3) Department of Labor record. These events occurred
(4) over five years ago, and a brief review is helpful.

(5) In transferring the Georgia Power nuclear
(6) employees to Birmingham in 1988, Mr. Hobby turned
(7) down an opportunity to be considered for a
(8) position. In late 1988, Mr. Grady Baker of Georgia
(9) Power Company, outside the nuclear chain of command
(10) for the previous six months, performed an annual
(11) evaluation of Mr. Hobby. A copy is included in the
(12) handout supplied to you.

(13) Mr. Baker noted that Mr. Hobby's
(14) strengths were in the nuclear area. Marvin's
(15) knowledge of the - and this is in quotes.

(16) "Marvin's knowledge of the national nuclear
(17) industry is unsurpassed." The evaluation also noted
(18) Mr. Hobby had developmental needs to broaden his
(19) knowledge in Georgia Power's general operations. Of
(20) course, by this time, the corporate nuclear
(21) organization was in Birmingham.

(22) On December the 27th, 1988, only a few
(23) weeks after nuclear operations began to report to
(24) him, Mr. Bill Dahlberg approved the formation of a
(25) Nuclear Operations Contract Administration group. A

Page 17

(1) copy of Mr. Dahlberg's memo of that date is included
(2) in your package. Marvin Hobby became the general
(3) manager of this NOCA group, as it was called. He
(4) received a two-level increase in position. He had
(5) three employees, two serving as financial analysts
(6) and one secretary, reporting to him when the group
(7) was first started.

(8) Oglethorpe Power Corporation, as most of
(9) you know, is a co-owner of a major portion of Plant
(10) Vogtle and Plant Hatch. In addition, Oglethorpe
(11) owns a portion of some of the cofired plants on the
(12) Georgia system. During late 1988 and into 1989,
(13) Georgia Power and Oglethorpe were discussing
(14) negotiating the relationship which the planned
(15) Southern Nuclear Operating Company would have with
(16) the co-owners.

(17) On April the 26th, 1989, Mr. Hobby
(18) forwarded a request of Oglethorpe to Fred Williams
(19) to explain the reporting structure of Georgia Power
(20) Company and how Mr. Joe Farley, an officer of
(21) Southern Company in Birmingham, fit into the
(22) picture. Mr. Williams provided that explanation on
(23) May the 15th, 1989. Copies of the request and the
(24) response of Mr. Williams are included in your
(25) package. Mr. Hobby claims that Georgia Power

Page 18

(1) illegally eliminated his position as the results of
(2) concerns that he raised in an April the 27th, 1989,
(3) memorandum to Fred Williams.

(4) I would like us to review that memo or
(5) parts of that memo today because it's important to
(6) actually see the statements made in the letter to
(7) understand its tone and content.

(8) On page 7 is the concern which is the
(9) basis of Mr. Hobby's action against Georgia Power
(10) Company. I have an overlay of that, and if you
(11) would, I would ask you to read the
(12) next-to-the-bottom paragraph, the one that starts
(13) with "a significant concern."

(14) In May and June of 1989, Bill Dahlberg,
(15) the then president and CEO of Georgia Power Company,
(16) was reconsidering the need for Mr. Hobby's NOCA
(17) group. He met with Joe Farley and Grady Baker to
(18) discuss the ongoing negotiations with Oglethorpe
(19) Power. At this meeting, concern was expressed that
(20) NOCA was unnecessary. A request was made at that
(21) time for the SONOPCO project to employ Mr. Hobby.
(22) Mr. Dahlberg concurred with a freeze on the NOCA
(23) group hiring any further employees. The need for
(24) NOCA was uncertain.

(25) Fred Williams was in charge of contracts

Page 19

(1) between the co-owners, including Oglethorpe and
(2) Georgia Power at this time. He learned during 1989
(3) that Mr. Hobby's group would begin reporting to him
(4) effective January the 1st, 1990. He began a review
(5) process to determine how Mr. Hobby's group would fit
(6) into his existing organization. What did NOCA do?
(7) What was the level of activity? These are some of
(8) the questions he began to ask Mr. Hobby and his
(9) staff.

(10) Independent of these activities, Georgia
(11) Power's management council members met on November
(12) the 7th, 1989, to evaluate the performance and
(13) future advancement potential of many high-level
(14) managers and officers, including Mr. Hobby. Fred
(15) Williams was not in attendance, nor was Mr. Pat
(16) McDonald. Mr. Grady Baker, who had last reviewed
(17) Mr. Hobby in late 1988, was present. So was
(18) Mr. Dahlberg.

(19) In terms of performance, three of the
(20) reviewers gave Mr. Hobby the lowest possible
(21) rating. Four rated him about average, and one
(22) person rated him below average. In terms of future
(23) potential for advancement, everyone rated him as
(24) having no further potential.

(25) Fred Williams, after reviewing

Page 20

[1] Mr. Hobby's organization, recommended to his boss,
[2] Mr. Dwight Evans, that the position of Mr. Hobby be
[3] eliminated because it was unnecessary. Mr. Evans
[4] agreed, and on December the 29th, 1989, the proposed
[5] elimination of the position was presented to the
[6] management council. No one disagreed with
[7] Mr. Williams' recommendation.

[8] I would like to have Mr. Williams explain
[9] to you the reasons for his recommendation. Fred?

[10] **MR. WILLIAMS:** Thank you, George.

[11] I think I'll read this statement, and
[12] maybe we can answer questions later. That will make
[13] sure I've covered everything.

[14] From 1984 through the present, I have
[15] been the Georgia Power Company officer responsible
[16] for administration of contracts between Georgia
[17] Power Company and other joint owners of Plants
[18] Vogtle and Hatch. These contracts also include
[19] Cofired Plant Scherer and Cofired Plant Wansley and
[20] a jointly owned transmission system here in the
[21] state of Georgia, so the relationship between the
[22] co-owners in 1989 was much broader than just whether
[23] the co-owners would agree to the formation of the
[24] Southern Nuclear Company and the transfer of
[25] operating license authority to Southern Nuclear.

Page 21

[1] There were many commercial issues at the time, such
[2] as the agreement between Georgia Power and
[3] Oglethorpe Power which governed Georgia's sale of
[4] partial requirements for electricity to Oglethorpe
[5] and the Municipal Group.

[6] Because of my responsibilities in these
[7] areas and Mr. Hobby's assignments in 1989, I had
[8] contact with Marvin throughout that year, including
[9] negotiations on a draft nuclear managing board
[10] agreement between the co-owners.

[11] Marvin began reporting to me effective
[12] January 1, 1990. Even before that date, I began to
[13] review the need for Marvin's contract administrat on
[14] group. In my review, I met with Marvin and his
[15] staff to determine what tasks they were performi g.
[16] The group consisted at that time of Marvin and two
[17] much lower level positions filled by employees with
[18] an accounting or financial type background and a
[19] secretary.

[20] After talking with Marvin's group for
[21] hours and reviewing the tasks which they were
[22] performing and a November 1989 memo which set out
[23] their activities that I had requested be prepared, I
[24] concluded that there was not a legitimate need for a
[25] separate group within Georgia Power to perform these

Page 22

[1] tasks. There was no operations contract between
[2] Southern Nuclear and Georgia Power to administer. I
[3] viewed my co-owner responsibilities as including any
[4] such contract. In fact, I am the Chair of the
[5] nuclear managing board of the co-owners today. The
[6] operations contract between Georgia Power and
[7] Southern Nuclear isn't in place even yet, and that
[8] would have been the contract that the NOCA group
[9] would have been administering when it was set up.

[10] In the fall of 1989, I made my views of
[11] Marvin's group known to Marvin himself and to my
[12] boss, Dwight Evans. In addition, I could not see
[13] any reason in particular at the time we were
[14] downsizing the company for a general manager
[15] position to oversee the group's responsibilities.

[16] In making my decision to absorb the group
[17] into my area and to recommend the elimination of
[18] Marvin's general manager's position, his performance
[19] was not a factor in that deliberation. In fact, I
[20] discussed with Marvin whether he would consider
[21] other job prospects within two levels of his current
[22] position of the 20 and the possibility of
[23] transferring to Georgia Power's nuclear group in
[24] Birmingham if he wanted to stay in the nuclear
[25] area. Marvin's background was in nuclear, and his

Page 23

[1] best opportunities would be there. I should
[2] mention, too, that at the time, when an employee
[3] took a lower level position, his or her salary was
[4] not automatically cut. It would be red circled and
[5] maintained. He would just move into a different pay
[6] scale at that time, but his current salary would be
[7] maintained.

[8] Marvin was not interested in other
[9] positions within the company outside of nuclear or
[10] in the Southern Nuclear project in Birmingham, so at
[11] that time, we began discussing voluntary
[12] outplacement packages. These packages were not
[13] uncommon for impacted - and that's the word we gave
[14] to employees whose jobs were eliminated at that
[15] time - we had a considerable amount of these -
[16] impacted managers and officers. Although I had
[17] never dealt with negotiating one, Marvin was very
[18] receptive to this idea, and we began to talk
[19] financial figures. When I gave him specific
[20] approved figures, he was dissatisfied and called the
[21] former president of Georgia Power, Mr. Jim Miller.
[22] At that time, I believe Mr. Miller was still on the
[23] board of directors of Georgia Power Company.

[24] It was at that point that Mr. Tom Boren,
[25] our Senior VP of Human Resources, got involved with

Page 24

(1) negotiating terms. Tom had been involved in similar
(2) outplacement agreements. Marvin said he believed
(3) that Pat McDonald and Joe Farley wanted to get him
(4) out of the company, and I understood that it was
(5) McDonald's view that NOCA nuclear expertise in
(6) Atlanta dedicated solely to overseeing nuclear
(7) expertise in Birmingham was not needed. What I said
(8) there was that a group in Atlanta overseeing nuclear
(9) expertise in Birmingham at the Southern Nuclear
(10) project was not needed, that that would be the role
(11) of line management at the Southern Nuclear project.
(12) It was a view that was shared by me and others,
(13) including Mr. Evans, my boss.

(14) Marvin was told that if an outplacement
(15) package could not be negotiated, his position would
(16) be eliminated and he would be an employee impacted
(17) by the company's downsizing. What that means is, I
(18) tried to negotiate something with him because I told
(19) him that his position was going to be eliminated and
(20) if it was eliminated, he would be then under the
(21) normal procedure for impacted employees and whatever
(22) severance package that went with that.

(23) He said in his Department of Labor case
(24) that on January 10th, 1990, I told him that he would
(25) get no support in the company from senior management

Page 25

(1) because of the April 27th memo. This is simply not
(2) true. His memo was not a factor in eliminating the
(3) position. In fact, until it was raised with the
(4) Department of Labor, I had forgotten about the April
(5) 27th memo at that time.

(6) Let me just summarize to you what I told
(7) the Department of Labor judge during the hearing.
(8) The memorandum and the issues in it had nothing to
(9) do with the decision to eliminate Marvin's
(10) position. Marvin's position of \$100,000-plus-a-year
(11) general manager was just not justified by this job,
(12) and I believe that everyone involved, including
(13) Dwight Evans, Marvin, and those reporting to him
(14) understood that, and the position cannot be
(15) justified today.

(16) Thank you.

(17) **MR. MERSCHOFF:** Do you need access to a
(18) phone?

(19) **MR. REYES:** Let's go off the record for a
(20) minute.

(21) (Discussion ensued off the record.)

(22) **MR. REYES:** We're back on.

(23) **MR. MERSCHOFF:** I have two questions on
(24) that. One, you said the purpose of NOCA was to
(25) oversee a contract between Southern Nuclear and

Page 26

(1) Georgia Power. Was that the sole purpose of it?

(2) **MR. WILLIAMS:** That's correct.

(3) **MR. MERSCHOFF:** And you say that contract
(4) isn't in place yet. At what point was NOCA
(5) dissolved as an organization?

(6) **MR. WILLIAMS:** NOCA was dissolved when I
(7) eliminated the job in the beginning of 1990. I
(8) absorbed the other positions within the existing
(9) bulk power contracts administration area that was
(10) already at that point in time administering and
(11) managing all the joint owner contracts, our
(12) operating agreements already at that time.

(13) **MR. MERSCHOFF:** When I read the decision,
(14) I thought there was a manager put in place in that
(15) position after Mr. Hobby.

(16) **MR. WILLIAMS:** No. Let me straighten
(17) that out, too. What I did was essentially put the
(18) function underneath an existing manager, a manager
(19) level 17, three levels below, who was administering
(20) at that point in time some 40 contracts between us
(21) and the joint owners. A level 17 manager took
(22) over. In fact, it was just moved in his area, which
(23) is where I determined it should have been in the
(24) first place.

(25) **MR. MERSCHOFF:** Was it then subsequently

Page 27

(1) dissolved?

(2) **MR. WILLIAMS:** NOCA was dissolved.

(3) **MR. MERSCHOFF:** Is there a NOCA function
(4) under this manager today?

(5) **MR. WILLIAMS:** No. The staff under this
(6) manager today essentially was understaffed, anyway,
(7) because of all the contracts we had and that we were
(8) administering between us and the joint owners. As I
(9) said, it was not just the Vogtle plant. Hatch,
(10) Wansley, Scherer. We have a pump storage
(11) hydrofacility that is being managed in that same
(12) group. We have an integrated transmission system
(13) agreement. We have three new power supply
(14) agreements, and all of those have multiple contracts
(15) in them. That was a department that existed before
(16) NOCA was ever formed. We were already billing the
(17) co-owners, doing the budgeting with the co-owners on
(18) the Vogtle Nuclear Plant well before NOCA was even
(19) thought about. I was already negotiating a new
(20) arrangement between us, the nuclear managing board
(21) concept and all.

(22) The only responsibility NOCA could
(23) possibly have would then be to administer the
(24) contract between Southern Nuclear when it became
(25) Southern Nuclear instead of a project and us at

Page 28

[1] Georgia Power Company, and that would have had to
[2] have been my department then, so it didn't make
[3] sense to put all this money and department in place
[4] just between us and Southern Nuclear when it could
[5] be done directly with the existing manager and his
[6] staff that were there. We did absorb those two
[7] positions, and they're still there, and we're
[8] managing those contracts. In fact, one of the
[9] positions has now been eliminated, and that has been
[10] transferred to the county.

[11] I do want to clarify one thing about the
[12] officer chain in Southern Nuclear. Pat McDonald at
[13] the time, George Hairston, Ken McCoy, and Tom
[14] Beckham were all employees of Georgia Power still
[15] during this whole time. They were not removed from
[16] the Georgia Power payroll. In fact, all the
[17] employees working on Georgia projects in the
[18] Southern Nuclear operating project at that time were
[19] still Georgia Power employees, so, you know, they
[20] were still performing their functions. The only
[21] thing different, instead of moving from the
[22] thirteenth floor to the fourteenth floor, they had
[23] moved from Georgia Power's building to Birmingham.
[24] Nothing else had changed at that point in time.
[25] There was no Southern Nuclear Company, if you

Page 29

[1] would. It was still Georgia Power employees
[2] functioning the same way they had. They were just
[3] over the project.

[4] We did put officers that had dual
[5] hatting, which was this whole issue about reporting,
[6] in my opinion. That's the only concern that
[7] Oglethorpe ever raised with me, whether y'all would
[8] accept dual hatting, which I believe you would,
[9] because you've had that presented to you before in
[10] other areas, and it was under my understanding that
[11] that was not a problem. Here was Georgia Power
[12] employees doing Georgia Power work, and here was a
[13] new group called NOCA that was being set up to
[14] administer a contract that didn't exist yet, trying
[15] to force themselves into something that was already
[16] functioning.

[17] I think if you look at some of the things
[18] even raised by Mr. Hobby, we tried to include them.
[19] We tried to make sure, when it did happen, we would
[20] have them if it made sense; but during that year of
[21] my review, it just didn't make sense that this
[22] separate project needed to be there with a hundred
[23] thousand dollar a year boss and with two accountants
[24] and a secretary when for one or two of those people
[25] we could have just added them to the existing

Page 30

[1] department that was already there. In fact, we
[2] didn't have to. We could have taken on the function
[3] without them, but since those people were in the
[4] position, it was good. Since I was already
[5] understaffed in that area, anyway, they picked up
[6] actually other duties, not just this project.

[7] MR. HAIRSTON: Thank you, Fred. I've got
[8] about ten more minutes, and then I may answer some
[9] of your questions that remain in part of my
[10] presentation.

[11] Georgia Power and Mr. Hobby litigated
[12] this matter in late 1990 before one of the
[13] Department of Labor administrative law judges, Judge
[14] Williams. Mr. Hobby testified, as did Mr. Baker,
[15] Mr. Dahlberg, Mr. Williams, Mr. Evans, Mr. Tom
[16] Boren, and others. Mr. Boren was an officer who
[17] attended the November 7th performance review meeting
[18] as well as the December 29th, 1989, management
[19] council meeting where the recommendation to
[20] eliminate Mr. Hobby's position was made. A total of
[21] about 15 witnesses testified over several full
[22] days.

[23] Why was Mr. Hobby's position eliminated?
[24] The ALJ, which is on the left, said, I find the
[25] decision to eliminate the position of manager of

Page 31

[1] NOCA was in no way related to the concern raised in
[2] the April 27th, 1989, memorandum. And you can read
[3] on.

[4] Almost four years later - that's
[5] right - almost four years later, the Secretary of
[6] Labor rejected the recommendation, the recommended
[7] decision of his own administrative law judge. His
[8] order, decision in this area is on the right of that
[9] overhead.

[10] In doing so, the Secretary basically said
[11] that Mr. Hobby's testimony was to be believed and
[12] that the testimony of the Georgia Power witnesses
[13] should be discredited. This is the exact opposite
[14] of what Judge Williams had recommended. Time after
[15] time, the Secretary, who was reviewing a cold
[16] transcript without actually seeing and hearing
[17] witnesses, rejected the credibility determination of
[18] Judge Williams.

[19] Georgia Power contends that under the
[20] circumstances presented here, this is improper, and
[21] we will appeal this decision of the Secretary.

[22] As an aside, it must first be remanded to
[23] an administrative law judge to determine the amount
[24] of compensation of Mr. Hobby.

[25] Let me just briefly go through some

Page 32

[1] issues that we would offer for your consideration.
[2] The first, I have an overhead that states the
[3] grounds or some of the grounds we would have for a
[4] Georgia Power appeal.

[5] As I understand it, there are several
[6] problems with the Secretary's order on which appeal
[7] would be taken. I would like to go over very
[8] briefly some of the grounds for an appeal which we
[9] will pursue. First, I'd like to show you some case
[10] law relating to the standard which a reviewing
[11] court, a reviewing court will apply.

[12] I think it would be worthwhile for you to
[13] review the overhead entitled "The Standard of Review
[14] for the Secretary of Labor Order." These are two
[15] different cases between the two paragraphs. We
[16] think we meet this standard.

[17] We'll be going to the second bullet where
[18] the Secretary of Labor improperly made credibility
[19] determinations. We will show you a few points about
[20] that. There are a series of overheads on this.

[21] These are examples to demonstrate the
[22] difference in credibility that the law judge, Judge
[23] Williams, and the Secretary of Labor had on
[24] credibility; and I think they speak for themselves.
[25] Luis, in your package, we also have a copy of those

Page 33

[1] overheads.

[2] MR. REYES: Yes, sir.

[3] MR. HAIRSTON: These charts are a
[4] side-by-side comparison of several conflicting
[5] credibility determinations made by Judge Williams
[6] and the Secretary of Labor.

[7] In essence, the Secretary chose to
[8] believe the testimony of Mr. Hobby and to discredit
[9] the testimony of each of the seven or eight Georgia
[10] Power witnesses who swore under oath that
[11] Mr. Hobby's concern was not a factor in the
[12] elimination of his position. We believe that this
[13] was improper and is grounds for reversal in and of
[14] itself.

[15] That's the last of the credibility
[16] overheads.

[17] Then we have an overhead of the Secretary
[18] of Labor's decision not based on substantial
[19] evidence in the record.

[20] The linchpin of the Secretary's ruling
[21] was his conclusion that the decision to eliminate
[22] Mr. Hobby's position occurred in a management
[23] council meeting on November the 7th, 1990 - let me
[24] say that again - was the conclusion that the
[25] decision to eliminate Mr. Hobby's position occurred

Page 34

[1] in a management council meeting on November the 7th,
[2] 1990, yet please take a minute to review the
[3] evidence which the Secretary cites in support of
[4] this conclusion.

[5] Luis, let me correct a date. That's
[6] November the 7th, 1989.

[7] As you can see, there is absolutely no
[8] basis for the Secretary's conclusion. In fact, the
[9] evidence contradicts his findings. Other compelling
[10] examples about how the Secretary ignored the
[11] evidence will be presented in our appeal.

[12] Lastly, let me look at the issue of lack
[13] of cooperation with NOCA. The Secretary concluded
[14] that Mr. Hobby's concern about the lack of
[15] cooperation with NOCA was a safety concern. We
[16] believe this is wrong as a matter of law. As you
[17] can see from the language quoted here, the NRC staff
[18] itself has concluded that Mr. Hobby and NOCA have no
[19] relationship, had no relation to the safe operation
[20] of the Vogtle facilities.

[21] Let me talk about the root cause and
[22] significance of the apparent violation, one of the
[23] issues you raised. We do not believe that there was
[24] a violation of 50.7 because Mr. Hobby's position was
[25] eliminated based on the reasons which Mr. Williams

Page 35

[1] explained to you. It was not eliminated based on
[2] any sort of retaliation for raising a safety
[3] concern.

[4] Let me speak for a minute about the need
[5] for corrective action. We do not believe that there
[6] is a need for us to take action to make sure that
[7] Georgia Power or Southern Nuclear employees know
[8] that. They are encouraged to identify and report
[9] safety and nonsafety concerns which they may have.
[10] This attitude of openness is reflected in our
[11] dealings with you as the regulator.

[12] From the very beginning of this case, we
[13] have kept the NRC informed about its status. In
[14] fact, on February the 1st, 1990, before Mr. Hobby
[15] filed his Department of Labor complaint, Pat
[16] McDonald called Mr. Stewart at NRC and informed him
[17] that Mr. Hobby was claiming he was being discharged
[18] for raising a regulatory concern. In your package,
[19] there are some letters that went back and forth
[20] between our counsels that cover a series of phone
[21] calls or notifications.

[22] Georgia Power and Southern Nuclear's
[23] organizations have a longstanding policy designed to
[24] foster the raising of concerns and the
[25] identification of problems at the nuclear plants of

(1) the Southern system. We have included in your
(2) package representative documents on policies and
(3) historic statements of the company where we've
(4) emphasized and deemphasized our policy. They go
(5) back to 1988 and include training material used at
(6) Hatch and Vogtle. I won't go through all of these,
(7) but let me just highlight a couple, and I think it's
(8) fairly exhaustive, and there is an index that can
(9) take you through it in a much more organized form.

(10) On May the 11th, 1994, I directed a
(11) letter to all Georgia Power nuclear employees in
(12) which I reiterated the company's policy that
(13) everyone should feel free to raise any concern they
(14) may have either to their supervisors, to the quality
(15) concerns program, or to the NRC itself. I promised
(16) that a fair and reasonable response would be given
(17) to each concern and that each employee could raise
(18) his or her concern without any fear of penalty or
(19) retaliation.

(20) Yesterday, Mr. Alan Franklin, the CEO of
(21) Georgia Power and my boss, sent a letter to all
(22) Georgia Power executives, all Georgia Power
(23) executives, and nuclear employees, again reminding
(24) them of this policy. This letter contains the
(25) following commitment to all who raise a concern. No

(1) retaliation for raising a compliance concern will be
(2) tolerated. We firmly believe that we have been
(3) successful in encouraging employees to come forward
(4) with their concerns. As you know, the NRC in May
(5) and June of this year conducted an inspection of the
(6) quality concerns programs for Plants Vogtle and
(7) Hatch. The inspection report pointed out that we
(8) needed to tighten up the Hatch program in terms of
(9) the thoroughness of review of concerns, plus a few
(10) other comments.

(11) What I have personally found very
(12) encouraging is the following statement from the
(13) NRC's report. The 50 employees interviewed all
(14) stated they would report safety concerns. All said
(15) they would report such concerns first to their
(16) supervisors or managers and would have confidence
(17) that the supervisor or manager would adequately
(18) resolve the concern. Most said that all such
(19) concerns in the past had been adequately resolved by
(20) their supervisor and management. All said that they
(21) have not been intimidated by management for raising
(22) safety concerns.

(23) I recognize that the NRC might feel
(24) responsibility to act on the Secretary of Labor's
(25) order. However, our case is unique for several

(1) reasons, and we feel deferral of any enforcement
(2) action is appropriate.

(3) First, five years have passed since
(4) Mr. Hobby's general manager position was
(5) eliminated. Georgia Power's employment levels,
(6) including general manager positions, have been
(7) reduced significantly from early 1990. This
(8) demonstrates that, in fact, Mr. Hobby's position was
(9) eliminated because it was unneeded. This is
(10) additional information which the NRC should consider
(11) which was not available to the Department of Labor.

(12) Second, there is a pending licensing
(13) proceeding before the NRC, ASLB which will address
(14) aspects of Mr. Hobby's concern about Mr. McDonald's
(15) chain of command. Mr. Hobby, Mr. Williams,
(16) Mr. Dahlberg, Mr. Farley, and Mr. McDonald all
(17) testified in that proceeding. In addition, the NRC
(18) staff filed proposed findings in that proceeding
(19) which concluded that Mr. Hobby and NOCA had no
(20) relation to the safe operation of the Vogtle
(21) facilities. We would expect the ASLB to address the
(22) reasonableness of this concern as well as the
(23) credibility of the witnesses. It looks like the
(24) decision may be issued in a few months. The NRC
(25) staff should await the Board's review.

(1) Finally, we expect a reversal of the
(2) Secretary of Labor's decision following an appeal.

(3) For these reasons, we ask that you defer
(4) any enforcement action until the conclusion of these
(5) further proceedings.

(6) I want to make sure that you have all the
(7) handouts that we brought. We have the handouts of
(8) the overlays used in the presentation and the copies
(9) of the reference documents. We have the DOL
(10) administrative law judge's 1991 recommended
(11) decision. We have a package covering employee
(12) concerns and nonretaliation policies, and then we
(13) also have excerpts of the DOL hearing which we feel
(14) the NRC staff will find helpful.

(15) Mr. Reyes, this concludes my prepared
(16) remarks.

(17) MR. REYES: Let me make sure we have all
(18) the documents. I want to make sure we have them
(19) all.

(20) MR. HAIRSTON: We have one more set we're
(21) bringing out, the transcripts. These are just
(22) portions of the transcripts.

(23) Mr. Reyes, we realize we're putting a lot
(24) of information, written information before you, and
(25) it's going to take you some time to look through it

Page 40

[1] and bring you up to speed with not only the issues
[2] of the Secretary of Labor's decision and the
[3] preceding decisions but also the thick package on
[4] what our policies are and what we've done in the
[5] representative packet we brought you, and so what I
[6] would propose, after your staff has reviewed that,
[7] if they have any other questions, we would be glad
[8] to file, you know, additional clarifications upon
[9] your request.

[10] **MR. REYES:** Have you concluded your
[11] presentation?

[12] **MR. HAIRSTON:** Yes, sir.

[13] **MR. REYES:** Do we have any questions now?

[14] **MR. GRAY:** I do.

[15] Recognizing that you intend to appeal,
[16] that you disagree with the Secretary of Labor's
[17] decision, you are nevertheless currently under an
[18] order from the Secretary of Labor -

[19] **MR. HAIRSTON:** That's correct.

[20] **MR. GRAY:** - that provides that the
[21] Respondent is ordered to offer Complainant
[22] reinstatement to the same or a comparable position
[23] to which he is entitled, comparably paying benefits,
[24] and so on.

[25] Have you at this point offered to

Page 41

[1] reinstate the Complainant, or have you sought a stay
[2] of this Secretary of Labor order?

[3] **MR. HAIRSTON:** It is our understanding
[4] that until it is remanded back to the judge and the
[5] judge acts, it's not a final requirement on us, and
[6] so we're in the process right now of waiting on the
[7] judge. We've had no notification from the judge
[8] that there will be a remedial hearing.

[9] **MR. GRAY:** At this point, you have not
[10] made the offer and have not sought a stay?

[11] **MR. HAIRSTON:** No.

[12] **MR. MERSCHOFF:** It's our intent, of
[13] course, to put out the minutes of this promptly with
[14] all of the attachments you've provided. I just want
[15] to be sure that you understand that. This all goes
[16] into the public domain.

[17] **MR. HAIRSTON:** Yes, I understand.

[18] **MR. MERSCHOFF:** We will endeavor to do
[19] that very promptly.

[20] **MS. EVANS:** No questions.

[21] **MR. REYES:** What I'd like to do, per our
[22] original agenda, I'd like to have a caucus, since
[23] you're here, for about ten minutes. I want to
[24] consult with the NRC staff and make sure that while
[25] you're still here, there's no issues that we can't

Page 42

[1] come back and ask you and take the advantage of you
[2] being present. So we will go off the record for
[3] about ten minutes, and we'll be promptly back.

[4] (Discussion ensued off the record.)

[5] **MR. REYES:** We do have some questions
[6] that we'd just like to clarify.

[7] The first one is, on the size of the
[8] organization for NOCA, what was the intended size of
[9] the organization originally? Do you know?

[10] **MR. WILLIAMS:** No. I knew what they had
[11] put together originally, which was the manager and
[12] two, as I said, much lower level positions of
[13] accounting and financial background. I think during
[14] the year, Mr. Hobby tried to hire a performance
[15] engineer, and that was the situation wherein
[16] Mr. Dahlberg said at that point we couldn't hire any
[17] further.

[18] **MR. URYC:** Do you know what the potential
[19] was in growth? Could that have eventually been a
[20] 30-person organization?

[21] **MR. WILLIAMS:** No way, because as I said,
[22] we had seven or eight people managing already 47
[23] contracts, and we had people in the joint ownership
[24] accounting area that were doing accounting functions
[25] already. We had people in my area that were

Page 43

[1] following the operational issues as far as co-owner
[2] type operational issues, not line operation. They
[3] had more people than they needed then in that
[4] particular job, even if the contract was in place at
[5] the time.

[6] **MR. GRAY:** On your appeal of the
[7] Secretary of Labor's decision, do you have a feel
[8] for how long that may take? I think you probably
[9] will need to go through the remand first. I think
[10] that the case law would show that that's necessary.

[11] **MR. HAIRSTON:** That's why we're waiting.
[12] You can't take it to a U.S. court until a decision
[13] is ripe, which would be after remand, and we have
[14] not heard from the judge yet, so we have to wait
[15] until we get through that phase and then start our
[16] appeal process.

[17] **MR. GRAY:** Maybe Mr. Dombay can provide an
[18] estimate of the time frame for that appeal.

[19] **MR. DOMBY:** I would be glad to attempt
[20] to. Obviously, if an agreement were to be reached
[21] on the element of compensation and settlement, that
[22] would eliminate any appeal. If the parties
[23] stipulated to the compensation element, then we
[24] would not have to have a remand hearing. I'm
[25] familiar with a case that currently is being

[1] perfected for appeal to the 11th Circuit, and that
[2] has taken over a year. I don't know the exact time
[3] frame. So there is some time involved in perfecting
[4] the appeal.

[5] MR. HAIRSTON: And we're probably looking
[6] at four months for the ASLB's, inside probably a
[7] minimum of three to four months.

[8] MR. REYES: Linda?

[9] MS. WATSON: In the Secretary of Labor's
[10] decision, he states that Mr. Williams admitted that
[11] he had counseled Mr. Hobby about writing memos such
[12] as the April 27th memo, and I'm just wondering if
[13] you have some comment about whether or not you told
[14] him not to write such memos or what your comments
[15] were in that regard.

[16] MR. WILLIAMS: Sure. As far as this
[17] particular memo, I didn't tell him not to write any
[18] memo. What I explained to him was, when he brought
[19] me the memo and I read it, it was replete with
[20] errors. It was not what I had asked him to bring to
[21] me, in the first place. I was trying to get an idea
[22] of just what they thought their role was going to
[23] be. They're the ones that created this job.
[24] They're the ones that were pushing it and saying
[25] they were having problems getting people to

[1] definitive job description.

[2] Other people were continuing to meet
[3] Georgia Power employees, whether they were in
[4] Birmingham now in the Southern Nuclear project or
[5] still in Atlanta, meeting, talking about budget,
[6] exchange of information, accounting information,
[7] GC's memos. He was getting concerned about that.

[8] That was what I was telling him. Marvin,
[9] there's not a defined role yet. These people, even
[10] in their memos, mentioned, what do you think
[11] Mr. Hobby's position and his group should be in
[12] this? So they were even asking as to what was the
[13] purpose for this.

[14] As far as the regulatory issue where he
[15] said, I hear at all these different levels, well,
[16] I'm an officer of the company, and I haven't heard
[17] anybody say, we don't think Pat McDonald reports to
[18] Bill Dahlberg. He says he hears that. I said,
[19] Marvin, it's just not the case. He's an officer of
[20] Georgia Power and reports to Bill Dahlberg. The
[21] management council of the board of directors
[22] approved the budget procedures, and also, it's
[23] working the way it is. Well, I hear Oglethorpe says
[24] that. Marvin, yesterday, you asked me about that.
[25] I gave him an organizational chart. I said what

[1] cooperate with them. I said, what are your defined
[2] responsibilities? All we had was a one-sheet, Bill
[3] Dahlberg, essentially, memo saying, we're creating
[4] NOCA. So we asked him to say, all right, Mr. Hobby,
[5] tell me what you think your functions are. Bring
[6] those to me and let me understand what you think
[7] your role is going to be because I think your role
[8] already exists, and so he was putting that
[9] together.

[10] Instead, what he brought me was this, and
[11] he starts off with the first sentence in here, there
[12] is clearly no defined person responsible acting for
[13] the agent and joint owners. I had been doing that
[14] since 1984. I had been acting as agent for the
[15] joint owners and all the joint-owned facilities, so
[16] that's the first line in the memo.

[17] He goes on to say it's his understanding,
[18] when we negotiate a new contract with GPC and
[19] SONOPCO, that he would be the one negotiating that
[20] and act as their agent. That was not going to
[21] happen, either. I had been the lead negotiator
[22] negotiating Southern Nuclear and all these other
[23] contract changes we've been talking about since
[24] early '88, a year before, so here he was in an
[25] ill-defined role that really did not have a

[1] Oglethorpe had told me before was that they just
[2] wanted to make sure NRC was comfortable with the
[3] dual hat rule, being an officer of Southern Nuclear
[4] and Georgia Power and Alabama Power at that time.

[5] I said, Marvin, a lot of these problems
[6] you've got in your memo just are not true; they're
[7] not factual. I said, if we tried to get an
[8] organization like yours off the ground, there would
[9] be an interface between a new project and the rest
[10] of the co-owners and us.

[11] You know, the memo, one, is not factual.
[12] I can tell you some of the things in there that are
[13] wrong now. You're complaining and you're whining a
[14] lot in the memo. Marvin, my manager style would be
[15] that you need to sit down with these people and try
[16] to work things out and not just fire a memo off
[17] accusing people and saying things are not working
[18] right. You need to consider that before you send
[19] this memo out. And that was my discussion with
[20] Marvin in a nutshell.

[21] MR. URYC: So what you're saying is that
[22] in reality, the April 27th memo from Mr. Hobby was,
[23] in fact, a work product you had directed him to do,
[24] that being, Mr. Hobby, please define what your view
[25] of NOCA is and what its responsibilities are going

[1] to be?

[2] MR. WILLIAMS: That's correct.

[3] MR. URYC: You were giving him that
[4] direction, and this is the work product that he
[5] brought to you in response to your direction of
[6] April 27th?

[7] MR. WILLIAMS: That's correct.

[8] MS. WATSON: On another topic, the
[9] Secretary of Labor also found that there was
[10] discrimination in changing Mr. Hobby's parking
[11] privileges and his building access. Can you briefly
[12] tell us what your reasons behind those were?

[13] MR. WILLIAMS: Yes. Actually, it's a
[14] concern from the standpoint of nuclear safety
[15] because we were already informed, one, Mr. Hobby was
[16] eliminating his job. We had the discussions of
[17] trying to find a meaningful separation or another
[18] job. I had already moved Mr. Hobby's people up to
[19] the bulk-power market floor and absorbed those into
[20] the existing department that was already doing this
[21] job and left him in his office.

[22] One day he came up, though, as we
[23] frequently were still meeting after that; and I
[24] might say the pipeline issue and all of this was
[25] even after the April 27th memo. Up to this time, I

[1] still had Mr. Hobby meeting with the joint owners
[2] working on these contracts, at least the technical
[3] portions of them, so I had no problem with Mr. Hobby
[4] continuing to function in those areas. It was just
[5] we didn't need a general manager's job at this
[6] level. It just was too expensive for the company to
[7] have that, and it was confusing from a reporting
[8] standpoint.

[9] But he had come up to my office and said
[10] he was tired. I said, why are you tired? And he
[11] said, because I've been down shredding nuclear
[12] documents. Having told Mr. Hobby we're going to
[13] eliminate his job and not being able to come to a
[14] reasonable settlement, that gave me some concern
[15] that a man was down there shredding some documents
[16] that I was unaware, so after that, and then a day or
[17] two later, I think, Mr. Boren, the senior VP who had
[18] been part of our negotiations on separation, had
[19] seen Mr. Hobby come in through our executive garage
[20] and had somebody that we didn't know with him or he
[21] did not recognize. The way our executive garage is
[22] set up is, you came in with just a card access
[23] through one of these wooden doors and you didn't
[24] have to pass the guard to go inside, so you didn't
[25] have to sign anybody in. You could bring anybody

[1] in.

[2] The combination of those two things and
[3] the fact that we had eliminated his job, I suggested
[4] to Mr. Hobby, you need to move on up to the floor
[5] where I was so I would know what's going on. I
[6] needed him to sign in every day just in my area for
[7] what I considered security reasons from the
[8] standpoint of the company and our nuclear program
[9] and other programs, and all I'd asked him to do
[10] during that period of time was to find another job,
[11] and I had offered eight or ten thousand dollars help
[12] to him from a consultant to help him find another
[13] job. I had to continually work with the personnel
[14] department to work with Mr. Hobby on looking for
[15] another job in the company. He never took any kind
[16] of opportunity to do any of that, and he just sat
[17] out his time. I said, there's no reason, then, for
[18] you to be going anywhere else in the building. With
[19] my concern of safety, I want to know what you're
[20] doing, so be on my floor. Sign in. You only need
[21] to be on the first through the third floor, which is
[22] the human resources that does this type thing, and
[23] the nineteenth floor. In reality, once you're
[24] inside the Georgia Power building - you may be
[25] there - you can go to any floor you want to, so

[1] that was not a big constraint.

[2] As far as the parking place, we moved him
[3] from a covered garage on one side of the building to
[4] right outside the front door on the other side,
[5] still in the manager's level. We had a parking
[6] place for him. It wasn't like we told him to go
[7] find some place to park. We moved him from a free
[8] access area where we were concerned about him to one
[9] where he had to come by the guard.

[10] MS. WATSON: That's all I have.

[11] MR. WHEELER: Did other people on your
[12] floor also have to sign in?

[13] MR. WILLIAMS: No.

[14] MR. WHEELER: But he did?

[15] MR. WILLIAMS: Again, the reason I was
[16] doing that was that I was concerned about the
[17] position and what went on. It was not because of
[18] any retaliatory. I was just concerned and would
[19] like to know what he was doing.

[20] MR. REYES: Thank you for answering all
[21] our questions. We have no further questions at this
[22] time, and we want to close the meeting. Thanks.

[23] (Proceedings concluded at 3:30 p.m.)

[24]
[25]

STATE OF GEORGIA:
COUNTY OF FULTON:

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I hereby certify that the foregoing transcript was reported, as stated in the caption, and the proceedings thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 51 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

Disclosure Pursuant to O.C.G.A. 9-11-28 (d):
The party taking this deposition will receive the original and one copy based on our standard and customary per page charges. Copies to other parties will be furnished at one half that per page rate. Incidental direct expenses of production may be added to either party where applicable.

Our customary appearance fee will be charged to the party taking this deposition.

This, the 5th day of October, 1995.

JOHN P. PAYNE, CCR-B-1006
My commission expires on the 7th day of October, 1997.

CHRONOLOGY

- Summer, 1988 Announcement of SONOPCO Project location in Birmingham.
- Marvin Hobby turns down an opportunity to be considered for a position in GPC Nuclear Operations in Birmingham.
- November 1, 1988 "Phase I" SONOPCO Project Formation in Birmingham.
- December 14, 1988 Grady Baker's performance evaluation of Marvin Hobby. (Tab 1)
- December 27, 1988 Bill Dahlberg memorandum forming new NOCA group; new General Manager position created for Hobby. (Tab 2)
- January 27, 1989 Hobby's new General Manager position two levels above his old position; salary increase from \$95,000 to \$103,140 per year plus potential bonus (CX14; Tr. 116).
- April 26, 1989 Hobby memo to Fred Williams transmitting Oglethorpe Power's request for explanation of reporting structure. (Tab 3)
- April 27, 1989 Hobby memo to Fred Williams identifying problem areas between NOCA and SONOPCO Project. This memo was solicited by Williams. (Hobby Tr. 147-148) (Tab 4)

CHRONOLOGY - Continued

- May 5, 1989 Bill Dahlberg, Joe Farley, Grady Baker meeting in Atlanta to discuss SONOPCO-related negotiations between GPC and Oglethorpe Power. Request for SONOPCO Project to employ Hobby.
- May 15, 1989 Williams memo to Hobby responding to Oglethorpe Power's request; Hobby provides memorandum to Oglethorpe Power. (Tab 5)
- June 28, 1989 Michael Barker in SONOPCO Project (Vogle) calls "Dial Dahlberg" concerning his transfer request to Hobby's NOCA. Barker states that Dahlberg says the need for NOCA is uncertain. (Hobby Tr. 908-911.)
- November 7, 1989 Georgia Power Management Council meeting in which the performance of VPs and GMs was evaluated (McDonald and Williams not present).
- January 1, 1990 Hobby begins to report to Fred Williams. Williams reports to Dwight Evans.
- February 2, 1990 Hobby's position as GM - NOCA eliminated, out-package set forth in letter. (Tab 6)
- October-November, 1990 Department of Labor Hearings, Hobby v. Georgia Power.

WHY WAS MR. HOBBY'S POSITION AS
GENERAL MANAGER ELIMINATED?

November 8, 1991
Recommended Decision
90-ERA-90

I find that the decision to eliminate the position of manager of NOCA was in no way related to . . . the concern raised in his April 27, 1989 memorandum as to from whom Mr. McDonald receives his management direction for operation of the Georgia Power Nuclear plants . . . the decision to eliminate the position was fully justified as a measure to operate the Respondent's nuclear program more economically and efficiently. (ALJ at 44)

August 4, 1995
Decision and
Remand Order

Respondent [Georgia Power] decided to remove Complainant from the "pipeline" to silence these ongoing complaints about the reporting structure. (SOL at 23)

GROUNDS FOR GEORGIA POWER APPEAL

The Standard of Review for the Secretary of Labor's Order

The Secretary of Labor improperly made credibility determinations

The Secretary of Labor's decision is not based on substantial evidence in the record

The Secretary of Labor erroneously concluded that Mr. Hobby's complaints about Mr. McDonald's "lack of cooperation with NOCA" were safety concerns

THE STANDARD OF REVIEW FOR THE SECRETARY OF LABOR ORDER

"A Secretary's findings of fact and credibility choices must be supported by substantial evidence...As in this case, when there are disagreements between the Secretary and the ALJ involving questions of fact and credibility, the court may examine the evidence more critically in determining whether there is substantial evidence to support the Secretary's decision....we are not required to choose between the ALJ's and Secretary's determinations. Rather, we merely require that the Secretary's choice in adopting two fairly conflicting views be supported by articulate, cogent and reliable analysis." Bechtel Const. Co. v. Secretary of Labor, 50 F3d 926, 933 (11th Cir., 1995).

"[W]hen the administrative law judge has concluded that a witness's testimony is credible, that is an important factor for a reviewing court to consider. The notion that special deference is owed to a credibility finding by a trier of fact is deeply imbedded in our law....We are neither to conduct a de novo proceeding, nor to rubber stamp the administrative decisions which come before us. Rather, our function is to ensure the decision was based on a reasonable and consistently applied standard, and was carefully considered in light of all the relevant facts." The basis for rejecting the ALJ's credibility findings should ordinarily be expressly stated. See, Parker v. Bowen, 788 F2d 1512, 1521 (11th Cir. en banc, 1986).

THE SECRETARY OF LABOR IMPROPERLY
MADE CREDIBILITY DETERMINATIONS

Judge Williams

[Mr. Hobby] declined to transfer [to Birmingham]. Instead, he designed a job for himself which he could perform at the Atlanta headquarters of Georgia Power, i.e., manager of a contract administration group. He then sold the idea to Mr. Head, whom he respected and with whom he apparently had a good relationship. Mr. Baker reluctantly went along with the idea because he did not have anything else for the Complainant to do. Mr. Dahlberg's approval was based, in part, on his belief that incorporation of SONOPCO would occur in a matter of months. (ALJ at 40)

Secretary of Labor

The ALJ erred in finding that Complainant designed NOCA as a means to stay in Atlanta... Dahlberg testified that he established NOCA in Atlanta because that is where he is located. (SOL at 22, fn.13)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Fred Williams' objection to having the memorandum go forward, or even being preserved, was based on its obvious complaining style . . . I believe Mr. Williams when he says that he was just trying to help Complainant to be a better manager. (ALJ at 42)

I have quoted the April memorandum in toto because I believe it amply demonstrates why Mr. Williams was unhappy with the document. His objection . . . was based on its obvious complaining style. Significantly, the memorandum which the Complainant raised the previous day, which raised essentially the same reporting question, was retained in Respondent's files. (ALJ at 42)

Secretary of Labor

Criticism [of Hobby's management skills] was based on the protected complaint raised in the memorandum, not on the memorandum's "complaining style." (SOL at 20)

I conclude that Williams feared the memorandum, detailing and documenting Complainant's [Hobby's] problems with McDonald's interference and warning Respondent [GPC] about the potential regulatory violation, would validate Smith's concerns or garner new ones by Oglethorpe [Power]. (SOL at 24)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Secretary of Labor

That their [Management Council] evaluation of the Complainant's abilities may have differed from earlier performance evaluations comes as no great surprise. Mr. Miller and Mr. Head, for whom he had earlier worked, had retired from the Company . . . the evaluation was based on his performance in a different position. Mr. Baker was concerned that the Complainant had not fulfilled his job of gaining cooperation from SONOPCO. (ALJ at 43)

The drastic, inadequately explained change in Respondent's perception of Complainant's work performance is further evidence of pretext. (SOL at 21)

THE SECRETARY OF LABOR
IMPROPERLY MADE CREDIBILITY
DETERMINATION

Judge Williams

Revocation of executive parking privileges and badge and his restriction to certain floors of the headquarters building was not in retaliation for his having filed the instant [DOL] complaint but was a justified security measure. (ALJ at 44)

Secretary of Labor

Williams and Boren limited his privileges to hinder the lawsuit. (SOL at 28)

**THE SECRETARY'S FINDING IS NOT BASED
ON SUBSTANTIAL EVIDENCE**

The council members in effect decided to terminate Complainant's employment during the November 7 meeting. Baker ultimately conceded that they decided to eliminate the position at that time. Williams and Evans simply provided Respondent with a post-hoc explanation for implementing the November 7 decision. (SOL at 18, citing Tr. at 702-04, 708-09.)

THE EVIDENCE

- Q. So it's your testimony that on the date of that management council meeting Marvin Hobby was eliminated from Georgia Power Company, the final decision?
- A. Not eliminated. We concurred with a recommendation that had been made, yes, and that was the final concurrence. There was nobody else to get concurrence from, because all the senior officers of the company were there.

Q. Now, Mr. Dwight Evans testified earlier that his recollection of it, and that he had a specific recollection, was that the decision was made much later on December 29th, 1990.

A. I have no idea what Mr. Evans has in mind.

Q. So, it's your understanding that happened a lot earlier than that December 29th meeting?

A. No. I've testified several times that I don't remember the date of this meeting.

Q. But the notes --

A. But, you know, both counsel and you have showed me things, and you've asked me if this makes sense, and I have agreed with you that it does make sense, but I do not have an independent recollection of the date of the meeting, period.

Baker, Tr. at 704.

Q. So we have that management council meeting [at which the leadership of individuals in higher positions of the Company were evaluated]. Now I want to ask you if you remember another management council meeting subsequent to the one we've just been talking about, and if you remember Dwight Evans at that meeting announcing to the management council that a recommendation had been made by Fred Williams, approved by Dwight Evans, approved by Tom Boren, that Marvin Hobby's job should be eliminated as not necessary?

A. Yes, sir.

Q. And without regard to whether -- you know, I won't ask you to state what month because I know you don't remember the date, but is your testimony that the meeting in which Mr. Evans spoke occurred after the meeting in which the performance and potential was evaluated?

A. Yes.

Baker, Tr. at 708-709.

**MR. McDONALD'S "LACK OF COOPERATION"
WITH NOCA WAS NOT A SAFETY CONCERNS**

THE SECRETARY'S POSITION

" . . . Complainant's protected complaint about the reporting structure also was implicit in his complaints about McDonald's lack of cooperation with NOCA . . . criticism of Complainant's complaints about lack of cooperation from McDonald is, therefore, based on and tantamount to criticism of Complainant's protected activity." (SOL at 22-23)

"Williams admission that he informed Dahlberg and Baker of some of the concerns raised in the April 27 memo . . . inherently would have included Complainant's accusations of wrongdoing and predictions of NRC intervention as a corollary to McDonald's lack of cooperation with NOCA." (SOL at 24)

THE NRC'S POSITION

- NOCA was not required by NRC regulations, the plants' licenses or the licensee's commitments to the NRC
- ". . . the so-called NOCA group had no relation to or effect upon the operation, or the safe operation, of the Vogtle facilities." NRC Proposed Findings of Fact, Conclusions of Law, and Order. Georgia Power Company (Vogtle Electric Generating Plant), Docket SO-424/425 OLA-3, March 6, 1995, at 29.
- ". . . Mr. Hobby and NOCA had no relation to the safe operation of the Vogtle facilities." Id., at 33.

Performance Appraisal

Employee Name (Last Name First) Hobby, Marvin B.	Emp. No. 42784	Current Job No./Title Asst. to Senior Executive Vice President
Division/Department Executive	Annual Merit Review Date 1/1/89	Location 14/333

Accountability

Manage nuclear financial services in such a manner that provides timely reporting and information to managers on fiscal matters, provide oversight to budget preparation and expenditures.

Goal

Maintain Nuclear Operating Services Operating and Maintenance actual expenditures as follows

95.0% of budget or less.....	Excellent
95.1% to 100% of budget.....	Commendable
100.1% to 105.0% of budget.....	Fully Acceptable

Performance Evaluation

Through October, total nuclear responsibility budget was \$12,231,146 under budget or 5.95%. Through October, Nuclear Operating Services O & M expenditures were \$6,800,000 under budget or 13.8%.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Accountability

Provide administrative, procurement, MIS and financial services support to Hatch and Vogtle such that site O & M expenditures are maintained within approved levels.

Goal

Maintain Nuclear Operations Responsibility budget as follows:

95.5% of budget or less.....	Excellent
95.1% to 100% of budget.....	Commendable
100.1% to 105.0% of budget.....	Fully Acceptable

Performance Evaluation

Through October, total nuclear operations responsibility budget was \$12,231,146 under budget or 5.95%.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Performance Appraisal

Employee Name (Last Name First) Hobby, Marvin B.	Emp. No. 42784	Current No./Title Asst. to Senior Executive Vice Presi
Division/Department Executive	Annual Merit Review Date 1/1/89	Location 14/333

Accountability

Provide Management direction and oversight to Corporate Security and Quality Technical Services to ensure compliance with NRC requirements.

Goal

Achieve improved performance in security such that the number of NRC violations related to security per 10 inspector manhours is limited to:

LEVEL	I	II	III	IV and V
Excellent	0	0	0	0
Commendable	0	0	0	1
Fully Acceptable	0	0	0	2

No violations in Nuclear Procurement Group.

There were no violations resulting from the work of the Quality Technical Services Group.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Accountability

Promote safe work practices in all locations to reduce disabling accidents as evidenced by keeping the incidence rate as low as possible.

Goal

Performance Measure: An incidence rate of
 0.09 or less.....Excellent
 0.10 to 0.13.....Commendable
 0.14 to 0.17.....Fully Acceptable

Performance Evaluation

The lost time incidence rate at Plant Hatch and Plant Vogtle is 0.0.

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Performance Appraisal

Employee Name (Last Name First) Hobby, Marvin B.	Emp No. 42784	Current Job Title Asst. to Senior Executive Vice President
Division/Department Executive	Annual Merit Review Date 1/1/89	Location 14/333
Accountability: Provide coordination and management of Nuclear Procurement Organization such that capacity factors of both Plant Hatch and Vogtle are maximized.		

Goal

Achieve capacity factors as follows:

Plant Hatch.....65%
 Plant Vogtle.....67.5%

Performance Evaluation

Capacity factors through October are as follows:

Plant Hatch63.2%
 Plant Vogtle.....72.8%

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Accountability

Goal

Performance Evaluation

- Excellent
 Commendable
 Fully Acceptable
 Needs Improvement
 Unsatisfactory

Performance Appraisal

Employee Name (Last Name First) Jobby, Marvin S. Emp. No. 42784 Annual Merit Review Date 1/1/89

Overall Performance Rating
 Excellent Commendable Fully Acceptable Needs Improvement Unsatisfactory

Employee's Strengths
 Marvin's knowledge of national nuclear industry is unsurpassed. He has been on temporary assignment in Nuclear Operations this year and the Sr. Vice President - Nuclear Operations concurs in this rating.

Developmental Needs
 Other assignments to broaden knowledge of Georgia Power Company's general operations.

Future Growth Possibilities
 Departmental manager

Developmental Action Plan			
Developmental Goals	Action Steps	Target Completion Date	Person Responsible
Be Developed			

Goals for the Review Period (This section to be completed at the beginning of the Review Period.)
 The employee has been presented goals for the review period and these goals have been discussed in relation to department and/or organizational goals.

Employee Signature <i>M. S. Jobby</i>	Date	Rater (Immediate Supervisor)	Date
(This section to be completed at time of review)			
Employee Signature <i>M. S. Jobby</i>	Date	Employee Comments	
Rater (Immediate Supervisor) <i>[Signature]</i>	Date <u>12/14/88</u>		
Endorser (Second Level Supervisor) <i>[Signature]</i>	Date		

42784 Employee Name HOUBY, d
 Change Code 23 Present Status
 Division GENERAL OFFICE Code 10
 District ATLANTA Code 01
 Town GENERAL OFFICE BLDGS Code 083
 Department EXEC VP GEN MGR GEN Code 3319
 Payroll No 094 Position ASST TO PRES (42784) AC No

Date Prepared 05/31/89 Program Manager
 Date First Ems Used By GPC
 This Change Date 01-01-89 Sequence No
 Recommended Status

Division SAME
 District SAME
 Town SAME
 Department SAME
 Payroll No 094 Position SAME AC No

Direct or Indirect 009091
 Code F Monthly Rate \$ 7977.00 Hours 75 Auth No

Rate \$ 7956.00 Weekly Hours 75 Auth No

Hours of Last Change \$
 Last Change Date Effective
 Other Compensation or Allowances

Amount of This Change \$ 379.00 Wage Hour Code A
 This Change Date Effective 1-1-89
 Other Compensation or Allowances
 PDC 02050

Account Distribution Changes From Account Number				
PE	LS	Account Number	Sub	LogWO
		PERC		
0	9450	920	100	0 100

Account Distribution Changed To Account Number
 Account Number
 PERC
 Sub
 Date
 Signature
 Date

Human Resources Organization
 Send Original and Duplicate to specified approving authority in Division or Department for approval then to Payroll Accounting Department. Duplicate to be stamped "Authorized" and returned
 100736E MCS18
 Payroll Use Only
 Change Used On
 Pay Period Ending
 Account Distribution Checked By

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-6000

Mailing Address:
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President
Chief Executive Officer

the southern electric system

December 27, 1988

EXECUTIVE OFFICERS
DIVISION VICE PRESIDENTS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION MANAGERS

As you know, Georgia Power Company's nuclear operations group has been relocated to Birmingham, Alabama. We are in the process of working out the agreements with our joint owners to establish Southern Nuclear Operating Company which, when finalized, will contract with us to operate our nuclear plants.

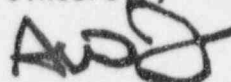
It is important for us to realize that while our nuclear operations may be managed in Birmingham and ultimately will be managed by a separate Southern subsidiary, Georgia Power will be held accountable by our regulatory groups, our stockholders, and the public for the operation and performance of our nuclear units. It is essential that Georgia Power Company be involved in the operations of our units, monitor their performance and integrate nuclear operations goals, accountabilities, and financial planning into Georgia Power Corporate Plan.

Effective immediately, a Nuclear Operations Contract Administration Group is formed to interface with our nuclear operations group in Birmingham. This group will report to Mr. G. F. Head, Senior Vice President, who will be responsible for all nuclear operations interactions.

Mr. M. B. Hobby, Assistant to the Senior Executive Vice President, currently on loan to Nuclear Operations, is named General Manager Nuclear Operations Contract Administration and will report to Mr. Head.

Your support as we move to restructure our nuclear operations group is appreciated.

Sincerely,



A. W. Dahlberg

/dt

c: Mr. E. L. Addison
Mr. J. M. Farley
Mr. H. A. Franklin

TAB-A



Ex. 19

DATE: April 26, 1989
TO: Mr. Fred D. Williams
FROM: M. B. Hobby

At the April 19 Subcommittee for Power Generation meeting, Mr. Dan Smith requested a response to the following. The wording is taken from the minutes exactly as Dan stated.

"Dan Smith requested that Oglethorpe be provided an organization presentation by SONOPCO on the reporting chain up through the Board of Directors for Mr. George Hairston, Mr. R. P. McDonald, Mr. Joe Farley. He specifically asked how Mr. Farley fits into the picture and who he reports to up through the Board."

As we discussed, I am forwarding the question to you for reply.

/blm

c: Mr. G. F. Head

Reply,
Maurice Hobby

CONFIDENTIAL

April 27, 1989

Mr. Fred Williams:

Following is a list of problem areas in Nuclear Operations that you requested.

1. Responsibility as Agent: There is no clearly defined person responsible for acting as agent for the Joint Owners. I serve on the Joint Subcommittee for Power Generation (and am currently serving as Chairman) and deal with their Nuclear Operations people probably more than anyone else. However, you are involved, several of your people are involved and others.

It was my understanding when we tried to negotiate a contract between GPC and SONOPCO and amend the contract between GPC and the Joint Owners, that I would act as OPC's (for example) agent, working for George Head, and that all interactions on nuclear matters between GPC and OPC would come through me with the exception of some specific, routine reports that would be provided directly from SONOPCO to all owners. I am prepared to handle that.

Yet, on Friday, April 21, I received a call from John Meier stating that the SONOPCO Project was establishing a Quarterly Review Meeting with GPC's Joint Owners to discuss Nuclear Operations. John asked if that meeting could replace the Joint Committee or Subcommittee. I said no.

On Tuesday, April 25, Dan Smith from OPC called to say they had been contacted by John Meier and OPC wanted to know who was setting up this Quarterly Review Meeting, its purpose, and why I was not included. He said Oglethorpe was confused as to what is going on and who was in charge.

While I know that there are significant differences between GPC and OPC on a number of matters, the relationship between us in nuclear is excellent. If GPC could get a handle on SONOPCO and, if nuclear could be separated from these other issues, I believe Dan Smith and I could work out all of the problems in nuclear.

2. Communications: On January 19, Pat McDonald called to say he was developing an E mail system to connect all Joint Owners -- including GPC. One of its purposes was to provide daily reports to each Joint Owner on the status of our plants. He asked me to contact Roy Barron to work out details. I did.

On Monday, March 13 (I believe that was the date), Roy Barron told me that the system was ready to do a test run and all he needed was to get Pat McDonald's approval. I called Pat to ask for his approval but he was out of town in Florida. I asked his secretary to ask him if it were okay when he called in. She called back on March 15 to say she had been unable to ask him.

I talked with Pat on Tuesday, March 21, and he said the system wasn't ready.

We are still not connected. I get no information from SONOPCO on the status of our units. I get all of my information (except monthly summaries three weeks after the end of the month) from Oglethorpe Power. I get daily reports from them.

Secondly, we have been limited by Pat McDonald to talking to only one person at the SONOPCO Project -- first it was Bob Gilbert, who delegated it to Merv Brown, who delegated it to Tim Marvin. This process has worked fairly well on routine data requests but on non-routine items, it has been an impediment.

As an example, I was alerted that we were to receive an update of the draft TAC report on Nuclear Operations during the week of April 10 - 14. The responsibility for that report, its review, and rebuttal testimony had been assigned to me. Art Dobby had been helping me. Early during that week, Art called Tom Beckham and Ken McCoy and had told them that, when we received the report, we would need technical assistance -- in a short time frame -- in reviewing the report and in preparing for a meeting with the PSC.

Friday, about noon, April 14, I received the report and Art asked me to call McCoy and Beckham to alert them we needed the technical assistance on Monday, April 17, and the meeting with PSC staff and consultants would be held on April 19. My discussions with Beckham went well -- he was very cooperative. McCoy said he didn't know what I was talking about and said he hadn't talked to Dobby in weeks. Dobby remembers his call because he had to have McCoy tracked down at Plant Vogtle.

I don't know what happened in Birmingham. I received a call from Tim Marvin raising hell that Art and I had called a Vice President. McDonald called a meeting. I received a call from Dwight Evans who said McDonald was irate and I had been taken off the TAC report. I was later told, though I can't prove it to be true, that the Vice Presidents of Georgia Power on the SONOPCO Project were told they could not talk to me or Art Dobby.

In Mr. Dahlberg's memo of December 27, he stated that the interface at Georgia Power with the Nuclear Operations group in Birmingham would be George Head and me (see Attachment A). The interface we have had with them, except for routine data requests, has been negligible. In fact, it has been prohibited.

Yet, SONOPCO Project personnel are not so inhibited. See memo (Attachment B) from Bob Gilbert dated April 20, 1989. Note that George Head and I were not copied on the memo.

In discussing the establishment of Nuclear Operations Contract Administration, I was told that Mr. Head and I would review and approve the SONOPCO Project budget. However, Grant Mitchell of Corporate and Financial Planning at SONOPCO doesn't agree. See page 3 of memo (Attachment C) from G. Mitchell dated April 20, 1989. Neither George Head or I received a copy but it is in direct conflict with what the President of GPC has stated. It is also in conflict with what SONOPCO agreed with the Joint Owners. I also found that first paragraph on page 1 of that memo interesting. Had Georgia Power personnel sent out these two memos, SONOPCO would have raised hell.

3. Interfering with Other GPC Functions: When I was first named to this job, we had a meeting in which I was assigned by executive management certain responsibilities.

Since then, Mr. McDonald has objected to several of these assignments and I have been removed from meetings or relieved of responsibilities, not because GPC management agreed, but in order to get cooperation from SONOPCO.

What we need is for SONOPCO to support us and cooperate with us and allow Georgia Power management the right to determine who does what. Our management and other GPC people will be held accountable for our regulatory affairs effort. We need SONOPCO's support and then let us do our jobs. Unfortunately in several examples, Mr. McDonald has interjected himself into directions of other company functions and support from SONOPCO appears to hinge on his getting his way.

4. Staffing: When we established NOCA, I told George Head we needed a manager, secretary, two accountants, and two performance engineers. He agreed to start out with one accountant and one performance engineer and revisit the staffing level as the work load increased. We later added another accountant.

Back in January, I called Ken McCoy to ask if I could talk to Mike Barker about the performance engineer job. Mike had done a similar job for me prior to going to Birmingham and was well qualified. Ken asked if it were a promotion. I said I had not had the job evaluated yet and didn't know. He said if it were a promotion, SONOPCO would not object.

I had a job description done by Personnel and it was determined to be a Level 13 job -- one step promotion for Mike Barker. Mr. Head approved the job description at that level.

I told George Hairston about this in the GPC cafeteria later and relayed my conversation with McCoy, but he would not give me permission to talk to Mike Barker. I called the Administration people at SONOPCO and asked what the rules were. They said they were told if it were a promotion, management would give its permission.

After talking with George Head, we posted the job. I selected the best three candidates and they were all from SONOPCO -- which is not surprising. Our Personnel department was told the request to interview had been approved all the way up to George Hairston. But, there it stopped. Later, our Personnel department was told Mr. McDonald would not approve the request because he didn't agree that the job level should be a 13! Although GPC Personnel department and a Senior Vice President at GPC had approved the position, Mr. McDonald has held up this request and I have not been allowed to interview these three gentlemen.

I need the expertise the performance engineer would bring and the lack of support from Mr. McDonald is impacting my ability to get the job done.

5. Cooperation: I served on Phase I of the SONOPCO Task Force and was, and am, a real supporter of the Operating Company concept. In our discussions, Bob Buettner, an attorney with Balsh and Bingham and now a Vice President at Alabama, said Mr. Farley was concerned that once this operating company was established, we would wind up with a group of arrogant, technically trained elitists that the operating companies would have no control over. I now respect Mr. Farley's concern more than I did two years ago.

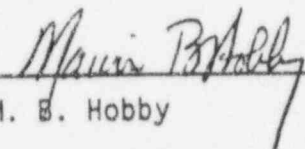
It takes one to operate -- two to cooperate. I know that most people at Georgia Power want to cooperate with SONOPCO and want it to be a success for GPC and the System. But, there are great concerns by many people.

A significant concern that a lot of people have is who does Mr. McDonald work for. I have heard discussions on that at high levels in the Company. It is a very important question because the operating licenses for Hatch and Vogtle are in GPC's name; for Farley, APC. I am not a lawyer or licensing specialist, but I believe both will tell you that it is essential that GPC and APC be in control of these plants. Oglethorpe Power is so concerned that it has formally requested confirmation that Mr. McDonald receives his management direction from and reports to Mr. Dahlberg. If that is not the case, we are in violation of our license and could experience some significant repercussions from the NRC -- including the revocation of the licenses.

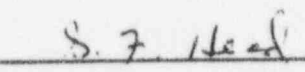
Oglethorpe is very concerned about this issue and they feel NRC is concerned. A Region II NRC employee suggested to Oglethorpe that NRC was so concerned that they might seek to put a resident inspector in Birmingham to see what was going on.

In establishing an Operating Company, the System, among other things, sought to open up the opportunity for us to run other utilities' power plants under contract. We should now be operating in that mode -- subject to meeting license conditions. There are some possibilities in the industry now and we ought to be giving serious considerations to how we operate now so that, should we get through the legal hurdles and be given permission to expand outside our service area, we will be ready to aggressively pursue these opportunities. But, I really doubt any utility would be interested in contracting with SONOPCO if their experience with the contractor was going to be similar to Georgia Power's.

Fred, there are other issues relative to SONOPCO, important to the System, that needs to be addressed. I have asked repeatedly for an opportunity to discuss these with senior management. I hope we will get that opportunity soon and can work toward a more cooperative relationship with SONOPCO.



M. B. Hobby



G. F. Head

/blm

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-6000

Attachment A

Mailing Address:
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President
Chief Executive Officer

the southern electric system

December 27, 1988

EXECUTIVE OFFICERS
DIVISION VICE PRESIDENTS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION MANAGERS

As you know, Georgia Power Company's nuclear operations group has been relocated to Birmingham, Alabama. We are in the process of working out the agreements with our joint owners to establish Southern Nuclear Operating Company which, when finalized, will contract with us to operate our nuclear plants.

It is important for us to realize that while our nuclear operations may be managed in Birmingham and ultimately will be managed by a separate Southern subsidiary, Georgia Power will be held accountable by our regulatory groups, our stockholders, and the public for the operation and performance of our nuclear units. It is essential that Georgia Power Company be involved in the operations of our units, monitor their performance and integrate nuclear operations goals, accountabilities, and financial planning into Georgia Power Corporate Plan.

Effective immediately, a Nuclear Operations Contract Administration Group is formed to interface with our nuclear operations group in Birmingham. This group will report to Mr. G. F. Head, Senior Vice President, who will be responsible for all nuclear operations interactions.

Mr. M. B. Hobby, Assistant to the Senior Executive Vice President, currently on loan to Nuclear Operations, is named General Manager Nuclear Operations Contract Administration and will report to Mr. Head.

Your support as we move to restructure our nuclear operations group is appreciated.

Sincerely,



A. W. Dahlberg

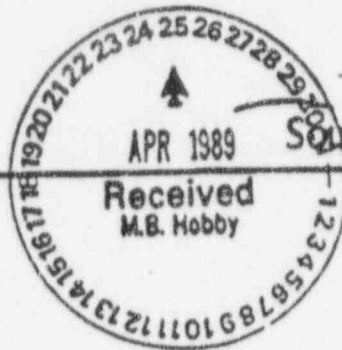

/dt

c: Mr. E. L. Addison
Mr. J. M. Farley
Mr. H. A. Franklin

TAB-A

Attachment B

Intracompany Memo

Southern Company Services 

DATE: April 20, 1989

TO: Mr. J. T. Beckham
 Mr. L. B. Long
 Mr. C. K. McCoy
 Mr. J. D. Woodard
 Mr. J. G. Meggs

FROM: R. M. Gilbert

Bob Gilbert

*cc
 Mavis Hobby ✓
 MWS ✓
 DRK ✓
 ASR*

Financial Services is implementing the transitional steps required to consolidate the financial interfaces between the SONOPCO Project and the other System companies. Accordingly, we will assume responsibility for providing cash forecasting data to Alabama Power and Georgia Power effective with May Business. This transitional step will require some changes in the current forecasting process, but should have minimal overall impact on your area.

Phyllis McLain has coordinated the development of procedures and schedules with Alabama and Georgia, and will be responsible for compiling all nuclear-related cash expenditure estimates for the SONOPCO Project. She will be in contact with the appropriate personnel in your area with more specific information.

If you have any questions, please call me at extension 5750.

RMG:df

cc: Messrs. J. M. Farley
 R. P. McDonald
 W. G. Hairston
 C. D. McCrary
 J. O. Meier
 D. M. Crowe
 R. S. Fucich
 B. E. Hunt
 C. P. Stinespring
 C. L. Whatley
 C. G. Mitchell
 Ms. P. J. McLain

Alabama Power
 T. J. Bowden
 W. B. Hutchins
 W. L. Smith

Georgia Power
 W. Y. Jobe
 R. J. Pershing ✓
 C. O. Rawlins

MAY - 6 - 90 SUN 1:52

Southern Company Services, Inc.
Post Office Box 2625
Birmingham, Alabama 35202
Telephone 205 870-6011

P. 04
Attachment C
C.C. ASK
RSP
Hobby - 7
pg 3.
- Coll me
[Signature]

Southern Company Services

SUBJECT: Meeting Notes of April 14th
DATE: April 20, 1989
FROM: C. Grant Mitchell
TO: Mr. Larry Cook
Mr. Jeff Wallace ✓



Below are some notes on topics we discussed in our meeting of April 14th:

- GPC was informed of the following proposed budget assumptions with regard to SONOPCO:
 - SONOPCO will be incorporated by January 1990.
 - The operating license will be obtained and the plant employees will become SONOPCO employees in January 1991.
- SONOPCO must have a means of identifying SCS charges included in budget and actual data to respond to requests from GPSC and others.
- Meeting/discussion notes will need to be kept to show GPC's involvement in the budget process in order to satisfy the GPSC that GPC had input.
- ✓ - SONOPCO must be able to respond to GPC and GPSC's request regarding number of employees, salaries and SCS charges budgeted by month.
- SONOPCO must maintain good work papers in support of budget development in order to support audit requirements.
- There will be no problem with SONOPCO providing GPC with total budget expenditures instead of split between labor and other expenses.
- GPC will only require that SONOPCO provide monthly spreads for the last three forecast years as operations and maintenance, not by FERC.
- If SONOPCO does not budget to the 729 series clearing account GPC will not be able to provide responsibility reports at this level. If SONOPCO does not budget at this level, instructions should be provided not to charge actuals to the 729 series accounts.
- SONOPCO must coordinate with GPC regarding assumptions that are to be used in developing budgets for Pensions, Other Employee

Larry Cook, et al
 1e 2
 11 20, 1989

Benefits and Payroll Taxes. When SONOPCO exists SONOPCO includes in their budget; when SONOPCO does not exist - GPC includes in their budget development.

SONOPCO must work with Larry Cook to ensure that capital labor is included in the GPC responsibility reports - necessary since this budget data will not be identified as labor.

GPC was made aware of some differences that exists in recording of expenses between APC and GPC:

- APC charges office building rent to nuclear O&M for the Farley project group, whereas GPC charges comparable rent to A&G.
- APC charges employee physicals to nuclear O&M for nuclear employees whereas GPC charges these to A&G.

Larry Cook said that he would check these differences out to see GPC could change. Larry was informed that the treatment of rent could be because of a Joint Owner Agreement.

GPC was informed of the effort SONOPCO was incurring to ensure that all nuclear related charges were being identified through the DA and EA sub work orders. Larry Cook said that he would revisit the use of these special subs and inform us of his findings.

GPC informed that departments will only have one budget at SONOPCO, i.e., there will not be a responsibility budget and a functional budget for each department. Items not previously included in a department's responsibility will now be assigned.

GPC said that it will not pose a problem if SONOPCO submits budgets that include a full months labor rather than on a payperiod basis.

GPC said that General Repair Shop and Repair Shop (Forest Park) charges which were previously not charged to individual RCNs should be budgeted to individual RCN in the 1990 budget.

GPC is going to recommend that both fixed and variable costs be billed to any associated company, including SONOPCO Project, using the GPC helicopter. If this proposal is adopted, the projects would need to budget both fixed and variable costs associated with the usage of the GPC helicopter to their individual RCN beginning with the 1990 budget.

After SONOPCO is incorporated usage of the SCS system aircraft by SONOPCO employees will be billed to SONOPCO by SCS; charge will

Mr. Larry Cook, et al
 Page 3
 April 20, 1989

include both fixed and variable cost. I recommend that these charges be budgeted by the project in 1990 and the plants beginning in 1991 and that a mechanism be put in place so that if SONOPCO is not incorporated in 1990, APC and GPC will be able to identify these charges as SONOPCO.

- GPC did not budget PPP for 1989; accrual of PPP is at the corporate level and all included in A&G. Payout will not be charged against individual RCN although it will be functionalized.
- GPC will probably budget fixed portion of PPP in 1990; departments will be instructed to include base adjustments.
- GPC was informed that SONOPCO may want to budget and accrue their own PPP to the functional account at an executive level. They were asked if they perceived this as a problem - they are to let me know.
- GPC is reviewing the GPC departments that will continue to charge to the nuclear accounts. Larry Cook is to provide me with a list of these departments after it is developed.

Jeff Wallace asked me what Marvin Hobby's role would be in the budget process. I told Jeff that we were intending to submit budgets to Mr. Rick Pershing and that we had not been given any instructions otherwise.

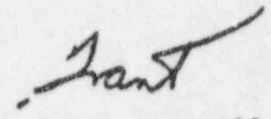
In summary, the following items were discussed:

- Budget assumptions re SONOPCO's incorporation and obtaining the operating license.
- Importance of retaining identity of SCS charges.
- * - Details required to respond to requests.
- Budgeted labor will not be required by FERC.
- Monthly spreads for the last three forecast years.
- The 729 clearing account will not be used beginning 1990.
- Coordination between SONOPCO and GPC will be required re budgeting Pensions, Other Employee Benefits and Payroll Taxes in the 1990 budget process.
- Differences that exists in recording of expenses between APC and GPC.
- Usage of the DA and EA subs.
- Departments will not have two budgets, i.e., responsibility and functional.
- SONOPCO will accrue its own labor accrual.
- Treatment of GPC and SCS aircraft charges.
- Treatment of PPP by GPC and proposed treatment by SONOPCO.

Mr. Larry Cook, et al
Page 4
April 20, 1989

- Non-Nuclear departments at GPC continuing to charge Nuclear O&M.
- Marvin Hobby's role in SONOPCO's budget process.

As you are able to respond to any of the above "open" items, please provide me with response. Should you have any comments or questions concerning these notes, please call.



C. Grant Mitchell

CC: Mr. Bob Gilbert
Mr. Paul Brashier
Mr. Herv Brown
Mr. Charles Rucker

FILE:
BUD 1.1.90
BUD 1.3.89

Interoffice Correspondence

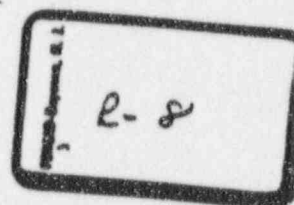
DATE: May 15, 1988
TO: M. B. Hobby
FROM: F. D. Williams

In response to your questions in your letter of April 28, 1988, I have the following reply.

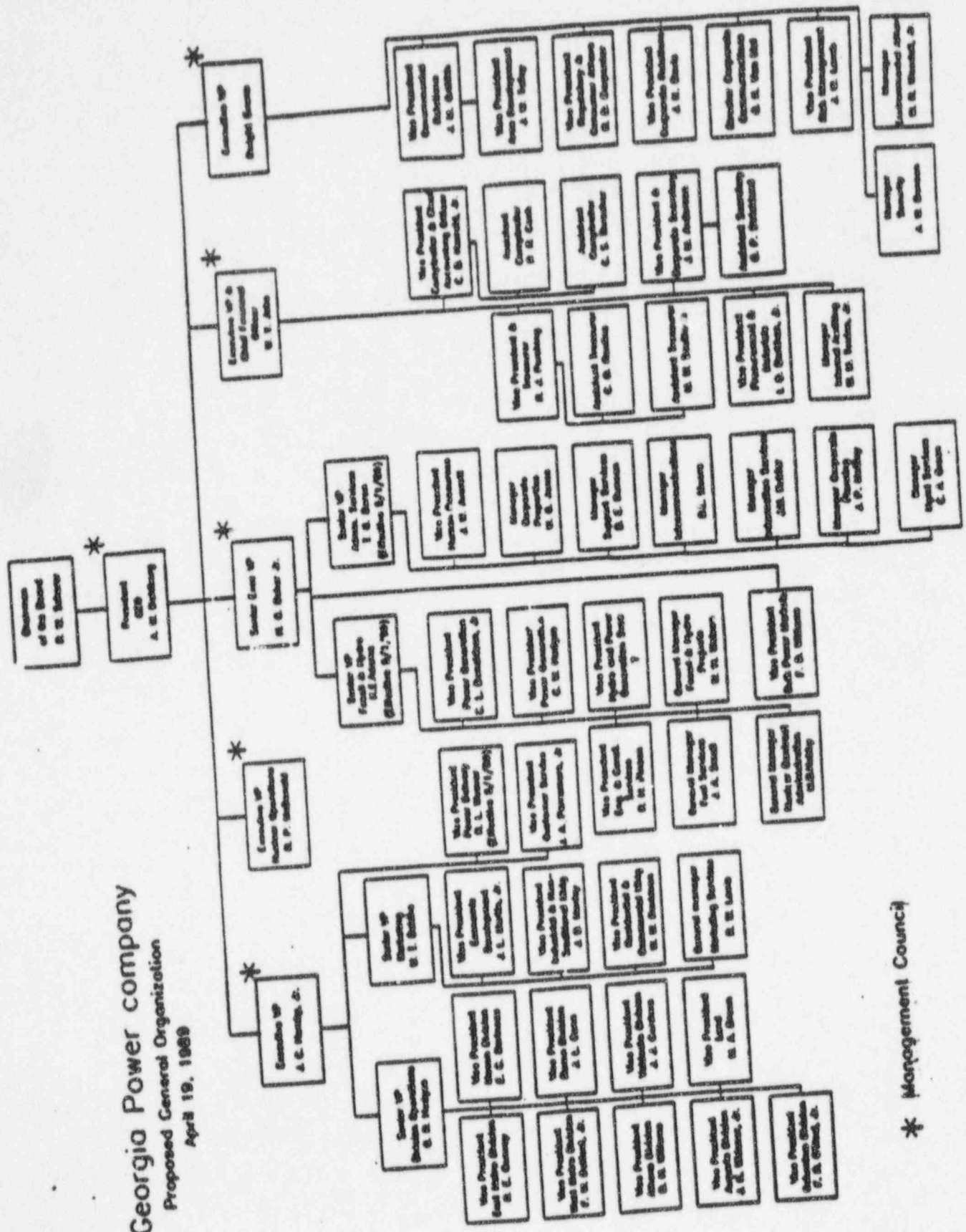
Mr. R. P. McDonald reports to A. W. Dahlberg for operation and support activities of Plants Vogtle and Hatch. I have attached a copy of the most recent published organization chart showing the reporting. Mr. George Hairston reports to Mr. McDonald.

Mr. J. M. Farley, Executive Vice President - Nuclear, provides services relating to the anticipated transfer of nuclear operating and support activities from Georgia Power Company to the Southern Nuclear Operating Company. These services include the compliance with applicable regulatory requirements and for nuclear support on an industry basis.

Jdg
Attachment

L-8

Georgia Power company
 Proposed General Organization
 April 19, 1969



* Management Council

Georgia Power Company
333 Piedmont Avenue
Atlanta Georgia 30308
Telephone 404 526-7211

Mailing Address
Post Office Box 4545
Atlanta Georgia 30302



C-4



Georgia Power

Member of the Southern Company

Fred D. Williams
Vice President
Bulk Power Markets

February 2, 1990

Mr. Marvin B. Hobby
333 Piedmont
14th Floor

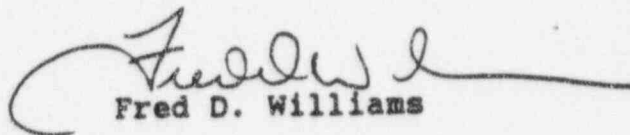
As a result of a management review of our organization, your position as General Manager, Nuclear Operation Contract Administration and Assistant To, has been eliminated. In connection with the elimination of your position, a program has been established in order to recognize your valuable service with the Company over the years and to minimize any financial hardship which you may have to encounter as a result of the elimination of your position.

After April 2, 1990, you will no longer be required to perform any services for the Company. You will have the opportunity to elect to receive benefits under the program, if you agree to sign an agreement containing a release and settlement concerning the elimination of your position within the Company. The benefits will consist of the following:

1. A severance pay benefit equal to four (4) weeks' straight time pay plus one week's straight time pay for each year of system service, based upon your regular rate of pay in effect on the day before your separation notice date. The benefit will be paid in a lump sum, or twelve (12) equal monthly installments, depending upon your selection. The lump sum payment will be made as soon as practical but not later than thirty (30) days after your termination date.
2. You will also receive an amount equal to the employer and employee cost of your group medical and group life insurance. This benefit will cover the cost for six (6) months of insurance coverage. The benefit will be based on the amount of coverage and number of covered dependents currently in effect. This benefit will be paid in a lump sum, or in twelve (12) monthly installments, depending upon your selection. The lump sum payment will be made as soon as practical, but no later than thirty (30) days after your termination date.

Mr. M. B. Hobby
February 2, 1990
Page 2

In order to receive the two benefits above, you must elect the benefits by signing an agreement containing a release and settlement relating to the elimination of your position no later than March 16, 1990.


Fred D. Williams

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404-558-8000

CABLE MAESTRO

TELECOPIER 404-558-0488

February 20, 1990

WRITER'S DIRECT DIAL NUMBER
404-558-6054

JESSE P. SCHAUDIERS, JR.

C-10

Richard Goddard, Esquire
Regional Counsel
Nuclear Regulatory Commission
Region II
101 Marietta Street, Suite 3100
Atlanta, Georgia 30323

VIA HAND DELIVERY

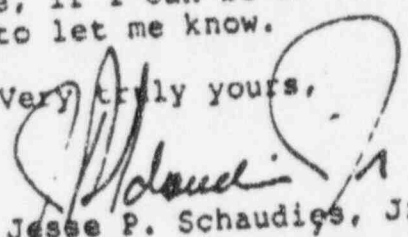
Dear Mr. Goddard:

This letter is to inform you of the existence of a charge we have been told has been filed against our client, Georgia Power Company, under the Energy Reorganization Act. Georgia Power Company has been advised by the law firm of Kohn, Kohn and Colapinto that Marvin Hobby filed a charge with the Department of Labor on February 6, 1990, but no one within the Company or this law firm has yet seen the charge.

On February 1, 1990, Mr. R.P. McDonald advised Regional Administrator Stuart Ebnetter that he had learned Hobby's lawyers claimed Hobby was being discharged in retaliation for a regulatory concern he allegedly raised in 1989. Hobby's counsel has alleged the concern was raised in a memo of April 27, 1989, but Georgia Power Company does not have a copy of the alleged memo. Hobby's former Georgia Power Company superior recently asked him to provide a copy of the alleged memo, but Hobby said he did not have one. Subsequently, Hobby's attorneys have also failed to provide a copy of the memo to the Company after being requested to do so.

Mr. McDonald told Mr. Ebnetter he would keep him apprised of developments in Hobby's allegations, but there is little more to report at this time. I will send you a copy of the DOL charge after I receive it. In the meantime, if I can be of further assistance, please do not hesitate to let me know.

Very truly yours,


Jesse P. Schaudiers, Jr.

JPSJr./sm

cc: Mr. Stuart Ebnetter
Mr. R.P. McDonald

SENT BY:FC/LL

5-4-80 ; 4:17PM ; TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

2024024145: # 4

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404 888 8000

CABLE MAILSTRO

TELECOPIER 404 22 0400

WRITER'S DIRECT DIAL NUMBER
404 888 8004

JESSE P. SCHAUDIES, JR.

March 16, 1990

Richard Goddard, Esquire
Regional Counsel
Nuclear Regulatory Commission
Region II
101 Marietta Street, Suite 3100
Atlanta, Georgia 30323

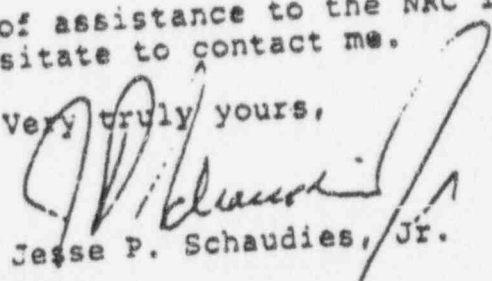
Re: Claim by Marvin Hobby

Dear Mr. Goddard:

Georgia Power Company received this week a copy of the two (2) Complaints I have enclosed for your review. As I believe you know, Marvin Hobby is a former employee of Georgia Power Company. While the Complaints appear to have been filed sometime ago, this week was our first opportunity to review them. Thus, I had been asked by Mr. R.P. McDonald and Mr. George Hairston to forward them to you for your review.

If there is any way we can be of assistance to the NRC in this regard, I hope you will not hesitate to contact me.

Very truly yours,


Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosures

cc: Mr. R.P. McDonald
Mr. W. George Hairston

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404/528-8000

CABLE: MAESTRO

TELECOPIER: 404-221-0488

WRITER'S DIRECT DIAL NUMBER

404-528-8054

JESSE P. SCHAUDIES, JR.

May 4, 1990

Richard Goddard, Esquire
United States Nuclear Regulatory Commission
Region II
Suite 3100
101 Marietta Street
Atlanta, Georgia 30323

VIA HAND DELIVERY

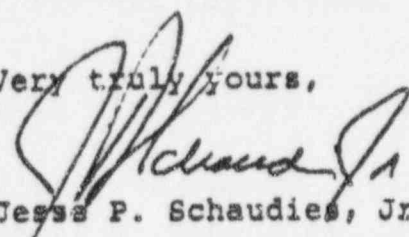
Re: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30

Dear Mr. Goddard:

I have previously supplied you with copies of Mr. Hobby's Complaint and the DOL Determination in the above-captioned matter. As I believe you know, Mr. Hobby has alleged that he raised a regulatory concern in a memorandum of April 27, 1989. Just this week, I have received, for the first time, a copy of all eight (8) pages of the alleged memorandum. I have endeavored to obtain from Mr. Hobby's counsel copies of the attachments that are referenced in the memorandum, but those have not been forthcoming. Mr. McDonald has asked that I forward the memorandums to you without waiting any longer for the attachments.

If there is any way I can be of further assistance, please do not hesitate to let me know.

Very truly yours,


Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosure

cc: Mr. R.P. McDonald (without enclosure) (VIA FAX)

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

127 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404/558-8000

CABLE: MAESTRO

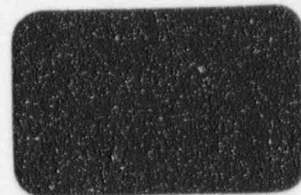
TELECOPIER 404 221-0488

JESSE P. SCHAUDIES, JR.

*WRITER'S DIRECT DIAL NUMBER

404-558-8054

May 7, 1990



Richard Goddard, Esquire
United States Nuclear Regulatory Commission
Region II
Suite 3100
101 Marietta Street
Atlanta, Georgia 30323

C-9

VIA HAND DELIVERY

Re: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30

Dear Mr. Goddard:

Enclosed please find copies of three (3) documents that Mr. Hobby's counsel has provided. He has said these were attached to the April 27, 1989, memo. These were received in my office yesterday via FAX, and I have been asked to provide them to you.

Very truly yours,

Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosures

cc: Mr. R.P. McDonald (with enclosures)

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
1375 Peachtree Street, N.E.
Atlanta, Georgia 30367



May 25, 1990

Mr. Marvin Hobby
925 Melody Lane
Roswell, GA 30075

Mr. Michael E. Kohn
Kohn, Kohn & Colapinto, P. C.
517 Florida Avenue, N.W.
Washington, DC 20001

In the Matter of: Marvin B. Hobby v. Georgia Power Company
Case No. 90-ERA-30
SOL Case No. 90-10455

Dear Messrs. Hobby and Kohn:

This letter is to notify you of the results of our compliance review pursuant to the Court's Order of May 7, 1990. As part of this review, by letters dated May 9, 1990, we notified each party to provide this office any additional information or material by 5 p.m. on May 18, 1990. By letters dated May 18, 1990, the attorneys for each party submitted additional information including depositions and other documents.

We hereby amend our March 26, 1990 findings notification letter to the extent indicated as follows. Based upon the information made available to us, Mr. Hobby's job was eliminated due to a management reorganization, and management's decisions concerning the reorganization were made without knowledge or consideration of Mr. Hobby's engagement in protected activities.

A copy of this letter is being forwarded to Administrative Law Judge Joel Williams.

Very truly yours,

Daniel W. Bremer
District Director

cc: Mr. Joel Williams
Administrative Law Judge
Office of Administrative Law Judges
U. S. Department of Labor
1111 20th Street, N.W., Suite 700
Washington, DC 20036

✓ Mr. Jesse P. Schaudies, Jr.
Troutman, Sanders, Lockerman
& Ashmore
Candler Building, Suite 1400
127 Peachtree Street, N.E.
Atlanta, GA 30303-1810

Nuclear Regulatory Commission
Office of Enforcement
Washington, DC 20555

Mr. A. William Dalberg
President & CEO
Georgia Power Company
333 Piedmont Avenue, N.E.
Atlanta, GA 30308

Georgia Power Company
33 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404-526-3648

Mailing Address
400 Governor's Center Parkway
Post Office Box 1095
Birmingham, Alabama 35201
Telephone 205-866-5510

R. P. McDonald
Executive Vice President
Nuclear Operations

CONFIDENTIAL INFORMATION
LETTER CONTAINS INFORMATION
EXEMPT FROM DISCLOSURE UNDER
10 CFR 2.790

June 22, 1990

Mr. Stewart D. Ebnetter
Regional Administrator
U.S. Nuclear Regulatory Commission
Region II
101 Marietta Street, N.W.
Atlanta, Georgia 30323

Dear Mr. Ebnetter:

By letter dated May 17, 1990, Georgia Power Company responded to your letter of April 18, 1990 concerning a complaint filed by Mr. Marvin Hobby, who was formerly employed by Georgia Power Company in Atlanta. Mr. Hobby had filed his complaint with the U.S. Department of Labor's Wage and Hour Division, alleging adverse action taken by elimination of his employment position with the Company. In my previous letter, I indicated that copies of further correspondence with the Department of Labor would be provided to the NRC as they occur.

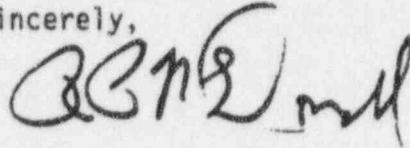
Consistent with my previous letter, on May 31, 1990 counsel for Georgia Power provided the NRC's Region II Counsel a May 25, 1990 Department of Labor letter which amended that Department's previous, March 26, 1990, findings (Attachment A). The amended DOL findings are that "Mr. Hobby's job was eliminated due to a management reorganization, and management's decisions concerning the reorganization were made without knowledge or consideration of Mr. Hobby's engagement in protected activities." Although the DOL copied the NRC with its May 25, 1990 letter, that copy apparently was sent to the Office of Enforcement, rather than Region II.

If you have need for any further information from Georgia Power with regard to this matter, please do not hesitate to contact me.

Mr. Stewart D. Ebner
June 22, 1990
Page 2

This letter is exempt from disclosure in accordance with 10 CFR 2.790 (a) (6), since disclosure would constitute a clearly unwarranted invasion of personal privacy of the Department of Labor petitioner.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Miller". The signature is written in a cursive style with a large initial "R" and "M".

eaj

Attachments

cc: A. W. Dahlberg



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

JUN 21 1990



Georgia Power Company
ATTN: Mr. R. P. McDonald
Executive Vice President
Nuclear Operations
40 Inverness Center Parkway
Post Office Box 1295
Birmingham, Alabama 35201

Gentlemen:

SUBJECT: MARVIN B. HOBBY v. GEORGIA POWER COMPANY
(DOL CASE NO. 90-ERA-30)


This letter responds to your letter dated May 17, 1990, which provided a response to our request for information regarding the basis for the employment action involving a former Georgia Power Company (GPC) employee who alleged to the Department of Labor (DOL) that his position was eliminated because he had raised safety concerns while performing his duties at GPC.

Our request, which was sent by letter dated April 18, 1990, to Mr. W. G. Hairston, III, was based upon the findings of the DOL Acting District Director who documented his findings in a letter dated March 26, 1990. Those findings indicated that the former employee was "...a protected employee engaging in protected activity within the scope of the Energy Reorganization Act of 1974 and discrimination as defined and prohibited by the statute was a factor in the action which comprise his complaint." Based on additional information, DOL has subsequently amended their initial finding and concluded in a letter dated May 25, 1990, that the former employee's position "...was eliminated due to a management reorganization, and management's decisions concerning the reorganization were made without knowledge or consideration of [the individual's] engagement in protected activities."

Based on the current pending status of this matter before DOL Administrative Law Judge J. Williams, we concur with your request to defer further discussion of the merits of the discrimination allegation until completion of the DOL process.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be placed in the NRC Public Document Room.

Sincerely,


Stewart D. Ebnetter
Regional Administrator

**POLICIES AND PRACTICES
FOR EMPLOYEE CONCERNS**

THE SOUTHERN COMPANY

The Southern Style

Teamwork - "We communicate openly and value honesty. We listen. We respect all opinions and expect differing viewpoints as we work together toward common goals." (TAB A)

Vogtle/Hatch Officer Highlights -

"I will specifically highlight the teamwork behavior with particular emphasis on respecting all opinions and expecting differing viewpoints."

"Sharing of information is imperative to succeed." (TAB B)

GEORGIA POWER COMPANY

Code of Ethics - "Truth - the internal and external reporting and exchange of information is a critical part of the conduct of our business." (TAB C)

Corporate Guidelines - Corporate Concerns Program (Atlanta) (TAB D)

Quality Concerns Programs - Vogtle & Hatch (TAB E)

NRC Inspection Report 95-14 (Vogtle) and 95-12 (Hatch), June 22, 1995

Vogtle Concerns Brochure

Hatch Initial Training Documentation

Vogtle General Employee Retraining

Plant Newsletter Articles

Communication with Nuclear Employees (TAB F)

May 11, 1994 W. G. Hairston, III Letter

May 11, 1994 J. D. Woodard Talking Paper

January 1, 1991 W. B. Shipman (Vogtle) Letter

SOUTHERN NUCLEAR OPERATING COMPANY

Employee Concerns Program (Birmingham) (TAB G)

Guidelines

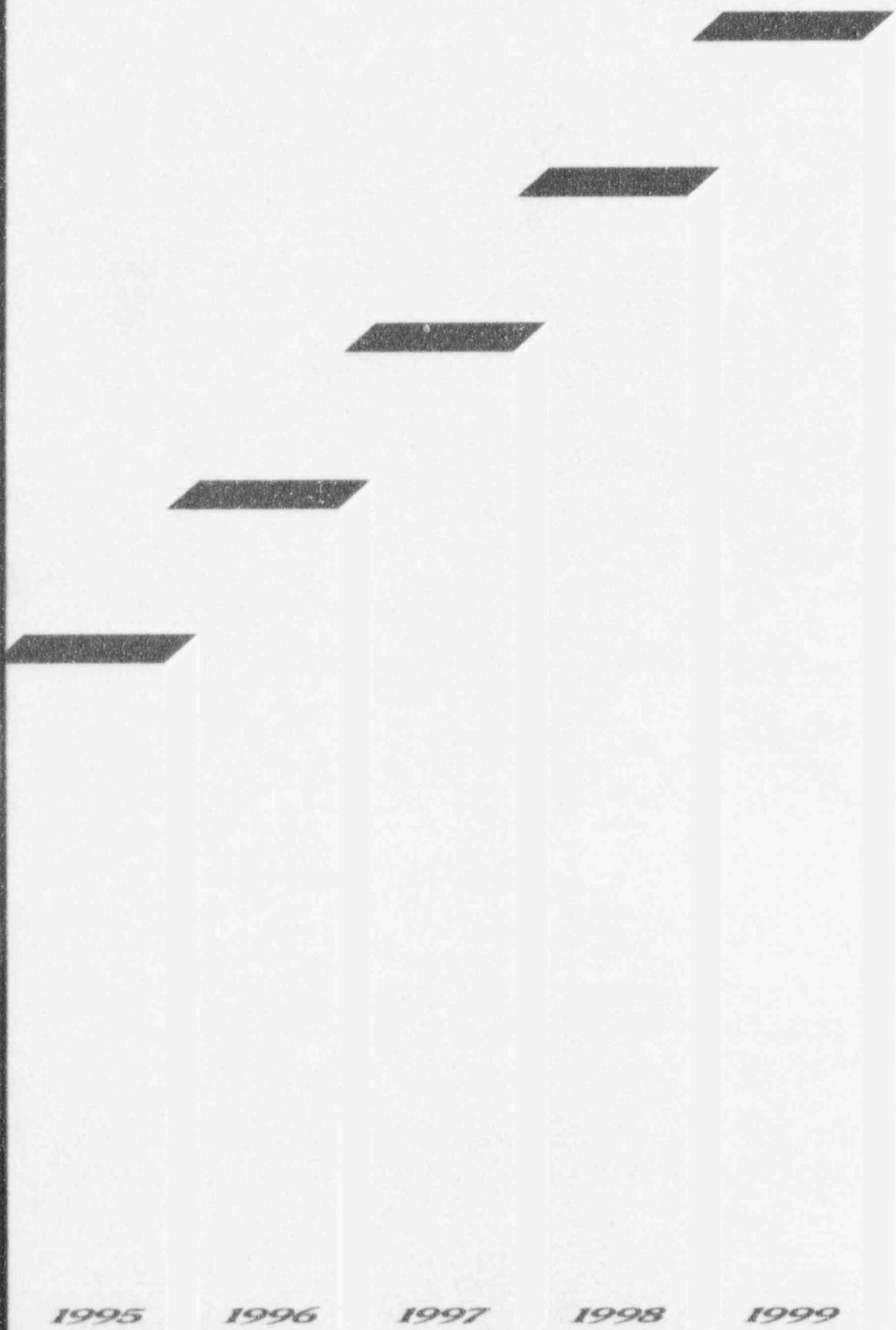
Procedure

Brochure

Newsletter Articles

Correspondence with SNC Employees

Southern Beyond 2000



1995

1996

1997

1998

1999

The Challenges We Face

- The global marketplace is placing competitive pressures on our customers and forcing us to further reduce our costs.
- Competition to build new generation will continue to grow. Independent power producers are pressing to open all generation projects to competitive bidding — with the support of industrial customers seeking cheaper energy.
- Power marketers are pushing hard for more competition. Multiple players are flooding this market in anticipation of a restructured industry.
- Wholesale rates are being driven down by wholesale transmission access, mandated by the Energy Policy Act of 1992.
- Federal regulators are advocating a sweeping restructuring of our industry. Members of Congress are calling for market-force competition. And throughout America, individual states are considering retail access — even for residential customers.
- Retail access may or may not be inevitable, but we must plan as if it is. Clearly, competition at the retail level will accelerate. Just the threat of retail access has unleashed forces that will have a far-reaching impact on our markets, competitive position, and structure.
- All customer groups are demanding more choices, greater control over their energy use and costs, and new energy services and products.
- Even without competition, the growth potential of our core business is limited by economic factors and slower growth in energy use.

America's Best Diversified Utility

What does that mean?

It means that our target is not limited to just the Southeast — that we truly intend to be "America's Best." It also means we will be involved in areas beyond our traditional business. We will not attempt things we are not qualified to do. But we can diversify geographically — even beyond the United States, as we have already shown. And we can enter certain other utility businesses in which we have expertise.

Clearly, we will remain a utility. Specifically, we will be in four major businesses:

- The core business — our electric operating companies.
- The international electric power business — SEI.
- The domestic power generation and power marketing business — also SEI.
- Major new business lines we choose to enter — future business units.

What are our strategies?

The core business will continue to be our dominant business for the foreseeable future, although it will be threatened by additional competitors. We will defend this market by continuing to drive down cost and drive up customer satisfaction. We will maintain and increase our market share through price leadership.

While defending our core business, we will seek growth through our unregulated businesses. Internationally, we will continue to seek attractive projects with superior financial results.

Domestically, we will offset the challenges to our core business by aggressively seeking new markets that evolve with changing regulation.

We will explore major new utility business opportunities. Expansion of our core business and expansion into other utility services will provide a growth opportunity for us.

Of Success

We will be in the best quartile of all meaningful measures — with a view toward the top. Our goals will likely change from year to year. Our 1996 and intermediate goals and our Bold Aggressive Goals are being developed by task forces.

For 1995

Best quartile in financial performance
Best quartile in customer satisfaction
Best quartile in cost performance

For 1996

(To be determined)

Intermediate

(To be determined)

BAGs (Bold Aggressive Goals)

(Examples only)

Have lowest cost among all competitors

Reduce overheads by 25%

Achieve productivity increases equal to or greater than inflation every year (or at least 5%)

Reduce incremental capital per kilowatt served to 50% of current level

Increase non-core business to 10% of earnings by 2003

Have major new business by 2000

The Southern Style

Ethical Behavior

We tell the truth.
We keep our promises.
We deal fairly with everyone.

Customer First

Our business is customer satisfaction. We will think like customers ...

Shareholder Value

... and act like owners. We work to increase the value of our investment.

Great Place to Work

We are a first-name company. We enjoy our work and celebrate our successes. We seek opportunities to learn. We do not compromise safety and health.

Teamwork

We communicate openly and value honesty. We listen. We respect all opinions and expect differing viewpoints as we work together toward common goals. We emphasize cooperation -- not turf.

Superior Performance

We continue to set high goals for ourselves. We take personal responsibility for success. We act with speed, decisiveness, and individual initiative to solve problems. We use change as a competitive advantage.

Citizenship

We are committed to the environment and to the communities we serve.

POINTS TO HIGHLIGHT FOR SOUTHERN STYLE/PRINCIPLES OF NUCLEAR OPERATIONS

Talking Points for the Southern Style:

1. Emphasize my personal commitment to act, make decisions and treat others in accordance with the Principles of The Southern Style.
2. I will challenge the plant employees to understand The Southern Style, accept ownership of it and make the same level of commitment that I am making.
3. I will challenge personnel to give me feedback of my performance as it relates to The Southern Style.
4. I also plan on using the Dennis Kravetz study to highlight the performance successes of The Southern Style of leadership. I will give specific examples from that study of the success stories within The Southern Company.
5. I will specifically highlight the teamwork behavior with emphasis on respecting all opinions and expecting differing viewpoints. Cooperation versus turf.
6. I will share the desire for our personnel to be highly productive employees who also have strong people skills. These two characteristics are the keys to success in The Southern Company.

Talking Points for the Principles:

1. In order for us to be America's Best Nuclear Operations, we must be successful at using The Southern Style.
2. I will emphasize the day-to-day need for conservative decision making when dealing with safety issues.
3. In order to be successful, it is necessary to have a passion for continuous improvement. We will continue our "Lessons Learned" approach.
4. I will explain the importance of maintaining a daily problem focus in order to have an excellent operating record, as well as a long term consideration in solving problems.
5. I will challenge people to have personal accountability for everything they do.

Ken McCoy
Vice President
Vogtle Project

sostyle.doc
9/14/95

The Southern Style

Ethical Behavior

We tell the truth.
We keep our promises.
We deal fairly with everyone.

Customer First

Our business is customer satisfaction. We will think like customers...

Shareholder Value

... and act like owners. We work to increase the value of our investment.

Great Place to Work

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We do not compromise safety and health.

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We communicate openly and value honesty. We listen.
We respect all opinions and expect differing viewpoints as we work together toward common goals. We emphasize cooperation -- not turf.

Superior Performance

We continue to set high goals for ourselves. We take personal responsibility for success. We act with speed, decisiveness, and individual initiative to solve problems. We use change as a competitive advantage.

Citizenship

We are committed to the environment and to the communities we serve.

POINTS TO HIGHLIGHT FOR SOUTHERN STYLE/PRINCIPLES OF NUCLEAR OPERATIONS

SOUTHERN STYLE

- **ETHICAL BEHAVIOR**

1. Have simple, basic rules.
2. Don't make promises we don't intend to keep.
3. "Fairly" doesn't mean giving people everything they want.

- **CUSTOMER FIRST**

1. The customer wants inexpensive power and the most for the expenditure.

- **SHAREHOLDER VALUE**

1. We are fiduciary agents for our shareholders.
2. Shareholders will move their investments for profitability.
3. We must always act like owners.

- **GREAT PLACE TO WORK**

1. Respect is essential.
2. Celebrate our successes, all are important. Example: The HP Banana Award which began as a manager giving an employee a banana from his lunch for a job well done. This is now one of the most prestigious awards the Company gives.
3. Continue to grow.
4. The Principles document adequately covers our commitment to safety/health of our publics.

- **TEAMWORK**

1. Reference the Principles document.
2. Avoid the "turf" mode.
3. We will succeed or fail together.

- **SUPERIOR PERFORMANCE**

1. A direct mesh between the Southern Style and the Principles document.
2. Our goals must challenge us.
3. Proactive change ensures competitiveness.

- **CITIZENSHIP**

1. We must protect/enhance the environment.
2. Our plants are Wildlife Habitats.
3. Be supportive of our communities.

POINTS PAPER

Page 2

PRINCIPLES

- **SAFETY**

1. Everyone's responsibility.
2. Important to your family/company.
3. Operation of equipment is a safety priority.

- **CONTINUOUS IMPROVEMENT**

1. Operation of the plants requires continuous attentions.
2. Simplify when possible to accomplish the task.
3. Sharing of information is imperative to succeed.

- **PROBLEM FOCUS**

1. Nuclear plants are demanding facilities with potential for problems.
2. Be cost effective in resolutions.
3. Prioritization is a key element in resolving problems.
4. Attention to details is a must.

- **RESPONSIBILITY AND ACCOUNTABILITY**

1. Everyone must participate and work together.
2. Speed, simplicity, self confidence and different talents are key elements.
3. Hold yourself accountable to be your best for you and the Company.

Tom Beckham
Vice President
Hatch Project

Code of Ethics

are wholeheartedly dedicated to providing our service in an ethical manner so that all who interact with us—our customers, our employees, our shareholders, our regulators, our suppliers and our competitors, as well as the public at large—can trust the company to deal with them in an honest and open manner in all transactions.

The commitment to honesty and integrity at Georgia Power goes back to our earliest history as a company. It is reflected in the speeches of Preston Arkwright, the company's first president. In a speech in 1912 he said, "Men in business should not forget that their character and self-respect are invested in the enterprise as well as their money and their work. Their reputation for moral character, in addition to the personal happiness it brings, has for them an intrinsic commercial value. We have an even greater need than men generally for strict adherence to moral principles." On another occasion Arkwright noted, "This company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

Following this long-standing management philosophy, we must have the confidence and courage to recognize our duty to our customers, our employees and the communities we serve.

This summary of the character of the company is for the guidance of those just joining the company, to remind ourselves of the importance of our most important resource—our integrity—and so that the reasons for many of our policies based on this code of ethics will be understood.

Fairness Above all else, it is our intention to treat everyone in a fair and equitable manner. No action of the company will be undertaken that does not meet this test. No person representing Georgia Power shall take unfair advantage of any customer, employee, or representative of any concern with which we do business. Furthermore, we will display dignity and courtesy in business dealings with those inside and outside the company.

An organization this size must have numerous policies and procedures to ensure as nearly as possible consistent business behavior. In no case, however, should a policy or procedure of the company be used as an excuse for treating an employee, customer or shareholder in an unfair manner. Common sense and our sense of ethics should prevail.

Resources The resources of the company, including its money, its property and the time and talent of its employees, are to be used for conducting our business and meeting the needs of those we serve. These resources are to be handled prudently by those to whom they are entrusted. They most certainly are not to be diverted to the personal use of any of us.

Information We have a great deal of information available to us about the company, its customers, its employees, its shareholders and its business transactions. All who have dealings with Georgia Power should know that we will not use this information for any purpose except that for which it was developed or given.

Truth The internal and external reporting and exchange of information is a critical part of the conduct of our business. We will be complete, candid and accurate in our internal and external communication and take all practical steps to ensure that reliable information is provided by this company.

Business Relationships All decisions made on behalf of Georgia Power are to be made in the best interest of the company, its customers, its shareholders and the public at large. Thus the acceptance in a business context of gifts, loans, entertainment, personal favors or anything that would influence a business decision, or appear to influence a business decision, must be avoided. Since our families have enormous influence over us, it is necessary that family members also avoid such compromising situations.

We will not make illegal payments, whether as money, services or other considerations, to persons to influence their actions regarding the company.

Laws and Regulation The company and its officials, employees and representatives will obey all laws and regulations.

Politics Employees should feel free to personally support political activities as citizens of a free nation. However, it is in some cases illegal for the company to support political candidates. No company asset can be used to support any political candidate. Furthermore, no official of the Company shall coerce any employee, sup-

plier or customer to take any political action that is inconsistent with his personal beliefs.

Conflict of Interest Every employee should avoid any activity in which his or her personal interests are at odds with the company's interests. As employees, we must exhibit at all times loyalty to our company. Engaging in any activity that dilutes employees' attention or loyalty to their careers and the company, even if only in appearance, constitutes a conflict of interest and cannot be allowed to continue.

Safe and Responsible Behavior Competent and safe performance on the job is part of every employee's daily duty. In the interest of the safety and well being of ourselves, our fellow workers and our customers, we will be careful and responsible. Included in this is employees' responsibility to keep themselves while at work totally free from the influence of alcoholic beverages and at all times totally free from the influence of illegal drugs.

"This Company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

—Preston Arkwright, 1922

"This Company will not wrong anyone intentionally. If by chance it commits a wrong, it will right it voluntarily."

—Preston Arkwright, 1922

SUBJECT	CORPORATE CONCERNS PROGRAM	NO.	1.3.2
		REVISION	12-18-89
		PAGE	1 of 2

POLICY: It is the Company's policy to provide a means for employees to express concerns without fear of retaliation.

I. GENERAL

Any matter of concern to the employee may be presented to management or the Corporate Concerns Office at any time; however, concerns should be made known to immediate supervisors as soon as is reasonably possible. The Company will not permit retaliation against any employee who uses this program to pursue any matter of concern. All supervisors, foremen, managers and officers of the Company will be receptive and responsive to employee concerns.

This policy is applicable to all exempt, non-exempt, and covered* employees of the Company and shall be administered by the Manager, Corporate Concerns. As necessary, Corporate Concerns will also coordinate concerns with other affected organizations (such as Equal Opportunity, etc.).

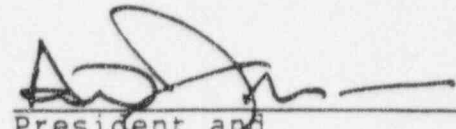
* Covered employees are encouraged to utilize the contract agreement for addressing issues relating to the terms and conditions of their employment.

II. SPECIFIC STEPS

- A. Ordinarily, an employee will first discuss any matter of concern with his/her immediate supervisor.
- B. If the employee is not satisfied with the results of Step A, the supervisor will arrange for the employee to discuss the concern with his/her respective vice president.
- C. If an employee feels it is necessary, Step A can be skipped, and the concern taken directly to the vice president.
- D. If, after discussing the concern with the vice president, the employee is not satisfied, the vice president will arrange for the employee to pursue the matter with the Manager, Corporate Concerns.
- E. If the employee is unable to get an appointment at any level, he/she should call the Corporate Concerns Program directly.

SUBJECT	CORPORATE CONCERNS PROGRAM	NO.	1.3.2
		REVISION	12-18-89
		PAGE	2 of 2

- F. If an employee feels it is necessary, Steps A and/or C may be skipped, and the concern taken directly to the Corporate Concerns Program, either anonymously or in confidence.



President and
Chief Executive Officer

A place to bring concerns

'Everyone has an obligation not to stand idly by when things happen that will hurt the Company and its employees or customers,' says Lee Glenn, manager of the Corporate Concerns program. 'We will not allow an employee to suffer because of submitting a concern.'

The new Corporate Concerns program was created to ensure that no employees believe that their concerns are not answered—or that their supervisors are acting unethically with the blessing of upper management.

Lee Glenn, manager of corporate concerns, headed the Quality Concerns program at Vogtle from September 1984 through February 1987. "Although it is based on the Quality Concerns program at Vogtle—which has addressed nearly 3,000 issues—this is a much broader program. The Vogtle program focuses on technical and quality issues in a very tightly regulated environment. The Corporate Concerns program is opening the door to the full gamut of employee concerns."

The Corporate Concerns program is part of a re-emphasis on ethical behavior, the basis of which is summed up in the code of ethics. But, Glenn says, "a code of ethics and the Corporate Concerns program only set a standard and show management commitment to ethical behavior.

"This company has depended and always will depend on individuals to have high standards and live up to them. They should not allow themselves to slip, and if they see unethical behavior, they should have enough pride in their jobs and the Company not to let it go untended," he says. If employees question actions they



believe to be unethical and do not get satisfactory answers, they can take their concerns to the Corporate Concerns program.

The time to contact Corporate Concerns is after trying every avenue possible within your own organization, Glenn says. "The vast majority of problems should be handled between supervisors and the people they supervise. Most problems don't require a separate department to deal with them. My role is to pro-

vide a service to employees and supervisors—to bridge the communications gap to deal with concerns that cannot be addressed through normal channels."

In the Quality Concerns program at Vogtle, Glenn says, many of the concerns came from people who saw substandard work done, then moved to another area and didn't know whether the problem had been fixed. "More than 80 percent of the time we'd find the problem had been properly

addressed and we could reassure the employee that everything was okay," says Glenn.

There were also many calls from employees who identified situations that did require corrective action. "I would say that less than 5 percent of the concerns we saw at Vogtle were malicious in intent—with someone using the program as a way to achieve his own ends or attack someone he disagreed with."

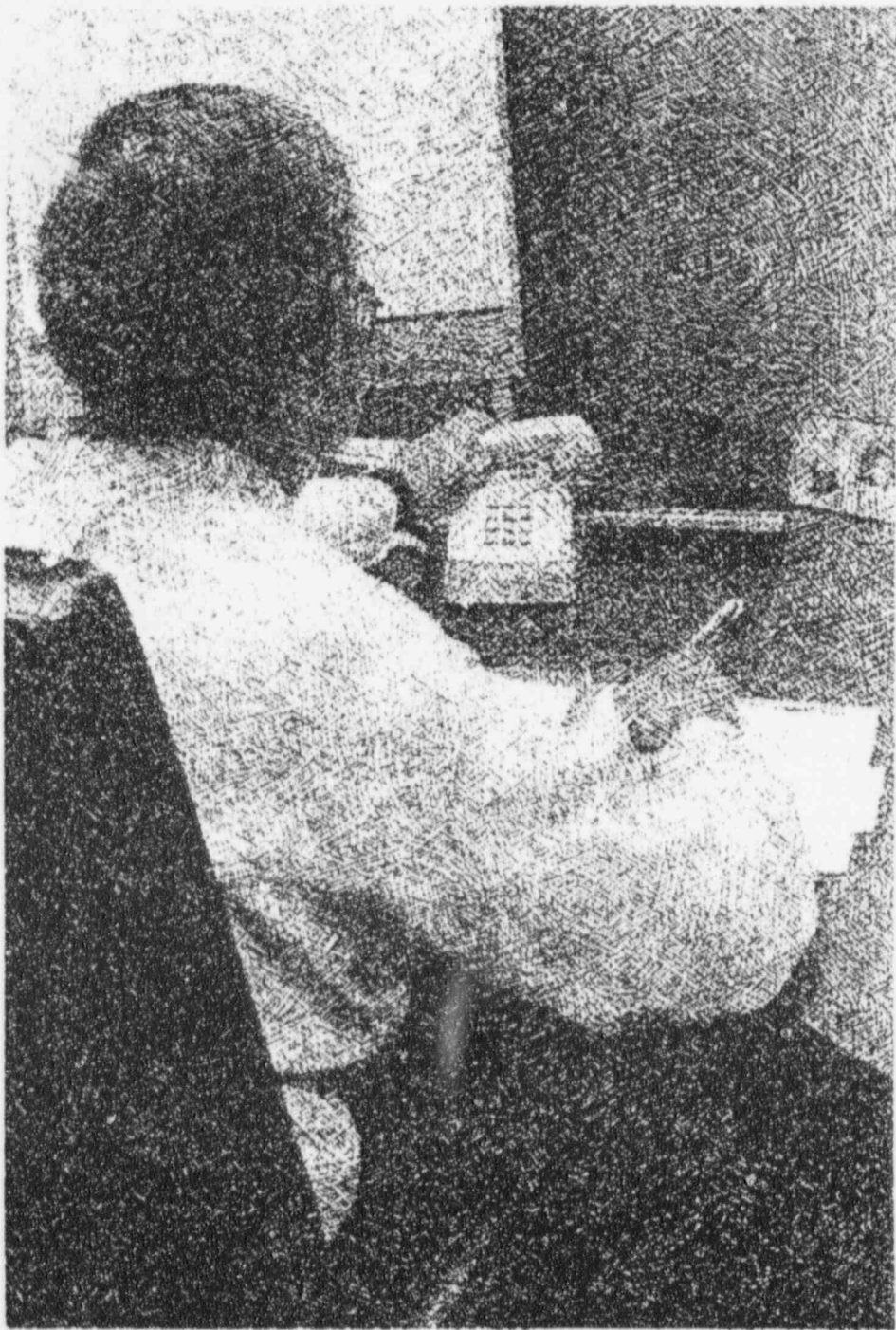
Glenn expects the response to the Corporate Concerns program will be similar—that most calls will be from people whose concerns are based on limited information or misunderstandings.

How does the program work? Take an imaginary example: a generating plant employee whose foreman has had his crew work in an unsafe manner in order to get a job done quickly. He complains to the foreman, who says, "There's nothing I can do. We've got to get the unit on line!" What can the concerned employee do?

Glenn says, "If he is not comfortable going to anyone in the plant, he can call 1-800-537-3078 or extension 8-526-2323 or write Corporate Concerns, P. O. Box 54384, Atlanta, GA. 30308-0384. It's best if he can let us know who he is, so we can contact him again and tell him what we found out.

"With the details he provides—the foreman's name, when and where the incident occurred—we and someone with expertise in that area will talk to the people involved and find out the full story. The problem may be a foreman who doesn't understand safe procedures. That's a bad situation, but that's something we can fix through training. If the foreman knows what he is supposed to do, but thinks productivity is more important than safety, some disciplinary action may have to be taken. What happens to the foreman is a management decision—but this company

continued on next page



Concerns *continued*

is not going to find problems and then let them be swept back under the rug."

Glenn acknowledges that the reason some employees do not pursue concerns is that they are afraid for their jobs or of being branded troublemakers. He says the Corporate Concerns program will investigate anonymous complaints, but that the Vogtle program has shown that a complaint can be dealt with much more successfully if the investigators can get back in touch with the concerned employee and make sure they understand the problem.

"Obviously, if it's a very specific complaint, the people involved may have a good idea who turned in the complaint," Glenn says. "The chances are that the person who called in has already said something to the foreman, so when an investigator starts asking questions, the foreman will suspect that the one who objected is the one who called in the complaint. In his mind, he may decide John Doe is a troublemaker."

Glenn emphasizes, "We will not allow an employee to suffer because of submitting concerns, whether the concerns are substantiated or not. There are tell-tale signs someone is being punished—inconsistency in discipline, lowered performance appraisals, being given the worst jobs—and we've got some measuring sticks and thermometers that worked well at Vogtle to show if someone is being retaliated against.

"We might have to intercede and offer the employee protection. We have to do this, from an ethical standpoint and a desire for the program to work. Anyone who comes to us is in a tight situation already. He's made a bold step. If we stand by and let someone suffer from stating a concern, we won't accomplish what we set out to do with this program."

He adds, "The Corporate Concerns program pledges that there will be no retaliation in any form or fashion for submitting a concern—and that strong management action will be taken if such retaliation occurs."



Lee Glenn, manager, corporate concerns

The Corporate Concerns program acts as an independent third party to the investigation—and uses the resources the Company already has to investigate complaints. For example, if sexual harassment or discrimination problems are turned in to the Corporate Concerns program, they will probably be referred to equal opportunity manager Willie Hinton. "If someone else has years of experience in an area, we'll use their expertise. We might use an internal department to investigate some concerns, but if that department is also impugned, we will go elsewhere. If we have to hire a totally outside consultant, we will. We will not let the fox do the investigating. We can draw on resources throughout the Southern system. We will find someone we and the concerned employee are comfortable with."

Depending on the nature of the concern, Glenn says, it might require a task force of expertise—

perhaps including experts in auditing, engineering, human resources and legal considerations—to assure all aspects of the issue are addressed.

Glenn says he does not see a conflict between ethical behavior and performance-based goals. "I see an emphasis on ethical behavior and on being competitive as being complementary. We have a corporate responsibility to make a profit and to enhance the value of the Company, but I don't believe the management of this company has lost sight of the fact that this must be done with and through people, by giving them the tools to do the jobs and by not abusing them or putting them into unsafe or unethical situations. We set performance goals in terms of availability, reliability of service and revenue, but it is implicit that personal safety and ethical conduct be the first consideration in that performance."

He adds, "The biggest thing involved is obligation. We're not going to be the Company we can be until everyone feels not only obliged to do their job to the best of their abilities, but also to take part in the overall team effort. Everyone has the obligation not to stand idly by when things happen that will hurt the Company and its employees or customers. We need that sense of obligation. If people will read the code of ethics and understand what it means to them individually, then we and the Company can stay on the right path." ▲

—Ginger Kaderabek

1-800-537-3078

Remember—if you have any concern about quality assurance, ethics or any activity or matter related to the Company that you'd like to express, you may call this toll-free number for the Corporate Concerns program. You do not have to identify yourself unless you wish to.

Georgia Power Company
300 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-6000

Mailing Address
Post Office Box 4545
Atlanta, Georgia 30302

A. W. Dahlberg
President



Georgia Power

the southern electric system

October 6, 1988

Dear Fellow Employee,

The past few weeks have been trying ones for all of us, but in the midst of challenging events, I have seen heartwarming demonstrations of employee devotion and concern for Georgia Power. I am sure that when the smoke has cleared, we will find that our company is as strong as ever, as dedicated as ever to providing reliable, economical electric service and as deserving as ever of our loyalty and pride.

Georgia Power has always strived to afford others the dignity and trust that it desires for itself. Nothing has changed that, and nothing will change it as long as we know who we are and what we're about.

For more than a year, a group of employees worked to capture on paper the essence of the company through the development of a code of ethics. That effort is completed, and the code has been adopted by our board of directors as the fundamental philosophy of how we will do business. A copy is enclosed.

The code of ethics is the source for all our policies, procedures, and practices and is to be used by all officers and employees as the basis of the many decisions we make in our daily work. Any activity which does not conform to this code of ethics is to be made to conform.

Also, there will be further changes in the way employee concerns are handled. These changes will make it easier for your concerns to be expressed and addressed. Lee Glenn has been named manager, corporate concerns. He will head a program through which employees may express concerns in a wide variety of areas for management attention and response. The program will get started within the next week. A toll-free number, 1-800-537-3078, goes into effect Oct. 10. Employees may use this number to express concerns about quality assurance, ethics or any matter related to the proper operation of this company.

These steps and the code of ethics are not hurry-up responses to the immediate situation, but are the result of many employees' work over some period of time. We will provide you with more information about the code of ethics and the corporate concerns program within the next few weeks.

Sincerely,

A. W. Dahlberg
President

Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 526-7698

Mailing Address
Post Office Box 4540
Atlanta, Georgia 30308



Georgia Power

Member of the Southern Company

November 9, 1988

TO: EXECUTIVE OFFICERS
GENERAL OFFICE DEPARTMENT HEADS
DIVISION VICE PRESIDENTS
DIVISION MANAGERS
PLANT MANAGERS

RE: Corporate Concerns Program

Attached is a reprint of an article which will appear in an upcoming issue of the company magazine, "Perspective". This copy is being provided to ensure that you note and understand the two important concepts presented.

Information on the Corporate Concerns Program will continue to be made available throughout Georgia Power Company. Please feel free to contact me at 8-526-1465 if you have any questions or comments.

Lee B. Glenn
Manager, Corporate Concerns

LBG:j1

Attachment

TAB A

ARTICLE FOR "PERSPECTIVE"

The Georgia Power Corporate Concerns Program is now available to all Company employees. There are two points about the program that are important for you to understand.

First, the program is in place as a service organization. It is our purpose to identify concerns and bring them to your attention to be addressed. A degree of separation is necessary to eliminate even the perception of bias and to assure program credibility. However, issues can and will be addressed to the lowest appropriate level of management for resolution.

The second point deals with the program's pledge of non-retaliation. A program such as this cannot survive unless employees feel they can participate free from the fear of negative consequences. As such, we pledge that such actions will not be tolerated. Should you know of or suspect an employee's participation with Corporate Concerns, it is important that it have absolutely no bearing on the way that employee is treated. At the same time, participation does not offer an employee immunity from any action, disciplinary or otherwise, which can be shown to have been consistently and equitably applied within an organization.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

June 22, 1995

LCV-0640
NRC-1293

Mr. J. D. Woodard
Senior Vice President-Nuclear
Georgia Power Company
P. O. Box 1295
Birmingham, AL 35201

SUBJECT: NRC INSPECTION REPORT NOS. 50-424/95-14, 50-425/95-14, 50-321/95-12,
and 50-366/95-12

Gentlemen:

This refers to the inspection conducted by R. Crlenjak of this office on May 15 through June 1, 1995. The inspection included a review of activities authorized for your Vogtle and Hatch facilities. At the conclusion of the inspection, the findings were discussed with those members of your staff identified in the enclosed report.

Areas examined during the inspection are identified in the report. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, and observation of activities in progress.

The NRC encourages licensees to implement employee concerns programs and we recognize your positive initiatives to provide an effective alternate means for employees to voice their concerns. Although we judged your programs to be effective at all three company locations (Hatch, Vogtle, and the Corporate Offices in Birmingham), we found Hatch's program to be minimally effective. Specifically, as described in the enclosed report and discussed in the Hatch exit meeting on June 1, 1995, two significant weaknesses were identified which could lead to inadequate attention to safety significant issues raised through your concerns program: 1) immediate (up-front/on-receipt) technical reviews were not performed to ensure safety significance and reportability were appropriately addressed and 2) some past concerns were not fully investigated or answered. You acknowledged these weaknesses during the June 1 exit meeting and proposed corrective actions. You are requested to provide a written response within 60 days of the date of this letter addressing the two items listed above, including your corrective actions and any safety significant findings you may have identified during your subsequent program review.

Within the scope of this inspection, no violations or deviations were identified.

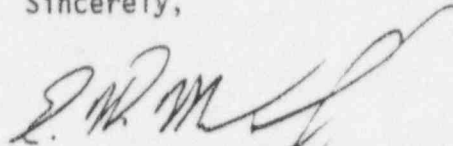
In accordance with 10 CFR 2.790(a), a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

JUN 1995
RECEIVED
EXECUTIVE
VICE-PRESIDENT

JUN 1995
RECEIVED
EXECUTIVE
VICE-PRESIDENT

Should you have any questions concerning this letter, please contact us.

Sincerely,



E. W. Merschoff, Director
Division of Reactor Projects

Docket Nos. 50-424, 50-425
License Nos. NPF-68, NPF-81

Enclosure: NRC Inspection Report

cc w/encl:
Mr. C. K. McCoy
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Birmingham, AL 35201

Mr. J. T. Beckham, Jr.
Vice President-Plant Hatch
Nuclear Operations
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Birmingham, AL 35201

J. B. Beasley
General Manager, Plant Vogtle
Georgia Power Company
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J. A. Bailey
Manager-Licensing
Georgia Power Company
P. O. Box 1295
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cc w/encl cont'd:
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cc w/encl cont'd:
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Chairman
Appling County Commissioners
County Courthouse
Baxley, GA 31513



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

Report Nos.: 50-424/95-14, 50-425/95-14, 50-321/95-12, and 50-366/95-12

Licensee: Georgia Power Company
P. O. Box 1295
Birmingham, AL 35201

Docket Nos.: 50-424, 50-425,
50-321, and 50-366

License Nos.: NPF-68, NPF-81,
DPR-57, and NPF-7

Facility Names: Vogtle 1 and 2, Hatch 1 and 2

Inspection Conducted: May 15 through June 1, 1995

Inspectors:

R. V. Crlenjak
R. V. Crlenjak, Chief
Reactor Projects Branch 3

6/14/95
Date Signed

R. P. Schin, Project Engineer

Approved by:

E. W. Merschoff
E. W. Merschoff, Director
Division of Reactor Projects

6/20/95
Date Signed

SUMMARY

Scope: This special announced inspection was conducted at the Vogtle and Hatch nuclear plants and at the Southern Nuclear Operating Company corporate offices in Birmingham, Alabama. The purpose of the inspection was to evaluate the effectiveness of the licensees' Quality Concerns Programs in addressing safety concerns.

Results: The inspectors concluded that the licensee's Quality Concerns programs were effective in handling and resolving employee safety concerns. Violations or deviations were not identified.

The inspectors identified a strength in the Vogtle Employee Concerns Program in that the files were notably well organized and information related to the concerns was well documented.

The inspectors also identified a strength in the Southern Nuclear Operating Company Employee Concerns Program in that letters to concerned individuals were especially well written and timely.

Enclosure

The inspectors identified a weakness in the Southern Nuclear Operating Company (Corporate) procedures and practices in that technical reviews of the concerns were not effectively performed and there was lack of assurance that adequate corrective action would be taken and documented for significant conditions adverse to quality. The safety significance of this issue was somewhat mitigated by the limited number of concerns that were actually technical in nature and the informal vice president review of the concerns.

The inspectors identified several weaknesses in the Hatch Employee Concerns Program in that technical reviews of the concerns were not always formally performed, some concerns were not fully investigated or answered, responses to concerned individuals were not timely, and the governing procedure was not always adhered to. For Hatch the significance of these weaknesses was mitigated by the fact that employees have confidence in their management, and probably would go to management first with their concerns, and management has apparently been effective in resolving the concerns at this point. Additionally, for those employees who might not approach management with their concerns, they have access to, and apparent confidence in, the corporate program administered out of the Birmingham offices.

Enclosure

REPORT DETAILS

1. Persons Contacted

Licensee Employees

- #J. Averett, Vice President, Administrative Services, Southern Nuclear Operating Company
- #H. Bryant, Concerns Program Coordinator, Southern Nuclear Operating Company
- #@T. Beckham, Vice President, Hatch Project, Southern Nuclear Operating Company
- *S. Driver, Plant Training Supervisor, Vogtle
- *C. Eckert, Senior Technical Specialist, Vogtle
- @O. Fraser, SAER Supervisor, Hatch
- *J. Gasser, Manager Operations, Vogtle
- @J. Hammonds, Regulatory Compliance Supervisor, Hatch
- *R. Hand, Senior Nuclear Specialist, Vogtle
- *S. Hargis, Maintenance Superintendent, Vogtle
- #J. Heidt, Licensing, Hatch Project, Southern Nuclear Operating Company
- *W. Kitchens, Assistant General Manager Plant Support, Vogtle
- *I. Kochery, Health Physics Superintendent, Vogtle
- *G. McCarley, ISEG Supervisor, Vogtle
- @C. McDaniel, Administrative Supervisor, Hatch
- @T. Moore, Plant Operations Assistant General Manager, Hatch
- *R. Odom, Plant Engineering Supervisor, Vogtle
- *J. Petro, SAER Nuclear Specialist, Vogtle
- *M. Sheibani, Nuclear Safety and Compliance Supervisor, Vogtle
- *M. Slivka, Senior Technical Specialist, Vogtle
- *C. Stinespring, Manager Plant Administration, Vogtle
- @L. Sumner, Plant General Manager, Hatch
- *J. Swartzwelder, Manager Outage and Planning, Vogtle
- *C. Tippins, Jr., Nuclear Specialist, Vogtle
- @T. Wilch, Nuclear Specialist, Hatch

Other licensee employees contacted included technicians, supervisors, engineers, operators, maintenance personnel, quality control inspectors, and office personnel.

Oglethorpe Power Company Representative

- *T. Mozingo, Site Representative

NRC Inspectors

- *B. Bonser, Senior Resident Inspector, Vogtle
- *#@R. Crlenjak, Branch Chief, Division of Reactor Projects
- *#@R. Schin, Project Engineer, Division of Reactor Projects

*Attended Exit Interview on May 18, 1995

Enclosure

#Attended Exit Interview on May 24, 1995
@Attended Exit Interview on June 1, 1995

An alphabetical list of abbreviations and acronyms is located in the last paragraph of the inspection report.

2. Employee Concerns Program Policy and Procedures (40500)

The inspectors reviewed procedures for the employee concerns programs. Procedures for the Vogtle program were Southern Nuclear Procedure VSAER-WP-25, Vogtle Project Quality Concerns Program, dated November 18, 1994, and Vogtle Procedure 00015-C, Quality Concerns Program, dated May 30, 1994. The procedure for the Hatch program was Administrative Guideline AG-MGR-02-1284N, Quality Concerns Program, dated November 12, 1994. The Southern Nuclear Operating Company program was addressed by Corporate Guideline 720-011, Concerns Program, dated September 30, 1994, and Corporate Policy 704, Record Retention Regarding Employee Concerns, dated May 6, 1993.

The procedures were generally comprehensive. All encouraged employees to share any concerns with their supervisors/ management, and if that did not work or the employee did not want to deal with their supervisor/ management, then an option was available/ provided to bring concerns to the Quality Concerns Programs or the NRC. The procedures provided for anonymity or confidentiality of employees who participated in the Quality Concerns Programs and encouraged both current and departing employees to participate. The programs included both regular and contractor employees. The programs at Vogtle and Hatch also provided for employees to take their safety concerns to the Southern Nuclear Operating Company Employee Concerns Program if they were not comfortable with using the Vogtle or Hatch program.

The procedures clearly addressed: responsibilities and lines of communication for administering the Quality Concerns Programs; who is covered by the programs; confidentiality and protection against reprisals; tracking of identified concerns to ensure that they are evaluated, investigated, and effective action is taken; followup with individuals submitting concerns; and advertisement of the programs to employees and contractors.

The inspectors identified a weakness in the Southern Nuclear Operating Company (Corporate) procedures and practices in that they did not necessarily assure compliance with NRC requirements. For example, 10 CFR 50, Appendix B, Criterion XVI, Corrective Action, requires that, for significant conditions adverse to quality, corrective action be taken to preclude repetition and also requires that the corrective action be documented. Criterion XVII, Records, and Criterion XVIII, Audits, also have applicable requirements. The procedures did not necessarily assure concerns would be classified as to whether they were nuclear quality related or not, reportable or not, or had any potential effect on

Enclosure

operability. There was no technical review to determine these aspects. The inspectors noted several closed files on concerns that included no indication that corrective action had been taken. While most of these issues were not related to nuclear safety, the inspectors considered that one concern involved significant conditions adverse to quality. In response to inspector questions, the Concerns Coordinator followed up on that concern, found that corrective actions had been taken, and then documented the corrective actions in the concern file prior to the end of the inspection. The inspectors reviewed that corrective action and considered it to be appropriate.

The inspectors also had several comments with regard to the procedures for the Employee Concerns Programs:

- a. The Vogtle procedures did not include documentation of the review of the concern classification and resolution that was done by the ISEG supervisor. While these reviews had been done, they had not been documented. Also, the procedures did not clearly address what these reviews were to include.
- b. The Vogtle and Hatch procedures did not address controls over who conducts investigations. For example, the Quality Concerns Coordinator could assign an investigation to the plant manager, who could then reassign it to someone else without the knowledge or concurrence of the Quality Concerns Coordinator. Thus the investigation could inadvertently be reassigned to the person who raised the concern or to that person's supervisor - whose previous actions on the concern may have been unsatisfactory to the concerned individual. Since mid-1994, the Hatch Quality Concerns Coordinator had included a statement in his investigation assignment letter requesting that the investigation not be reassigned without first consulting him.
- c. None of the procedures included a periodic briefing of management (i.e., Plant General Manager or responsible Vice President) on the numbers and types of concerns being received. At all locations, some type of occasional and unofficial briefings of management (up to and including the vice president level) had been performed. The Southern Nuclear Operating Company Concerns Administrator had begun a comprehensive summary of annual totals and types (by various classifications) of concerns handled at the corporate office, Vogtle, and Hatch. That summary included data for the last two and one-half years.
- d. None of the procedures addressed handling of a concern that personally involved an individual in the Quality Concerns Program process or a member of management.
- e. The Vogtle and Hatch procedures did not require timely communication back to the individual. Thus if the investigation

Enclosure

or resolution of a concern took several months, the concerned individual might not be notified for months of the fact that the concern was being addressed.

- f. None of the procedures required periodic audits. Generally, audits of the records had not been performed.
- g. The Hatch procedure required that the Concerns Coordinator document the "Concern Category," but gave no guidance on types of categories to be used.

The inspectors reviewed a draft Quality Concerns procedure that is planned to replace the existing separate procedures for Southern Nuclear Operating Company, Vogtle, and Hatch. The inspectors noted that the draft procedure addressed some of the above inspector comments.

The inspectors concluded that the Quality Concerns procedures were generally comprehensive. The inspectors identified a weakness in the Southern Nuclear Operating Company procedures and practices in that they did not assure that adequate corrective action would be taken and documented for significant conditions adverse to quality.

3. Employee Concerns Program Files (40500)

The inspectors reviewed about 60 Employee Concerns Program files, including some at Vogtle, Hatch, and Southern Nuclear Operating Company corporate office. The review included most files for the years 1992 to present. Names of individuals expressing the concerns were in the files, and the files were kept in locked storage with very limited access to protect the individuals' identities. The inspectors' review of the files indicated that the quality and timeliness of the Employee Concerns Program reviews of concerns, investigations, and followup with concerned individuals varied considerably among locations.

The inspectors found the Vogtle Employee Concerns Program files to be notably well organized and information related to the concerns was very thoroughly documented. Information in the files was organized in a clear and consistent order. Overviews and summaries of activities related to the concerns (i.e., classifications, investigations, and communications) made the files very easy to follow. Concerns were clearly identified and addressed. Closeout letters to the concerned individuals were well written and timely.

The Southern Nuclear Operating Company files were well organized and documented. The closeout letters to the concerned individuals were especially well written and timely. They addressed all of the concerns in a thorough, clear, and understandable manner. The inspectors noted that a significant portion of the concerns were from Hatch employees, who had the option to use the Southern Nuclear Operating Company program if they were not comfortable with using the Hatch program.

Enclosure

The inspectors found that the Hatch Employee Concerns Program files indicated a program weakness, in that some concerns were not fully investigated or completely answered. Also, in some instances the independence of the investigation was questionable. In addition, the governing procedure was not always adhered to. Examples of this weakness included:

- a. In most cases reviewed, the closeout letter to the concerned individual was not timely, often more than six months from receipt of the concern. Several letters were sent four to seven months after the Assistant General Manager had reviewed the investigation results and approved closeout of the concern. There were no earlier letters to the concerned individuals to advise them of the investigation status or that the concern was being addressed.
- b. NSAC technical reportability reviews of the concerns were not generally done, as all closed concerns reviewed had been classified by the Quality Concerns Coordinator as not affecting safe operation of the plant and therefore not reportable. The inspectors identified concerns that were nuclear quality related, could potentially affect safe operation of the plant, and should have had a technical review.
- c. No "Concern Schedule of Events" forms were filled out for open concerns. These open concerns had been originated in 1995, 1994, and 1993. Thus classification and reportability reviews of these concerns were not documented.
- d. Generally, the Assistant General Manager did not review the letter to the concerned individual before it was sent.
- e. In at least one case, the closeout letter was sent to the concerned individual before the Assistant General Manager reviewed the investigation results.
- f. Most files were closed before any response to the closeout letter was received from the concerned individual and before 30 days had elapsed.
- g. There was no record of letters being sent to the concerned individuals by certified mail.

The inspectors concluded that the Vogtle Employee Concerns Program files were notably well organized and information related to the concerns was thoroughly documented. Southern Nuclear Operating Company files were well organized and letters to concerned individuals were especially well written and timely. However, it was noted (also discussed in paragraph 4) that appropriate technical reviews were not always performed for concerns raised through the corporate office. The review of the Hatch files revealed a program weakness, in that technical reviews of the

Enclosure

concerns were not effectively performed, some concerns were not fully investigated or answered, responses to concerned individuals were not timely, and the governing procedure was not always adhered to, as discussed above.

4. Employee Interviews (40500)

The inspectors interviewed senior managers, Employee Concerns Program Coordinators, and about 50 employees from various levels (i.e. managers and technicians) and various disciplines, including: engineering, operations, maintenance, security, and health physics personnel. The 50 employees included 20 from Vogtle, 20 from Hatch, and 10 from the Southern Nuclear Operating Company offices in Birmingham, Alabama.

The interviews with senior managers indicated that they supported the Employee Concerns Programs and were generally aware of Employee Concerns Program activities.

Interviews with Employee Concerns Program Coordinators indicated that individuals at Vogtle were well qualified and had sufficient nuclear experience to assess technical information for nuclear safety significance. The Southern Nuclear Operating Company Coordinator was an experienced investigator, but lacked sufficient nuclear experience to perform technical reviews for nuclear safety significance. In practice, such technical reviews were not promptly performed on-receipt (a briefing/ review by the site Vice President was informally performed). The Hatch Coordinator lacked sufficient nuclear experience to perform technical reviews for nuclear safety significance. In practice, such technical reviews were not done other than occasional briefings of an Assistant General Manager on the issues.

The 50 employees interviewed all stated they would report safety concerns. All said they would report such concerns first to their supervisor/ management, and would have confidence that the supervisor/ manager would adequately resolve the concerns. Most said that all such concerns in the past had been adequately resolved by their supervisor/ management. All said they had not been intimidated or harassed by management for raising safety concerns. Most said that management was very receptive to safety concerns.

All but a few of the 50 were aware of the Employee Concerns Program and how to use it; however, few of these employees said they had ever used the program. All said they were satisfied with the program, with the exception of some Hatch employees. Those Hatch employees indicated that they were not satisfied with the thoroughness of the investigations or the identity protection of the Hatch Employee Concerns Program. Some of them stated that they would prefer to use the Southern Nuclear Operating Company program because that program always answered their concerns fully and provided better identity protection. The inspectors did not

Enclosure

identify any examples where the identity of a concerned individual was not protected.

In summary, the inspectors concluded that the employees were generally satisfied with their supervisors' receptiveness to and handling of safety concerns. Employees' perceptions of the Vogtle and Southern Nuclear Operating Company Employee Concerns programs were positive. However, some employees perceived the Hatch program unfavorably. They were not satisfied with the thoroughness of investigations or the identity protection of the Hatch program.

5. Exit Interview

The inspection scope and findings were summarized on May 18, May 24, and June 1, 1995, with those persons indicated in paragraph 1 above. The inspectors described the areas inspected and discussed in detail the inspection results. Proprietary material is not contained in this report. Dissenting comments were not received from the licensee. Violations or deviations were not identified.

6. Abbreviations and Acronyms

ISEG - Independent Safety Engineering Group
NSAC - Nuclear Safety Advisory Committee
SAER - Safety Audit And Engineering Review

Enclosure

The Concerns Program Coordinator assists the Plant General Manager and other site managers with investigating the issue, but the final decision on how to resolve the problem lies with the Plant General Manager.

Plant Vogtle's management is committed to responding to all concerns in a timely manner. If your problem cannot be handled within twenty working days, the Concerns Coordinator will contact you and keep you aware of the situation.

For this program to be successful, employees must feel comfortable about communicating their concerns. That's why the Concerns Program will not tolerate retaliation from anyone involved with a concern. Retaliation for using the program may be grounds for disciplinary action against the retaliating employee, up to and including dismissal.

As you can see, the Plant Vogtle Concerns Program is user friendly. There's a reason for that. This program was designed to maintain an environment of fairness for all employees. Plant Vogtle believes that this outlet for communicating unresolved employee concerns will enhance both job satisfaction and productivity.

Call the program toll-free at 1-800-225-2055, or on a plant phone line at extension 3294. To call locally, dial 706-826-3294.

Mail can be addressed to Plant Vogtle Concerns Program, P.O. Box 173, Waynesboro, GA 30830.

EMPLOYEE CONCERNS PROGRAM

Georgia Power 
We Sell Efficiency™

PLANT VOGTLE

CONCERNS PROGRAM



Have you noticed problems at work involving nuclear or personal safety issues, work performed in a non-quality manner, what you feel are unethical methods, or actions that don't promote fairness or professional integrity?

Have you tried to talk to your supervisor about these problems, but don't seem to be getting the message across?



Have you voiced your concerns to your supervisor about other work-related problems, but he/she is not willing to listen?



Do you wonder who to talk to about these issues?



If you answered "yes" to these questions, you might want to know about Plant Vogtle's Employee Concerns Program. The program, which went into effect in 1984, helps ensure that concerns receive appropriate attention.

The Employee Concerns Program is structured to handle concerns involving the safe operation or maintenance of the plant, industrial safety issues, possible violations of the law, unethical actions, human resource issues, and many other work-related problems.

Here is what you need to know about the program and how to use it.



The most appropriate approach to solving any problem is through your supervisor. You should attempt to work things out together. Not only is this the best solution to a problem, it also improves your professional relationship with your supervisor.

If you fail to get a resolution, or if you feel you cannot raise a particular issue with your supervisor, don't be discouraged. This is what the Employee Concerns Program is all about.

All permanent employees of Plant Vogtle, and all contractor employees badged to work on-site, are eligible to participate in the Plant Vogtle's Employee Concerns Program.

There are five ways you can voice a concern through the program:

1. Complete a Concern Submittal Form and place it in one of the drop-boxes located throughout the site.
2. Contact the Concerns Coordinator by phone (the phone numbers are shown in this brochure).
3. Arrange to meet with the Concerns Coordinator in-person.
4. Note your concern on the Concerns Exit Interview Form when you leave site at the completion of your assignment.
5. Send a letter to the Plant Vogtle Concerns Coordinator by U.S. Mail (the address is also shown in this brochure).

All concerns are handled confidentially. The program is designed to protect the rights of the employees using it. If you request confidentiality in voicing your concern, no one other than the

Concerns Coordinator who administers the program will know your identity.

The chief executive officer of Southern Nuclear regularly reviews summaries of employee concerns, but is not given the names of those employees who request confidentiality.

Concerns from anonymous sources will be considered, but, of course, feedback to the submitter on the concern's resolution would be impossible. You may submit a concern anonymously, and actions to resolve any substantiated concern will be taken regardless if the submitter's identity is disclosed or not.



After you voice your concern to the Employee Concerns Program, a standard procedure is used to look into the problem. Investigation results are presented to the plant's General Manager for review and a decision on whether or not the results identify the root cause of the problem and put into place corrective actions that will prevent recurrence of the situation.

September 18, 1995

TO ALL PERSONS INVOLVED WITH PLANT HATCH:

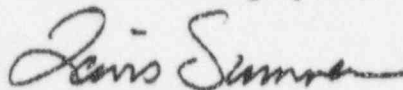
You are important to our success because you have special talents, skills, and experience which allow you to make a positive contribution to Plant Hatch. An important part of the service which we expect you to render is to notify us of any condition that you see or suspect which may be detrimental to either quality or safe operation. In return, you have the right to be heard, you deserve considered response, and you can be assured you will not be retaliated against, in any way, for raising quality or other concerns.

Please notify your immediate supervisor if you know of any work or other operations that are not in accordance with approved procedures, or which are contrary to established quality, safety, or engineering practices or to regulatory requirements. If you are hesitant to contact your immediate supervisor, you may and should contact the next higher level of management, or the Concerns Program. On site, you can contact the Concerns Coordinator (CC) at extension 2502. The CC can also be reached, toll free, at 1-800-241-4999. Contacts can be made anonymously if you prefer.

You should feel an obligation to provide the Georgia Power Company with the first opportunity to address any concern you may have. However, you may also feel free to bring nuclear safety and quality matters to the attention of the Nuclear Regulatory Commission (NRC). The NRC's Region II Office of Inspection and Enforcement, located in Atlanta, GA. (404-331-4503) will accept collect calls twenty-four hours a day. Of course, you may also contact the resident NRC Inspector on site at extension 2228, or calling locally at (912)537-5280 or (912)537-5281.

If, at any time, you feel that you have been harassed, intimidated, discriminated or retaliated against for having raised a quality issue, you should report this to the Concerns Program. You should also be aware of your options of reporting acts of retaliation to the NRC and/or to the US Department of Labor, which are described on "NRC Form 3" posters located throughout the site.

The Georgia Power Company is committed to operating Plant Hatch in compliance with all safety and quality requirements. As a part of the Hatch team, it is your responsibility and obligation to assist the Georgia Power Company in meeting that commitment by informing us of any and all conditions which might prevent such compliance.



Lewis Sumner
Nuclear Plant General Manager
Plant Hatch

Last Name

First Name

MI

Social Security Number

CONCERNS PROGRAM EMPLOYEE ORIENTATION

Welcome to Plant Hatch. You are now a part of a team - a team dedicated to operating this plant using the highest possible standards in all areas. As part of this team, you have two very important responsibilities. These are:

1. To do your job to the very best of your ability and to make sure that your work is safe and of the highest possible quality, and
2. To report any event, activity, practice or procedure which you feel adversely affects the quality of this nuclear plant or the safety of future plant operation.

Georgia Power's Plant Hatch has a "Concerns Program" which allows you to report any questionable act or practice, either orally or in writing, to the plant's Concerns Program Coordinator. There are posters explaining the program, forms for submitting your concerns, and collection boxes for concern forms located throughout the site. You can also contact the Concerns Coordinator directly at extension 2502 or toll-free at 1-800-241-4999. Your name will be held in confidence and you can remain anonymous if you desire. Each concern will be investigated and you will receive a response if your name is known.

You have received a letter from the General Manager regarding the plant's concern for safe operation. Please read the letter, familiarize yourself with the Concerns Program, and remember your two primary obligations - to do good work and to report bad work.

ACKNOWLEDGMENT

I, the undersigned, acknowledge that I have received a copy of the General Manager's quality letter, and am aware of the existence of the CONCERNS PROGRAM. I know what my obligations are regarding the reporting of substandard or poor quality work or unsafe practices to my supervisor, to the Concerns Program, or to the NRC.

Also, I understand that raising of a quality issue through any forum (Supervision, Concerns Program, Quality Control, SAER, NRC or others) will have no effect on my employment. If I believe that such retaliation has taken place, I understand Plant Hatch's commitment to correct any such retaliation. I further understand my options for reporting this retaliation to my supervisor, to the Concerns Program, to the NRC and/or to the US Department of Labor.

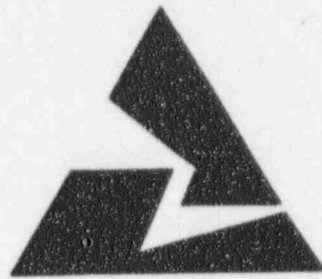
Employee Signature _____ Date _____

Mailing Address _____

City/State/Zip Code _____

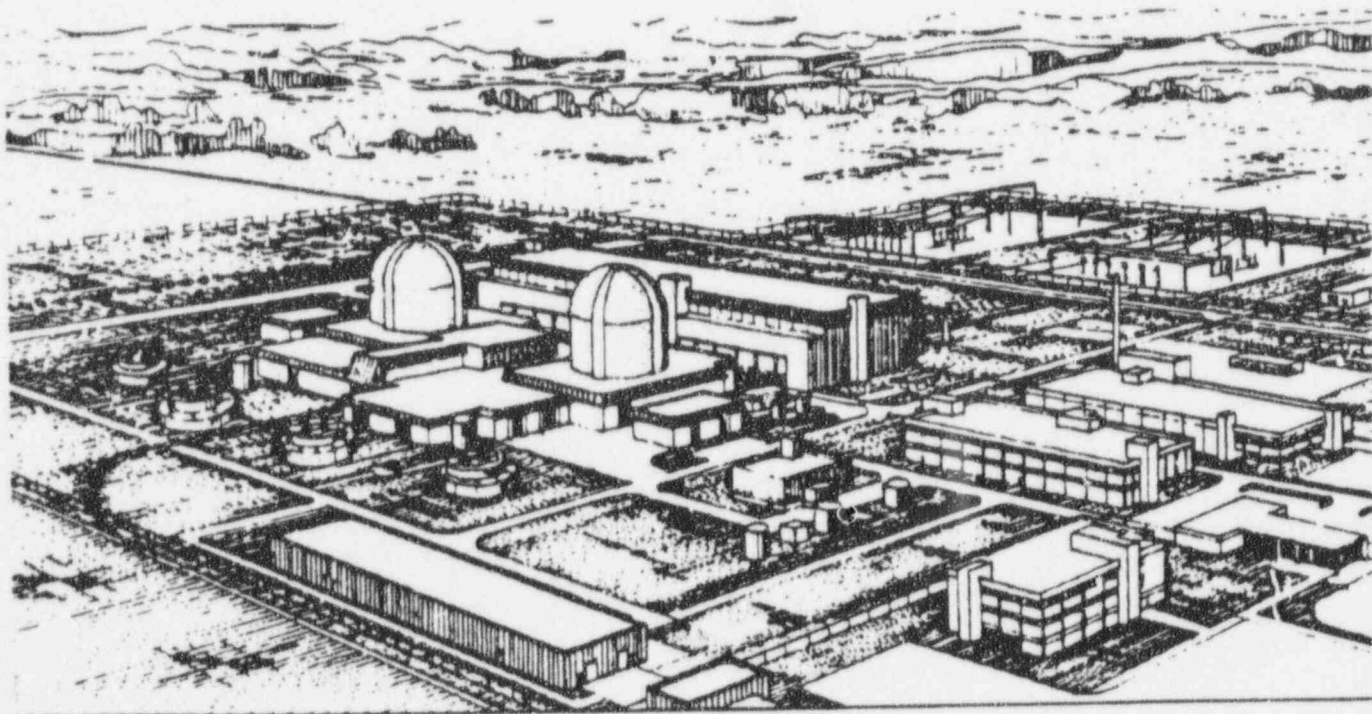
Employed By _____

Georgia Power



VOGTLE ELECTRIC GENERATING PLANT

HANDBOOK FOR GENERAL EMPLOYEE
BADGE RETRAINING



MASTER COPY

QUALITY ASSURANCE

Quality is the responsibility of all workers here at Plant Vogtle.

Quality is of utmost importance to Georgia Power Company because of its concern for the safety of its workers as well as the general public. For this reason, GPC would have a Quality Assurance Program even if it were not required by law.

Use Of Procedures

The following rules have been developed for the use of procedures:

- Use the current revision of the correct procedure.
- Review the procedure prior to use.
- Follow steps in sequence unless deviations are allowed.
- Complete sign offs after each step.
- If the procedure seems to be incorrect, stop and notify supervisor.
- If a procedure is found to be incorrect, back out of procedure and leave components in a safe configuration.
- Recommend revisions for procedures found to be incorrect.
- Complete all data packages.

For more specific details regarding use of procedures at Plant Vogtle refer to Procedure 00054-C.

Reports of Non-Compliance or Deficiencies

The appropriate form for reporting observed or suspected deficiencies in the plant to management is the Deficiency Card, also called the DC or Buff colored Card. Blank cards may be obtained from the Control Room or the Clearance and Tagging Office in the Control Building. Completed cards can be returned to the same locations. Plant Admin. Procedure 00150-C has more information on the use of this card.

Note: Any worker who observes or suspects non-compliance with procedures, regulations, or safety requirements should first report the condition to his/her immediate supervisor or the next higher level of management.

Georgia Power Company gives all workers at its nuclear facilities the opportunity to report any suspected or observed non-compliances or deficiencies of procedures or regulations.

Any person employed at VEGP may submit a Quality Concern:

1. In person to the QCP Coordinator
2. By telephone using TOLL-FREE Number 1-800-225-2055
3. By mail or collection box by using QCP form

BADGE RETRAINING HANDBOOK

All concerns are treated Confidentially and are investigated. Investigations are fully documented and results are reported back to individual submitting the concern, if the report was not anonymous.

Any concern that is reported and does not receive a reasonable and satisfactory response from management may be reported directly to the NRC.

Anniversaries

Bob & Donna Folker	Sept. 1
Tom & Carolyn Tynan	Sept. 2
Wally & Cindy Sevigny	Sept. 2
Shan & Sakunthala Sundaram	Sept. 3
Barry & Gloria Walker	Sept. 4
Mike & Patti Dugan	Sept. 5
Dennis & Deborah Hudson	Sept. 5
Stan & Carla Weaver	Sept. 5
Steve & Karen Chesnut	Sept. 6
John & Rebecca Hopkins	Sept. 6
Bob & Evonne Hand	Sept. 7
Skip & Gina Kitchens	Sept. 7
David & Cheryl McCary	Sept. 8
Robert & Nancy Blount	Sept. 10
Milton & Sharon Campbell	Sept. 10
Alan & Georgianna Simonson	Sept. 10
Carl & Angie Waddell	Sept. 10
Scott & Debbie Hammond	Sept. 11
John & Sheree Acree	Sept. 12
Chuck & Paula Stuhaan	Sept. 12
Jim & Gail Garrison	Sept. 13
Wilbert & Phyllis Newman	Sept. 14
Mike & Laurie Chance	Sept. 15
Victor & Rebecca McCann	Sept. 16
Kenny & Angela Stokes	Sept. 16
Dale & Janel Thompson	Sept. 16
Paul & Cathy Johnson	Sept. 18
Bob & Yvonne Allen	Sept. 20
John & Denise Churchwell	Sept. 22
Mark & Cheryl Salter	Sept. 22
Robert & Julie Thompson	Sept. 22
Willie & Rose Bell	Sept. 23
Dewaine & Leanne DeLoach	Sept. 23
Bob & Beverly Crawley	Sept. 24
Alton & Denise Rodgers	Sept. 24
Mehdi & Shahin Sheibani	Sept. 24
Brian & Bridgette Whitemore	Sept. 24
Leon & Regina Ray	Sept. 27
Rickey & Michelle Hargrove	Sept. 30
Ronny & Kay Thornton	Sept. 30

Quality Concern Report Line

1-800-225-2055

Toll free from anywhere in
the continental United
States site ext. 3294

Nuclear Regulatory Commission on-site office

3rd floor, service building
ext. 4116 or 4249

Get a count before you go!

Everyone who has been issued a TLD should notify dosimetry prior to visiting another facility. A whole body count needs to be performed in order to determine a baseline before being monitored by another facility. A subsequent count needs to be performed to determine if the individual is returning "clean." There is also paperwork to be completed for dose tracking.

A whole body count and Form 5 or Form 4 are your nuclear passports to travel!

Hutchins turns the big 4-0!



Donnie Hutchins, maintenance electrician, turned 40 years old on Aug. 25. He and several employees celebrated his birthday with a cake baked by his wife.

↳ This box appears in newsletter every month.

Hand named quality concern coordinator



Bob Hand, Quality Concerns Coordinator

Bob Hand has been named quality concerns coordinator for Plant Vogtle. Bob can be reached at ext. 3223 or beeper 463. If you have a quality concern you can:

- Drop by to see Bob in person on the third floor of the administration building.
- Phone it in at ext. 3223 or beeper 463.
- Write it down and drop it in one of the six drop boxes around the plant or write it down and mail it to:

Quality Concerns
P. O. Box 173
Waynesboro, Ga. 30830

- Phone it in toll-free to 1-800-225-2055.

Labor/Management meeting held June 20

On June 20, the second labor/management meeting was held at Plant Vogtle. The attendees were: **Andy Frazier, Ric Baker, Mike Brett, Glenn Saxon, Paul Burwinkel, Mike Smith, Jimmy Watson, John Cragg, Terry Rayburn, Bernie Beasley, Skip Kitchens, Charles Coursey, Ron LeGrand, Curtis Stinespring, Dusty Adams and Tom Polito.**

The first meeting of this type was held in January and all attendees felt it was a step in a positive direction. This second meeting's agenda included such items as training on personal hold tags, Student of the Business, Principal Centered Leadership, etc. There was discussion on various elements of the 52-step process including self-monitoring, dispatchers, electronic MWOs, toolpouch maintenance, etc.

The discussions were opened up for general comments and it was noted that some people would like to have progressive lens for their safety glasses in the place of bifocals. This is a safety issue because when employees are in a confined space with bifocals, their point of focus is hard to find. Effective June 23, Georgia Power/Plant Vogtle will pay for progressive lens.

It was generally agreed on to make the labor/management meeting bi-monthly, with the next meeting being scheduled for August.

Recruitment drive nets 152 samples



A volunteer recruitment drive was held May 31 at Plant Vogtle to perform initial typing for potential bone marrow donors. A total of 152 individuals participated in this drive. A special thanks to the Vogtle chapter of the Citizens of Georgia Power and all the others who volunteered their services to help make the drive such a success. Pictured is Diana Willis, nuclear security officer.

THE Vogtle Voice

A Publication about Vogtle Electric Generating Plant

June 1994

Stroking for dollars

by Cynthia Brady

If you missed the Masters in Augusta, you should have been at the Augusta Golf Course (Cabbage Patch), on Sunday, May 15, to see Vogtle employees, families, and friends stroking those clubs!

The Vogtle chapter of the Women of Georgia Power hosted its first annual four-man lauderdale golf tournament to benefit three Vogtle families.

Seventeen teams (4 per team) had a shotgun start at 8 a.m. Prizes were awarded to maintenance mechanics **Terry Rayburn** and **Tim Cucci** for longest drives. **George Gunn**, plant training instructor; **Frank Engle**, maintenance mechanic; **Donald Brooks**, senior storekeeper in materials; and **Gary Roberson**, senior storekeeper in materials, all received prizes for closest to the hole.

Thanks to the help of everyone involved, a total of \$1,477 was raised for the three families. A special thank you goes to **Matt Stark**, plant training instructor, who served as coordinator.

— See Dollars, Page 3

Woodard addresses employees' questions

On May 12, Jack Woodard, senior vice president of Georgia Power, conducted two employee information meetings at Plant Vogtle. The purpose of the meetings was to remind employees of the Company's policy of open communication.

Woodard stressed the company's policy of providing accurate and complete information in all our dealings with regulators and with each other. He also stressed the policy of open communications, particularly being open to encouraging employee concerns.

"I know our employees are concerned by the Level II violation proposed by the NRC concerning inaccurate and incomplete information given to the NRC on the diesel generator starts," Woodard said. "A key point to remember," he said, "is that this is a proposed violation and civil penalty."

"We'll go through the process of determining whether to accept or deny the proposed violation," Woodard said. "If we decide to deny the violation, we will handle it in a professional manner with mutual respect between the utility and the NRC."

According to Woodard, the focus of the proposed violation is on inaccurate and incomplete information given to the NRC on diesel generator starts.

"The NRC itself has stated that in no case did any individual deliberately provide inaccurate or incomplete information to the NRC," Woodard stated.

— See Woodard, Page 2



Jack Woodard addressed employee concerns at the May 12 informational meeting.

The company has acknowledged that information initially provided to the NRC was inaccurate, Woodard said. "But the inaccuracies were discovered and reported to the NRC by the company. The mistakes made were honest and unintentional."

In light of this issue, Woodard said, the reaction of employees might be to with-

draw and not communicate fully. But he reminded employees that this would not be in keeping with our policies, and we must maintain the trust of the general public through a professional working relationship with regulators.

Woodard encouraged everyone to talk with their supervisors about concerns they may have, or to use the plant qual-

ity concern program. Jim Petro is the coordinator of the quality concerns program on site. He can be reached at ext. 3792 or at beeper 433.

General manager Barnie Beasley said copies of the proposed violation are posted on bulletin boards throughout the plant and that department managers also have copies of it.

The editorial staff welcomes your comments or suggestions regarding *THE VOGTLE VOICE*. Please send your response to the Editor, Visitors Center, Vogtle.

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THE VOGTLE VOICE is published monthly by the Public Affairs Office, P. O. Box 1600, Waynesboro, GA 30830

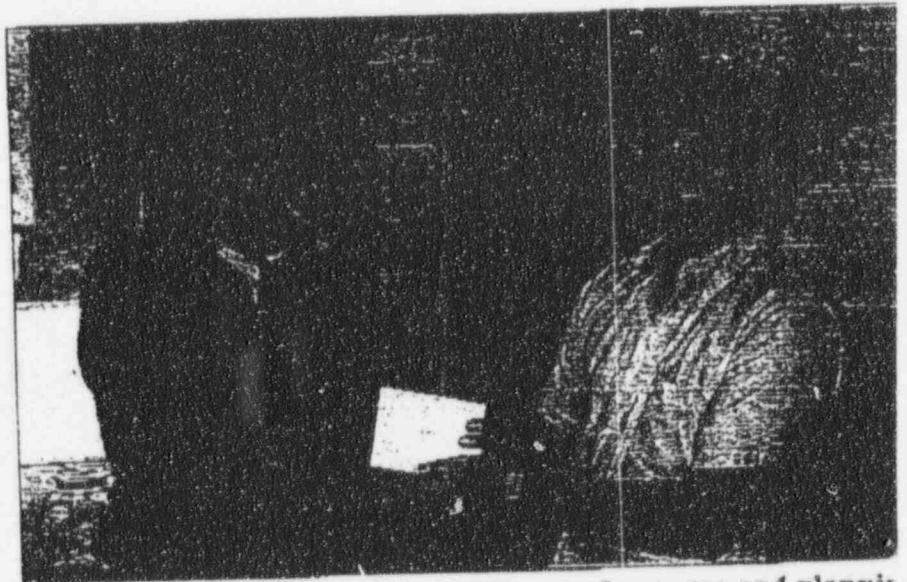
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Georgia Power Company

Slogan winners announced

Jeff Godsey, senior engineer in engineering support, and John Hall, senior health physics technician, are the winners of the outage slogan contest held recently. Jeff's winning entry for the 1R5 refueling outage is "Excellence Will Thrive In 1R5." Excellence, as our record reflects, has been foremost on all Plant Vogtle employees' minds when

it comes to our plant and our work.

John's entry, "There Is A S.T.A.R. On The Door For 2R4", was the winner for the fourth refueling outage on Unit 2. Team support and self-checking has been displayed in our past outages, and will be evident in our future outages ensuring that each employee earns a "S.T.A.R." on their door



Pictured is Jim Swartzwelder, manager of outages and planning presenting a \$50 French Market Grille gift certificate to Jeff Godsey for his winning slogan. John Hall also received a gift certificate, but was unable to attend the presentation due to work schedule.

May 1992

Petro to oversee quality concern program

The faces of the quality concern program on site have changed, but the program remains the same.

Bill Lyon, who has overseen the program for the last several years, has transferred to the modifications group. Effective immediately, Jim Petro, SAER, will oversee the program.

The mechanics of the program have not changed. It is the intent of Georgia Power to operate and maintain Plant Vogtle in a high quality manner which meets or exceeds all regulatory

requirements. If you believe this goal has been or is being compromised, it is your obligation to report your quality concern.

You are encouraged to bring quality concerns to the attention of your supervisor. However, if you do not receive a satisfactory answer from your supervisor or through the Deficiency Card (DC) program, or are hesitant to use these options, the Quality Concern program wants to know about your quality concern.

You may either:

■ Complete a quality concern form and place it in one of the drop boxes located throughout the site, or mail it to Jim Petro, SAER department. Forms and pre-addressed envelopes are available at each drop box.

■ Call Quality Concern at site extension 3294 or 1-800-225-2055 (toll free).

■ Report the quality concern in person at the quality concern office.

Jim Petro's office is located on the second floor of the administration building.□

What's what**Answer to quality concern**

Several months ago, I received an anonymous concern from a Plant Hatch employee. I would like to provide several excerpts from the concern letter, then present a letter from Georgia Power's president, A.W. Dahlberg, to J.T. Beckham, Jr., vice-president-Hatch Project, in response to the individual's concern.

Excerpts

"For a company that stresses so strongly their code of ethics in the qualities of fairness, information, truth, business relationships, etc., it seems to have omitted an important point - in the use of these qualities when dealing with their employees - especially those employees who have been with the Company for many years."

"Some employees feel that the Company is leaning toward a younger staff and that employees in their middle years do not have a chance for advancing any further and must also worry about being pushed into early retirement once they reach their 50s."

"I...would like some reassurance that this company is going to treat me as a valuable asset who is capable of advancing and having a contributing job here, until I plan to retire around 65. That is what I planned when I started work here years ago. Now, that atmosphere is one of uncertainty and mistrust because of the way middle-aged employees are being treated."

"In trying to be fair to the public and the Company's customers, has the Company lost sight of the value of its employees who have served the Company for many years?"

Response to Concern

Thank you for the opportunity to add my response to the subject concern. We share an understanding of the importance of responding to individuals who take the time and make the effort to express their feelings. Unfortunately, we are faced with the frustration of not being able to address specific examples which led to this individual's concern.

There are several points to be made related to age and length of service when looking at promotion practices and retirement programs. While I am confident that we and the rest of our management team are very familiar with these issues. I include them here for the benefit of anyone who you may share this with who may not fully understand or appreciate their importance.

Age should never be used as a criteria by which an individual is denied or given a promotion. Length of service should be an advantage in a number of performance related areas, but it is these areas, not length of service, which should be our focus. Promotions should be based on job related factors - knowledge, skills, performance - factors which will affect the individual's ability to succeed. This can include specific technical skills, or it may involve interpersonal skills, leadership ability or ability to evaluate risks and make decisions. It concerns me that we may occasionally do a disservice to some of our employees. As long as they are performing well in their current jobs, we avoid making them aware that they are seen as lacking in some of the "people" or managerial skills which are required for their advancement. Until these perceived shortcomings are identified to the individuals, they are deprived of the opportunity to address them and are further left to assume other, unacceptable reasons are preventing their advancement.

With regard to early retirement, enhancements have been offered for two basic reasons: first, as we looked at "right-sizing" our Company, it became apparent that there were areas where, because of need or economics, we needed to make reductions; second, we also recognized that there were a number of long term, loyal employees who were at or approaching retirement age and who might look favorably on a benefit enhancement that would make early retirement a financial possibility. The opportunity to reduce the pain of staff reductions while simultaneously rewarding loyal employees with improved retirement

continued on page 4

*by Ricky Houston
quality concern
coordinator*

The following courses will be offered in March at the Cork and Hook, from 7:30 a.m. until 4 p.m. unless otherwise stated. Please read the course description and any other information pertaining to the courses of your choice. If you are interested in registering, please call Betty Moxley on extension 2044.

MG-112 NEW SUPERVISOR

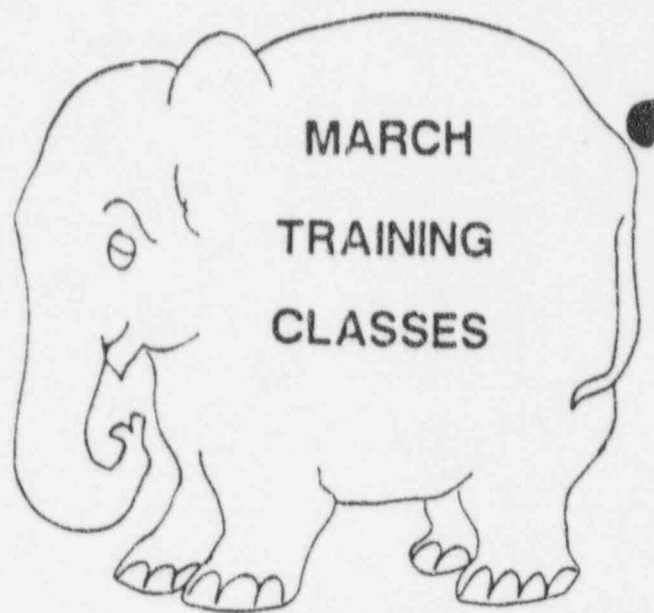
Dates offered: March 4-22 - Birmingham, AL
Available to: Personnel previously identified and notified
Course Length: 3 weeks
Description: Topics to be covered: basic management principles, self-assessment, leadership, responsibility and authority, planning, organizing, etc.

MG-503 PEOPLE SKILLS

Dates Offered: March 14, 28
Available To: Maximum 20 people - All interested.
Course Length: 8 hours
Description: How to recognize and identify the specific behaviors you deal with, how to understand why difficult people respond so predictably and persistently and how to respond in ways that minimize antagonistic behavior - Class received "excellent" rating from the first group of attendees.

GE-911 STRESS MANAGEMENT

Dates Offered: March 13
Available to: Maximum 20 people - All interested
Course Length : 8 hours
Description: Learn how to achieve more in less time with less effort, maintain a comfortable sense of balance between work and home, maintain and improve your health, learn how to identify and neutralize the symptoms of tension-induced stress.



GE-914 PROOFREADING AND EDITING

Dates Offered: March 19
Available to: Maximum 20 people - All interested
Course Length: 8 hours
Description: Learn proven methods for catching errors, how to compare hard copies to computer screens, how to change words without changing meanings, how to stay energized despite monotony and repetition. □

What's what *continued from page 3*

benefits was very attractive. However, as you know, it was not intended and should never be used as a tool to force an employee to retire. Each employee's job, including our own, is based on being able to economically perform a service of value to the Company. This is without regard to age or any other factor that is unrelated to job performance or the need for the position.

Before closing I need to address an area which I know is also of concern to you. I am not satisfied that this individual did not feel safe in providing their name. You have repeatedly shown your sensitivity on this issue. Let me take this opportunity to offer my support in further eliminating the perception that voicing your concerns or raising issues may have adverse job implications. I feel their opinion is valued, and that they may share them without fear of retribution.

Please feel free to share this in any manner you feel is appropriate. Thank you again for this opportunity to respond to these issues.

A.W. Dahlberg

A.W. Dahlberg

If you as an employee of Plant Hatch have a concern, please come by the quality concern office in the simulator building, call extension 2502 or complete a quality concern form found beneath quality concern posters that are posted in buildings on-site. □



I'd like to know

Question: Late last year, a departmental directive (GM-95-14) was issued that had a copy of a consent form authorizing Southern Nuclear to receive any criminal history information on me that may be in the files of any state or local criminal justice agency in Georgia. My questions are: Why is the consent form only applicable in the state of Georgia? Suppose an employee is arrested in another state, should the employee report this arrest or only be concerned about arrests made in Georgia?

Answer: First, according to the requirements of 10 CFR 73.56, personnel access authorization requirements for nuclear power plants, employees must report any arrest that might affect his/her access into a nuclear facility. By definition, a custodial arrest is any arrest that results in actual incarceration or when an employee is taken to a jail or a courthouse where a bond is made in lieu of incarceration. It may also include an offense where you are arrested, detained and then allowed to proceed by posting an on-the-spot bond (this does not include minor traffic citations, however).

To answer your questions, arrests must be reported to your supervisor no matter where they occur. Policy for reportability of arrests requires the arrest to be reported no later than the first day or shift the employee returns to work following the arrest. The federal requirement mentioned above is applicable to an arrest in any state. Other states may, or may not, require a consent form as is required by the state of Georgia.

According to Georgia state law, to obtain a state-wide criminal history inquiry, a signed and notarized consent form must be executed with the employee reporting the arrest prior to the inquiry being submitted to a law enforcement agency. As a matter of routine, an inquiry would be made in the state where the arrest occurred to both verify what was reported and

Things you might like to know about Hatch E-mail

At Plant Hatch, we have six file servers. These act as central computers while other computers (i.e., workstations) can access to retrieve or store information. The file server designated as the mail server is NH321FS2 or FS2 (file server 2) for short. Each person who has access to E-mail attaches to FS2.

E-mail used at Plant Hatch is published by Microsoft Corporation. A 500 user post office is the largest size Microsoft produces. Therefore, we have had to purchase two post offices (POs). Our mail users are divided between the two POs alphabetically; A-L on PO#1 and M-Z on PO#2. Each person is directed to his respective PO automatically when logging onto Hatch Local Area Network. This is done by mapping to the correct volume on FS2. The two volumes the POs are mapped to are Data 1 and Data 2. People on PO#1 are mapped to Data 1 and people on PO#2 are mapped to Data 2.

This mapping can cause problems. For example, if someone uses a generic id to log onto a computer and the id maps to PO#1/Data 1, someone who is on PO#2 can not get to his/her mail without changing the drive mappings. You can do that by logging the generic id out and logging in with your id so the mappings will be done automatically. A simpler way of doing it is to go into file manager and change the drive mappings. In file manager, click on Disk then click on Network Connections. This will take you to the Network-Drive Connections window where a list of the drive mappings is displayed. The only drive mapping you want to change is for Drive M. To do this, click on Drive M in the list. The mapping for Drive M will be displayed in the "In Path" box. Edit the path by changing Data 1 to Data 2 or visa versa. After editing, click on the MAP button. Answer OK to "Remap Network Device?" Drive M mapping is

changed. Click on the CLOSE button. Exit file manager and click on the mail icon.

You may have noticed it sometimes takes a while for a note you sent someone here at Plant Hatch to reach that person. This is another problem with having two post offices. Mail sent from one Hatch post office to the other Hatch post office has to travel to Birmingham and back. The reason for this is the 'external,' the machine that routes mail between all SCS post offices, lives in Birmingham. The 'external' acts as a giant postmaster. When the external is down, mail does not travel between post offices. The mail, however, is not lost. It is held in a holding tank, called a queue. Once the external is back up and running, the mail in the queue is routed normally. Though the external does

to see if there is anything that was not reported. In each case, determination is then made to see if any inquiry is necessary into other states depending on various factors, and depending on the state, this may or may not require a release form for that state.

Also, it should be remembered that under 10 CFR 26, employees are required to report any misdemeanor or felony conviction related to drugs and alcohol. If you have any questions about your responsibilities in reporting arrests or convictions, please ask your supervisor or Larry McDaniel, Plant Hatch administration supervisor. □

If you have a question you'd like to have answered by Plant Hatch management, please send to June Hagan, Visitors Center, Simulator Bldg. Names will not be used in Gazette, but individuals should sign their names, because it might be necessary to contact the asker to clarify an item.

continued on page 7

Hatch

Did you know?

Both Georgia Power and Southern Nuclear have equal employment opportunity policies which state that we do not discriminate in our hiring decisions because of a person's sex, race, national origin, age, religion, disability or veteran status. Both policies also prohibit harassment of any individual in any way because of their sex, race, national origin, disability or religious conviction. These policies are posted in five separate locations throughout Plant Hatch in the following buildings: Skills, Simulator, Service, Medical and Security.

The affirmative action plan for Plant Hatch is our plan for the way we will go about filling jobs to ensure there is no discrimination in our hiring decisions. It is also our commitment to equal opportunity in every aspect of decisions that affect the human resources of Plant Hatch. The plan is available for your review in Human Resources in the Skills Building, 7:30 a.m. until 4 p.m., Monday through Friday. ☐

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ence in Education Award" was presented to the Plant employees who participate in the mentoring program, the environmental program. Ron Staines, one of the coordinators, and Jim Kamishlian, program coordinator, accepted the award from GPC in a ceremony in Atlanta. Pictured is Jim (left) looking at the plaque with general manager who accepted the award from Jim and Ron on behalf of the employees who participate in the programs. The plaque can be seen in the lobby.

Who are interested in participating in the environmental program should contact Byron Feimster or Ron Staines, who are interested in participating in the mentoring program should contact Jim Kamishlian.

dy."
ddison

Georgia Power 
We Sell Efficiency.

I'd like to know

Question: Concerning "Employee of the Month" I'd like to know why you must have a white hat selected as "Employee of the Month?" Also, when was the last time that a working person (covered employee) was selected as "Employee of the Month?"

Answer: Thank you for your interest in the "Employee of the Month" program. Selection of the "Employee of the Month" is contingent upon the nominees received by the committee. Our records indicate that a lower percentage of covered employees (versus non-covered) has received the award.

Since this has been brought to our attention, we fully intend to try to improve the number of covered nominees who will be submitted for consideration in the future. ☐

If you have a question you'd like to have answered by Plant Hatch management, please send to June Hagan, Visitors Center, Simulator Bldg. Names will not be used in Gazette, but individuals should sign their names, because it might be necessary to contact the asker to clarify an item.

**SAFETY
FIRST**

EMAG area group meet

The Plant Hatch recreation area was the site of the Emergency Management Agency of Georgia's (EMAG) Area 5 monthly meeting July 26. The group of emergency management officials meet each month in one of the 25 counties that make up the EMAG's Area 5. Of local interest, EMA directors Dane Bruce of Appling County, James Dunn of Jeff Davis County and Ron Widener of Toombs County participated. The

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Georgia Power Company
333 Piedmont Avenue
Atlanta, Georgia 30308
Telephone 404 525-3195

Mailing Address
40 Inverness Center Parkway
Post Office Box 1295
Birmingham, Alabama 35201
Telephone 205 868-5581

the southern electric system

W. G. Hairston, III
Executive Vice President
Nuclear Operations

May 11, 1994

TO ALL GEORGIA POWER EMPLOYEES

By now each of you have been made aware of the recent Notice of Violation and proposed imposition of a \$200,000 civil penalty against Georgia Power Company. The Company is still evaluating this document, both its factual conclusions and the legal options, and will prepare an appropriate response. The purpose of this letter, though, is to assure all of our employees that Georgia Power Company remains firmly committed to a full, open, complete and accurate communications policy with the Nuclear Regulatory Commission, any of the Company's regulatory authorities, and with each other. Regardless of the outcome of the Notice of Violation, all of us should consider it our personal responsibility that when called upon to communicate with the Nuclear Regulatory Commission or its staff, whether orally or in writing, we will do our best to ensure that the information provided is complete and accurate in all material respects. This is our obligation by law, this is our obligation by the terms of our licenses, but more importantly, it is the right thing to do.

We should all remember, and take seriously, that the policy of Georgia Power Company is to conduct its business affairs in an honest, ethical manner and to comply with all laws and regulations affecting the Company. Important to our success as a company is our success at compliance with our legal obligations.

If you have a concern which you wish to raise, then you are encouraged to do so. Georgia Power Company's policy is to encourage its employees, and employees of its contractors, to communicate their concerns to their supervisors, which they are free to do at any time. If an employee concern cannot be resolved through this traditional channel, or if the employee wishes to pursue the matters through the concerns program, then use of that program is encouraged. In short, the Company wants you to feel free to raise any concern which you may have and has provided

All Georgia Power Employees
May 11, 1994

multiple ways for you to do so. You will be treated with respect, you will be treated with courtesy, and a fair and reasonable response will be provided promptly and completely. Of course, you may always go directly to the Nuclear Regulatory Commission if you wish and the way to do this, as well as the relevant phone numbers, is posted on numerous bulletin boards throughout the work areas. Rest assured that you may raise your concerns without any fear of penalty or retaliation.

Let's all work together as a team, and dedicate ourselves to safe and efficient nuclear plant operations. We all have a community of interest in the success of our company, we all have a community of interest in full, open, complete and accurate communication with ourselves and with our regulatory authorities. Let's pursue these goals to the best of our individual abilities.

W.G. Hairston III
W.G. Hairston, III

VOGTLE

5/11/94 4:15 p.m.

I. DISCUSSION OF POLICY OF OPEN COMMUNICATION AND THE LETTER TO ALL EMPLOYEES

By now each of you have been made aware of the recent Notice of Violation and proposed imposition of a \$200,000 civil penalty against Georgia Power Company. The Company is still evaluating this document, both its factual conclusions and the legal options, and it will prepare an appropriate response. The purpose of this meeting, though, is to ensure you all that Georgia Power Company remains firmly committed to a full, open, complete and accurate communication policy with the Nuclear Regulatory Commission, any of the Company's regulatory authorities, and with each other. Regardless of the outcome of the Notice of Violation, all of us should consider it our personal responsibility that when called upon to communicate with the Nuclear Regulatory Commission or its staff, whether orally or in writing, we will do our best to ensure that the information provided is complete and accurate in all material respects. This is our obligation by law, this our obligation by the terms of our licenses, but more importantly, it is the right thing to do. I encourage you to read the Notice of Violation and read 10 CFR 50.9 which are posted on the plant bulletin board.

We should all remember and take seriously, that the policy of Georgia Power Company is to conduct its business affairs in an honest, ethical manner and to comply with all laws and regulations affecting the Company. Important to our success as a company is our success at compliance with our legal obligations.

If you have a concern which you wish to raise, then you are encouraged to do so. Georgia Power Company's policy is to encourage its employees, and employees of its contractors, to communicate their concerns to their supervisors, which they are free to do at any time. Rest assured that you may raise your concerns without any fear of penalty or retaliation. If an employee concern cannot be resolved through this traditional channel, or if the employee wishes to pursue the matter through the concerns program, then use of that program is encouraged. In short, the Company wants you to feel free to raise any concern which you may have and has provided multiple ways for you to do so. You will be treated with respect, you will be treated with courtesy, and a fair and reasonable response will be provided promptly and completely. Of course, you may always go directly to the Nuclear Regulatory Commission if you wish, and the way to do this, as well as the relevant phone numbers, is posted on numerous bulletin boards.

II. SUMMARY OF EVENTS

In March, 1990 Vogtle Unit 1 was in a normal refueling outage with one emergency diesel generator and one offsite supply transformer tagged out of service for routine maintenance. While in this condition, a truck backed into a transmission line support for the other supply transformer for offsite power to the unit. When the remaining emergency diesel generator attempted to start, it tripped due to a false trip signal resulting in a loss of power to plant safety systems. The diesel generator was subsequently started manually to restore power until offsite power was restored.

In the investigation of the causes of this event, the issue of the reliability of the diesel generators was one of the issues which needed to be resolved prior to returning the unit to

operation. Our employees, often under the observation of NRC inspectors, conducted extensive investigations and testing of these diesels before the unit was restarted.

Subsequent to these investigations, a meeting was held with the NRC to discuss the event and all the corrective actions taken to prevent recurrence and ensure the unit was ready to return to service.

During this meeting, information was provided regarding the investigation and testing of the diesel generators which included a summary of the number of successful test starts done on each of the diesels subsequent to the investigation to demonstrate reliability. This information was gathered by plant employees and was later found by one of our employees to have been in error. This error was reported verbally to the NRC. It was several months before all the confusion and errors were resolved.

While we continue to believe that all employees honestly and diligently attempted to provide accurate and complete information to the NRC, and the Notice of Violation did not attribute the error to willful conduct, clearly there are some lessons we should learn from this experience. The purpose of this discussion is not to debate the Notice of Violation--that is still under evaluation.

III. LESSONS LEARNED

In light of this event and the NRC enforcement action, I would like to reiterate two important policies that are key to our operation:

1. We must always provide complete, accurate information regarding our operation to the NRC. This open and proactive sharing of all relevant and significant information

is essential—even if it goes beyond the scope of an information request. It is important to be precise, accurate and complete in information provided and to identify the bases and qualifications of data provided.

- 2. All employees have an obligation to raise any concerns they have to their supervisors, and to follow through to ensure the concerns are addressed. Supervisors and managers must be sensitive to concerns raised, and must ensure the concern is resolved and appropriate feedback is provided to the person who raised the concern. That includes any concerns about the accuracy of information. Even though we have particular employees and managers primarily responsible with developing and verifying letters, LERs and similar submittals to the NRC, each of us is responsible to call attention to any errors or inaccuracies in them. We also should suggest additional information which would assure that a complete and balanced message is being sent. Supervisors and managers, as well as co-workers, have to be sensitive to concerns raised; they must ensure that the concern is understood and resolved; and they should provide appropriate feedback to the person who raised the concern. It is sometimes not enough to resolve an issue in your mind—you need to be sure that the issue has been resolved in the other person's mind too. Sometimes you know the resolution as a matter of common sense or past experience, but you need to share that common sense or experience with your co-workers.

IV. OUR OWN SELF-INTEREST

Following our policies will obviously provide assurance that we fulfill our legal obligations under our license. Following the policies will also serve our long-term best interests on a broader scale as well. We need to be aware of those self-interests as we feel the various emotions that result from this case. Our natural, human reaction to a major proposed violation, as this one is, resulting from information which was provided to the NRC, may be draw back, to think that if less or the bare minimum of information has

been provided, or if no concern has been raised, no problem would exist today. In other words, "you can't get into trouble if you don't say nothin'."

That approach is totally at odds with our two policies. The best hopes for our industry, and the continued success of this plant, are vitally dependent on the continued trust of the public in our actions. If we do not provide accurate and complete information to the NRC, we will lose that trust. If we fail to resolve concerns once raised, we will not provide complete and accurate information to the NRC. One of the most effective means of building and keeping the trust of the public in us may well be in our communications with the NRC.

DATE: January 2, 1991
RE: Open Communication
FROM: W. B. Shipman
TO: Vogtle Employees

Recent news reports have focused on litigation between Allen L. Mosbaugh, a former employee at this plant, and Georgia Power Company. In a Department of Labor (DOL) proceeding, Mr. Mosbaugh contends that he was placed on administrative leave and subsequently terminated from employment as a result of his engaging in "protected activity," including submission of safety concerns to the Nuclear Regulatory Commission. In that litigation, Georgia Power denies these assertions; Mr. Mosbaugh was terminated from employment after it was learned that he had surreptitiously tape recorded conversations with other plant workers and with NRC personnel over a substantial period of time. Georgia Power Company, therefore, intends to vigorously defend the DOL action brought by Mr. Mosbaugh.

I want to emphasize to all Vogtle employees that Georgia Power's concern about Mr. Mosbaugh's surreptitious conduct is because of its negative effect on open communications at this plant, and not because of his raising of safety issues. Open and frank communications are essential in our industry. When Georgia Power learned that Mr. Mosbaugh had concerns that he had not disclosed, he was directed to submit his concerns to the NRC in July, 1990. No adverse action was taken as a result of the submission of these or other concerns. Indeed, Mr. Mosbaugh had been selected and assigned to Senior Reactor Operator training and was enrolled in the "Manager in Training" program at the time that his secret tape recording became known.

Georgia Power is fully cooperating with the NRC's review of Mr. Mosbaugh's concerns and allegations. Interviews of plant personnel and review of documents have been conducted and additional interviews may be requested by the NRC. Employees are reminded that Georgia Power encourages individuals to cooperate with the NRC in its investigations, even though individuals have a legal right to decline to be interviewed. Employees also are reminded that they have the right to have a lawyer, co-worker or friend of his/her choice at any on-site or off-site interview with governmental investigators. If requested, management will arrange for an attorney to confer with you before an interview and to represent you during the interview. This will be at no cost to you. At no time are you restricted from your communications with NRC personnel.

Page Two

I encourage and request all of you to maintain openness in your communications and to promptly report and help resolve any concerns about safety or operational issues. In addition to your "chain of command" reporting of concerns, the Quality Concerns Program (telephone number 1-800-225-2055) will accept anonymous allegations (numerous drop boxes exist throughout the plant, or the concerns can be submitted by telephone or personally by contacting Bill Lyon--Quality Concerns Coordinator). The Nuclear Regulatory Commission Resident Inspectors were recently highlighted in the Vogtle Voice and also may be contacted (extension 4116). The NRC also maintains an off-site telephone number, 301/951-0550 (call collect).

Please remember, the identification of issues which may adversely affect safety or health is a fundamental responsibility of each employee. In any complex human endeavor, such as running these plants, technical deficiencies or weaknesses may be identified. Only by your identification of such problems can they be resolved and help assure our foremost goal -- safe operation of the Vogtle Electric Generating Plant.



WBS/tdm

ANSWERS

Southern Nuclear's management is committed to responding to all concerns in a timely manner. If your problem cannot be handled within 20 working days, a concerns representative will contact you and keep you aware of the situation.

For this program to be successful, employees must feel comfortable about communicating their concerns. That's why the Concerns Program will not tolerate retaliation from anyone involved with a concern. Retaliation for using the program may be grounds for disciplinary action against the retaliating employee, up to and including dismissal.

As you can see, the Concerns Program was designed to maintain an environment of fairness for all employees. Southern Nuclear believes that this outlet for communicating unresolved concerns will enhance job satisfaction, productivity and safety.

If you work at corporate headquarters, you can call the program toll free at 1-800-222-4496 or on a company phone line at ext. 5941.

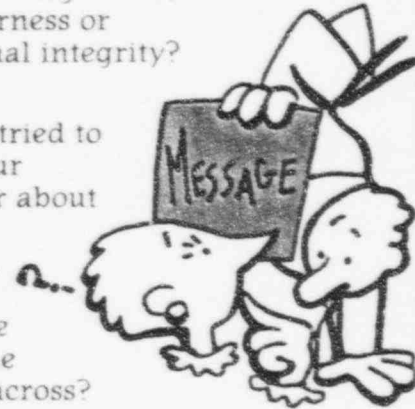
Or submit your concern in writing to:
Southern Nuclear Concerns Program
Box 1295, Bin B011
Birmingham, AL 35201

Southern Nuclear Concerns Program

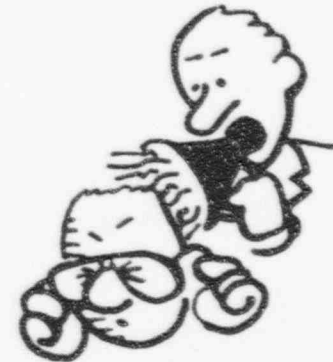
QUESTIONS

Have you noticed problems at work involving ethics, safety, fairness or professional integrity?

Have you tried to talk to your supervisor about these problems, but don't seem to be getting the message across?




Have you voiced concerns to your supervisor about other work-related problems, but he/she is not willing to listen?



Do you wonder who to talk to about these issues?



Southern Nuclear 

An Equal Opportunity Employer

If you answered "yes" to these questions, you might want to know more about Southern Nuclear's Concerns Program, which helps ensure that concerns receive appropriate attention.

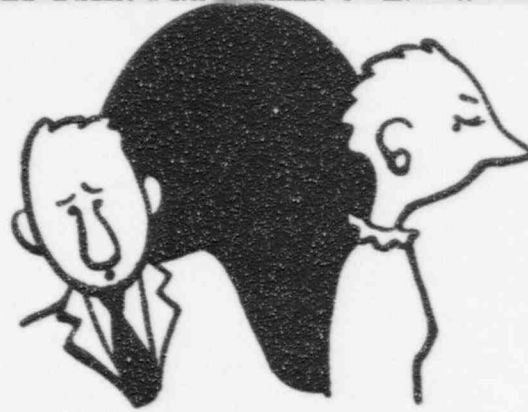
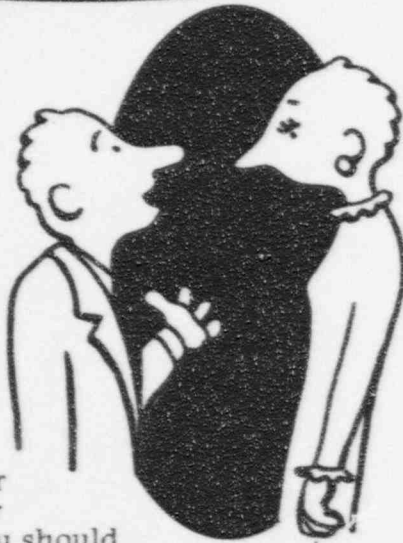
The Concerns Program is structured to handle concerns including possible violations of the law, unsolved disagreements about personnel decisions, ethics questions, technical and safety issues and many other work-related problems.

Issues related to the labor contract for covered employees should be handled through the grievance process.

Here is what you need to know about the Concerns Program and how to use it.

STEP ONE

The most appropriate approach to solving any problem is through your supervisor or manager. You should attempt to work things out together. Not only is this the best solution to a problem, it also improves your professional relationship with your supervisor.



STEP TWO

If step one fails, or if you feel you cannot raise a particular issue with your supervisor, don't be discouraged. This is what the Concerns Program is all about.

All Southern Nuclear employees and its contractors are eligible to participate in the Southern Nuclear Concerns Program.



There are two ways you can voice a concern through the program. You can call toll free or on a company line.

Or you can outline your concern in a letter and mail it in an envelope marked "confidential." Phone numbers and addresses are on the back of this brochure.



STEP THREE

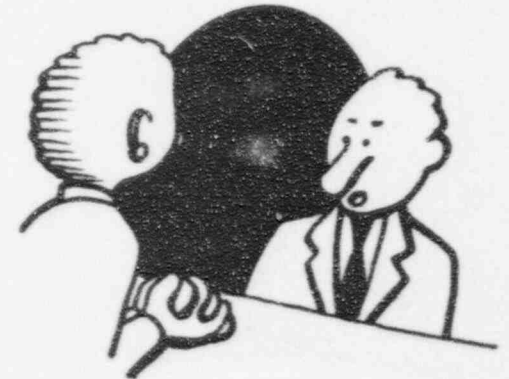
The Concerns Program is designed to protect the rights of those using it. If you request confidentiality in voicing your concerns, no one other than concerns personnel will know your identity.

Our company president regularly reviews summaries of concerns, but is not given the names of those employees who request confidentiality.

Concerns from anonymous sources will be considered, but the program will be more successful when two-way communication is possible. Communication with all involved parties is essential to solving the problem fairly and quickly.


After you voice your concern, a standard procedure is used to look into the problem. You will be asked to sit down and talk to a concerns representative.

Using discretion, the concerns representative will select the appropriate level of management to investigate and resolve the case.



CG720-011

Corporate Guideline 720-011

Southern Nuclear Operating Company 

CONCERNS PROGRAM

Effective: 09/30/91

Revision: 07/11/94

PURPOSE

This guideline delineates the procedure to be followed to communicate and resolve concerns of employees of Southern Nuclear Operating Company and its contractors. Such matters may include, but are not limited to, possible violations of law, nuclear safety, unethical actions, employee concerns, and any other work-related problems. While any matter of concern may be presented at any time, individuals are urged to make such concerns known to their supervisor, or management representative if a contractor, as soon as possible. When traditional avenues of problem resolution fail to produce a satisfactory response, or when the concerned party believes it necessary to circumvent such traditional approaches, the Concerns Program provides another avenue for resolution.

SCOPE

This program is applicable to all employees of Southern Nuclear Operating Company and its contractors. The program is not intended to circumvent the terms and conditions of any collective bargaining agreement, including contractual grievance and arbitration procedures. Further, this program is in no way intended to affect an individual's rights to pursue concerns through governmental/ regulatory bodies such as the U. S. Nuclear Regulatory Commission (NRC), the Department of Labor, EEOC, or OSHA.

ADMINISTRATION

At plant sites, the Concerns Program is administered by a Plant Concerns Coordinator with reporting responsibilities to the Plant General Manager, and to the Corporate Concerns Program Administrator. At corporate headquarters, the Concerns Program is administered by the Corporate Concerns Program Administrator, who has reporting responsibilities to the Vice President-Administrative Services and the Corporate Compliance Officer. The Corporate Compliance Officer will monitor the functioning of the program and will periodically audit the program for compliance with approved policies and procedures including the Company's Compliance Program.

NONRETALIATION

Employees and contractors should feel comfortable about communicating their concerns. Retaliation will not be tolerated. Any employee, including any supervisor, manager or officer, who retaliates against or penalizes an individual in any way for submittal of a concern will be subject to appropriate disciplinary action, up to and including termination of employment.

PROCEDURE

GENERAL

Individuals located at plant sites are encouraged to submit their concerns to the Plant Concerns Coordinator, unless the submitter deems it necessary to pursue the concern at the corporate level. Individuals at corporate headquarters may submit concerns to the Corporate Concerns Program Administrator. Contact information (e.g., names, 1-800 numbers, mailing address, etc.) for the Concerns Program will be prominently posted at plant sites and at corporate headquarters. Concerns may be submitted anonymously; however, anonymity precludes feedback to the submitter. Confidentiality of submitters' concerns will be maintained to the extent practical.

LOCATION

Plants

The Plant Concerns Coordinator facilitates the resolution process at the plant level. After initial evaluation, the Plant Concerns Coordinator may refer the concern to the appropriate management level above that of the submitter's supervisor for investigation or the coordinator may conduct the investigation, depending on the situation and the most appropriate course of action. The Plant Concerns Coordinator may refer any concern to the Corporate Concerns Program Administrator if the Plant Concerns Coordinator believes that the resolution can best be achieved at the corporate level. The management individual responsible for the investigation will provide a complete report to the Plant Concerns Coordinator upon completion of the investigation. The Plant Concerns Coordinator is responsible for determining whether the response is timely and complete and for communication of the response to the submitter. The Plant Concerns Coordinator will work with the involved manager to ensure proper closure of the concern with the submitter. Submitters who are not satisfied with the response to their concern may pursue their concern with the Corporate Concerns Program Administrator. The Plant General Manager and the responsible Vice President will periodically review a summary of concerns submitted to the Plant Concerns Coordinator. The Corporate Concerns Administrator will audit concerns activity at the plant site annually.

Corporate

The Corporate Concerns Program Administrator acts as facilitator in the resolution process at the corporate level. After initial evaluation, the Administrator may refer the concern to the appropriate level of corporate management above that of the submitter's supervisor for investigation or the Administrator may conduct the investigation, depending on the situation and the most appropriate course of action. The individual receiving the concern is responsible for ensuring the concern is addressed and an appropriate response is provided to the Administrator. The Administrator is responsible for ensuring the response is timely and complete, and for communicating the response to the submitter. The Corporate Concerns Program Administrator will work with the involved manager to ensure proper closure of the concern with the submitter. The Corporate Compliance Officer is responsible for auditing the overall Concerns Program annually.

CRIMINAL ACTS

Any concern submitted involving a potential criminal act is to be referred immediately to the Corporate Concerns Program Administrator, who will in turn inform the Corporate

the Corporate Concerns Program Administrator, who will in turn inform the Corporate Compliance Officer. The Corporate Compliance Officer will monitor the proper functioning of the program for resolution of such concerns.

RESPONSE TIME

All concerns within the scope of this program will be addressed to the fullest possible extent. Every effort will be made to provide concern submitters an initial response within 20 days. Extensions, if necessary, will be communicated to the submitter (if known).

EXIT INTERVIEWS

Concerns that surface in exit questionnaires or interviews completed with individuals leaving the Company's employ will be referred to the appropriate Plant Concerns Coordinator or the Corporate Concerns Program Administrator.

RECORD RETENTION

The retention of concerns program records that allege violation of law or corporate policy, and related investigation and disposition, will depend upon the nature of the allegation, the outcome of the investigation, and whether the matter results in administrative proceedings or litigation.

ALLEGATIONS OF CRIMINAL ACTIVITY

Records regarding allegations of criminal misconduct are to be retained as determined by the Corporate Compliance Officer with legal counsel based on case-specific requirements.

EMPLOYMENT DISCRIMINATION ALLEGATIONS

Possible violation of employment laws such as Title VII of the Civil Rights Act of 1964, as amended, the Americans With Disabilities Act, and the Age Discrimination in Employment Act may also be the subject of charges filed with the U.S. Equal Employment Opportunity Commission (EEOC). EEOC regulations require that records related to the subject of a charge filed with the EEOC be preserved during the pendency of the charge. If there is any question as to the relevance of particular documents, the matter should be reviewed by counsel.

If no EEOC charge has been filed, records related to an allegation of violation of employment laws should be preserved during the time within which an EEOC charge may be filed, which is 180 days in states that have no agency to which such EEOC charges might be deferred, or 300 days if there is such a state deferral agency.

DISCIPLINE RESULTS

If the investigation of the concern results in a determination that formal discipline is warranted, records should be preserved to document the discipline imposed and the reason for such discipline in accordance with the Corporate Guideline concerning Positive Discipline.

Records concerning allegations of violations of law or corporate policy that, after

Records concerning allegations of violations of law or corporate policy that, after investigation, are determined to be unfounded, shall not be preserved beyond 3 years from the date the concerns are raised, unless an EEOC charge or litigation commenced before the expiration of the 3-year period.

EXTRANEOUS INFORMATION

Retained records concerning investigation of alleged violations of law or corporate policy should be confined to matters relevant to the disposition of the allegations. Other material not relevant to disposition of the allegation should not be retained. If there is any question concerning the relevance of particular documents, the matter should be reviewed by counsel.

EXECUTIVE REVIEW

The President will periodically review a summary of concerns submitted. In certain instances, the Corporate Concerns Program Administrator may deem it necessary to fully involve the President prior to communicating a response to the submitter.

SOUTHERN NUCLEAR OPERATING COMPANY 

**CONCERNS PROGRAM
PROCEDURE**

**Effective
August 11, 1995**

SOUTHERN NUCLEAR OPERATING COMPANY

CONCERNS PROGRAM

1.0 PURPOSE

This procedure describes the process to be followed to communicate and resolve concerns of employees of Southern Nuclear Operating Company, its contractors and Georgia Power nuclear employees. Such matters may include but are not limited to possible violations of the law, nuclear safety, industrial safety, unethical actions, employee concerns, and any other work-related problems. While any matter of concern may be presented at any time, individuals are urged to make such concerns known to their supervisor, a member of management, or to the Concerns Program Coordinator as soon as possible.

This procedure also describes the organization and responsibilities for the Concerns Program at plant sites as well as provides for its operation and conduct. The scope includes all day to day operation and management oversight of the program.

2.0 DEFINITIONS

2.1 Quality Concern

A concern which could affect personnel safety, quality and/or the safe and reliable operation of a nuclear facility.

2.2 Non-Quality Concern

A concern which pertains to activities that are not directly related to personnel safety or to the safe reliable operation of a nuclear facility. Examples may include, but are not limited to, compensation, employee relations, sexual harassment, employment law discrimination, benefits, etc..

3.0 SCOPE, PRECAUTIONS AND LIMITATIONS

- 3.1 The Concerns Program is available and applicable to all SNC employees, contractors and Georgia Power nuclear employees. NRC and INPO personnel badged at the facility are excluded from this program.
- 3.2 Throughout the concerns process all involved personnel will make every effort to protect the confidentiality of the submitter unless the submitter waives confidentiality or otherwise by his/her own action makes known his/her identity with relation to the concern.
- 3.3 This procedure does not supersede or nullify any requirements of applicable plant Quality Assurance Programs. If issues of nuclear quality or nuclear safety are involved, NRC guidance for corrective action is to be followed.
- 3.4 This program is not intended to circumvent the terms and conditions of any collective bargaining agreements, including contractual grievance and arbitration procedures.

- 3.5 While any matter of concern may be presented to the Concerns Program, individuals are encouraged to make their concerns known to their supervisor, or management representative if a contractor employee, as soon as possible. When traditional avenues of problem solving fail to produce satisfactory results, or when the concerned person believes it necessary to circumvent such traditional approaches, the Concerns Program provides another avenue for resolution.
- 3.6 The Concerns Program is in no way intended to affect an individual's right to pursue concerns through governmental/regulatory agencies such as the Nuclear Regulatory Commission (NRC), the Department of Labor (DOL), the Equal Employment Opportunity Commission (EEOC), the Occupational Health and Safety Administration (OSHA), or others.

4.0 RESPONSIBILITIES

4.1 Concerns Coordinator (CC)

The CC is responsible for the day-to-day operation of the Concerns Program (CP). The CC reports functionally within the plant organization as deemed best. However, the Concerns Program is the direct responsibility of the Plant Manager and the CC will report directly to the Plant Manager on Concerns Program matters.

Duties of the CC include:

- o Receiving submitted concerns;
- o Designating concerns as either Quality or Non-Quality issues. Categorizing concerns into pre-established categories for reporting purposes.
- o Forwarding concerns, investigating concerns, assisting in concern investigation and/or assigning investigators for concerns as appropriate;
- o Ensuring the identification and tracking of concerns;
- o Maintaining CP files;
- o Coordinating investigation and disposition of concerns;
- o Ensuring that all submitted concerns are addressed and resolved;
- o Ensuring confidentiality of submitters as requested;
- o Advising submitters of concern disposition;
- o Coordinating implementation of new employee orientations and exit interviews as appropriate with regards to the Concerns Program;
- o Providing reports on the status of the CP as identified or requested;
- o Making sufficient effort in obtaining final disposition responses from identified submitters as to their satisfaction in the efforts/actions taken to resolve their concerns;
- o Briefing the plant manager on status of concerns, program activity, specific employee issues, and other issues as appropriate;
- o Obtain approval for closure of each concern from the Plant General manager.

4.2 Plant General Manager

The General Manager is responsible for:

- o Providing management direction for the CP;
- o Evaluates, or his/her designee evaluates, each Quality Concern initially and at the conclusion of the investigation for reportability in accordance with local administrative procedures to comply with "Federal and State Reporting Requirements;"
- o Reviewing results of investigations for:
 - inquiry completeness/accuracy
 - adherence to program procedures
 - adequate response to submitter
 - adequacy of corrective action
 - preventive measures initiated
- o Approving results and action to be taken;
- o Requesting legal counsel as required.

4.3 Concerns Program Administrator

The Concerns Program Administrator is responsible for:

- o Providing program coordination with Plant CP coordinators;
- o Coordinating investigation and disposition of concerns received at corporate level;
- o Serving as CC for the corporate office;
- o Coordinating the exit interview process for the corporate office;
- o Meeting on a quarterly or more frequent basis with the Southern Nuclear company president to brief the status of concerns, program activity, specific employee issues, issues of significance and issues of philosophy and practice;
- o Ensuring that the CP operates in accordance with established procedures;
- o Conducting periodic audits of the Plant Concerns Programs.

4.4 Plant Management (Plant General Manager, Assistant General Managers, Managers and Superintendents)

Plant Management will investigate concerns as assigned by the CC and provide detailed reports on the results of the investigations to the CC.

4.5 Plant Personnel

Individuals working at the plant site are responsible for:

- o Reporting any event, activity, or practice which can or does adversely affect the safety of the public, personnel working at the plant, or the quality or safety of the plant's operation.

- o Reporting concerns should first be done immediately through normal communication channels such as through the immediate supervisor or an established site deficiency control system.
- o If due to the nature of the concern, or because of unsatisfactory results obtained through normal communication channels, employees are then encouraged to use the Concerns Program for concern resolution.

5.0 INSTRUCTIONS

5.1 Submittal of Concerns

5.1.1 Individuals may submit concerns via any of the following:

- o Drop boxes at the plant site (optional);
- o US or company mail;
- o Verbally in person;
- o Verbally by telephone;
- o Verbally or written at an exit interview.

5.1.2 Concerns may also be submitted as a result of public allegation by the NRC and as directed by corporate management.

NOTE: Concern submitters may also seek responses to their concerns through governmental/regulatory agencies such as the NRC, OSHA, EEOC, and US Department of Labor.

5.1.3 Concerns may be submitted on a Concern form or transcribed by the CC to a Concern form (see Figure 4).

5.2 Request for Legal Counsel

If, during the course of processing the concern, the CC determines that legal counsel may be required, he will so advise the Plant General Manager. The Plant General Manager will review the concern and, as appropriate, take action to initiate legal counsel guidance and review.

5.3 Management Assistance and Review

If, during the course of processing the concern, the CC determines that assistance may be required of management, he will so advise the Plant General Manager. The Plant General Manager will secure assistance as required.

5.4 Categorization of Concerns

Upon receipt of a concern, the CC categorizes the concern as a Quality or Non-Quality Concern. The concern is also categorized based on pre-established categories for reporting purposes.

5.5 Identification of Concerns

All submitted concerns are assigned an identification number by the CC. This number consists of the last two digits of the current year and a three digit sequential number followed by a letter indicating the location where the concern originated: e.g., 95056V, 95002H, 95011F, or 95022C. Concerns which are initially filed at the corporate level by an employee at a plant site will have the letter added to the end of the identification number to indicate the plant: e.g., 95003C-V.

5.6 Initial Reportability Review

The CC will forward Quality Concerns to the Plant General Manager or his/her designee to determine if the concern represents events, conditions, or circumstances that are reportable in accordance with applicable administrative procedures and Federal and State Reporting Requirements. Results of the review are documented on the Concern Record of Events (see Figure 3). Reportable events will be reported by the Plant General Manager or his/her designee. No initial reportability review is required for Non-Quality Concerns.

5.7 Investigation

5.7.1 Quality Concerns

5.7.1.1 Initial Contact With Submitter

The CC will review the submitted concern and as appropriate may contact the submitter for additional information, clarification of the concern, request that confidentiality be waived, and/or advise the submitter of the receipt of the concern and impending investigation.

5.7.1.2 Assignment of Investigator(s)

Depending on the nature of the concern, the CC may assign investigator(s) from individuals at least one level above the submitter's immediate supervisor to investigate the concern, and/or may investigate or participate in the investigation of the concern him/herself. Investigators will be assigned via an interoffice memorandum and be supplied with available concern information as appropriate and in keeping with the submitter's desire for confidentiality. Assigned investigators may not delegate investigation responsibilities without the written approval of the Concerns Coordinator.

5.7.1.3 Process and Report of Investigation

Assigned investigators will investigate the concern and provide a written report to the CC. The extent of the investigation and report should be commensurate with the significance of the concern. Items to be considered for inclusion in the report are: details of the investigation, the results of the investigation, proposed corrective actions, and actions to prevent recurrence. The report should be prepared and submitted within 30 days of the date on the assignment letter. If the investigation cannot be completed in this time frame, an interim report should be submitted providing reason for the delay and anticipated report date. Upon receipt and review of the report the CC may request additional information or investigation.

5.7.2 Non-Quality Concerns

5.7.2.1 Initial Contact With Submitter

The CC will review the submitted concern and as appropriate may contact the submitter for additional information, clarification of the concern, request that confidentiality be waived, advise the submitter of the receipt of the concern and impending investigation.

5.7.2.2 Referral to Other Concern Programs

If it is inappropriate for the concern to be handled at the plant level, the CC may suggest to the submitter that the concern be referred to the Southern Nuclear Corporate Concerns Program (CCP) or the Georgia Power Employee Concerns Program for Georgia Power nuclear employees. The suggestion to refer the concern will be based on the magnitude and/or the sensitivity of the concern. The Southern Nuclear CCP acts as an agent for Georgia Power nuclear concerns.

If the submitter desires, and/or agrees to the referral of the concern it may be handled in either of the following ways:

5.7.2.3 Complete Referral

With the submitter's consent, the identity of the submitter and his/her concern will be turned over to the other program in its entirety. No additional action will be required of the CC. The concern will be closed in the local CP.

5.7.2.4 Partial Referral

Should the submitter agree that the Southern Nuclear Corporate Concerns Program may handle the concern but is reluctant to allow his/her identity to be released, the CC may submit the concern to the CCP and act as an intermediary. The CCP in this case will act as an investigator.

5.7.2.5 Assignment of Investigator(s)

Depending on the nature of the concern, the CC may assign an investigator(s) from individuals at least one level above the submitter's immediate supervisor, partially refer the concern to another concern program and/or may investigate or participate in the investigation of the concern him/herself. Assigned investigators may not delegate investigation responsibility without written approval from the Concerns Coordinator.

Investigating entities will be assigned via an interoffice memorandum and be supplied with available concern information as appropriate and in keeping with the submitter's desire for confidentiality.

5.7.2.6 Process and Report of Investigation

Assigned investigators will investigate the concern and provide a written report to the CC. The extent of the investigation and report should be commensurate with the significance of the concern. Items to be considered

for inclusion in the report are: details of the investigation, the results of the investigation, proposed corrective actions, and actions to prevent recurrence. The report should be prepared and submitted within 30 calendar days of the date of the assignment letter. If the investigation cannot be completed within this time frame, an interim report should be submitted providing justification for the delay and anticipated report date. Upon receipt and review of the report the CC may request additional information or investigation.

5.8 Submitter Acknowledgment

The results of the investigation will be summarized in a letter addressed to the submitter. Included with the letter will be a form with instructions for the submitter to acknowledge receipt, indicate his/her satisfaction with the investigation, and provide his/her opinion of the results. Prior to mailing, the letter and any enclosures will be submitted to the Plant General Manager for concurrence. If the submitter is not satisfied, the CC may initiate further investigation or communicate the continuing concern to the Plant General Manager for recommendations. Prior to closing the concern, efforts should be made to advise the submitter of the ultimate disposition relative to the area of dissatisfaction.

5.9 Corrective Action Tracking

If the results of the investigation indicate that corrective actions or actions to prevent recurrence are required, the CC should ensure that the actions are entered in a closed loop program to assure their implementation: e.g., Action Item Tracking System, Safety Audit and Engineering Review Audit Finding Report tracking system, Deficiency Control, etc.

5.10 Final Reportability Review

When the investigation into a Quality Concern is complete the CC forwards the results to the Plant General Manager or his/her designee to determine if the investigation has identified any events, conditions, or circumstances that are reportable in accordance with applicable administrative procedures and Federal and State Reporting Requirements. The results of this review are documented on the Concern Record of Events. No final reportability review is required for Non-Quality Concerns.

5.11 Concern File Close-out

To close a concern, the CC should ensure that the following have been completed, as appropriate:

- 5.11.1 If legal counsel has been involved with the concern, counsel should review all correspondence, investigation results, reportability reviews, a printed copy of the record of events, and submitter acknowledgment form. The acceptability of the review will be evidenced by counsel sign off on the Concern Record of Events. Submittal of the concern documents for legal counsel review by the CC will be through the office of the Plant General Manager.
- 5.11.2 For Quality Concerns the CC will ensure that the Initial Reportability Review was performed and documented on the Concern Record of Events.
- 5.11.3 The CC ensures that copies of all correspondence, including letters of assignment, investigation reports, correspondence to and from the submitter, etc., are placed in the concern file.
- 5.11.4 The CC ensures that a Submitter Acknowledgment form has been sent to the submitter.

- 5.11.5 The CC ensures that the Plant General Manager reviews the concern file prior to closure. The acceptability of the review is evidenced by the Plant Manager's sign off on the Concern Record of Events.
- 5.11.6 The CC ensures that, for Quality Concerns, the final reportability review has been performed and documented on the Concern Record of Events.

5.12 New Employee Orientations

New employees, including contractors' employees, are to be made aware of and introduced to the CP. As a minimum they will complete the Concerns Program Employee Orientation form (see Figure 2). Orientations are administered by the appropriate organization as designated at each site. Completed forms are forwarded to the CC or filed as appropriate at the plant site.

5.13 Exit Questionnaire

Exiting employees should be given the opportunity to state concerns in writing. When possible, exiting employees will be given the exit interview prior to departure from the site. Exiting employees will be asked to read and complete the form shown in Figure 5. A concern form will be attached to allow written expression of any concerns at the time of the interview. Should an employee exit the site without an exit interview, the CC will forward a copy of the exit interview forms along with a letter of explanation to the employee at the employee's last known address. Exit interviews may be conducted by the CC, site administrative staff, designated plant personnel, or contractor staff. Completed exit interview forms are forwarded to the CC. Exit interviews are not required for NRC and INPO personnel. Exit interviews are optional at Plant Farley.

5.14 Records

The CC will protect the confidentiality of the submitter as requested while maintaining the following records:

5.14.1 Concern File Contents

Each closed concern file should contain the following as appropriate:

- o A written record of the submitted concern either by the submitter or the CC from submitted material or interviews;
- o A completed Concern Record of Events;
- o Copies of all correspondence related to the concern;
- o Results of investigations;
- o A completed copy of the Submitter Acknowledgment form if returned.

5.14.2 Quality Concern Files

Completed Quality Concern files will be kept in hard copy form until they are submitted to be microfilmed. Once microfilmed, the microfilm will be maintained as confidential lifetime records.

5.14.3 Non-Quality Concern Files

Completed Non-Quality Concern files will be maintained for at least six years from the closure date or in accordance with guidelines for records retention in specific situations. See paragraph 5.14.6.

5.14.4 Orientation Records

Orientation records not associated with a submitted concern are maintained by the CC for at least six years. These records can be microfilmed for filing purposes.

5.14.5 Exit Questionnaires

Exit questionnaires not associated with a submitted concern are maintained by the CC for at least six years. These records can be microfilmed for filing purposes.

5.14.6 Record Retention in Specific Situations (Non-quality)

- o Allegations of Criminal Activity - Records regarding allegations of criminal misconduct are to be retained as determined by the Corporate Compliance Officer with legal counsel based on case-specific requirements.
- o Allegations of Employment Discrimination - Possible violation of employment laws such as Title VII of the Civil Rights Act of 1964, as amended, the Americans With Disabilities Act, and the Age Discrimination in Employment Act may also be the subject of charges filed with the U.S. Equal Employment Opportunity Commission (EEOC). EEOC regulations require that records related to the subject of a charge filed with the EEOC be preserved during the pendency of the charge. If there is any question as to the relevance of particular documents, the matter should be reviewed by counsel.
- o Concern Results in Discipline - If the investigation of the concern results in a determination that formal discipline is warranted, records will be preserved to document the discipline imposed and the reason for such discipline. These are confidential records. A copy is maintained to satisfy documentation requirements. Documents from this file will not be used to determine the extent of subsequent disciplinary actions.

- 5.14.7 Retention of Extraneous Information - Retained records concerning investigation of alleged violations of law or corporate policy should be confined to matters relevant to the disposition of the allegations. Other material not relevant to disposition of the allegation should not be retained. If there is any question concerning the relevance of particular documents, the matter should be reviewed by counsel.

6.0 AUDITS

The Concerns Program will be audited periodically by the Concerns Program Administrator to ensure compliance with this procedure. A written report of the audit will be provided.

7.0 REFERENCES

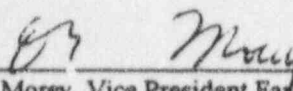
Corporate Policy 701

Corporate Guideline 720-011

Compensation and Benefits Handbook

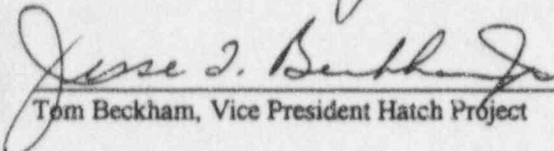
10CFR 21: Code of Federal Regulations

8.0 APPROVAL



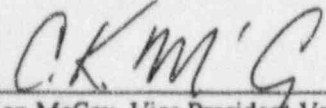
Dave Morey, Vice President Farley Project

8/9/95
Date Signed



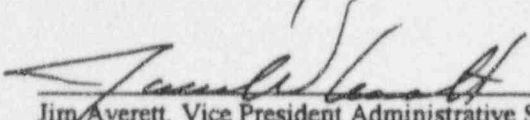
Tom Beckham, Vice President Hatch Project

8/9/95
Date Signed



Ken McCoy, Vice President Vogtle Project

8/9/95
Date Signed



Jim Averett, Vice President Administrative Services

8/9/95
Date Signed

FIGURE 1
(Example)

TO ALL PERSONS INVOLVED WITH _____:

You are important to our success because you have special talents, skills, and experience which allow you to make a positive contribution to Plant _____. An important part of the service which we expect you to render is to notify us of any condition that you see or suspect which may be detrimental to either quality or safe operation. In return, you have the right to be heard, you deserve considered response, and you can be assured you will not be retaliated against, in any way, for raising quality or other concerns.

Please notify your immediate supervisor if you know of any work or other operations that are not in accordance with approved procedures, or which are contrary to established quality, safety, or engineering practices or to regulatory requirements. If you are hesitant to contact your immediate supervisor, you may and should contact the next higher level of management, or the Concerns Program. On site, you can contact the Concerns Coordinator at ext. _____. The CC can also be reached, toll free, at 1-800-____-____. Contacts can be made anonymously if you prefer.

You should feel an obligation to provide Southern Nuclear Operating Company with the first opportunity to address any concern you may have. However, you may also feel free to bring nuclear safety and quality matters to the attention of the Nuclear Regulatory Commission (NRC). The NRC's Region II Office of Inspection and Enforcement, located in Atlanta, GA. (404-331-4503), will accept collect calls twenty-four hours a day. Of course, you may also contact the resident NRC Inspector on site at (____)____-____ or (____)____-____ or local calls (____)____-____.

If, at any time, you feel that you have been harassed, intimidated, discriminated or retaliated against for having raised a quality issue, you should report this to the Concerns Program. You should also be aware of your options of reporting acts of retaliation to the NRC and/or to the US Department of Labor, which are described on "NRC Form 3" posters located throughout the site.

Southern Nuclear Operating Company is committed to operating _____ in compliance with all safety and quality requirements. As a part of the _____ team, it is your responsibility and obligation to assist Southern Nuclear Operating Company in meeting that commitment by informing us of any and all conditions which might prevent such compliance.

Plant General Manager
Plant _____

FIGURE 2
(Example)

Last Name First Name MI Social Security Number

CONCERNS PROGRAM EMPLOYEE ORIENTATION

Welcome to Plant _____. You are now a part of a team - a team dedicated to operating this plant using the highest possible standards in all areas. As part of this team, you have two very important responsibilities. These are:

1. To do your job to the very best of your ability and to make sure that your work is safe and of the highest possible quality; and
2. To report any event, activity, practice or procedure which you feel adversely affects the quality of this nuclear plant or the safety of future plant operation.

Southern Nuclear Operating Company has a "Concerns Program," which allows you to report any questionable act or practice, either orally or in writing to the plant's Concerns Program Coordinator. There are posters explaining the program, forms for submitting your concerns, and collection boxes for concern forms located throughout the site. You can also contact the Concerns Coordinator directly at extension _____ or at 1-800-____-____ (toll free). Your name will be held in confidence and you can remain anonymous if you desire. Each concern will be investigated and you will receive a response if your name is known.

You have received a letter from the General Manager regarding the plant's concern for safe operation. Please read the letter, familiarize yourself with the Concerns Program, and remember your two primary obligations - to do good work and to report bad work.

ACKNOWLEDGMENT

I, the undersigned, acknowledge that I have received a copy of the General Manager's quality letter, and am aware of the existence of the CONCERNS PROGRAM. I know what my obligations are regarding the reporting of sub-standard or poor quality work or unsafe practices to my supervision, to the Concerns Program or to the NRC.

Also, I understand that raising of a quality issue through any forum (Supervision, Concerns Program, Quality Control, SAER, NRC or others) will have no effect on my employment. If I believe that such retaliation has taken place, I understand Southern Nuclear Operating Company's commitment to correct any such retaliation. I further understand my options for reporting this retaliation to my supervisor, to the Concerns Program, to the NRC and to the US Department of Labor.


Employee Signature _____ Date _____

Mailing address _____

City/State/Zip Code _____

Employed by _____

FIGURE 4 (Example)

Southern Nuclear Operating Company 
CONCERN SUBMISSION FORM

The Concerns Program is available to assist you with issues which you have not been able to resolve through your normal management channels. If you have not brought the issue to your management, you are encouraged to do so. If you have not been able to satisfactorily resolve the issue or, if you feel that your concern would best be handled outside your management channels, please contact the Concerns Program. Your concern may be submitted on this form to the address shown below or you may contact the Concerns Program at the phone numbers listed.

Please fill out this form as completely as possible. If you wish to remain anonymous, do not complete this section. If you identify yourself, a response will be provided to you.

NAME _____ DATE _____

HOME ADDRESS _____

HOME PHONE () _____ WORK PHONE () _____

WORK LOCATION _____ DEPARTMENT _____

JOB TITLE _____ SSN _____

I REQUEST THAT MY NAME BE KEPT CONFIDENTIAL YES NO

Please describe your concern in the space provided below. Attach additional sheets if necessary. Be as specific as possible in your explanation. Include information such as who is involved, what/when/where it occurred, equipment/system/ procedures affected and other available information.

Signature _____

Forward the completed form to the Plant Concerns Program **OR** You may also phone in your concerns

Concerns Program Coordinator
Plant _____
Bin _____

Plant _____ Concerns Program
Intercompany:
Local: () _____
Toll Free: 1-800- _____

Corporate Concerns Program
Southern Nuclear Operating Company
P.O. Box 1295, Bin B011
Birmingham, Alabama 35201-1295

Corporate Concerns Program
Intercompany: 8-821-5258
Birmingham: (205) 868-5258
Toll Free: 1-800-222-4496

CONCERN SUBMITTAL GUIDELINES

1. The Concerns Program will investigate issues which may include, but not be limited to, possible violations of the law, nuclear safety, industrial safety, unethical actions, employee concerns, and any other work-related problems.
2. The Concerns Program does not supersede, nullify, provide an acceptable substitute for, or provide an acceptable alternative to any requirements of applicable plant Quality Assurance programs.
3. The Concerns Program is not intended to circumvent the terms and conditions of any collective bargaining agreements, including contractual grievance and arbitration procedures.
4. The Concerns Program is in no way intended to affect an individual's right to pursue concerns through governmental/regulatory agencies such as the Nuclear Regulatory Commission (NRC), the Department of Labor (DOL), the Equal Opportunity Commission (EEOC), the Occupational Health and Safety Administration (OSHA), or others.
5. At the completion of the investigation into your concern, the results will be reviewed for approval of any actions that may be taken to resolve the problem. If you have identified yourself to the Concerns Program, you will be notified of these results and you will be given the opportunity to state your satisfaction, or dissatisfaction, with the actions taken.
6. If you have any other questions about the operation of the Concerns Program, you may obtain a copy of the Concerns Program procedure from the Concerns Program Coordinator, or you may call the Concerns Program Coordinator at the phone number shown on the front of this form.

FIGURE 5
(Example)

Last Name First Name MI Social Security Number

CONCERNS PROGRAM EXIT INTERVIEW

When you began your employment at Plant _____ you were introduced to the Concerns Program and our team concept.

You were also informed of your rights should you decide to participate in the Concerns Program. These were; that all concerns or complaints submitted would be held in confidence if you desired and no retaliation for participation in the program would be tolerated.

As part of the Concerns Program, each individual is afforded an exit interview upon completion of their duties. This provides the opportunity to identify any concern felt not to have been identified or addressed, or which was inadequately or improperly addressed during your work here.

We are also interested in any issues that you feel were retaliatory in nature for your having identified quality or nuclear safety concerns to either the Concerns Program or others at Plant _____.

Do you have any concerns at this time? YES NO Contact Me Phone () _____

If you have a concern, please describe your concern in the space provided below. Attach additional sheets if needed. It will be investigated and the results of the investigation will be forwarded to you.

ACKNOWLEDGMENT

I, the undersigned, acknowledge that:

1. My exiting Plant _____ does not excuse me from my responsibility to report events, activities, practices, or procedures which could have an adverse affect on the quality of Plant _____ or the safe and reliable operation of the facility;
2. I was given the opportunity to express any outstanding concerns at this exit interview; and
3. Should I later recall or become aware of a concern, I have the right and responsibility to contact the Concerns Coordinator by mail at _____ or by telephone at () ____ - ____ or toll free at 1-800- ____ - ____.

Employee Signature _____ Employed By _____

Exit Interview By _____ Date Conducted _____

For whom it concerns

John has a problem. He knows a fellow employee is violating his company's policies, but after telling his supervisor, John's not sure the problem is going to be addressed. John can't let the policy violations continue, but he's not sure where to turn. What choices does John have?

While John's problem is fictional, it's a good example of the kind of problem Southern Nuclear's concerns program can address, says **Hugh Bryant**, human resources coordinator, Administrative Services. Bryant, administrator of Southern Nuclear's Concerns Program, says the program is structured to handle concerns including possible violations of the law, unresolved

disagreements about personnel decisions, ethics questions, technical and safety issues, and other work-related problems.

sor or manager, says Bryant. "You should try and work things out together. But if that's not possible, the concerns program is here for you."

Bryant says employees have several choices they can make in getting help with their concerns. They can sit down and discuss the problem with their management or contact the concerns coordinator at the plant site or the corporate concerns administrator. Government agencies are also available to employees at any time. Use of the

concerns program doesn't restrict the use of government agencies for reporting problems.



Offering an attentive ear is just another day on the job for Hugh Bryant (right), corporate concerns administrator.

A few solutions

Usually, the most appropriate way to solve any problem is through your supervi-

Drug testing goes one step further

On Oct. 1, Southern Nuclear and Georgia Power nuclear operations adopted a lower testing threshold for marijuana under the Fitness for Duty Program. The reasons for adopting the lowered threshold are to further ensure that the plants operate in a safe manner and that every precaution is taken to maintain a safe and productive workplace for employees.

Under the new threshold, all drug screens performed by safety and health

and the reference laboratory of the safety and health department will test for marijuana at a cut-off level of 50 nanograms. Drug screens performed prior to Oct. 1 were performed at a cut-off level of 100 nanograms. The lower threshold makes it easier to find traces of marijuana during drug screens. Cut-off levels for alcohol, cocaine, opiates, amphetamines and PCP will remain the same. Confirmation levels for all drugs will remain unchanged.

The safety and health organization expects this new threshold to be mandated eventually by the NRC, because the new guidelines are consistent with those adopted Sept. 1 by the Department of Health and Human Services for all federal employees, and by the Department of Transportation for all holders of commercial driver's licenses.

If you have any questions concerning this new policy, contact **April Brockson**, health services coordinator, Administrative Services, at 8-821-6092. ☐

- ▶ Monitoring and auditing effectiveness of the program
- ▶ A corporate concerns program
- ▶ A program to ensure that discipline is consistently applied
- ▶ Corrective action whenever wrongdoing is detected.

Meier teaches a module on compliance in the Southern Nuclear supervisors and managers training courses.

"We also plan to have training for all employees. Employee training will focus on the Code of Ethics," he said. "And we will have specific training for certain groups such as materials services and governmental affairs. This training will ensure that those groups are familiar with specific laws and regulations that apply to them. In some areas, Southern Company College will develop training materials for Southern Nuclear and other affiliates."

Compliance officers at each of the affiliates meet regularly to coordinate the development and implementation of their companies' programs.

Concerns program available to employees

The Southern Nuclear concerns program continues to be available to both company and contract employees.

Concerns related to nuclear safety, possible violations of law, unethical actions, or other work-related problems should be resolved with your supervisor or management representative, if you are a contract employee.

When efforts to resolve your concern fail — or if you believe it is inappropriate to bring a concern to your immediate supervisor — the concerns program should be used.

Corporate employees may submit concerns in writing to the corporate concerns program, Bin B011, or by calling 8-821-5941 or 1-800-222-4496.

Plant Farley employees are encouraged to submit concerns in writing to the Plant Farley concerns

program, or by calling 8-276-6094, Dothan local 712-1560, or 1-800-772-1560. Concerns may be submitted to the corporate concerns program if necessary.

The program is designed to protect the rights of those using it. If you request confidentiality in voicing a concern, no one other than concerns personnel will know your identity. Concerns from anonymous sources will also be considered.

Retaliation against anyone submitting a concern is forbidden and will not be tolerated.

For additional information, contact Hugh Bryant, concerns program administrator, at 8-821-5258.

Georgia Power employees who work at plants Hatch and Vogtle should contact their plant concerns coordinator.

Process teams finish redesigning work-control process

In March, the seven process teams finished their work to redesign the work-control process at the three nuclear plants in the Southern electric system. Integration of the process teams' work and implementation planning is now under way.

The beta team, which functions as an integration and implementation team, met at Southern Nuclear headquarters March 14-17 to combine the process teams' work into one integrated plan. The beta team is made up of concept team members, process team leaders, IBEW officials who worked on the process teams, and nuclear technical services advisors.

The concept team was scheduled to do further implementation planning the week of March 21.

Jack Woodard, executive vice president, said that he and the project vice presidents have been quite impressed with the work that the process teams have done. "While there are still any number of issues and details that need to be resolved, the new concepts have merit and are well worth pursuing," Woodard said.

In addition to the implementation planning work, ongoing re-engineering activities include continued implementation of short-term improvements identified in the baseline work at plants Farley, Hatch and Vogtle.

Re-engineering activities expected to take place soon include:

- ▶ Information resources and site implementation teams could begin work as early as April.
- ▶ An overview of the re-engineered concepts is planned with the NRC in April.
- ▶ Pilot implementations of some of the new concepts are being considered for plants Farley, Hatch and Vogtle.
- ▶ Executive reviews are expected to continue, working toward approval of the new concepts and implementation strategies.

Look for more about process team work in upcoming issues of Synopsis.

DATE: June 25, 1993
TO: All Corporate Employees
FROM: W. G. Hairston, III
RE: Southern Nuclear Concerns Program

The Southern Nuclear Concerns Program is available to the company's employees and its contractors. If you have concerns related to nuclear safety, possible violations of law, unethical actions, or other work related problems, you are encouraged to resolve such concerns or problems as soon as possible with your supervisor or Southern Nuclear management representative, if you are a contractor. Where efforts to resolve your concerns fail or where you believe it is inappropriate to bring a concern to your management, the Concerns Program should be used.

The Concerns Program is in no way intended to affect an individual's right to pursue a concern through governmental/regulatory authorities such as the U.S. Nuclear Regulatory Commission (NRC), the Department of Labor, Equal Employment Opportunity Commission (EEOC) or Occupational Safety and Health Administration (OSHA).

The Corporate Concerns Program Administrator, Mike Snowden, will facilitate the process for resolution of a concern at the corporate level. After initial review, the Program Administrator will refer the concern to the appropriate management level employee for investigation. The management individual responsible for the investigation will make a report to the Concerns Program Administrator upon completion of the investigation. The Concerns Program Administrator is responsible for determining whether the response is timely and complete and for communication of a response to the submitter. The Concerns Program Administrator will work with the involved manager to ensure proper closure of the concern with the submitter. Every effort will be made to provide a response to the individual submitting the concern within 20 working days. Confidentiality will be maintained to the extent practical. Concerns may be submitted anonymously, however, anonymity precludes feedback to the submitter.

As President, I will periodically review a summary of concerns submitted to the Concerns Program Administrator. The Corporate Compliance Officer is responsible for auditing the overall Concerns Program annually.

You may contact the Concerns Program Administrator at the following numbers or you may submit your concern in writing:

Mike Snowden, Corporate Concerns Program Administrator
Hugh Bryant, Corporate Concerns Program Coordinator
Bin B011

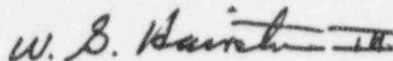
Toll free 1-800-222-4496

Corporate extension..... 8-821-5941

These phones are not equipped to reveal the identity of the caller.

It is important that this program work effectively if we are to continue our success at Southern Nuclear. Retaliation against anyone submitting a concern will not be tolerated. Any employee, including supervisor, manager, or officer, who retaliates against or penalizes an individual in any way for submitting a concern will be subject to disciplinary action, up to and including termination of employment.

Your continuing support is appreciated.



W. G. Hairston, III

jms9793



Southern Nuclear Operating Company
the southern electric system

October 1, 1991

Dear Fellow Employee:

We are very pleased to announce the establishment of a new program at Southern Nuclear Operating Company--the Employee Concerns Program. Effective immediately, the Employee Concerns Program is available to all employees of Southern Nuclear Operating Company, and to all non-bargaining unit nuclear employees of Georgia Power Company's and Alabama Power Company's nuclear plants. The program is designed for employees of these three companies who wish to express concerns they have regarding any subject, other than concerns of a quality-related nature, when traditional avenues of problem resolution fail to produce a satisfactory response or cannot be used. Concerns could range from possible violations of law to the feeling of being treated unfairly in regard to a company policy.

The program is designed to work in the following manner: If you have a problem or concern, you should discuss it with your supervisor or manager, or perhaps the person with whom you have the problem. If this is not possible, or if every possible attempt has been made to resolve the problem with your management and you do not feel satisfied, you may call Employee Concerns, where our goal is to ensure all concerns or questions receive appropriate attention. Once a concern has been expressed, the Employee Relations Department acts as coordinator in the resolution process. After initial evaluation by Employee Relations, the concern is referred to the Vice President in whose area the concern applies. It is the responsibility of the Vice President receiving the concern to ensure the concern is addressed and an appropriate response provided to the Employee Relations Department. Employee Relations is responsible for communicating the employer's response to the submitter, if the submitter's identity is known, within 20 working days from the date of initial contact. Extensions to this timeframe, if necessary, will be communicated to the concern submitter. The program is not a substitute for your management, and it does not make final decisions instead of management.

The Coordinator, Employee Relations, serves as the Program Administrator and has overall responsibility for the administration of the Employee Concerns Program. While the Employee Relations Department will investigate anonymous concerns, similar programs at other companies have proven that the process proves to be much more successful when we can communicate with the concerned employees. No retaliation will be tolerated as a result of an employee using this program.

To reach the Employee Concerns Program, employees may call 1-800-222-4496, the company extension of 8-821-5941, or send us a letter addressed to Employee Concerns, Bin B019, Birmingham. We feel very positive about this new program, and we hope you will feel free to use it. If you have any questions, please call Employee Relations on extensions 5045 or 5258.

Sincerely,

Robert A. Bell
General Manager Human Resources

H. Allen Franklin
President
Chief Executive Officer

the southern electric system

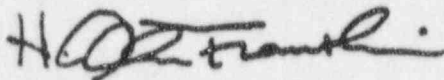
October 3, 1995

TO: GEORGIA POWER OFFICERS AND NUCLEAR EMPLOYEES

Georgia Power Policies on Raising Safety and Regulatory
Compliance Concerns

As you may be aware, Georgia Power is currently involved in several litigated matters in which former employees allege that Georgia Power retaliated against them in 1990 for raising concerns about compliance with Nuclear Regulatory Commission requirements. These proceedings continue, but regardless of their outcome, you should know that it is Georgia Power's longstanding policy to encourage its employees to identify and to report compliance concerns. No retaliation for raising a compliance concern will be tolerated. Any employee, including a supervisor, manager or officer, who retaliates or penalizes an individual for submission or voicing of a concern will be subject to appropriate disciplinary action.

Georgia Power is deeply committed to open and effective communication in its business, in particular emphasizing "upward communication" so that personnel freely bring issues to the attention of their supervision. In the mid-1980s the Company developed "Quality Concerns" programs at its nuclear plants to foster an open atmosphere where employee concerns may be raised, reviewed and corrected. A Company-wide "Corporate Concerns" program was implemented later, based on the success of the nuclear plant programs, to give employees who have concerns of an ethical nature or concerns otherwise related to their jobs an option, in addition to going through line management, to pursue those concerns. Southern Nuclear has also set up an Employee Concerns program in Birmingham for nuclear-related concerns. Concerns may be submitted anonymously, if desired, to these programs. In addition, employees who have nuclear-related concerns about our nuclear plants may contact the NRC Resident Inspectors who have offices at each of the nuclear plants, or call the NRC's Regional Office at Atlanta.



H. Allen Franklin



DATE ISSUED: NOVEMBER 8, 1991

Case No.: 90-ERA-30

In the Matter of

MARVIN B. HOBBY,
Complainant

v.

GEORGIA POWER COMPANY,
Respondent

Michael D. Kohn, Esquire
David K. Colapinto, Esquire
Kohn, Kohn & Colapinto
For the Complainant

James Joiner, Esquire
William N. Withrow, Esquire
Troutman, Sanders, Lockerman
For the Respondent

Before: JOEL R. WILLIAMS
Administrative Law Judge

RECOMMENDED DECISION AND ORDER

This case arises under the employee protection provision of Section 210 of the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. §5851, and the regulations promulgated thereunder, 29 C.F.R. Part 24.

The Complainant filed his initial complaint under the Act on or about February 6, 1990. This was supplemented on February 28, 1990. On March 26, 1990, the Acting Regional Director determined that the Complainant had been discriminated against for engaging in activity protected under the ERA and called for his restoration to his former position. The Respondent filed a timely request for a hearing. They also filed a complaint with the Secretary of Labor contending that the March 26, 1990 determination was made without their having been afforded a reasonable opportunity to participate in the investigation. Thereafter, the case was reconsidered by the District Director, Wage and Hour Division, based on additional information furnished by both parties. On May 25, 1990, the District Director amended the prior findings to the effect that the elimination of Complainant's job was not based on his having engaged in any

protected activity. The Complainant then filed a timely request for a hearing.

Following several continuances, requested and/or agreed to by the parties in order to allow time for protracted pretrial discovery, for resolution of discovery disputes, and for the disposition of various pretrial motions, the hearing was commenced in Decatur, Georgia, on October 23, 1990. It was recessed on October 26, 1990, and resumed and concluded in Washington, D.C. on November 13, 1990. The record was held open thereafter to permit the parties the opportunity to submit post-hearing briefs.

Summary of the Evidence

Based on the testimony adduced at the hearing and the documentary evidence admitted into the record, I consider what follows to be a fair representation of the pertinent evidence in this case.

Upon graduation from high school, the Complainant was given a full scholarship by a Dr. and Mrs. Claude Shingler to Mercer University where he received a Bachelor of Science degree in natural science concentration with a major in physics. Upon graduation, he went to work for Oak Ridge Associated Universities where he received additional training in nuclear physics, radiobiology, and radiochemistry. He first went to work for the Respondent in 1971 as the director of the visitors center at the Edwin J. Hatch nuclear plant in Baxley, Georgia. He was hired by George Head. He was transferred to Atlanta in 1973 or 1974 and became a member of the staff of an ad hoc executive committee which had been established in order to focus on some of the financial problems which the company was then experiencing. He was involved subsequently in assisting Mr. H. Grady Baker in negotiating the sale of approximately 50 percent of the company's interest in its two nuclear power plants to Oglethorpe Power Corporation and others.

The Complainant left Georgia Power in 1979 to assist Mrs. Shingler operate an alternative energy company. At the end of that year he heard of an opening at the Institute of Nuclear Power Operations (INPO), an industry group which had been established in Atlanta to assist the nuclear utility industry in achieving excellence in all aspects of the operation of nuclear power plants. He applied for the position of communications manager and was interviewed by Admiral Dennis Wilkinson, a retired naval nuclear expert, who had been selected as president of INPO after a nationwide search. The Complainant was hired by Admiral Wilkinson and eventually became his assistant and

secretary of the corporation. In 1984, he was loaned by INPO to a group called the Nuclear Utilities Management and Human Resources Committee (NUMARC), which had been established in order to offer viable solutions to the Nuclear Regulatory Commission's (NRC) concerns in lieu of additional regulations. While there he worked with J.H. Miller, the then president of Georgia Power Company and the first chairman of NUMARC.

As advised by Admiral Wilkinson, the Complainant had planned at some point in time to leave INPO and get back into the nuclear power industry. He discussed these plans with Mr. Miller, who offered him a position as his assistant at Georgia Power Company. His starting salary upon his return to Georgia Power was \$76,000 per year. He was subsequently assigned a company car and included in a bonus program for senior people in the company. In addition to Mr. Miller, the Complainant reported also to Mr. Baker, who was then senior executive vice-president.

Georgia Power Company is owned by the Southern Company, an electric utility holding company which also owns Alabama Power and other companies. Both Georgia Power and Alabama Power had separately operated nuclear plants. While working for Mr. Miller, the Complainant suggested to him that the company again look into an earlier, unsuccessful plan to establish an operating company to operate all of the nuclear units. A task force was established to look into such a possibility. The Complainant served on Phase I of the task force. The task force recommended in July 1987 that a nuclear operating company be developed. The recommendation was accepted by the chief executive officers of the Southern system who decided to proceed with Phase II.

The Complainant declined to serve on Phase II of the task force. Instead, he rotated jobs with a Tom McHenry, and became manager of nuclear support of Georgia Power about September 1, 1987.

The Complainant's performance evaluation for 1987 was executed by Mr. Baker as Mr. Miller had retired in November of that year. Mr. Baker commented at the time that there was "no known limit" to the Complainant's future growth possibilities. In early 1988, Mr. Head, who was then senior vice president of fossil and hydro power, temporarily took on the additional responsibility of nuclear operations. During this time, the Complainant was assigned additional responsibilities which included nuclear security. Mr. Head began to implement a new management philosophy which placed more accountability for operation of the power plants in the plant managers with less corporate oversight. The Complainant supported this philosophy.

In April 1988, R.P. McDonald, who was a senior vice president of Alabama Power, was named to the additional position of executive vice president of Georgia Power with responsibility for nuclear operations. The Complainant had known Mr. McDonald since about 1981 and had a favorable working experience with him. Mr. McDonald believed that there should be no corporate oversight of nuclear operations. The implementation of this philosophy resulted in the Complainant's having insufficient work for his security staff, which included John Fuchko and Gary Yunker. He recommended to Mr. McDonald in April or early May 1988 that they either find something else for Mr. Fuchko and Mr. Yunker to do in the company or look at the possibility of outplacement. Mr. McDonald would not allow such actions. On June 1, 1988, due to one of several reorganizations which occurred that year, the Complainant no longer was responsible for supervising Mr. Fuchko or Mr. Yunker. During the same month, Alfred W. Dahlberg became president of Georgia Power.

On June 22, 1988, the Southern Company, Alabama Power Company and Georgia Power Company filed an application with the Securities and Exchange Commission (SEC) to form the Southern Nuclear Operating Company (SONOPCO). Oglethorpe Power Corporation filed a Motion to Intervene with the SEC in September 1988. As this caused a delay in the formation of SONOPCO as a corporate entity, it was decided to implement the SONOPCO idea in three phases. The first phase, which was instituted on or about November 1, 1988, was to begin operating SONOPCO as a division. As a result, all nuclear operations personnel were relocated to Birmingham, Alabama. The formation of SONOPCO was headed by Joe Farley, executive vice-president of the Southern Company. During this phase, Georgia Power continued to maintain the license for its two plants. Mr. McDonald retained his position as vice president of both Alabama Power and Georgia Power. Dr. Dahlberg, Mr. McDonald, Mr. Farley, Mr. Head and Mr. Baker testified to the combined effect that during Phase I, which was still in effect at the time of the hearing, Mr. McDonald reported to Mr. Dahlberg regarding operation of the two Georgia Power nuclear plants.

Mr. McDonald considered the Complainant to be "a valuable employee for a position in the new organization." (T 617) Upon being approached about transferring, the Complainant determined that he did not want to move to the SONOPCO project in Birmingham. The Complainant discussed with Mr. Baker the idea of establishing an interface group between Georgia Power and SONOPCO. Mr. Baker testified in this regard:

Well, we formed this group because it was the thing we usually did, the company usually did, in a new activity like that is we usually form a group to specifically look after it.

My own personal opinion is that that's not necessary but in this particular case, you know, I had Mr. Hobby and I didn't have anything really to do, for him to do, and I thought that this might be an arrangement where he could make a contribution, and so we formed the nuclear operations operating group.

It was not clear to me when we formed it exactly what it was to accomplish, except that it was to be an interface between the Georgia Power Company various Georgia Power Company departments and the various departments in the SONOPCO group.

(T-686)

The Complainant also discussed his idea with Mr. Head and prepared an outline as to how the group would be organized. Mr. Baker and Mr. Head discussed formation of the group with Mr. Dahlberg. At that point in time, Mr. Dahlberg believed that the SEC approval and incorporation of SONOPCO should take only a matter of months and when this occurred there would be a contract to administer between Georgia Power and SONOPCO. He anticipated also that Georgia Power "would need somebody to be involved in gathering information about the performance of the units, about budget, about safety facts." (T-330)

On December 27, 1988, Mr. Dahlberg issued to the executive and management staff the following memorandum, which had been prepared by the Complainant:

As you know, Georgia Power Company's nuclear operations group has been relocated to Birmingham, Alabama. We are in the process of working out the agreements with our joint owners to establish Southern Nuclear Operating Company which, when finalized, will contract with us to operate our nuclear plants.

It is important for us to realize that while our nuclear operations may be managed in Birmingham and ultimately will be managed by a separate Southern subsidiary, Georgia Power will be held accountable by our regulatory groups, our stockholders, and the public for the operation and performance of our nuclear units. It is essential that Georgia Power Company be involved in the operations of our units, monitor their performance and integrate nuclear operations goals, accountabilities, and financial planning into Georgia Power Corporate Plan.

Effective immediately, a Nuclear Operations Contract Administration Group is formed to interface with our nuclear operations group in Birmingham. This group will report to Mr. G. F. Head, Senior Vice President, who will be responsible for all nuclear operations interactions.

Mr. M. B. Hobby, Assistant to the Senior Executive Vice President, currently on loan to Nuclear Operations, is named General Manager Nuclear Operations Contract Administration and will report to Mr. Head.

Your support as we move to restructure our nuclear operations group is appreciated.

(CX-8; RX-2)

Fuchko and Yunker filed a complaint under Section 210 of the ERA which was scheduled to be heard commencing January 3, 1989. A meeting was held on January 2, 1990, between members of the firm representing the Respondent in that matter, Troutman, Sanders, Lockerman & Ashmore (TSL&A), and the company employees who were anticipated witnesses on its behalf. The Complainant attended the meeting as did Mr. McDonald. The meeting was conducted by Jesse P. Schaudies, Jr. and Donald W. Janney, partners in TSL&A, assisted by Mark Bose and Chris Miller, associates with the firm. The entire group of 20 to 30 people initially met together in the Respondent's corporation board room. They then broke into two groups with one remaining with Messrs. Schaudies and Miller in the board room and the other meeting with Messrs. Janney and Bose in a room on the next floor. Mr. McDonald was in Mr. Schaudies group and the Complainant was in Mr. Janney's group.

At the initial session each potential witness was handed an individual compartmentalized list of areas about which they were expected to testify. The Complainant testified on direct examination in this regard as follows:

Q. And what happened in the meeting after they handed out these outlines?

A. I read over my outline, and I saw down toward the bottom there was a statement that says Hobby tried to terminate Yunker due to a lack of work, but it was vetoed by Mr. McDonald.

I read that, that was not true because it said in the August 1988 time frame. I raised my

hand in the meeting and informed the attorney present that that was not a correct statement, that I had not tried simply to terminate Mr. Yunker, that my concern was with the lack of work for Mr. Yunker and Mr. Fuchko, and that I wanted to either look for other work in nuclear operations for them, look for other work at Georgia Power Company for them, or then as a last resort consider an outplacement, but I told the attorney it did not happen in August, that it happened back in the April-May time period.

Q. And was there any response to your comment?

A. Yes. The attorney asked me if I had made these recommendations back in the April-May time frame, that if I had realized that they did not have work to do why had I not taken action against them in the April-May time period, and I said because Mr. McDonald -- Mr. McDonald was sitting to my right -- I said because Mr. McDonald would [not] allow me to.

A. And was there any response after that?

A. Mr. McDonald said "I don't know what he's talking about, he's never talked to me about that."

Q. And do you remember anything else that occurred at that meeting?

A. Well, we dropped that subject after Mr. McDonald said he had never heard me discuss that with him, or that I had not discussed it with him.

(T 92-93)

Mr. Schaudies had the following recollection of the incident:

And then Mr. Hobby also raised an issue, and he said that he had been looking at his outline and that he thought it was incorrect to suggest that on August '88 he said he wanted to terminate Yunker due to lack of work, but vetoed by McDonald which is what the entry reads at the bottom of his page on Tab 8.

What he explained or began to explain was that he had actually a month before Fuchko and Yunker had submitted their letter of concerns to the company he had raised the issue with Mr. McDonald of whether these men should be terminated or reassigned or released, reduction in force or something like that, and he made the point that he had discussed it several times, and he was discussing termination as an option, not as the exclusive remedy and not only in August of '88.

Direct examination of Mr. Schaudies proceeded as follows:

Q. All right. Did Mr. McDonald make any comment about Mr. Hobby's statements regarding his testimony?

A. Mr. McDonald from the other side of the room started to inquire what it was he was saying and to make sure he understood, and I just kind of cut it off that it didn't seem appropriate for the group discussion, and I said "That's fine, Don Janney will handle that with Mr. Hobby upstairs and I'll talk to Pat about it," and it was just fine-tuning, one of the purposes we were there to make sure that we had all of the information and that the information on the, as you called them, outlines was proper, full and correct.

Q. Was there any inconsistency in Mr. Hobby's testimony and Mr. McDonald's testimony that was identified in that general session?

A. No, there wasn't. That was the -- the only comments that were made by either one of them that I recall in that general session were what I've already related to you.

There was no inconsistency at all. In fact, what I explained to Mr. Hobby saying and my recollection of what he said, rather than being anything that could be characterized as an inconsistency I felt was further support for the case.

The case was a claim -- the Fuchko and Yunker petitioners were claiming that Mr. McDonald had intentionally discriminated against them and had placed them, not allowed them to get a job because of raising concerns, and here was Mr. Hobby saying "Wait a minute, months before I had given Mr. McDonald several opportunities to terminate these people who claimed to be whistle-blowers, and yet Mr. McDonald repeatedly chose not to do that."

That was not an inconsistency at all.
(T721-722)

Mr. McDonald testified in substance that although he remembered attending the January 2, 1989 meeting, he did not recall any discussion about any inconsistency between his testimony and Mr. Hobby's testimony. (T-614). Mr. Janney stated that he was out of the room part of the time during the general session and that he did not remember the Complainant speaking up during the session.

The Complainant stated further that during the initial, general session, Mr. McDonald outlined his proposed testimony as to how the SONOPCO project was staffed. The Complainant was concerned because he believed "that the information that Mr. McDonald was giving as far as how people were selected, I believed that to be false." (T.-95). No discussion of Mr. McDonald's proposed testimony on this point was held during the general meeting.

When asked on direct examination what happened in the smaller meeting, the Complainant responded:

We went over each individual's testimony in a little bit greater detail.

At the conclusion of the meeting, though, one of the attorneys from Georgia Power Company, and my recollection is it was not an attorney who was in my smaller meeting group, came up to me -- the meeting was breaking up, he came up to me and he said "Mr. Hobby, we have a problem," and I said "What is it?", and he said that Mr. McDonald -- "Your story and Mr. McDonald's story does not match."

We talked for a second about it. I said "Well, I'll tell you we've got a bigger problem, because Mr. McDonald's recollection, or Mr.

McDonald's testimony that he is going to give as far as how people were selected for the SONOPCO project, that is not the way that I understand the selection to have been made."

When asked whether there was any response, the Complainant responded:

The attorney said "Well, we've got a problem. We'll listen to what Mr. McDonald says on the stand, then we'll come back and get with you so you can change your testimony accordingly."

(T-96)

And when asked for his opinion as to the identity of that attorney, the Complainant replied:

As I stated in my deposition, I believe the attorney was Mr. Jay Schaudies of the Troutman Sanders law firm, but as I said in my deposition my deposition I cannot be one hundred percent sure.

(T-97)

Mr. Schaudies testified that he had no conversation with the Complainant following the general meeting. Mr. Janney testified that in the discussions he had with the Complainant subsequent to the general meeting, there was no indication that his testimony was going to be inconsistent with Mr. McDonald's in regard to their Fuchko/Yunker conversations. He testified further that the Complainant never stated to him Mr. McDonald's description of the manner in which the SONOPCO project was staffed was inaccurate or incorrect. Mr. Janney replied in the negative when asked:

"Did you ever go to Mr. Hobby and tell him that you or the lawyers in the Troutman Sanders firm were going to listen to Mr. McDonald's testimony and then come back to Mr. Hobby and tell him what to say so that it would be consistent with Mr. McDonald's testimony?"

(T-771-772)

The Complainant went on to testify that as he was concerned about possibly being put in the position on the stand of contradicting Mr. McDonald and as he knew that Mr. McHenry, who was scheduled to be a witness but did not attend the January 2 meeting, could be placed in the same position, he decided to call

Mr. McHenry to alert him of this possibility and for "a sanity check ... to check my facts." The Complainant stated that during the course of this conversation, which occurred on January 3, he related to Mr. McHenry his conversation wherein "the attorney had suggested to me, or had told me that he would listen to Mr. McDonald's testimony on the stand, he would get back to me so that I could change my testimony accordingly." (T-101).

Mr. McHenry recalled having a conversation with the Complainant on January 3, 1989 wherein they discussed their meetings with Mr. McDonald concerning Mr. Yunker and Mr. Fuchko and the staffing procedure for the SONOPCO project. Mr. McHenry was not examined at the hearing regarding whether the Claimant had related any conversation with an attorney about changing testimony. In an affidavit concerning the January 3, 1989 conversation, prepared during a meeting with the Complainant on or about July 16, 1990 (T-294) and submitted into evidence at the November 13, 1990 session, Mr. McHenry stated, in part:

Mr. Hobby stated to me that, at the conclusion of this planning meeting, an attorney from Troutman/Sanders had told him that his explanation of trying to terminate Messrs. Fuchko and Yunker in the April-June, 1988 time period did not square with Mr. McDonald's recollection and that the Company had a problem with this conflict in testimony. Mr. Hobby told me that he told the attorney that the Company had bigger problems in that Mr. McDonald's statements related to the selection of personnel were incorrect. Mr. Hobby said he explained the discrepancies to the attorney and the attorney responded that he would listen to what Mr. McDonald said on the stand so that Mr. Hobby could change his testimony to agree with Mr. McDonald's. Mr. Hobby said he refused.

(CX 39)

On cross-examination the Complainant admitted that he had no direct evidence that the inconsistencies of testimony that he had raised had ever been communicated to Mr. McDonald by the attorneys involved but that he believed that they did based on his experience with the law firm. He acknowledged further that neither Mr. McDonald nor any other company official had said anything to him about the issue of inconsistent testimony. (T-230-232).

The Complainant was never called to testify at the Fuchko/Yunker hearing as the matter was settled after the Respondent's had put on two or three witnesses, including Mr. McDonald. (T-762)

The Complainant testified also that he next saw Mr. McDonald early in the morning of January 3, 1989 when he was asked to come to his office. He described what transpired at the meeting as follows:

Mr. McDonald told me he wanted me to do something for him, which I agreed to do. I did tell him -- whatever it was was a little bit out of the ordinary, and I don't remember what it was he asked me to do, but I told him that I would like -- I'd be glad to do it, but I needed to check with my boss, George Head.

He asked me what I was talking about, and I said that Mr. Dahlberg had established a group to interface with -- it was an interface between Georgia Power Company and the SONOPCO project in Birmingham, and I told him I had been named general manager of NOCA and that I now reported to Mr. Head, and Mr. McDonald told me that he didn't want -- he said "Don't have any part of that, I'm not going to have any part of it. If I decide that job is necessary or is needed in the future, I will pick the people who head it up. Don't you get involved with that."

(T-104-105)

Mr. McDonald had no recollection of any such conversation. (T-618).

On January 6, 1989, T.G. Boren, a Georgia Power senior vice-president, addressed a memorandum to the Complainant in which he proposed transferring responsibility for nine miscellaneous nuclear activities, including "Nuclear Performance Indicators" to his newly created organization (CX 11; RX 5). The Complainant testified and his phone log (CX 12) indicates that he discussed the memo with Mr. McDonald on January 19 and that he disapproved of it totally. He continued in this regard that Mr. Boren subsequently talked to Mr. McDonald about the memo and repeated that Mr. McDonald expressed great concern over assigning him those responsibilities. Mr. Boren testified that Mr. McDonald never asked that the Complainant be relieved of these responsibilities (T-479).

On or about January 27, 1989, Mr. Head decided that the Complainant's new position should be rated at level 20, a two step increase over his previous position. His salary was increased accordingly from \$95,000 to \$103,104 per year, with a bonus of about 20%. (CX 14).

The Complainant testified in detail concerning problems he experienced in March and April 1989 obtaining cooperation from SONOPCO in general and Mr. McDonald in particular. His testimony in this regard is, in effect, summarized in the following confidential memorandum, dated April 27, 1989, addressed to Mr. Fred Williams, a Georgia Power Vice-President, and signed by the Complainant and Mr. George Head:

Following is a list of problem areas in Nuclear Operations that you requested.

1. Responsibility as Agent: There is no clearly defined person responsible for acting as agent for the Joint Owners. I serve on the Joint Subcommittee for Power Generation (and am currently serving as Chairman) and deal with their Nuclear Operations people probably more than anyone else. However, you are involved, several of your people are involved and others.

It was my understanding when we tried to negotiate a contract between GPC and SONOPCO and amend the contract between GPC and Joint Owners, that I would act as OPC's (for example) agent, working for George Head, and that all interactions on nuclear matters between GPC and OPC would come through me with the exception of some specific, routine reports that would be provided directly from SONOPCO to all owners. I am prepared to handle that.

Yet, on Friday, April 21, I received a call from John Meier stating that the SONOPCO Project was establishing a Quarterly Review Meeting with GPC's Joint Owners to discuss Nuclear Operations. John asked if that meeting could replace the Joint Committee or Subcommittee. I said no.

On Tuesday, April 25, Dan Smith from OPC called to say they had been contacted by John Meier and OPC wanted to know who was setting up this Quarterly Review Meeting, its purpose, and why

I was not included. He said Oglethorpe was confused as to what is going on and who was in charge.

While I know that there are significant differences between GPC and OPC on a number of matters, the relationship between us in nuclear is excellent. If GPC could get a handle on SONOPCO and, if nuclear could be separated from these other issues, I believe Dan Smith and I could work out all of the problems in nuclear.

2. Communications: On January 19, Pat McDonald called to say he was developing an E mail system to connect all Joint Owners -- including GPC. One of its purposes was to provide daily reports to each Joint Owner on the status of our plants. He asked me to contact Roy Barron to work out details. I did.

On Monday, March 13 (I believe that was the date), Roy Barron told me that the system was ready to do a test run and all he needed was to get Pat McDonald's approval. I called Pat to ask for his approval but he was out of town in Florida. I asked his secretary to ask him if it were okay when he called in. She called back on March 15 to say she had been unable to ask him.

I talked with Pat on Tuesday, March 21, and he said the system wasn't ready.

We are still not connected. I get no information from SONOPCO on the status of our units. I get all of my information (except monthly summaries three weeks after the end of the month) from Oglethorpe Power. I get daily reports from them.

Secondly, we have been limited by Pat McDonald to talking to only one person at the SONOPCO Project -- first it was Bob Gilbert, who delegated it to Merv Brown, who delegated it to Tim Marvin. This process has worked fairly well on routine data requests but on non-routine items, it has been an impediment.

As an example, I was alerted that we were to receive an update of the draft TAC on Nuclear Operations during the week of April 10 - 14. The responsibility for that report, its review, and rebuttal testimony had been assigned to me. Art Domby had been helping me. Early during that week, Art called Tom Beckham and Ken McCoy and had told them that, when he received the report, we would need technical assistance -- in a short time frame -- in reviewing the report and in preparing for a meeting with the PSC.

Friday, about noon, April 14, I received the report and Art asked me to call McCoy and Beckham to alert them we needed the technical assistance on Monday, April 17, and the meeting with PSC staff and consultants would be held on April 19. My discussions with Beckham went well -- he was very cooperative. McCoy said he didn't know what I was talking about and said he hadn't talked to Domby in weeks. Domby remembers his call because he had to have McCoy tracked down at Plant Vogtle.

I don't know what happened in Birmingham. I received a call from Tim Marvin raising hell that Art and I had called a Vice President. McDonald called a meeting. I received a call from Dwight Evans who said McDonald was irate and I had been taken off the TAC report. I was later told, though I can't prove it to be true, that the Vice Presidents of Georgia Power on the SONOPCO Project were told they could not talk to me or Art Domby.

In Mr. Dahlberg's memo of December 27, he stated that the interface at Georgia Power with the Nuclear Operations group in Birmingham would be George Head and me (see Attachment A). The interface we have had with them, except for routine data requests, has been negligible. In fact, it has been prohibited.

Yet, SONOPCO Project personnel are not so inhibited. See memo (Attachment B) from Bob Gilbert dated April 20, 1989. Note that George Head and I were not copied on the memo.

In discussing the establishment of Nuclear Operations Contract Administration, I was told that Mr. Head and I would review and approve the SONOPCO Project budget. However, Grant Mitchell of Corporate and Financial Planning at SONOPCO doesn't agree. See page 3 of memo (Attachment C) from G. Mitchell dated April 20 1989. Neither George Head or I received a copy but it is in direct conflict with what the President of GPC has stated. It is also in conflict with what SONOPCO agreed with the Joint Owners. I also found that first paragraph on page 1 of that memo interesting. Had Georgia Power personnel sent out these two memos, SONOPCO would have raised hell.

3. Interfering with Other PCO Functions: When I was first named to this job, we had a meeting in which I was assigned by executive management certain responsibilities.

Since then, Mr. McDonald has objected to several of these assignments and I have been removed from meetings or relieved of responsibilities, not because GPC management agreed, but in order to get cooperation from SONOPCO.

What we need is for SONOPCO to support us and cooperate with us and allow Georgia Power management the right to determine who does what. Our management and other GPC people will be held accountable for our regulatory affairs effort. We need SONOPCO's support and then let us do our jobs. Unfortunately in several examples, Mr. McDonald has interjected himself into directions of other company functions and support from SONOPCO appears to hinge on his getting his way.

4. Staffing: When we established NOCA, I told George Head we needed a manager, secretary, two accountants, and two performance engineers. He agreed to start out with one accountant and one performance engineer and revisit the staffing level as the work load increased. We later added another accountant.

Back in January, I called Ken McCoy to ask if I could talk to Mike Barker about the performance engineer job. Mike had done a similar job for me prior to going to Birmingham and was well qualified. Ken asked if it were a promotion. I said I had not had the job evaluated yet and didn't know. He said if it were a promotion, SONOPCO would not object.

I had a job description done by Personnel and it was determined to be a level 13 job -- one promotion for Mike Barker. Mr. Head approved the job description at that level.

I told George Hairston about this in the GPC cafeteria later and relayed my conversation with McCoy, but he would not give me permission to talk to Mike Barker. I called the Administration people at SONOPCO and asked what the rules were. They said they were told if it were a promotion, management would give its permission.

After talking with George Head, we posted the job. I selected the best three candidates and they were all from SONOPCO -- which is not surprising. Our Personnel department was told the request to interview had been approved all the way up to George Hairston. But, there it stopped. Later, our Personnel department was told Mr. McDonald would not approve the request because he didn't agree that the job level should be a 13! Although GPC Personnel department and a Senior Vice President at GPC had approved the position, Mr. McDonald has held up this request and I have not been allowed to interview these three gentlemen.

I need the expertise the performance engineer would bring and the lack of support from Mr. McDonald is impacting my ability to get the job done.

5. Cooperation: I served on Phase I of the SONOPCO Task Force and was, and am, a real supporter of the Operating Company concept. In our discussion, Bob Buettner, an attorney with Balsh and Bingham and now a Vice President at Alabama, said Mr. Farley was concerned that once this operating

company was established, we would wind up with a group of arrogant, technically trained elitists that the operating companies would have no control over. I now respect Mr. Farley's concern more than I did two years ago.

It takes one to operate -- two to cooperate. I know that most people at Georgia Power want to cooperate with SONOPCO and want it to be a success for GPC and the System. But, there are great concerns by many people.

A significant concern that a lot of people have is who does Mr. McDonald work for. I have heard discussions on that at high levels in the Company. It is a very important question because the operating licenses for Hatch and Vogtle are in GPC's name; for Farley, APC. I am not a lawyer or licensing specialist, but I believe both will tell you that it is essential that GPC and APC be in control of these plants. Oglethorpe Power is so concerned that it has formally requested confirmation that Mr. McDonald receives his management direction from and reports to Mr. Dahlberg. If that is not the case, we are in violation of our license and could experience some significant repercussions from the NRC -- including the revocation of the licenses.

Oglethorpe is very concerned about this issue and they feel NRC is concerned. A Region II NRC employee suggested to Oglethorpe that NRC was so concerned that they might seek to put a resident inspector in Birmingham to see what was going on.

In establishing an Operating Company, the System, among other things, sought to open up the opportunity for us to run other utilities' power plants under contract. We should now be operating in that mode -- subject to meeting license conditions. There are some possibilities in the industry now and we ought to be giving serious considerations to how we operate now so that, should we get through the legal hurdles and be given permission to expand outside our service area, we will be ready to aggressively pursue these opportunities. But, I really doubt any utility would be interested in contracting with SONOPCO if their experience

with the contractor was going to be similar to Georgia Power's Fred, there are other issues relative to SONOPCO, important to the System, that needs to be addressed. I have asked repeatedly for an opportunity to discuss these with senior management. I hope we will get that opportunity soon and can work toward a more cooperative relationship with SONOPCO.

In regard to the Complainant's not being able to interview Mike Barker, testimony was elicited from Lee Glen, Georgia Power's Manager/Corporate Concerns, and William R. Evans, a Georgia Power Corporate Concerns Coordinator, which was to the combined effect that a complaint had been filed with their department because of the inability to transfer from a SONOPCO position by an employee, other than Mike Barker. (T-509-540) Following an investigation which included an interview with the Complainant about the similar problem he was having, a "white paper" was prepared by Mr. Evans, with the following "Investigation Results":

"Transfer denial applies to all nuclear employees who wish to accept a position for which a job slot must be transferred from Nuclear Operations to fill an early retirement job opening. Slots may become available after finalization of SONOPCO staffing plans."

(CX 20)

Mr. Barker was called as a witness and testified that after he became "frustrated" at not having been granted an interview for the NOCA position, he, telephoned Mr. Dahlberg on June 28, 1989, during one of his "Dial Dahlberg" sessions. This was a program where anyone in the company could call Mr. Dahlberg during a specific period and voice any concerns they may have. After Mr. Barker related the difficulty he was experiencing in attempting to transfer to NOCA, he was told by Mr. Dahlberg that "he had put that job on hold." Mr. Dahlberg reportedly stated that his reason for doing so was that if the SONOPCO Project works as they envision it, there would be no need for NOCA and he did not want to transfer Mr. Barker when there might not be a position for him in a couple of months. (T-908-911)

In regard to the reporting issue, the record also includes the following memorandum, submitted into evidence by the Respondent, from the Complainant to Mr. Williams under the date of April 26, 1989:

At the April 19 Subcommittee for Power Generation meeting, Mr. Dan Smith requested a response to the following. The wording is taken from the minutes exactly as Dan stated.

"Dan Smith requested that Oglethorpe be provided an organization presentation by SONOPCO on the reporting chain up through the Board of Directors for Mr. George Hairston, Mr. R. P. McDonald, Mr. Joe Farley. He specifically asked how Mr. Farley fits into the picture and who he reports to up through the Board."

As we discussed, I am forwarding the question to you for reply.

(RX-1)

Dan Howard Smith, Program Director of Power Production of Oglethorpe Power Corporation, testified that a question arose in his mind as to whether Georgia Power was really in charge of the nuclear plants. This had to do with Mr. McDonald's and other executives' being "triple headed." He explained this as follows:

They are employed as Georgia Power, SONOPCO and Alabama Power which means that they work for all three companies simultaneously. This is a very difficult situation to be put in. It is very hard to make that work, in fact.

The issue and question here is Mr. Dahlberg, who is CEO of Georgia Power, really have direct control over Mr. McDonald who wears three hats who has control over Mr. Harrison who wears three hats who has control over Mr. Beckham and Mr. Farley, et cetera.

Or at any given time, who really is in charge of the nuclear plants? Is there a direct chain of command to Mr. Dahlberg. That was the question that came up in my mind because I have a responsibility for looking after my company's interest and I wanted to ensure that the arrangement that we were operating with was, in fact, legal and that the NRC agreed that it was legal. So I raised the issue.

(T-850-851)

When asked whether anyone at NRC had ever raised such concern with him, Mr. Smith responded:

One evening after work, several of my associates and I were at the Bradbury Hotel in Tucker, Georgia. By chance, John Rogge, who is the chief resident inspector at the Vogel nuclear plant, happened to be staying there attending some type of NRC project. We were having a drink together essentially. John Rogge made the comment to no one in particular but to our group that the NRC was having trouble figuring out who was in charge at Plant Vogel, I assumed.

(T-853)

There was no discussion with Mr. Rogge on the subject. Mr. Smith related the conversation to the Complainant and had raised the reporting issue with him at other times. The Complainant was non-committal.

As for his reasons for preparing the April 27, 1989 memo the Complainant testified:

In April -- in February, March and April of 1989 we had continued to have problems in getting cooperation from Mr. McDonald. I had discussed them with my boss upstairs.

We were sort of -- we had sort of a list of problems that needed to be addressed, Mr. Head had talked to Mr. Dahlberg about them several times.

Mr. Head told me that in one of his conversations with Mr. Dahlberg that Mr. Dahlberg said that he was going to go and discuss these with Mr. Farley and see if we couldn't get some resolution to them.

At about the same time Mr. Fred Williams called me and said that Mr. Dahlberg had asked him to develop a list of some of the problem areas between Georgia Power Company and SONOPCO, and that Mr. Dahlberg was going to talk to Mr. Farley about them, that Mr. Baker and Mr. Dahlberg were going to discuss them with Mr. Farley.

Mr. William asked me if I would prepare for him a listing of the problem areas that my group was having with SONOPCO. I wrote this memo. As I

said, Mr. Head and I had been discussing this many times, the problem!!!
(T-147-148)

The Complainant stated that he took the memo to Mr. Head, who "felt very strongly about the issues" contained therein and stated that he would sign the memo. (T-149). Mr. Head testified that the Complainant had raised the issue on several occasions of lack of cooperation by SONOPCO. He was shown the memorandum early in the morning of April 27, 1989, which was the day prior to his retirement from the company, and he signed it because he "thought it would help Marvin in resolving some of these issues." (T-674). He did not consider that the memorandum raised a regulatory concern because he "was very well aware that [Mr. McDonald] reported to the president of the company." (T-648).

The Complainant went on to testify that he hand delivered the memo to Mr. Williams after Mr. Head had signed it. Mr. Williams reportedly took the memo, read it, turned to him, and said he should destroy all copies of it as they could not have the memo in their files. The Complainant responded to Mr. Williams that he "was raising a regulatory concern and he should not tell me to destroy all copies." He continued that he and Mr. Williams talked for a few minutes about the organizational set-up and Mr. Williams' understanding that the NRC had been briefed on the SONOPCO concept and would be shown the organizational chart if anybody at NRC raised a concern. They discussed also Mr. Williams' views as to why Mr. Dahlberg "didn't just pick up the phone and tell Mr. McDonald what to do." (T-153). The Complainant stated that Mr. Williams then handed me back the original, but kept a copy. He told me that he was going to Birmingham the next day and he was going to discuss some of the problems with the people at SONOPCO, but he assured me that he was not going to give them a copy of the memo that he kept, and he said he would not retain that copy in his files. (T-152). The Complainant testified that he reported his conversation with Mr. Williams to Mr. Head, who told him to destroy copies of the memo but retain the original. Mr. Head did not recall such a conversation.

Mr. Williams testified that he did not ask the Complainant to prepare the April 27 memo for use by Mr. Dahlberg in a meeting he was to have with Mr. Farley. What he did request was a memorandum concerning the relationship between Georgia Power and SONOPCO such as who contacted who and which departments interfaced. This was for his use as the primary negotiator with Oglethorpe Power. After quickly reading the memo on April 27, he

determined that it was not responsive to what he had asked Complainant to do and that it contained inaccuracies. He continued:

"My management philosophy was one if I had a problem with somebody I would go talk to him, we didn't need to just start writing a bunch of memos around and saying we've got problems here and everywhere, go sit down and talk about it.

Therefore, with the other inaccuracies that I had already pointed out, or what I saw as no problems at all in the memo that he was raising after my explanation to him I hoped that answered him that if I was him I would -- I asked him to go back -- not if I was him, I asked him to go back and consider whether he wanted to send the memo forward."

(T-416)

Mr. Williams recalled retaining a copy of the memo in order to read it in more detail. He believed that he showed the copy to his assistant, "because a lot of the areas were more as I saw personal concerns of Mr. Hobby, or frustrations or gripes that he wasn't included on some memos and all, or invited to some meetings or wasn't informed or had communications go through him to co-owners." (T-418). He had a routine meeting with Mr. Dahlberg a day or two later to apprise him of what was going on in the negotiations. He did not recall whether he showed a copy of the memo or just talked to him about some concerns the Complainant was raising. He informed Mr. Dahlberg that he thought we could work those things out through negotiations and through the structuring of the company. He did not think "Mr. Dahlberg was concerned with that." (T-418). Mr. Williams returned the copy of the memo to the Complainant within a day or two. (T-455) Mr. Dahlberg testified that he first saw the April 27, 1989 memo when he gave his deposition in regard to the instant matter (T-314).

The Complainant testified that he had further conversations with Mr. Williams about the memo on April 28 when he called Mr. Williams at home to find out how his meeting went in Birmingham that day. Mr. Williams reportedly stated that he had apprised Mr. Bob Edwards of the law firm about the memo, that he was going to rewrite the memo, and that the Complainant was to destroy the original. The Complainant's telephone log for that day pertaining to a 1550 call to Mr. Williams includes the notations:

"-Edwards worried about memo
-Williams will rewrite memo-
get rid of orig"

(CX-12)

Mr. Williams did not specifically recall discussing the April 27 memo with Mr. Edwards although he may have mentioned to him that the Complainant had written him "something." (T-470). Mr. Edwards testified that Mr. Williams mentioned the memo to him on a trip either to or from Birmingham. He related their discussion as follows:

Yes, and the conversation really wasn't about the memo. He wasn't describing, going into detail about the memo. It was very a offhand conversation about the scene of Marvin Hobby showing him this thing and kind of -- it was -- he was kind of disappointed with Marvin Hobby, but it wasn't the details of the memo.

(T-780)

Mr. Edwards continued that he did not see the memo until his deposition was taken in the instant matter. He did not tell Mr. Williams that he was concerned about the memo or to have it destroyed.

Mr. Williams testified further that he did not consider the Complainant's concerns relating to the reporting structure to be a significant regulatory concern or potential license violation regarding Georgia Power's nuclear plants as he was of the opinion that Mr. McDonald received his management direction regarding the Hatch and Vogtle plants from Mr. Dahlberg.

Mr. Farley was questioned about a May 5, 1989 meeting he had with Mr. Dahlberg. It was a luncheon meeting held while the witness was in Atlanta for another purpose. The major part of their discussion centered on the progress of the negotiations with the co-owners about the SEC approval process. They also discussed a proposal for adding one or more job authorizations for the NOCA group. Mr. Farley stated that he expressed the following opinion as that time:

It was my opinion then, and still is that if the Southern system is to achieve the economies and the management approach that was desired in the formation of a Southern Nuclear Operating Company group that it would be an unnecessary expense and a duplication to set up a group that would oversee and overview the decisions that were being made by the nuclear operating group.

This is a problem that The Southern Company, and I presume other organizations tend to have in that if you assign responsibility to a group, and then you set up another group to oversee whether that group is doing it properly, then you wind up with duplication, you wind up with an adversarial relationship, and if you don't like the way that the group is doing its work you ought to get another group, but don't set up competing groups.

We have had experience with this within the Southern system on other areas, and I expressed the view that we would simply be adding people in a duplicative role, and that if Georgia Power or Alabama Power for that matter were not satisfied with the staffing, then we ought to change the staffing, but let's not duplicate it.

That was in general the opinion that I expressed.
(T-570-571)

Mr. Farley testified further that he was not shown the April 27 memo at the meeting and was not aware of the same or the Complainant's concern, about to whom Mr. McDonald reported, until the commencement of the instant proceeding.

Mr. Dahlberg recalled a luncheon meeting with Mr. Farley on or about May 5. The principal discussion concerned the status of the negotiations with Oglethorpe. Neither the Complainant's April 27 memo nor his concern, as to whom Mr. McDonald reported, was discussed. Although he was not certain it was during this meeting, Mr. Dahlberg did recall briefly discussing NOPC with Mr. Farley on one occasion. Mr. Farley expressed the opinion at that time that the group was "a duplication of effort." (T-320)

Mr. Barker testified that Mr. Williams had mentioned the April 27 memorandum to him sometime later but he was unable to show him a copy and the only time he ever saw the memorandum was after the commencement of these proceedings (T-682-683). He testified further that the Complainant had told him a number of times that he couldn't get cooperation from SONOPCO. Mr. Barker's view of such complaints was that its the Complainant's "job was to establish a relationship with SONOPCO." (T-700)

On May 15, 1989 Mr. Williams sent the following memorandum to the Complainant:

In response to your questions in your letter of April 26, 1989, I have the following reply.

Mr. R. P. McDonald reports to A. W. Dahlberg for operation and support activities of Plants Vogtle and Hatch. I have attached a copy of the most recent published organization chart showing the reporting. Mr. George Hairston reports to Mr. McDonald.

Mr. J. M. Farley, Executive Vice President - Nuclear, provides services relating to the anticipated transfer of nuclear operating and support activities from George Power Company to the Southern Nuclear Operating Company. These services include the compliance with applicable regulatory requirements and for nuclear support on an industry basis.

(RX 14)

Mr. Williams testified that he prepared the memo so that this information could be relayed to Mr. Smith. The Complainant stated that he delivered the same with the accompanying organizational chart at a May subcommittee meeting to Mr. Smith's representative, David Self, who did not consider it to be an adequate response. Mr. Smith testified that he accepted the response in resolution of the question he had raised and he did not bring up the issue again. (T-886-887)

When asked whether he sought advice from anyone after he was told to destroy the April 27 memo, the Complainant responded:

I was concerned that I thought I had brought up a regulatory issue, a regulatory concern to the company, and I was concerned that since I had expressed it in writing to the company that I might have a legal obligation to inform the NRC, but I wasn't sure.

I talked to Morris Howard who was a former regional administrator of the NRC, I asked him what the rules stated. I also got a copy of the Code of Federal Regulations and read them to determine if I had a liability in not telling the NRC.

I did not get an answer that I felt comfortable with, I didn't know what the answer was, so on June the 8th, a month later, I wrote to Admiral

Wilkinson. I expressed to him my concern of what had happened. I told him the events that had happened, I expressed my concern, and I told him that I wanted to talk with him that weekend to seek his advice.

(T-156-157)

The 6 + page letter of June 8, 1989 to Admiral Wilkinson is of record (CX 22). After generally praising Mr. Miller's and Mr. Head's performance when they were president and a vice-president of Georgia Power, criticizing the performance of Messrs. Barker, McDonald and Dahlberg, noting they were "in a heavily political arena here," and relating the problems he was experiencing in managing his department, the Complainant concludes the letter:

I believe that the outcome will be that my job will be greatly reduced including a reduction in pay and I will be asked to report to Fred Williams. Or, I could be asked to resign. I don't know. But, I do know this, I have tried to do a good job and have been prohibited from doing my job by Pat McDonald. I got excellent support from George Head. I have received no support - - except lip service - from Grady or Dahlberg. Everybody is protecting their own position in the company.

I don't know what will happen. It is my opinion that GPC and Alabama Power Company are in violation of our NRC licenses. McDonald reports to Joe Farley, I don't care what the organization chart says. I have pointed out over and over to management that I was concerned that we were violating Federal law. But, the answer is time and time again, "We'll show them an organization chart."

Maybe you and I can talk about this on Sunday.

A copy of the April 27 memo was enclosed with the letter. Admiral Wilkinson testified that during their subsequent telephone conversation, the Complainant expressed concern as to whether he had a legal obligation to report what he considered to be a licensing violation to the NRC. In response to the question as to whether he had given the Complainant advice in this regard, Admiral Wilkinson testified:

As a matter of fact, I advised Mr. Hobby that I was not a legal or licensing expert, and that in my personal opinion he did not have a legal obligation to report to the Nuclear Regulatory Commission because in my opinion there wasn't an immediate safety concern involved, he wasn't a company officer, that in my opinion such matters be handled within the organization.

I advised him that he should resolve the matter within the line management of Georgia Power and the co-owners.

Testimony was adduced regarding the development of alternate "performance standards" for the operation of Georgia Power Company's nuclear power plants. This activity was related to a matter pending before the Georgia Public Service Commission and the belief that the commission was prepared to impose such standards on Georgia Power. Dwight H. Evans, an Executive Vice-President of Georgia Power, testified:

"I had overall responsibility for the rate case. We agreed that performance standards were not desirable for the operation of a particular plant, that the entire company should be judged in a rate case.

However, late in the rate case after our direct case it became apparent to me that the Public Service Commission was going to adopt performance standards, and that we should be prepared to comment on the performance standards that they were about to enter into testimony.

Mr. McDonald did not agree, and since he and I both were executive vice president of the company, we took that to our boss, Mr. Bill Dahlberg, and he resolved the issue."

(T-366)

Mr. Evans continued that he and Mr. McDonald met with Mr. Dahlberg and attorney Joiner. After they both stated their cases, Mr. Dahlberg concluded that they should submit testimony and instructed Mr. McDonald to do so. Mr. McDonald carried out these wishes and the testimony was submitted. (T-367) Mr. McDonald testified to the same effect (T-607-608) as did Mr. Dahlberg (T-337-338). The Complainant testified that he had been

told by Dwight Evans that the conversation at the meeting got quite heated and Mr. Dahlberg "really chewed McDonald out." (T-168).

The Complainant and Dan Howard Smith testified to the combined effect that from August to November 1989 they met two to three times per week, with the respective permission of Grady Baker and Tom Kilgore, Vice-President of Oglethorpe Power, for the purpose of attempting to work-out a Nuclear Managing Board agreement. They were instructed to do so confidentially so that no one at SONOPCO was aware of their activities in this regard. They concluded a draft agreement which was subsequently presented by Oglethorpe to Georgia Power.

Mr. Boren testified concerning a Management Counsel meeting on November 7, 1989 attended by Mr. Dahlberg, himself, the other three senior vice presidents, and three of the four executive vice-presidents. Mr. McDonald was not included. When asked to explain the purpose of this meeting, Mr. Boren responded:

The purpose was several things, but the primary purpose was to look at leadership.

The Southern system, of which Georgia Power is a big part, was going through the process of looking at how do we ensure that we have the right number and quantity and type of leaders in the pipeline so to speak for the next decade, and one of the challenges they had issued to Mr. Dahlberg was to look at people that he had coming up through the ranks and make sure we identified those leaders, looked at their potential and were basically trying to develop that.

Also at the same time Mr. Dahlberg was doing some team building with us as well.

(T-483)

And when asked what the Complainant's performance and potential evaluations were, he answered:

Let me describe the process we went through on that if you would.

Each of us stood up before the rest of the members of the management council, and we would list the individuals that reported directly to

us, and then before anybody else commented on them we would sit down and identify what we thought their performance was from a rating of zero to four, zero being the lowest, four being the highest, and what we thought their potential was, and that basically went from zero to three I think, zero being peaked out, no further potential, one being could move one more level, two being could move two more levels.

In that particular assessment Mr. Hobby had three what we call double zeros, three two zeros and one one-zero. In other words in terms of potential everyone rated him as having no further potential.

In terms of performance, three out of the seven people rated him at the lowest level possible, that's zero; one person rated him at one, and three people, four people rated him at level 2 which was basically about average.

(T-483-484)

Messrs. Dahlberg's and Evan's recollections of this meeting were also to the effect that the Complainant was rated as having no potential with the company.

The Complainant testified that Mr. Smith called him on November 15, 1989 and requested that they meet for breakfast the next morning. He continued:

When we sat down at breakfast on the 16th of November Mr. Smith said that he had been told by his boss that Mr. Williams had been out to Oglethorpe, Mr. Williams had talked with Oglethorpe, and that we needed to hurry up and conclude our negotiations because as soon as our negotiations were concluded that I would be removed from my job at Georgia Power Company.

(T-185)

When asked how he reacted to this news, the Complainant replied that he was "very surprised, very shocked." (T-185)

Mr. Smith testified that he relayed this information to the Complainant mainly because his boss, Tom Kilgore, asked him to let the Complainant know that he thought the Complainant would be terminated following work on the Managing Board agreement.

(T-861)

Mr. Williams testified that he had not told Mr. Kilgore that he was going to eliminate the Complainant's position. He did express to him during a negotiating session that he did not believe there was a need for expertise in the nuclear operating area on staff at Georgia Power Company. He testified further that since about the Spring of 1989 he had been giving some thought as to the need for the NOCA group and how it would fit in with the new relationship that they were negotiating. At that time he was "still very open-minded because we were still in the very early stages of negotiations at that point as to what we would need..." (T-408) He had conversations with Mr. Baker before his retirement about the need for the organization. He had also talked to the Complainant about the necessity for the group and invited his views as to what its function should be. Mr. Williams reached the conclusion after talking to the Complainant and his people, accounting staffs and SONOPCO people other than Mr. Farley and Mr. McDonald, that there was no need for a separate organization. In early November and in December, he informed Mr. Evans that "he did not see the need for a high level manager nor did he see the need for a separate organization to exist to administer a contract if we ever got a contract."

Mr. Dwight Evans testified that he was an employee of Southern Company Services when NOCA group was formed. After joining Georgia Power as a vice-president, he developed the following opinion about the necessity for NOCA:

I believed that we should have multiple points of interface with the new company, that as an example I was responsible among other things for interfacing with the Public Service Commission.

I felt like that the accounting organization at Georgia Power that presented testimony, presented information to the Public Service Commission should have direct access to people at SONOPCO, and all across the board.

I felt like we did not need a high level position to interface with SONOPCO, that we should interface with them in many ways similar that we do with the service company where we have many people dealing and more lines of communication.

(T-369)

When asked whether he had ever discussed this opinion with Mr. Williams, Mr. Evans replied:

I did later in the year. Due to a retirement of an executive I knew that there would be reorganization and Mr. Williams would begin reporting to me at the end of the year, and there would be changes taking place, so that in late 1989 after the rate case, probably in the late October-November time frame, we began having discussions as to how we should organize and proceed.

(T-369)

Mr. Boren testified that the decision to eliminate the position of general manager of NOCA was discussed with him by Messrs. Williams and Evans. He stated the following reasons for eliminating the position:

When we established the position back at the end of 1988 -- I believe it was the end of '88, it may have been the beginning -- we did that on the assumption that we would have a contract for this manager to administer.

Here we are almost 1990, the contract has not come about, and we've realized that the reason we established the job just wasn't there, and that's the primary reason that we were looking at eliminating the job, and the other miscellaneous requirements for the job were kind of being handled through the other normal functions of the company.

(T-485-486)

The Claimant went on to testify that in late November, Mr. Williams called him to his office to inquire about the status of the negotiations with Mr. Smith. The following conversation occurred at that time:

After Mr. Smith had told me that as soon as the negotiations were concluded, that we needed to hurry up and complete the negotiations, Mr. Smith -- excuse me -- Mr. Williams called me to his office in late November, I don't remember the exact date, and he asked me for a status on the negotiations.

"I told him what the status was, and I told him that I needed to bring something to his attention, and I said "I had breakfast with Dan Smith and he told me the following, and I want to know if this

is true or not," and Mr. Williams said that it was true, that when the negotiations were concluded that I would be removed from my job.

I asked him why, he told me it was because Mr. McDonald and Mr. Farley did not want any nuclear experience at Georgia Power Company, period.

He told me overall it was not personal related to me, but there was a personal problem relative to Mr. McDonald with me, and we discussed it for a couple of minutes, and I asked him what was the company saying, and I asked Mr. Williams point-blank was he saying that the company was going to offer me a package to leave Georgia Power Company, and he asked me how much would it take.

I told him I'd have to think about it because, quite honestly, you can hear a lot of different things and you don't know whether they're true. I was surprised that Mr. Williams told me that what Mr. Smith had told me was true."

(T-189-190)

Mr. Williams testified that he initially inquired as to whether the Complainant would be interested in a job at SONOPCO or another position with Georgia Power Company within one or two levels. It was after the Complainant rejected both of these options that Mr. Williams inquired whether he would be interested in some kind of outplacement.

Testimony of the Complainant and Mr. Williams is to the combined effect that they began discussing an outplacement package at lunch in December 1989. Mr. Williams indicated at the beginning of these discussions that there might need to be a non-compete agreement for perhaps 3 to 5 years. The Complainant had desires to attend medical school. He would need to take some additional undergraduate courses in order to meet medical school requirements. He proposed at first that he should be given two years pay with bonus in a lump sum, six years' full salary, his company car and his computer. He later reduced his proposal to one year salary in lump sum and two-thirds of his pay for six years.

Dwight Evans testified that he provided information at a Management Council meeting in late December 1989 that he felt the need to eliminate three positions from his organization, two vice-presidents' and the Complainant's.

Mr. Dahlberg testified that he believed that the recommendation to eliminate the position of general manager of NOCA come from Mr. Evans or Mr. Williams. When asked whether he knew the reasons for the decision, he responded:

Yes. There was not a function to be performed. There was no contract, and I had determined that the other things that I saw could be performed by that group, that is a monitoring of performance wasn't necessary and that SONOPCO did that themselves.

The same thing happens in the fossil and hydro. I don't have, for example, a separate organization that looks at the performance of that group, they do it themselves, and there just wasn't a need for that position because there were no functions to perform.

(T-312-313)

Mr. Boren testified that Georgia Power had gone through some major restructuring during the last few years which had resulted in a 10 percent reduction in its staff. He stated the following reasons for this restructuring:

Those changes have come about because we have completed construction of Plant Vogtle, because of competitive pressures, we haven't gotten the rate relief we wanted from the commission, that sort of thing, and its put a lot of pressure on us to reevaluate the departments to make sure they're serving useful functions and so forth, and to look at what we need to do to improve our operations.

(T-488)

It was Mr. Boren's understanding that that Mr. Williams was responsible for eliminating the position of general manager of NOCA for the reason that there was no contract to administer and the other miscellaneous requirements for the job were "kind of being handled through the other normal functions of the company. (T-486) He stated that the focus of the December 29, 1989 Management Council meeting was to address a division reorganization although the Complainant's position "was on the list" and briefly discussed by Mr. Evans.

Supervision of the Complainant and his group was officially transferred to Mr. Williams as of January 1, 1990. Thereafter, Mr. Williams informed the Complainant that his proposal for an outplacement package was unacceptable. The Company was prepared to offer at that point one week's pay for every year he had worked for the company (14) plus 25 percent of his salary, approximately \$25,000, for the next four years. There was a five year no compete clause attached to this offer.

The Complainant was "very surprised" at the offer and decided seek advice concerning the same from Messrs. Miller, Head and Wilkinson. Subsequently, he met with Mr. Boren and Mr. Williams. At that time he was offered the opportunity to stay with the company until August 31 and then be paid one week's pay for every year worked and twenty-five percent of his salary and bonus for the next four years. His company insurance would be paid for him during this period of time. There would be no non-compete provision. The Complainant testified that Messrs. Boren and Williams would not commit themselves as to whether he would be required to do any work through the period ending August 31. Mr. Williams stated that he told the Complainant that they would work it out so that he would have time to attend classes for the pre-med school courses he needed. The Complainant testified that the meeting concluded as follows:

As I was leaving the room, I turned around and I said "Mr. Williams, what would happen if you and I can't reach agreement on this outplacement package?" He said "If that occurs, we will simply reorganize the company and eliminate your job."

I said "Why? All this time we've been talking about a mutually agreeable separation, what's going on?" He said "After the memo you wrote of April the 27th of last year, you're not going to get any more support from the senior management of Georgia Power Company."

It was just out of the blue, I didn't know what to say. He said that Mr. Dahlberg had discussed -- I don't remember whether he said he took the memo or whether he said he discussed the issues raised in the memo -- he took those to his meeting with Mr. Farley, and he said Mr. Dahlberg got beat up side the head, and he said "After that you're not getting any more support from senior management of Georgia Power Company."

Mr. Williams testified that neither the April 27 memo nor any of the subjects discussed therein was a factor in his decision to eliminate the Complainant's position and "[I]n fact, until he raised the issue here with the Department of Labor I had completely forgotten the memo was ever written." (T-417).

The Complainant contacted an attorney on January 18, 1990. Thereafter, he, in effect, rejected the latest offered outplacement package.

By letter dated February 2, 1990, Mr. Williams informed the Complainant:

"As a result of a management review of our organization, your position as General Manager, Nuclear Operation Contract Administration and Assistant To, has been eliminated. In connection with the elimination of your position, a program has been established in order to recognize your valuable service with the Company over the years and to minimize any financial hardship which you may have to encounter as a result of the elimination of your position."

The letter goes on to say that the Complainant would not be required to perform any services after April 2, 1990 and would receive benefits consisting of four weeks' pay plus one week's pay for each year of service and insurance coverage for six months. He was requested to respond by March 16, 1990 by signing an agreement containing a release and settlement relating to the elimination of his position (RX-4; CX 30).

The initial complaint, filed with the Department of Labor under the date of February 6, 1990, centered on the April 27, 1989, "confidential" memo as the Complainant's alleged protected activity but noted that he had "engaged in other forms of internal and external whistleblowing activity as well." The amended complaint, filed on February 23, 1990, alleges the following:

1. Prior to February 7, 1990, Mr. Hobby's office was located on the northwest corner of the 14th floor of the 333 Piedmont Avenue, N.E., Georgia Power location. On February 2, 1990, Mr. Hobby was informed that his office was to be relocated to the 19th floor of the same building. That move occurred on February 7, 1990. Said relocation constitutes retaliation against Mr. Hobby.

2. On February 19, 1990, Mr. Fred D. Williams stated to Mr. Hobby that "because of the action you have taken", Georgia Power Company was relinquishing Mr. Hobby of his executive parking privileges and was requiring of Mr. Hobby that he turn in his Georgia Power Company Employee Identification Badge. Upon information and belief, Mr. Williams' statement refers to Mr. Hobby's filing a complaint with the Department of Labor and as such constitutes illegal retaliation.

3. As a result of Georgia Power Company's taking of Mr. Hobby's Employee Identification Badge and as a result of the explicit instruction of Mr. Williams, Mr. Hobby was banned from 20 to 24 floors of the Georgia Power Company Corporate Headquarters.

4. On February 23, 1990, Mr. Hobby received his 1989 performance appraisal from Georgia Power Company. The performance appraisal was done by Mr. Fred Williams to whom Mr. Hobby did not report in 1989. Moreover, Mr. Williams' deliberately downgraded Mr. Hobby's performance appraisal.

The Complainant testified that his office had been a Level 20 office of 280 square feet in size while the new office was a poorly furnished Level 12 of 120 square feet.

Mr. Williams offered the following explanation for the complained of actions:

"He was still down -- I moved his -- the rest of the staff we moved up to the 19th floor where I'm located, incorporated the personnel to analysts or performance people and his secretary within to the bulk power marketing services group that already existed.

"Was going to leave Mr. Hobby on the 14th floor in his location down there. He came up one day and wanted discussions or a meeting to talk with me, and he said he was tired, and I asked him why he was tired, and he said because he had been downstairs shredding a lot of documents, nuclear documents out of the safe, which gave me some concern in the situation we were in, 'Why were you shredding these documents?'

'Well, that's all right, you didn't know about it, they were nuclear safeguard documents which, Fred, you didn't have the right to see because you weren't cleared or anything.'

"Well, I got a little concerned with Mr. Hobby being down there, plus somebody had seen him one day in the garage with somebody -- and you've got to understand with the executive garage you come in through a lifting arm, and you get inside the building and you do not have to pass the guard desk, you're in the building there and you can go on up -- who was with Mr. Hobby, they didn't recognize him.

So it was those two issues right there, I got concerned and I told Mr. Hobby I think it would be better if he moved on up to the 19th floor where we were, and that I would give him parking privileges in the manager's lot which was right outside the front door, but you had to go past the guard desk there, and not part in the executive garage any more.

And also since that what you job, I have no assignments for you or anything to do, all I wanted you to do is find another job in the company or whatever, I wanted you to be free to do that, that you only needed to actually come to the 19th floor or the personnel offices on the first, second and third floor where they do this impacted employees looking for jobs. If he wanted to go to another floor, he had just to pick up the phone and call somebody, or in fact probably could walk once you're in the building, "I want you to sign in every day so I'll know when you're in the building and who's with you down there." and so I took his badge up also.

Mr. Williams admitted on cross-examination that he subsequently ascertained that the Complainant had the authority and responsibility to shred certain nuclear documents.

Mr. Boren testified that he had the following role in the decision to change the Complainant's parking privileges and to have him turn in his identification badge:

"I was coming in from the executive garage one day and saw Mr. Hobby leave with several gentlemen that I did not know, and this was about the time that Marvin had already rejected our two proposals and was also rejecting our outplacement package and notified us at least verbally that he was engaging counsel to work with him, and it's been my experience as the senior officer to whom human resources reports that when you get someone in that kind of situation that you wanted to basically control access, entrance and exists to the building, who came, who went, that sort of thing, and by parking in the executive garage he had no -- there was no one to control who went in and who went out.

"By having him park in the managers' lot which is in the front of the building as opposed to inside the building he had to come by the security guards, and if he had any guests with him they had to sign in. The other way they did not have to sign in.

"I thought it was just prudent management from looking at a potential labor problem here to make sure I knew who went and who came.

"I also wanted to make sure that when he left the building that if he left with boxes or anything, and I had no idea if he was or wasn't going to do that, that if he went by the security that they had the authority to stop and ask you to show them the boxes. Again, I thought that was just prudent management.

"I called Mr. Williams and expresses a concern about that, and then after talking to him he basically made the change with Mr. Hobby in terms of his parking and restricting access."

(T-496-497)

In regard to the final performance evaluation, the Complainant testified, in substance, that although Mr. Williams had approved his rating one of his subordinates a "5" in accomplishing an assigned task, he was only rated as a "3" for the same. He stated further that as Mr. Williams was not his supervisor during 1989, he should have relied most heavily on input from his prior supervisor, Mr. Adams. He went on to

testify that Mr. Williams had informed him that he had talked to Mr. Adams, Mr. Baker and Mr. Boren before making the performance evaluation. (T-215)

The Complainant was advised on February 23 that it would not be necessary for him to report to work anymore.

Findings of Fact

Based on the foregoing evidence, I reach the following factual findings for the reasons stated:

The Complainant had experience in the nuclear energy area. Upon the establishment of SONOPCO, Mr. McDonald, believing that the Complainant would be valuable to the project, was desirous of having him transfer to SONOPCO. Whether it was because he had already formed his opinion of Mr. McDonald as expressed in his June 1989 letter to Admiral Wilkinson, or whether it was because he did not want to relocate, he declined to transfer. Instead, he designed a job for himself which he could perform at the Atlanta headquarters of Georgia Power, i.e. manager of a nuclear operations contract administration group. He then sold the idea to Mr. Head, whom he respected and with whom he apparently had a good relationship. Mr. Barker reluctantly went along with the idea because he did not have anything else for the Complainant to do. Mr. Dahlberg's approval was based, in part, on his belief that incorporation of SONOPCO would occur within a matter of months.

The meeting in preparation for the Fuchko and Yunker trial occurred six days after the memo establishing NOCA was issued. I find the Complainant's testimony, in regard to his having been told by anybody involved in the proceeding that he would have to change any testimony that he would give in that matter to conform to that of Mr. McDonald, to be totally unbelievable. I fail to see where Respondent's attorneys would even consider having the Complainant testify about the SONOPCO selection process as he was not involved in the same and any testimony he would have given relating thereto would have been nothing more than hearsay. The Complainant is unable to identify the attorney who purportedly approached him with such an incredible request. The two partner attorneys, who conducted the two sessions which the Complainant attended, have denied making such a statement and I consider them to be credible witnesses. There were two other associate attorneys present at the meeting, but the Complainant made no attempt to subpoena them to the hearing. Although he allegedly relayed the purported conversation to Mr. McHenry the next day,

Mr. McHenry was not examined at the hearing in regard thereto and I decline to credit his affidavit, prepared with the Complainant's assistance 1 1/2 years after the purported event.

I find nothing in this record which establishes that anything the Complainant said at the January 2, 1989 meeting upset Mr. McDonald to the end that he retaliated against the Complainant by making it difficult for him to perform his job or otherwise have an effect on its being eliminated. The Complainant can only speculate that Mr. McDonald was ever told that he had raised the issue of inconsistent testimony. Indeed, if Mr. McDonald was angered at anything the Complainant said at the meeting it would seem that he would have expressed his displeasure when they met the next morning. Instead, their meeting apparently began amicably when Mr. McDonald requested the Complainant to do some task for him. Whatever anger Mr. McDonald did express at their meeting developed after he was shown the memo establishing NOCA. Considering that Mr. McDonald had not been consulted about the establishment of NOCA, and considering his philosophy that there was no need for nuclear oversight at Georgia Power headquarters, any dissatisfaction he expressed at the time is quite understandable.

There is nothing in the record that establishes that any of the Respondent's other executives were privy to anything regarding the Complainant that transpired at the January 2, 1989 meeting. Significantly, although his new position was established shortly before this meeting, the decision to set his salary two grades higher was not made until afterwards. Such action would not be compatible with a management which was displeased with the Complainant's conduct at the January 2 meeting.

The problems, which the Complainant was experiencing regarding obtaining cooperation from SONOPCO and adding Mr. Barker to his staff, commenced prior to his issuing his April 27, 1989 memo. Therefore, assuming arguendo, that these involved any retaliatory action, they would have to relate to the only incident of protected activity he has alleged to have occurred prior to that time, i.e., his participation in the January 2 meeting. For reasons already stated, nothing that the Complainant did or said at that meeting led to any retaliatory action. Any interference which Mr. McDonald may have caused in the Complainant's obtaining cooperation from SONOPCO and in Mr. Barker's transfer was not an outgrowth of that meeting. Rather, it was in keeping with his management philosophy of no need for nuclear expertise at Georgia Power's Atlanta headquarters. This is clearly borne out by the testimony adduced by the Complainant

relating to the corporate concern that others had raised over their inability also to transfer SONOPCO employees to Georgia Power headquarters. Furthermore, the ultimate decision not to permit Mr. Barker's transfer to the Complainant's staff was based on management's uncertainty as to the future need for NOCA and its hesitation to overstaff this department.

I turn now to the April 27, 1989, memorandum. If this document stood alone, I would have no hesitation in finding that it expressed no regulatory complaint by the Complainant. Rather, he merely relayed therein a concern that had been expressed to him by Mr. Smith. The Complainant expresses no opinion in the memo as to whether the concern is justified or indicates otherwise that he had adopted Oglethorpe's concern as his own.

I have quoted the April 27 memo in toto because I believe that it amply demonstrates why Mr. Williams was unhappy with the document. His objection to having the memorandum go forward, or even being preserved, was based on its obvious complaining style. Significantly, the memorandum which the Complainant wrote to Mr. Williams the previous day, which raised essentially the same reporting question, was retained in the Respondent's files. It appears to me that if Mr. Williams did not want any record of the reporting question in the company's files, he would have destroyed this memo. I believe Mr. Williams when he says that he was just trying to help the Complainant to be a better manager.

I recognize that in addition to the memorandum, the Complainant did mention a concern, as to Mr. McDonald's receiving his management direction from Mr. Farley instead of Mr. McDonald, to Mr. Evans and perhaps others. Mr. Evans did acknowledge the Complainant's having mentioned such concern "in passing." Depending on the tone of such conversation, Mr. Evans could have taken the concern as the Complainant's personal one. Nevertheless, the time frame for the oral complaints is not established in the record. Mr. Smith laid the matter to rest in May 1989 upon receipt of the organizational chart and Mr. Williams' memo. Although the Complainant continued to be concerned about the reporting relationship in June 1989, when he corresponded with Admiral Wilkinson, there is no evidence of record to establish that he continued to raise the subject with anyone beyond that time. Perhaps he had become as convinced as I am that Mr. McDonald did, in fact, take his management direction from Mr. Dahlberg in regard to the two nuclear plants owned, in part, by Georgia Power. Certainly, any doubts in his mind concerning the same should have been dispelled by the August 1989 meeting in reference to the Public Service Commission case. The evidence referable to what transpired at this meeting clearly established that Mr. Dahlberg exercised control over Mr. McDonald regarding Georgia Power's nuclear operations.

It was not until some six months after the April 27 memo that the Management Council determined that the Complainant had no potential with the Respondent. The witnesses who participated at this meeting have denied knowing of the memo at that time and have denied that anything stated therein influenced their evaluation. I have no reason to doubt their testimony in this regard. That their evaluation of the Complainant's abilities may have differed from earlier performance evaluations comes as no great surprise. Mr. Miller and Mr. Head, for, whom he had earlier worked, had retired from the company. The Complainant did not hold Mr. Miller's successor, Mr. Dahlberg, in high regard and the feeling may well have been mutual. Furthermore, the evaluation was based on his performance in a different position. Mr. Baker was concerned that the Complainant had not fulfilled his responsibility in this job of gaining cooperation from SONOPCO. Neither Mr. McDonald, who is the only company executive to have been identified as having attended the January 2, 1989 meeting, nor Mr. Williams, who is the only executive to have acknowledged seeing the April 27, 1989 memo, participated in this management council meeting.

The decision to terminate the position of manager of NOCA, which Messrs. Evans and Williams had considered for some time, was finalized in the November/December 1989 time frame. The exact date is unimportant. The Complainant knew that the decision had been made or was in the making when he met with Mr. Williams in late November. This should not have come to any "great surprise" to him in light of the predictions he had made to Admiral Wilkinson in his June letter. Considering (1) that Mr. Head, who had sponsored the formation of NOCA, had retired; (2) that Mr. Baker, was not totally convinced as to the necessity for NOCA from its origination but went along with it in order to give the Complainant something to do; (3) Mr. Farley expressed an opinion to Mr. Dahlberg in May 1989 that NOCA was a needless expense and at odds with the purpose for which SONOPCO was formed (4) that the following month, Mr. Dahlberg expressed doubts to Mr. Barker as to the continued need for NOCA; (5) that Dwight Evans, who had not been involved in the decision to form the NOCA group, felt that they did not need a high-level position to interface with SONOPCO but should interface with them at multiple points in a manner similar to what is done in other areas; (6) that after several months of considering the matter, Mr. Williams, who also had no input into NOCA's formation, decided that there was no need for a high level manager or separate organization to administer a contract if it ever came to fruition; (7) that the incorporation of SONOPCO had been delayed beyond expectations; and (8) that there was a general reorganization of the company at the time with other executive

and/or managerial positions being eliminated as cost-saving measures, I find that the decision to eliminate the position of manager of NOCA was in no way related to the Complainant's participation in the January 2, 1989 meeting or the concern raised in his April 27, 1989 memorandum as to from whom Mr. McDonald receives his management direction for operation of the Georgia Power nuclear plants. I find that, instead, the decision to eliminate the position was fully justified as a measure to operate the Respondent's nuclear program more economically and efficiently.

I find further that the change of the Complainant's office, the revocation of his executive parking privileges and badge and his restriction to certain floors of the headquarters building was not in retaliation for his having filed the instant complaint but was a justified security measure. As his position had been officially terminated and as he had rejected the possibility of a transfer to another position at SONOPCO or Georgia Power's headquarters, his ultimate departure from the company was a forgone conclusion at the time. He had been notified by Mr. Williams on February 2, 1989, four days before his complaint was filed, that his office would be moved. He had been transferred to Mr. Williams' supervision and his new office was on the same floor as his new supervisor. He had been observed with unidentified and apparently unauthorized persons in the executive parking area. That Mr. Williams' concern over the Complainant's shredding of documents may have later been proven to him to be unjustified does not mean that it was not a genuine concern when he first learned of the same. The February 6, 1989 initial complaint indicated that the Complainant had a copy of the April 27 "confidential" memo in his possession which demonstrates to me that concern over his possibly compromising other confidential company documents was well founded.

Conclusions of Law

As a preliminary matter, I note that the Respondent raised an issue as to the timeliness of the filing of the complaint in this case for the first time in its post-hearing brief. Pursuant to 29 C.F.R. §18.1, in the absence of any contrary provisions in the ERA, its implementing regulations and the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, the Federal Rules of Civil Procedure are applicable to the instant proceedings. Cf. Cooper v. Bechtel Power Corporation, 88-ERA-2, (Decision and Order of the Secretary, October 3, 1989). Rule 8(c) provides that statutes of limitations are affirmative defenses. Failure to assert such a defense in a Respondent's pleadings is considered a waiver of the

same. Paety v. U.S., 795 F.2d, 1533, 1536 (11th Cir., 1986). The defense must be asserted at the earliest possible moment. Davis v. Bregan, 810 F.2d 42 (2nd Cir., 1987). Consequently, irrespective of whether the Respondent's contentions regarding timeliness of the claim have merit, I conclude that they are too late in raising the issue.

I note also that Respondents, citing Brown & Root, Inc. v. Donovan, 747 F.2d 1029 (5th Cir. 1984), contend that as this matter involves strictly an internal complaint, it does not come within the purview of the ERA. While Respondent acknowledges that there have been holdings contrary to Brown & Root, in other circuits, i.e., the Tenth Circuit in Wells v. Kansas, Gas & Electric Co., 780 F.2d 1505 (1985) cert. denied 106 S. Ct. 3311 (1986) and the Ninth Circuit in Mackowiak v. University Nuclear Systems, 735 F.2d 1159 (1984), it argues that the facts in these two cases are distinguishable as the facts in the instant case do not involve quality or safety problems. However, as noted by the Complainant, in Willy v. The Coastal Corporation and Coastal States Management Corporation, 85-CAA-1 (Decision and Order of the Secretary of Labor, June 4, 1987), a case arising in the Fifth Circuit, the Secretary stated:

I continue to be persuaded that reporting violations of the environmental statutes enumerated in 29 C.F.R. §24.1 internally to one's employer is a protected activity and that Mackowiak and Kansas Gas & Electric rather than Brown & Root, set forth the appropriate resolution of this issue. For the reasons set forth below, I respectfully decline to follow the Fifth Circuit's decision in Brown & Root. Should it become necessary to do so on remand, the ALJ is instructed to follow Mackowiak and Kansas Gas & Electric on the internal complaint issue.

The Secretary went on to respectfully note that as the Supreme Court had denied a writ of certiorari in Kansas Gas & Electric the Fifth Circuit should be given the opportunity to consider the issue in light of the Tenth Circuit's more recent decision. I interpret the Secretary's holding as being broad enough to encompass internal reporting of any violation of the ERA and consider myself to be bound by the same.

In any event, I consider the two foregoing issues to be mooted by the findings I have made and the conclusions I am prepared to reach on other issues.

Section 210(a) of the ERA provides:

No employer, including a Commission licensee, an applicant for a Commission license, or a subcontractor of a Commission licensee or applicant, may discriminate against any employee or otherwise discriminate against any employee with respect to his employment terms, conditions, or privileges because the employee (or any person acting pursuant to a request of the employee)-

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or the Atomic Energy Act of 1954, as amended [42 U.S.C.A. §2011 et seq.], Or a proceeding for the administration or enforcement of any requirement imposed under this chapter or the Atomic Energy Act of 1954, as amended;

(2) testified or is about to testify in any such proceeding or;

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter or the Atomic Energy Act of 1954, as amended [42 U.S.C.A. §2011 et seq.].

The applicable burdens and order of presentation of proof in cases arising under Section 210(a) of the ERA were set forth by the Secretary in Darfev v. Zack Company, 80-ERA-2 (April 25, 1983) as follows:

[T]he employee must initially present a prima facie case consisting of a showing that he engaged in protected conduct, that the employer was aware of that conduct and that the employer took some adverse action against him. In addition, as part of his prima facie case, "the plaintiff must present evidence sufficient to raise the inference that . . . Protected activity was the likely reason for the adverse action." [Citation omitted]. If the employee establishes a prima facie case, the employer has the burden of producing evidence to rebut the presumption of disparate treatment by presenting evidence that the alleged disparate treatment was motivated by legitimate,

nondiscriminatory reasons. Significantly, the employer bears only a burden of producing evidence at this point; the ultimate burden of persuasion of the existence of intentional discrimination rests with the employee. [Citation omitted]. If the employer successfully rebuts the employee prima facie case, the employee still has "the opportunity to demonstrate that the proffered reason was not the true reason for the employment decision . . . [The employee] may succeed in this either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence." [Citation omitted]. The trier of fact may then conclude that the employer's proffered reason for its conduct is a pretext and rule that the employee has proved actionable retaliation for protected activity. Conversely, the trier of fact may conclude that the employer was not motivated, in whole or in part, by the employee's protected conduct and rule that the employee has failed to establish his case by a preponderance of the evidence." [Citation omitted]. Finally, the trier of fact may decide that the employer was motivated by both prohibited and legitimate reason, i.e., that the employer had "dual motives."

. . . [I]f the trier of fact reaches that latter conclusion, that the employee has proven by a preponderance of the evidence that the protected conduct was a motivating factor in the employer's action, the employer, in order to avoid liability, has the burden of proof or persuasion to show by a preponderance of the evidence that it would have reached the same decision even in the absence of the protected conduct. [Citations omitted].

Slip op at 7-9

Citing Couty v. Dole, 886 F.2d 147, 148 (8th Cir. 1989) Complainant contends that "'as a matter of law' 'temporal proximity' between an employee's engaging in protected activity and a change in management attitude toward the employee is alone sufficient to establish a discriminatory motive." (Emphasis the Complainant's). However, I find nothing in the Court's opinion in Couty which stands for the proposition that a "change in management attitude" sufficient to establish discriminatory

motive either standing alone or otherwise. I am aware, however, that in Shaw v. Mast Advertising and Pub. Inc., 715 F.Supp. 1503 (D. Kan 1989) the Court held that evidence of the employee's having been treated differently subsequent to filing a discrimination complaint was one factor to be considered with other evidence in determining whether her discharge was in retaliation.

What the Court did say in Couty was that:

"A prima facie case of retaliatory discharge is established when the plaintiff shows: (1) engagement in protected activity; (2) defendant's awareness of plaintiff's engagement in protected activity (3) plaintiff's subsequent discharge and (4) that the discharge followed the protected activity so closely in time as to justify an inference of retaliatory motive. [Citations omitted] (Emphasis added)

The Court in Couty went on to hold:

"In our opinion, [the ALJ's conclusion that the evidence did not support an inference of retaliatory motivation] was error since petitioner was discharged roughly thirty days after he engaged in protected activity. Our cases hold that this temporal proximity is sufficient as a matter of law to establish the final required element in a prima facie case of retaliatory discharge. See Keys [v. Lutheran Family and Children's Service of Missouri] 668 F.2d at 358 (less than two months); Womack [v. Munson] 619 F.2d at 1296 (twenty-three days)." (Emphasis added).

Thus, what the Court held to be a "temporal proximity" as a "matter of law" was a period of "roughly thirty days." Other cases cited by the Claimant as showing that "[a]dverse action closely following protected activity is itself evidence of an illicit motive" likewise rely on a relatively short interim between the protected activity and adverse action. In Newkirk v. Cypress Trucking Lines, Inc., 88-STA-17, Decision and Order of the Secretary (February 13, 1989) the interval was only six days and in Priest v. Baldwin Assoc., 84-ERA-30, Decision and Order of the Secretary (June 11, 1986) the interval was approximately one month. Further, in the cases relied on by the Secretary in Newkirk, the time elements ranged from 2 days to six

weeks. See: Jim Causley Pontiac v. NLRB, 620 F.2d 122, 126 (6th Cir. 1980) (6 weeks); NLRB v. Advanced Business Forms Corp., 474 F.2d 457, 465 (2d Cir. 1973) (17 days); Donovan v. Stafford Const. Co., 732 F.2d 954, 960 (D.C. Cir. 1984) (2 weeks); NLRB v. American Geri-Care, Inc., 697 F.2d 56, 60 (2d Cir. 1982) cert. denied, 461 U.S. 906 (1983) (5 days); NLRB v. Rain-Wall, Inc., 732 F.2d 1349, 1354 (7th Cir., 1984) (2 days). In other cases where the temporal relationship between protected activity and retaliation has been considered significant, the time spreads have been similarly brief. See e.g.: Donnellon v. Fruehauf Corp. 794 F.2d 598, 601 (11th Cir. 1986) (one month) Devlin v. Federal Reserve Bank of St. Louis 634 F.Supp. 389 (E.D.Mo., 1986) (2 weeks); Eirvins v. Adventist Health System/Eastern & Middle America, Inc., 660 F.Supp. 1255 (D. Kan. 1987) (7 days); Saks v. Amarilla Equity Investors, Inc., 702 F.Supp. 256 (D. Col. 1988) (16 days). On the other hand, as Respondent has noted, the inference of a causal link weakens as the length of time between the protected activity and the alleged adverse action increase. ^{1/} I agree. See, Booth v. Birmingham News Co., 704 F.Supp. 213, (N.D. Ala. 1988) aff'd mem., 864 F.2d 793 (adverse action taken some six or seven months after discrimination claim settled was insufficient standing alone to demonstrate requisite causal connection between protected activity and alleged retaliatory discharge); Fitch v. R.J. Reynolds Tobacco Co., 675 F.Supp. 133 (requisite causal link not established between filing complaint and termination 10 months later); Cooper v. City of North Olmstead, 795 F.2d 1265 (6th Cir. 1986) (mere fact that plaintiff was discharged four months after filing a discrimination claim is insufficient to support an inference of retaliation); Hollis v. Fleetguard, Inc., 668 F.Supp. 631 (M.D. Tenn. 1987) aff'd sub nom, 848 F.2d 191 (discharge 3 months after harassment complaint and 4 months after being warned to improve performance does not establish a causal connection). In Brown v. ASD Computing Center, 519 F.Supp 1096, 1116, 1117 (S.D. Ohio 1981) aff'd sub nom Brown v. Mark, 709 F.2d 1499 (6th Cir. 1983) the Court stated:

In the present case, Plaintiff's discharge occurred on December 13, 1978, approximately three months after her announcement (on September 19 or 22, 1978) of an intention to consult with the E.E.O., and four months after

^{1/} Respondent relies, in part on Jennings v. Tinley Park Community Consol. Sch. Dist 146, 796 F.2d 962 (7th Cir. 1986) as supporting this proposition by holding that a four month lapse is too long to show causal connection. I find no such holding from my reading of the case.

she was advised by Pitts to contact the E.E.O Office. While this Court makes no determination of the precise time span beyond which an inference of retaliation may not be created, the period involved herein does not provide the inference necessary to establish a prima facie case of retaliation. In this regard, the Court notes that the inference of retaliation which arises through timing is not provided for in Title VII, but is merely an attempt used by Courts, most notably Hochstadt v. Worchester Foundation for Experimental Biology, Inc., 425 F.Supp. 318 (D. Mass. 1976), aff'd. 545 F.2d 222 (1st Cir. 1976) (Hochstadt) to adapt the order and allocation of proof outlined in McDonnell-Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1917, 36 L.Ed.2d 668 (1973) to cases involving retaliation. Hochstadt, 425 F.Supp. at 324. This Court agrees with the utility of such an inference but would hesitate to expand its scope, particularly in a case such as the present, where there are no other indicia of retaliation. Thus, as the undisputed facts pertaining to Plaintiff's protected activity and her subsequent discharge neither establish a retaliatory motive, nor are so connected in time as to create an inference of retaliation, the evidence fails to establish a prima facie case of retaliation.

Complainant contends further that "[i]t is well settled that a lowering of an employee performance rating after he or she engaged in protected activity constitutes sufficient evidence of discriminatory motive. 2/ I agree that a causal connection element may be established by proof that the employee received favorable performance evaluation before engaging in protected activity and negative evaluations after engaging in such activity. See Sawers v. Kemina, Inc., 701 F.Supp. 809 (S.D. GA. 1988). However, this is no hard and fast rule. For example, in Mitchell v. Baldrige, 759 F.2d 80, 88 (D.C. Cir. 1985) the Court found that a shift to lower performance rating did not constitute evidence of discriminatory motive when it coincided with a change in job responsibilities. The temporal relationship between the protected activity and lower performance rating is also a factor. In Fitch v. R.J. Reynolds the Court held:

2/ Complainant again cites Couty v. Dole (supra) as supporting this proposition. However again my reading of the case fails to reveal any mention of a performance evaluation.

The fact that seven months after he filed and then withdrew the EEOC charge, Fitch received the lowest performance evaluation to date is insufficient to make out a prima facie case of retaliatory action."

675 F.Supp. at 138

The same may be said regarding the Complainant's contention, citing Murphy v. Consolidated Coal Co., 83-ERA-4 Slip op. ALJ at 18 (August 2, 1983) (Emphasized to show correct citations), that receipt of pay increases before being terminated establishes discriminatory motive. I recognize that it has been held that the manner in which an employee learns of termination can evidence a discriminatory motive. See e.g. Deford v. T.V.A., 81-ERA-1, slip op. of ALJ at 6 (January 7, 1981). However, it is only one factor to be considered and is not sufficient standing alone to establish a prima facie case of retaliatory action.

In Nesmith v. Martin Marietta Aerospace, 833 F.2d 1489 (11th Cir. 1987) it was held that evidence showing that the employee's career thrived during the presidency of his mentor and faltered when the president left the company supported the district court's conclusion that his discharge was not in retaliation for his having engaged in protected activity.

In regard to the element of scienter, Respondent, quotes Delchamps, Inc. v. NLRB, 585 F.2d 91, 94 (5th Cir. 1978) to the effect that the Complainant "must show that the particular supervisor responsible for the firing knew about the discharged employee's [protected] activities." However, the Court in Delchamps recognized its Circuits earlier holding in N.L.R.B. v. Neuhaf Bros. Packers, Inc., 375 F.2d 372 (5th Cir. 1967) which was to the effect that scienter can also be established by showing that a supervisor with knowledge of the protected activity "significantly contributed to the accomplishment of the discharge" while not actually affecting the same.

On the basis of my factual findings and the aforementioned legal principles, I reach the following ultimate findings and conclusions:

I. Prima Facie Case

(a) The January 2, 1989 Meeting

1. Protected Activity - The Complainant's mere attendance at the pre-trial meeting does not constitute protected activity. Nothing said at the meeting either by or to the Complainant constituted protected activity.

2. Scienter - No one who attended the January 2 meeting is shown to have any input in the decision to eliminate the position of Manager of NOCA. The two executives primarily responsible for such decision, Mr. Williams and Mr. Evans, had no knowledge of the Complainant's participation at the meeting. Accordingly, even if the

Complainant engaged in protected activity at the meeting the Respondent was without knowledge of the same. As the Complainant has failed to establish this essential element, he has not presented a prima facie case relating to the January 2, 1989 meeting.

(B) The April 27, 1989 Memorandum

1. Protected Activity - For reasons already assigned, I will conclude that the Complainant had adopted Mr. Smith's concern about the reporting structure as his own and that his expression of the same constituted protected activity.
2. Scienter - As Mr. Williams actually saw the memo and as Mr. Evans was aware of the Complainant's concern over the reporting structure and as both had at least significant input into the decision to eliminate the Complainant's position, I conclude that the Respondent had knowledge of the protected activity.

Adverse Action - The elimination of the Complainant's position which necessitated his transferring to Birmingham and/or accepting a lower salary if he desired to remain employed by the Respondent, constituted adverse action.

4. Likely Reason for Adverse Action - The decision to eliminate the Complainant's managerial position came over six months after he wrote the memo. He had not otherwise raised the reporting concern for several months prior to the decision. Mr. Williams had "forgotten about" the memo in the interim. The Complainant's concern was of no consequence to Messrs. Williams and Evans as they knew that Mr. McDonald in fact reported to Mr. Dahlberg. The Complainant's having voiced the concern did not enter into their decision

that the position was not needed and should be eliminated. Accordingly, I conclude that the Complainant's having expressed a concern about the reporting structure was not the likely reason for eliminating the position of manager of NOCA and that the Complainant has not made out of prima facie case relative to the expression of this concern.

(C) Change of Office and Revocation of Executive Parking Privileges

1. Protected Activity - The Complainant engaged in protected activity by filing the instant complaint.
2. Scienter - Mr. Williams could not have known of the filing of this complaint at the time he informed the Complainant that his office would be changed. Consequently, the Respondent did not have knowledge of the protected activity at the time the decision was made to change the Respondent's Office. However, they may have had such knowledge at the time the executive parking privileges were changed and the Complainant's access was limited.
3. Adverse Action - Although I have some doubts, I will assume that the parking and access changes were adverse actions.
4. Likely Reason for Access Action - The Complainant's position had been eliminated effective February 1, 1990 and it may be reasonably assumed that he was no longer entitled by position to park in the executive lot. In any event, reasonable security concerns were the likely reason for this adverse action rather than the filing of this Complaint. It follows that a prima facie case relating to parking and access has not been established.

II. Legitimate, Nondiscriminatory Reason for Eliminating Complainant's Position

I conclude that even if the Complainant had raised the presumption of disparate treatment, the Respondent has rebutted the same by presenting evidence that the alleged disparate treatment was motivated

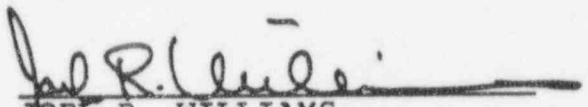
by legitimate, nondiscriminatory reasons, i.e., that the elimination of the position was based on a business decision that it was not needed. The subsequent change of office assignment was based on the desire to have him located in close proximity to his new supervisor and the change in parking assignment and building access was based on security concerns.

III. True Reason for Employment Decision

I conclude that the Respondent was not motivated to eliminate the Complainant's position, change his office, revoke his executive parking privileges and limit his access within the headquarters building either in whole or in part, by any protected conduct. The Employer has established to my satisfaction that the sole reason for eliminating the position, which on the Complainant's own volition triggered his departure from the company, was because it was an expensive, unnecessary position and that actions taken subsequent to the filing of this complaint were justified for security reasons.

RECOMMENDED ORDER

It is recommended to the Secretary of Labor that the Complaint of Marvin Hobby be dismissed with prejudice.


JOEL R. WILLIAMS
Administrative Law Judge

Washington, D.C.
JRW/yw

TESTIMONY EXCERPTS OF MARVIN B. HOBBY

Q. Mr. Hobby, let me begin by asking you a couple of questions about your contentions in this proceeding.

Am I correct that you claim that there are two and only two instances of protected activity, number one your raising the question in the April 27th memorandum to Mr. Williams that Mr. McDonald did not take his management direction from Mr. Dahlberg, but instead took that direction from Mr. Farley, and your belief that that might constitute a violation of the company's nuclear operating license; is that one of the concerns?

A. Yes, sir.

Q. And is it true that the other instance of protected activity has to do with your refusal to change your testimony in the Fuchko and Yunker Department of Labor proceeding?

A. Yes, sir.

Q. And those are the only two instances of protected activity that you're claiming in this proceeding; is that correct?

A. Yes, sir. (Hobby, Tr. 219-220)

TESTIMONY EXCERPTS OF ALFRED W. DAHLBERG

Q. Going now, Mr. Dahlberg, to a point in time in 1989, who was responsible for recommending that the position of general manager of nuclear operations contract administration be eliminated?

A. I would think it would have been Mr. Evans or perhaps Mr. Williams.

Tr. at 312.

Q. Mr. Dahlberg, was the April 27th memorandum or the concern expressed there on Page 7 that I asked you to take a look at discussed in the management council meeting of November 7, 1989?

A. No, sir.

Q. To your knowledge, Mr. Dahlberg, was the April 27th memorandum, or the concern expressed on Page 7 a factor in any way in the decision to eliminate the position of general manager/nuclear operations contract administration?

A. No, sir.

Tr. at 315.

* * * *

Q. All right. So you set up the nuclear operations contract administration group to do all the functions that -- budgeting, oversight, interface and a host of other things -- right? -- and the reason you did that was so nuclear operations contract administration could start functioning immediately because a contract was imminent; right?

A. That's part of the reason. The other reason was the SONOPCO organization was new. I don't think any of us knew exactly how it would operate and exactly what would be required.

I anticipated that, yes, it would be formed; yes, I anticipated there would be a contract and there would be something to administer; yes, I anticipated that we would need somebody to be involved in gathering information about the performance of the units, about the budget, about safety factors.

As it turned out, one, there is no contract; secondly, those things that I thought would be required in terms of monitoring performance, we're monitoring performance, but I get that

information directly from the SONOPCO organization, just like I get information directly from the fossil information group, I get information directly from our marketing group, and there was no need for a separate organization to do basically the same thing. You mentioned budgeting. SONOPCO does the budget, they review it directly with me. There's not a function in the middle.

Q. And SONOPCO was new, and nuclear operations contract administration was new[?]

A. Yes.

Q. Almost simultaneously new; right?

A. Of course.

Q. Okay. And so now you're setting up nuclear operations contract administration, and you don't want to duplicate efforts; right?

A. Correct.

Q. And so you wanted to set up nuclear operations contract administration to do certain things; right?

A. Yeah, I've just described that.

Q. All right. But it ends up now that SONOPCO is doing those things, and not nuclear operations contract administration group; isn't that correct?

A. That's absolutely correct.

(Tr. 330-331)

TESTIMONY EXCERPTS OF DWIGHT W. EVANS

Q. What was Mr. Williams' recommendation regarding the contract administration group, and in particular Mr. Hobby's position?

A. He concurred with my feeling that we did not need a high level position, and that was a position that could be eliminated.

Tr. at 369.

* * * * *

Q. Now, did you discuss Mr. Williams' recommendation with Mr. Boren?

A. Yes, I did.

Q. Okay. And did Mr. Boren agree with the recommendation of Mr. Williams?

A. He agreed with our recommendation, yes.

Q. Was Mr. Hobby's job performance a reason for recommending the elimination of his position?

A. No, his performance was not the reason. It was the fact we did not need the position.

Tr. at 370.

Q. Mr. Evans, to your knowledge was this memo involved in any way in the decision to eliminate Mr. Hobby's position?

A. Since I was the person that made the ultimate decision and was not aware of it and had not heard of it, it was not involved at all.

Tr. at 371.

Q. Now, did you relay the decision, or relate the fact that a decision had been made about Mr. Hobby's position to the management council?

A. Yes, I did. I felt the need to eliminate three positions in my organization, two vice presidents and Mr. Hobby's position, and I related that information that I planned to do that to the management council?

Q. And do you recall when that management council meeting was?

A. It was in late 1989, I believe December of 1989, or possibly early January of 1990.

Q. All right. And was there any formal vote taken by the management council on this decision, or was this just being provided for information?

A. It was provided for information.

Q. Was there any discussion in that management council meeting about this April 27th memo?

A. No.

Q. Was there any discussion about the subjects that are addressed in that memo?

A. No.

Tr. at 372-373

TESTIMONY EXCERPTS OF FRED D. WILLIAMS

Q. In your opinion in 1989 as you developed your thinking did you see a need for there to be separate group in the company to administer a contract between Georgia Power and SONOPCO if that contract ever came into existence?

A. No, sir, I didn't. My determination after hours of talking with Mr. Hobby and his people, and accounting staffs and in fact SONOPCO people, I did not see a need for a separate organization.

I did probably see a need for some of the staff, not all the staff he was talking about, to be included as part of the bulk power market services area which already existed for administration of the contracts, and this could be easily picked up by them, which was really understaffed already, and we could take on this additional responsibility in that area and use some of the staff there.

Tr. at 409-410.

* * * * *

Q. At what point did you make a formal recommendation to your superiors about the elimination of Mr. Hobby's position?

A. I would guess the formal recommendation, though I had had discussion before and I had given my thoughts on the idea, was probably -- well, they didn't report to me until January 1st, and I gave my formal recommendation then, actually went through with the process, but prior to that in December and early November I was already informing Mr. Evans that I did not see the need for a high level manager, or did I see the need for a separate organization to exist to administer a contract if we ever got a contract.

Q. Did Mr. Evans agree or disagree with your conclusion?

A. He agreed with it.

Tr. at 411-412.

* * * * *

Q. In making a decision, Mr. Williams, was Mr. Hobby's job performance a factor?

A. No sir.

Tr. at 413.

* * * * *

Q. Mr. Williams, was this memo or any of the subjects that are addressed in the memo a factor in your decision to eliminate Mr. Hobby's position?

A. No, sir. In fact, until he raised the issue here with the Department of Labor I had even completely forgotten the memo was ever written.

Tr. at 417.

* * * * *

Q. When you received this memo on April 27th, did you consider that Mr. Hobby's concerns and question raised on Page 7 relating to the reporting structure, did you consider those to be a significant regulatory concern regarding Georgia Power's license for its nuclear plants?

A. No, sir, I did not.

Q. Did you think that because of this concern that Mr. Hobby was raising that there was any potential violation of the nuclear licenses?

A. No, sir, I didn't see how they possibly could.

Tr. at 420-421.

TESTIMONY EXCERPTS OF THOMAS G. BOREN

Q. Let me direct your attention now, Mr. Boren, to the management council meeting on November 7th, 1989. Did you attend that meeting?

A. I sure did.

Q. Who else attended that meeting?

A. The other three senior vice presidents, Carey Adams, Wayne Dahlke, Gene Hodges;

Three of the four executives, Warren Jobe, Dwight Evans, John Hendrick;

Bill Dahlberg attended, as well as the company's industrial psychologist consultant that we used, Dr. Jim Tanner.

Q. What was the purpose of the November 7th management council meeting, Mr. Boren?

A. The purpose was several things, but the primary purpose was to look at leadership.

The Southern system, of which Georgia Power is a big part, was going through the process of looking at how do we ensure that we have the right number and quantity and type of leaders in the pipeline so to speak for the next decade, and one of the challenges they had issued to Mr. Dahlberg was to look at people that we had coming up through the ranks and make sure we identified those leaders, looked at their potential and were basically trying to develop that.

Also, at that same time Mr. Dahlberg was doing some team building with us as well.

Q. Mr. Boren, what were the performance and potential evaluations of Mr. Hobby?

A. Let me describe the process we went through on that if you would. Each of us stood up before the rest of the members of the management council, and we would list the individuals that reported directly to us, and then before anybody else commented on them we would sit down and identify what we thought their performance was

from a rating of zero to four, zero being the lowest, four being the highest, and what we thought their potential was, and that basically went from zero to three I think, zero being peaked out, no further potential, one being could move one more level, two being could move two more levels.

In that particular assessment Mr. Hobby had three what we call double zeros, three two zeros and one one-zero. In other words, in terms of potential everyone rated him as having no further potential. In terms of performance, three out of the seven people rated him at the lowest level possible, that's zero; one person rated him at one, and three people, four people rated him at level 2 which was basically about average.

Tr. at 482-484.

* * * * *

Q. my pending question was whether you had an occasion to discuss the decision to eliminate the position of general manager of nuclear operations contract administration with Fred Williams and Dwight Evans in the fall of 1989?

A. Yes, sir.

Q. Who was responsible for making that decision, Mr. Boren?

A. Mr. Williams was.

Tr. at 485.

Q. Mr. Boren, did you attend the December 29th, 1989 management council meeting?

A. I did.

Tr. at 491.

* * * * *

Q. Was that document discussed in the management council meeting of November 7th, 1989 or the management council meeting of December 29th, 1989?

A. No, sir, it was not.

Q. In any of your conversations with Mr. Williams or with Mr. Evans about Mr. Hobby's position, did you all discuss that memorandum?

A. No, sir, we did not.

Q. Were any of the subjects that are contained in that memorandum discussed in either of the management council meetings in November and December of '89?

A. No, sir, they were not.

Q. Were any of the subjects in that memorandum part of your discussion with Mr. Williams and Mr. Evans regarding Mr. Hobby's position?

A. No, sir.

Q. To your knowledge, Mr. Boren, was this memorandum or the concerns expressed in the memorandum a factor in any way in the decision to eliminate Mr. Hobby's position?

A. No, sir, it was not.

Tr. at 493-494.

* * * * *

Q. Mr. Boren, was Mr. Hobby's concern about the reporting structure of SONOPCO discussed at any of the management council meetings?

A. No, sir, it was not.

Q. And in any of your discussions with Mr. Williams or Mr. Evans relative to Mr. Hobby's position?

A. No, sir, it was not.

Q. Was that concern or question or complaint a factor in any way in the decision to eliminate Mr. Hobby's position?

A. No, sir, it was not.

Tr. at 495-496.