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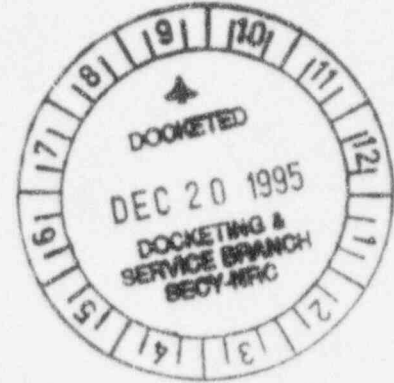
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December 19, 1995

VIA FEDERAL EXPRESS



Administrative Judge Peter B. Bloch, Chairman
Administrative Judge James H. Carpenter
Administrative Judge Thomas D. Murphy
Atomic Safety and Licensing Board (Georgia Power)
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Vogtle Electric Generating Plant, Units 1 and 2 License Amendment (Transfer to Southern Nuclear) ASLBP No. 93-671-01-OLA-3.

Dear Sirs:

At the suggestion of the NRC Staff, I enclose a copy of Georgia Power Company's Motion to Reopen the Record and for Further Hearings, along with the supporting brief, which were recently filed with the Department of Labor in the case of Allen L. Mosbaugh v. Georgia Power Company, Civil Action Nos. 91-ERA-1 AND 91-ERA-11.

Very truly yours,

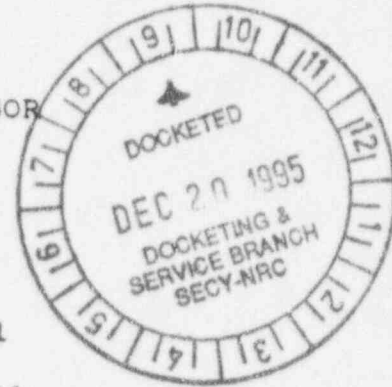
John Lamberski
John Lamberski

cc: Service List (w/exceptions noted):
Michael D. Kohn, Esq. (letter only)
NRC General Counsel, Charles Barth, Esq. (letter only)

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December 13, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR



IN THE MATTER OF:)

ALLEN MOSBAUGH,)

Complainant,)

CASE NOS. 91-ERA-1
and
91-ERA-11

v.)

GEORGIA POWER COMPANY,)

Respondent.)

**RESPONDENT GEORGIA POWER COMPANY'S
MOTION TO REOPEN THE RECORD AND FOR FURTHER HEARINGS**


COMES NOW, Georgia Power Company, Respondent in the above-styled action, and pursuant to 29 C.F.R. § 18.54(c) files this Motion to Reopen the Record and for Further Hearings.

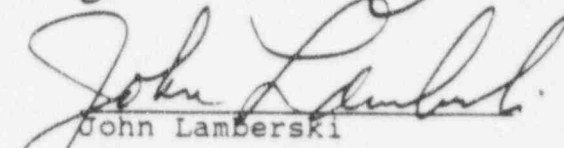
Respondent Georgia Power Company moves to reopen the record and for further hearings on the basis that new and material evidence has become available, which was not previously available prior to the closing of the hearing record in this matter. That evidence involves in part the 76 tape recordings that the NRC had previously withheld from disclosure to GPC. This new evidence, which is described more fully in Respondent Georgia Power Company's Brief in Support of Its Motion to Reopen the Record and for Further Hearings, compels a different outcome of this litigation.

Accordingly, Respondent Georgia Power Company respectfully requests that the record in this matter be reopened, that new

hearings be conducted and that Georgia Power Company's newly-discovered evidence be accepted and admitted into the record.

Respectfully submitted,


James E. Joiner


John Lamberski

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Attorneys for Respondent
Georgia Power Company

DATED: December 13, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES OF DEPARTMENT OF LABOR

IN THE MATTER)
)
ALLEN MOSBAUGH,) CASE NO. 91-ERA-1
) CASE NO. 91-ERA-11
Complainant,)
v.)
)
GEORGIA POWER COMPANY,)
)
Respondent.)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing Respondent Georgia Power Company's Motion to Reopen the Record and for Further Hearings upon the parties listed below via **Federal Express**, addressed as follows:

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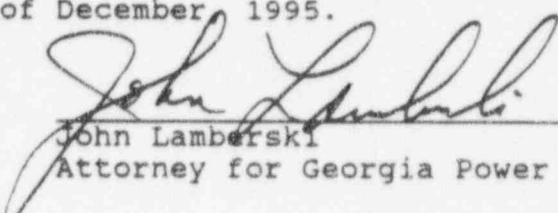
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Hon. John M. Vittone
Acting Chief Administrative Law Judge
Office of Administrative Law Judges
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This 13th day of December, 1995.


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December 13, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)	
ALLEN MOSBAUGH,)	
Complainant,	)	CASE NOS. 91-ERA-1
v.	)	and
GEORGIA POWER COMPANY,	)	91-ERA-11
Respondent.)	

**RESPONDENT GEORGIA POWER COMPANY'S
BRIEF IN SUPPORT OF ITS MOTION TO
REOPEN THE RECORD AND FOR
FURTHER HEARINGS**

Pursuant to 29 C.F.R. § 18.54(c), Georgia Power Company hereby moves to reopen the record for the introduction of new evidence. Following a hearing on Case Nos. 91-ERA-1 and 91-ERA-11 in March 1992, a Recommended Decision and Order ("RD&O") was issued on October 30, 1992 in favor of Georgia Power. On November 20, 1995, the Secretary of Labor ("Secretary") issued a Decision and Remand Order, rejecting that RD&O, finding that Georgia Power had violated the employee protection provision of the Energy Reorganization Act of 1974 (42 U.S.C. § 5851, hereafter "ERA"), and remanding the complaint to the Administrative Law Judge ("ALJ") for a recommended decision concerning remedies.

Since the hearing record was closed in this case, Georgia Power has identified significant new evidence, not

available at the hearing, which establishes that Complainant, Mr. Mosbaugh, wilfully caused several violations of Nuclear Regulatory Commission ("NRC") regulations over a four-month period while employed by Georgia Power. This evidence also establishes that Mr. Mosbaugh perpetrated an elaborate fraud upon the Department of Labor ("DOL") which was intended to, and which did, mislead both the Secretary and the ALJ with false testimony. Because the decisions of the Secretary and the ALJ did not consider this important, new evidence, they were based on an inadequate record.

Complainant engaged in surreptitious tape recording in a sensitive workplace, a nuclear power plant, virtually on a continuous basis over a seven-month period in 1990. A large number of Mr. Mosbaugh's tapes (76 two-hour cassettes) and other documents evidencing Complainant's state of mind in 1990 were withheld from Georgia Power by NRC investigators working with Mr. Mosbaugh until after the hearing record was closed. With the benefit of those tapes and documents and testimony concerning them taken during a 1995 license amendment hearing before the NRC, Georgia Power has been able, for the first time, to determine the facts concerning certain of Mr. Mosbaugh's actions in 1990. This unveiled a picture which is strikingly different than the one Mr. Mosbaugh painted through his testimony at the DOL hearing.

The after-acquired evidence reveals that, contrary to his testimony at the DOL hearing, Mr. Mosbaugh wilfully

contributed to the very violation that was central to allegations he submitted to the NRC in 1990. Georgia Power also has new evidence proving that Mr. Mosbaugh taped nuclear plant security information in violation of NRC regulations, illegally taped conversations to which he was not a party, and otherwise exceeded the bounds of reasonableness with his taping. This is precisely the kind of abusive conduct which has been held to bar employees from protection under the ERA. Mr. Mosbaugh should be denied relief as a result of his fraud and misconduct.

This proceeding presents a critical policy issue which will have far-reaching implications for all industries subject to the proscriptions of Section 5851. That issue is just how far an employee may take his protected activities -- and, therefore, how much an employer must endure -- before such activities become so disruptive and so abusive that they lose the protection of Section 5851. With additional guidance, employers and their employees will be better equipped to conform their conduct in order to avoid needless and wasteful litigation. In such an important case as this, it is critical to take advantage of every opportunity to ensure that the record is a complete one -- that it includes all relevant and material evidence which the parties can identify.

For all the reasons discussed below, Georgia Power respectfully requests that the record below be reopened for the purpose of receiving critical new evidence in this important case.

BACKGROUND

Complainant Mr. Allen Mosbaugh filed several complaints of retaliation with the DOL Wage and Hour Division under the employee protection provision of the ERA. The first complaint was filed on June 7, 1990, the second on August 20, 1990 and the third on September 19, 1990. The Wage and Hour Division investigated these complaints. On July 24, 1990, the Wage and Hour Division issued a determination that no retaliation had occurred on the first complaint. Mr. Mosbaugh appealed that determination to the Office of Administrative Law Judges on July 28, 1990. On September 21, 1990, the Wage and Hour Division dismissed Mr. Mosbaugh's second ERA complaint, and Mr. Mosbaugh appealed that determination on September 24, 1990. On November 16, 1990, the Wage and Hour Division found retaliation had occurred on Mr. Mosbaugh's third complaint, and Georgia Power appealed that determination on November 20, 1990.

During discovery in the first DOL action filed by Mr. Mosbaugh under the ERA (which was assigned Case No. 90-ERA-58), Georgia Power had the opportunity to depose Mr. Mosbaugh on September 11, 1990.¹ During that deposition, Georgia Power learned for the first time that Mr. Mosbaugh had been surreptitiously tape recording conversations over several months. Although Mr. Mosbaugh had previously been ordered to produce

¹The ALJ assigned to that action, Judge Bernard Gilday, had issued an Order granting Georgia Power's Motion to Compel Mosbaugh to appear for a deposition and to produce relevant documents.

relevant information, which would have included the tapes, he had not done so in advance of the deposition. Accordingly, on that same day, Georgia Power filed a second Motion to Compel seeking, among other things, production of the tapes.

On September 12, 1990, Judge Gilday issued an Order compelling Mr. Mosbaugh to produce the tapes. That same afternoon, Mr. Mosbaugh's counsel contacted an investigator at the NRC and offered the tapes to him. Significantly, Mr. Mosbaugh had been working with this NRC investigator as a confidential allegor for several months yet he had never before told the NRC he had been taping or that he even had the tapes.

As a result of Mr. Mosbaugh's sudden determination that the NRC, rather than Georgia Power, should have the tapes, the NRC filed a Motion to Stay Discovery on September 13, 1990. The NRC requested that discovery with respect to Mr. Mosbaugh's tapes be stayed until the NRC had the opportunity to review the tapes. On that same date, Judge Gilday ordered Mr. Mosbaugh to deliver all of his tapes to the NRC and that, upon return of the tapes, he was to produce them to Georgia Power within forty-eight hours.

What transpired after this Order was a perversion by Mr. Mosbaugh of the adjudicatory process. Georgia Power was faced with defending three separate actions filed by Mr. Mosbaugh, and it was attempting to conduct discovery in each. However, each time Georgia Power asked for production of critical information, including the tapes, Mr. Mosbaugh instead turned his information over to an NRC investigator, thereby blocking Georgia

Power's access to the information. Judge Gilday described Mr. Mosbaugh's true colors in his Order Granting Motion for Partial Stay of Execution of Order Granting Motion to Compel issued January 22, 1991 (February 19, 1991 Order in 90-ERA-58), as follows:

For a second time, when confronted with an Order to Produce and his back literally against the wall, Complainant has trotted to the [NRC] for comfort, relief and solace. On September 12, 1990, two hundred seventy-seven tape recordings, the existence of which was hidden until he was deposed by ResponCent, were delivered to the [NRC]. To protect an on-going investigation, the Commission had no choice but to intervene, seek and obtain, on September 13, 1990, a stay of execution of an Order Compelling Production. On January 29, 1991, the date when Complainant faced another Order to Produce, he delivered approximately twenty boxes of documents, which were subject to this Order, to Region II OI Headquarters. It appears that some of the delivered documents had not even been disclosed to the [NRC], though Complainant well knew of and had contributed to the Commission's investigation. Complainant's actions raise serious questions, not only about his true motives and goals, but also about the quality of the techniques which have been employed. If early on had any semblance of openness and fair play been exhibited, substantial effort, expense of time, on the part of many, would have been saved. As Respondent appears to suggest, Complainant has affixed to his case a brand he personally designed....

Judge Gilday had no choice but to grant the NRC motion to stay discovery and the production of documents Mr. Mosbaugh had diverted to an NRC investigator. Judge Gilday made clear that Georgia Power would have the "right, hereafter, to claim and establish prejudice because of Complainant's actions. . . ." (*Id.* at 2). Upon receipt of Judge Gilday's February 19 Order, Complainant conveniently dismissed his first ERA action, Case No. 90-ERA-58.

The dismissal of the first ERA action did not resolve Georgia Power's discovery problems, and Georgia Power continued its efforts to obtain the tapes and other documentary evidence Mr. Mosbaugh had diverted to the NRC investigator. Indeed, before he had dismissed Case No. 90-ERA-58, Mr. Mosbaugh had been contacted by the NRC on February 14, 1991 and told that 201 of his 277 surreptitiously recorded tapes could be returned -- the NRC determined that the remaining 76 tapes were the most relevant to their investigation of Mr. Mosbaugh's allegations. Mr. Mosbaugh refused to accept return of the 201 tapes, thereby circumventing the triggering of his obligation to produce the tapes to Georgia Power within 48 hours, as ordered by Judge Gilday on September 13, 1990. While Mr. Mosbaugh was (1) refusing to accept return of the tapes and (2) dismissing Case No. 90-ERA-58, he was also moving for an immediate hearing on his third complaint (Case No. 91-ERA-11). See Complainant's Request for Hearing dated January 15, 1991. Thus, Mr. Mosbaugh was attempting to block Georgia Power from obtaining and reviewing his tapes and documents prior to a hearing on his third complaint.

On February 25, 1991, Deputy Chief Administrative Judge John M. Vittone issued an Order of Consolidation which consolidated Case Nos. 91-ERA-1 and 91-ERA-11 for a hearing. Judge Vittone held:

I find these two cases are appropriate for consolidation. In both, the parties are identical. The parties' briefs indicate that both cases stem from the same period of employment following Complainant's

alleged protected activity. Discovery conducted during an earlier related case, 90-ERA-58 (now dismissed), revealed the tape recordings which brought about the complaint in 91-ERA-11. As Respondent points out, these tapes are relevant to both cases, not only because they led to the employment activity of 91-ERA-11, but because they contain substantive evidence pertaining to 91-ERA-1.

Order of Consolidation dated February 25, 1991 at 2.

Following consolidation of the actions, the ALJ, Judge Robert Glennon informally stayed discovery while Mr. Mosbaugh moved for partial summary judgment. During the following several months, Georgia Power again requested the right to conduct limited discovery, specifically, to obtain and review all of the tapes Mr. Mosbaugh had made, but Georgia Power's requests were denied. See Order dated June 18, 1991; Order dated August 23, 1991.

Subsequently, Georgia Power was able to obtain some but not all of the tapes Mr. Mosbaugh had turned over to the NRC investigator -- the investigator continued to withhold 76 tapes. See Letter dated January 10, 1992 to Judge Glennon from Jesse P. Schaudies, Jr., attached hereto as Exhibit A. On January 13, 1992, Judge Glennon conducted a pretrial conference in which he ruled that none of the tapes Mr. Mosbaugh had made could be played during the hearing and that only transcripts of the tapes could be utilized. Judge Glennon was also reminded of the 76 tapes that were being withheld from Georgia Power and of Georgia Power's insistence that it needed those tapes to prepare its defense. Unbeknownst to Georgia Power, Mr. Mosbaugh had access to the tapes, listening to them for hundreds of hours with the

NRC investigator. On January 29, 1992, Georgia Power's counsel once again wrote Judge Glennon in an effort to obtain from the NRC investigator the 76 tapes that were being withheld. Letter dated January 29, 1992 to Judge Glennon from Jesse P. Schaudies, Jr., attached hereto as Exhibit B.

On January 31, 1992, Judge Glennon issued a notice concerning the hearing which was scheduled to begin on March 10, 1992. In that notice, Judge Glennon ruled on Georgia Power's position concerning the additional 76 tapes. Judge Glennon held:

By letter dated January 29, 1992, counsel for Respondent discusses the possible release of additional audio tapes by the [NRC] prior to the scheduled March 10 trial and the impact of the release of such additional tapes on counsel's trial preparation. On further consideration of this matter, I have concluded that the trial should go forward on March 10, 1992 as scheduled, based on the assumptions (1) that the additional audio tapes will not be released by the NRC in time for their utilization in the scheduled trial and (2) that a fair trial of the issues presented in these proceedings does not require the parties' access to the additional audio tapes.

Accordingly, Georgia Power was placed in the precarious position of having to defend against Mr. Mosbaugh's claim at a hearing that occurred on March 10, 1992 through March 13, 1992 without access, unlike Complainant, to the remaining 76 tapes being withheld by the NRC investigator. Georgia Power renewed its objection to going forward without access to those tapes at the beginning of the hearing and that objection was denied. T. at 6-7. In its Post-Hearing Brief, Georgia Power restated its objections and argued that (1) the failure to require discovery of the tapes, (2) the requirement to proceed to trial without the

tapes, (3) the inability to cross-examine Mr. Mosbaugh on the tapes, and (4) the inability to play the tapes at the hearing, substantially prejudiced the right of the Company to fully and fairly defend this matter. Respondent Georgia Power Company's Post Hearing

Brief at 37-38, Note 10.

ARGUMENT AND CITATION OF AUTHORITY

I. LEGAL STANDARDS FOR REOPENING THE RECORD AND FOR FURTHER HEARINGS.

The DOL Rules of Practice And Procedure For Administrative Hearings Before The Office Of Administrative Law Judges provide, in pertinent part:

Once the record is closed, no additional evidence shall be accepted into the record except upon a showing that new and material evidence has become available which was not readily available prior to the closing of the record. . . .

29 C.F.R. § 18.54(c) (1995). Rule 60(b) of the Federal Rules of Civil Procedure provides:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons: ... (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party²

² Rule 60(b) would also be available to seek relief if the Secretary's Nov. 20, 1995 Decision and Remand Order were "final." Since the Secretary's Order is interlocutory, a motion under 10 C.F.R. § 18.54(c) is the appropriate means of seeking relief.

Generally, the Secretary has applied the same standards to motions under Rule 60(b) and 29 C.F.R. § 18.54(c). See Hasan v. Nuclear Power Services, Inc., 86-ERA-24 (Secretary of Labor, June 26, 1991). Under Rule 60(b)(2) and 29 C.F.R. § 18.54(c), relief may be granted on the basis of newly discovered evidence. In order to obtain relief on the basis of newly discovered evidence, a party need only show: 1) that the newly discovered evidence relates to facts existing as of the time of the hearing; Wright & Miller, §2808 at 86-87; Boyd v. Belcher Oil Co., 87-STA-9 (Secretary of Labor, December 2, 1987) (citing United States v. 41 Cases More or Less, 420 F.2d 1126, 1132 (5th Cir. 1970)); see also Complainant Mr. Allen Mosbaugh's Motion to Reopen The Record, Grant A New Trial And For Other Appropriate Relief (hereafter "Mr. Mosbaugh's Motion to Reopen") at 13-14; 2) the party moving for relief "must have been excusably ignorant of the facts despite using due diligence to learn about them"; Wright & Miller, §2808 at 87-88; Boyd, 87-STA-9; 41 Cases, 420 F.2d at 1132; Markovich v. Bell Helicopter Textron, Inc., 805 F.Supp. 1231, 1241-42 (E.D. Pa. 1992) aff'd without opinion 977 F.2d 568 (3rd Cir. 1992); Mr. Mosbaugh's Motion to Reopen at 14; and 3) that the newly discovered evidence is not cumulative. Graham v. Wyeth Lab., 906 F.2d 1399, 1416 (10th Cir. 1990), cert. denied, 111 S.Ct. 511 (1990); Mr. Mosbaugh's Motion to Reopen at 13.

The Secretary has also held that a motion to reopen should not be granted unless the movant can show that the purported new evidence could alter the outcome of the decision.

Rainey v. Wayne State University, 89-ERA-48 (Secretary of Labor, April 21, 1994) at 1 n.1; Boyd, supra, at 3-4; Hasan, supra, at 1-3. In addition, in his Decision and Remand Order in this case, the Secretary admitted new evidence into the record, pursuant to Complainant's May 12, 1995 Motion to Reopen, in the interest of a complete record, "for whatever probative value it may have," even though the additional evidence was not critical to his decision. November 20, 1995 Order at 7-11.³

As will be demonstrated below, Georgia Power meets all the requirements of 29 C.F.R. § 18.54(c) for reopening of the record and granting further hearings. Accordingly, this Motion should be granted.

II. THE RECORD SHOULD BE REOPENED TO TAKE ADDITIONAL EVIDENCE RESPECTING WHETHER MR. MOSBAUGH'S COMPLAINT SHOULD BE DISMISSED BECAUSE HE WILFULLY CAUSED VIOLATIONS OF NRC REGULATIONS AND THE ATOMIC ENERGY ACT OF 1954.

Tape recordings, documents and testimony in the Atomic Safety and Licensing Board ("ASLB") proceeding which have become available to Georgia Power since the March 1992 DOL hearing record was closed demonstrate that, as a Georgia Power employee, Mr. Mosbaugh wilfully caused or contributed to a violation of

³ By implication, the Secretary's ruling found Complainant's filing timely even though it was not filed until two and one-half years after the RD&O. In the case of Georgia Power's Motion to Reopen, because the RD&O was favorable to Georgia Power, it had no basis on which to reopen the record. That is, Georgia Power could not have shown that the new evidence would have altered the outcome of the R&DO. This changed only when the Secretary issued his November 20, 1995 Decision and Remand Order, rejecting the RD&O.

NRC's regulation that NRC licensees provide complete and accurate information to the NRC (10 C.F.R. § 50.9), and wilfully caused violations of NRC regulations respecting the protection of safeguards information (10 C.F.R. Part 73).⁴ Such evidence compels a finding that Mr. Mosbaugh's complaint under the employee protection provision of the ERA is subject to dismissal pursuant to 42 U.S.C. § 5851(g).

A. Section 5851(g).

Section 5851(g) of the ERA prohibits claims under its provision where the complainant has wilfully violated NRC requirements or regulations or statutory requirements under the ERA or AEA, as follows:

Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of this chapter or of the Atomic Energy Act of 1954, as amended.

42 U.S.C. § 5851(g); see also 29 C.F.R. § 24.9.

The Senate's Report on the amendment to the ERA which added Section 5851, explained the reason for adding subsection (g):

In order to avoid the abuse of the protection afforded under this section, the committee has added a provision which would deny its applicability to any employee who,

⁴ These regulations have counterparts in the Atomic Energy Act of 1954 (the "AEA"). Section 186 of the AEA provides that any license may be revoked for any material false statement to the NRC (42 U.S.C. § 2236(a)) and AEA Section 147 prohibits the disclosure of unclassified safeguards information (42 U.S.C. § 2167).

without direction from his employer, deliberately violates or willfully contributes to a violation of any standard, requirement, or regulation under the Act.

P.L. 95-601, 95th Cong. (1978), S.Rep. No. 95-848 at 30, U.S. Code Cong. Admin. News p. 7304 (1978). Indeed, the central purpose of both the ERA and the AEA is the assurance that nuclear power facilities are safely maintained within the guidelines set out by the federal government. See generally Pub. L. 93-438, 93rd Cong., U.S. Code Cong. & Admin. News, pp. 5470-5553 (1974) (legislative history of the ERA). Thus, while Section 5851(a) provides protection to whistleblowing employees, its protections are limited only to employees who have not violated any nuclear standard, requirement, or regulation.

The case of English v. General Electric Company, 683 F. Supp. 1006 (E.D. N.C. 1988), is instructive on the operation of Section 5851(g). The employee in English brought an action against her employer for wrongful discharge and intentional infliction of emotional distress under North Carolina law.⁵ The action was based on the plaintiff's discharge from the Chemical Metallurgical Laboratory at General Electric's Nuclear Fuel Manufacturing Department. The employer charged the employee with violating various NRC safety regulations. Id. at 1008-09. The defendant moved to dismiss on various grounds. In part, the defendant pointed out that Section 5851(g) prohibits an employee from bringing suit under Section 5851 where an employee caused a

⁵ In a separate action, the plaintiff also filed a claim under the ERA. See English v. Whitfield, 858 F.2d 957 (4th Cir. 1988).

violation of an NRC regulation or requirement. "[F]ailure to observe the limitation imposed by Congress in subsection (g) . . .," argued the defendant, "could result in the reinstatement and compensation of a potentially dangerous employee." Id. at 1013. The court agreed and explained:

The limitation imposed by subsection (g) can best be illustrated with reference to these hypothetical cases: Employee A "blows the whistle" on his employer concerning a potential safety violation. A has not violated any nuclear safety requirements. Employee B blows the whistle on his employer concerning the violation of an AEA requirement which B himself contributed to or caused. Employee C similarly blows the whistle; however, while he neither contributed to nor caused the potential safety violation which he reported he has violated a separate and distinct requirement of the AEA. Each employee may successfully show a violation of subsection (a) of Section [5851].

The violation will be abated as to employee A but not B and C. A clearly falls within the language of Section [5851], not having caused any violation. B has committed a safety violation, the very one which caused him to blow the whistle. Even though B is successful with respect to subsection (a) he nonetheless is barred from obtaining relief by subsection (g). This bar most clearly resembles the equitable doctrine of "clean hands" whereby relief is denied to those guilty of improper conduct in the matter as to which they seek relief. See generally 30 C.J.S. Equity § 93 (1965). In employee C's case, Congress has seen fit to go even further, denying relief because he committed a violation not even remotely related to that on which he blew the whistle.

Id. at 1013-14. The court concluded that "[t]he impact of subsection (g) is therefore quite clear: even if an employer has violated subsection (a) -- i.e., discharged or discriminated against an employee because he voiced concerns of nuclear safety -- the employee is absolutely barred from obtaining redress if he

has caused a violation of any nuclear safety requirement." Id.
at 1014.

While the decision was reversed on other grounds by the U.S. Supreme Court, the Court expressly recognized that the limitation of Section 5851(g) bars an employee's action under Section 5851(a). The Court noted:

Indeed, the only explanation for any of the statute's remedial limitations is the Committee Report's statement that employees who deliberately violate nuclear-safety requirements would be denied protection under § [5851](g) "[i]n order to avoid abuse of the protection afforded under this section." (citations omitted).

English v. General Electric Company, 496 U.S. 78, 88, 110 S.Ct. 2270, 2280 (1990) (emphasis in original); see also Gaballah v. PG&E, 711 F. Supp. 988, 990 (N.D. Cal. 1989) (Section 5851(g) bars a federal remedy to employees who themselves intentionally violate the AEA or the ERA); Norris v. Lumbermen's Mutual Casualty Company, 881 F.2d 1144, 1148 (1st Cir. 1989) (same).

Thus, the thrust of Section 5851(g) is to deny the applicability of Section 5851(a) to an employee who has caused a violation of any standard, requirement, or regulation under the AEA or ERA. In the following sections, Georgia Power will show that, based on after-acquired evidence, it is apparent that Mr. Mosbaugh wilfully caused or contributed to violations of NRC regulations. Such evidence is relevant and material and the outcome of this case will likely be dismissal of Mr. Mosbaugh's ERA complaint pursuant to Section 5851(g).

B. Mr. Mosbaugh Wilfully Contributed to a Violation of NRC's Completeness and Accuracy of Information Regulation.

1. The NRC has Concluded that Georgia Power's April 19, 1990 LER 90-006 Violated 10 C.F.R. § 50.9.

Georgia Power submitted a Licensee Event Report ("LER") to the NRC on April 19, 1990 concerning the March 20, 1990 site area emergency at Plant Vogtle, which inaccurately stated that there had been at least 18 consecutive, successful starts of the 1A and 1B diesel generators subsequent to a comprehensive test program of the diesel control systems.⁶ There were in fact less than 18 such starts.

In June and July of 1990, Mr. Mosbaugh confidentially provided the NRC Office of Investigations ("NRC-OI" or "OI") with written allegations that Georgia Power personnel had wilfully submitted false information concerning the diesel generator starts in the LER, as well as in an April 9, 1990 letter to NRC. As a result of the ensuing OI investigation, certain documentation and tape recordings relevant to the diesel generator allegations, which Mr. Mosbaugh had provided to the

⁶ The relevant LER language states

Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. After the 3-20-90 event, the control systems of both engines have been subjected to a comprehensive test program. Subsequent to this test program, DG1A and DG1B have been started at least 18 times each and no failures or problems have occurred during any of these starts.

NRC, were not available to Georgia Power until 1993. Among this material were three tape recordings (Nos. 42, 57 and 58) made by Mr. Mosbaugh on April 11 and 19, 1990, as well as the written allegations and other statements he provided to the NRC.

Following the completion of OI's investigation in 1993 and a subsequent enforcement action, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalties, dated May 9, 1994 ("NOV"). The NOV found that the LER's diesel starts statement was inaccurate in a material respect in violation of 10 C.F.R. § 50.9.⁷ This violation was based on an analysis performed by an NRC Staff "Vogtle Coordinating Group" which found that Mr. Mosbaugh bore some responsibility for this violation. See Vogtle Coordinating Group Analysis, dated February 9, 1994 (attached hereto as Exhibit C) at 14.⁸

However, the full extent of Mr. Mosbaugh's responsibility for that violation was not known to Georgia Power until it was able to question him about the newly-acquired evidence in mid-1995 during a hearing before the NRC Atomic Safety and Licensing Board ("ASLB") concerning the diesel generator statements. The record of that case established the following facts at the time that LER 90-006 was signed:

⁷ 10 C.F.R. § 50.9 requires that information provided to the NRC by a licensee shall be complete and accurate in all material respects.

⁸ Following receipt of additional information from Georgia Power, the NRC issued a Modified Notice of Violation and Proposed Imposition of Civil Penalties- \$200,000, dated February 13, 1995, which found that the LER violation occurred as stated. Georgia Power has paid the \$200,000 in civil penalties.

- 1) Mr. Mosbaugh did not review the control room logs and prepare a list of diesel starts on or before April 19, 1990, the day the LER was issued;
- 2) prior to April 19, 1990, Mr. Mosbaugh did not advise his management that the April 9, 1990 letter or draft LER were inaccurate (on April 19 a concern he raised about the draft LER language was resolved by revising the draft LER language);
- 3) on April 19, 1990, Mr. Mosbaugh's staff provided him with information, i.e., the "Webb list," demonstrating that the LER diesel starts statement was inaccurate;
- 4) Mr. Mosbaugh reviewed the final LER diesel starts statement language on April 19 and was the only person who realized that the Webb list demonstrated that statement was false;
- 5) Mr. Mosbaugh did not advise his management that the final LER statement was inaccurate and he did not object while, in his presence, his subordinate, Mr. Aufdenkampe, provided the site's approval of the final LER language over the telephone to the corporate office;
- 6) on information and belief, Mr. Mosbaugh never advised his management about the Webb list and buried it to cover-up his culpability (between April 19 and April 30, 1990 he generated a new list of diesel starts which

he used to demonstrate to his management that the LER was false, without revealing the Webb list); and

7) notwithstanding Georgia Power's best efforts to locate the Webb list -- it was aware that such a list had existed based on discussions with Mr. Webb -- Georgia Power did not obtain the list until early 1995.

2. The 1995 NRC ASLB Hearing Record.

The ASLB proceeding is an administrative license amendment proceeding before a panel of three NRC Administrative Law Judges to determine the validity of a contention made by Mr. Mosbaugh that Southern Nuclear Operating Company, the proposed transferee of the Plant Vogtle operating licenses, does not have the necessary character and integrity to operate the plant. One of the bases for Mr. Mosbaugh's contention is that Georgia Power did not tell the NRC the whole truth about the Vogtle diesel generators in 1990.

A hearing on this diesel generator reporting issue took place from April through September 1995 covering about 60 hearing days. Over forty witnesses appeared and testified, over 12,500 pages of transcript were developed in addition to prefiled written testimony, and over 500 exhibits were admitted into evidence. The events of April 1990 concerning the April 9 letter and April 19 LER were developed in excruciating detail during the hearing.

Following the hearing, on November 6, 1995, Georgia Power submitted Proposed Findings of Fact and Conclusions of Law on the Diesel Generator Reporting Issues (hereinafter referred to as "GPC Findings"), a separately bound copy of which is enclosed herewith. On November 30, 1995 Mr. Mosbaugh submitted his Final Statement of Fact and Conclusions of Law ("Int. Findings"), a separately bound copy of which is also enclosed. The NRC Staff's Findings of Fact and Conclusions of Law in the Form of an Initial Decision filed on December 12, 1995 ("NRC Findings") are also separately bound and enclosed.

The record in the ASLB proceeding⁹ establishes the following fact, -- information which was not readily available to Georgia Power at the close of the March 1992 DOL hearing:

- Contrary to his testimony in the DOL proceeding,¹⁰ on or before April 19, 1990, Mr. Mosbaugh did not review the control room logs and did not prepare a list of diesel starts. See GPC Findings 129, 130, 151; Int. Findings 93-95, 115, 270-72; NRC Finding 104; see also Mr. Mosbaugh's July 1990 OI interview transcript at 216-17, 228-29; Intervenor's Response to the Second

⁹ Citations to the ASLB hearing record appear as "ASLB Tr. _____." A separately bound copy of the relevant portions of that record are enclosed herewith in an Appendix.

¹⁰ As discussed in Section III.A, *infra*, Mr. Mosbaugh misrepresented the facts concerning his actions with respect to issuance of the April 19 LER.

Set of Interrogatories of Georgia Power Company, dated August 11, 1993, at 11.¹¹

- The only list of diesel starts which Mr. Mosbaugh had prior to April 19, was a list prepared by Paul Kochery which identified two problem starts of the 1B diesel on March 22 and 23 but did not provide enough information to call into question the number of diesel starts reported in the April 9 letter. On April 10, Mr. Mosbaugh told Mr. Kochery that the diesel starts statement in the April 9 letter could be a true statement, even though he knew there had been problem starts after March 20. There is no evidence that he further pursued the matter before April 19. Tape 42 Tr. at 25-27. See GPC Findings 129, 130, 151; Int. Findings 161-62, 195.

- Prior to April 19, 1990, Mr. Mosbaugh did not advise his management that the April 9 letter¹² was false, and in fact approved draft LER language as a member of the Plant Review Board on April 18, 1990.¹³ See ASLB Tr. 9078-79 (Mosbaugh); Int. Findings 92-95.

¹¹ Excerpts from this the July 1990 OI interview transcript, withheld from Georgia Power until 1993, and Mr. Mosbaugh's August 1993 interrogatory responses, are included in the Appendix.

¹² The April 9 letter (CX. 40) contained the following statement: "Since March 20, the 1A DG has been started 18 times, and the 1B DG has been started 19 times. No failures or problems have occurred during any of these starts."

¹³ The draft language was the same as that in the April 9 letter except that, in lieu of a specific number of diesel starts, it said they had been started several times. The PRB voted to approve the language subject to replacing the word "several" with the specific number of starts. GPC Finding 132-33; Int. Findings 179-82.

• On April 19, Messrs. Mosbaugh and Aufdenkampe advised Jack Stringfellow, a corporate licensing engineer, that they believed the draft LER -- and, by implication, the April 9 letter -- was false because there had been two problems of the 1B diesel after March 20.¹⁴ They questioned the language because it suggested that there were no problems or failures of the diesels since March 20. They did not know whether the number of diesel starts reported in the draft LER were incorrect and they assigned Tom Webb and Rick Odom to count diesel starts in the control room logs. Tape 57 Tr. at 45-50. GPC Findings 143-44; Int. Findings 191-93; NRC Finding 77. See also Mr. Mosbaugh's July 1990 OI interview tr. at 218-19, 228-29.

• On April 19, Mr. Mosbaugh then received a call from Mr. Shipman, a manager in the corporate office, who sought Mr. Mosbaugh's help in obtaining an accurate diesel starts statement for the LER. Referring to the Kochery list which had been provided to the NRC, Mr. Mosbaugh identified the two problems on the 1B diesel on March 22 and 23 and said his staff was trying to determine the total number of starts. He said he didn't have any better information than the Kochery list but agreed to verify the information. Tape 57 Tr. at 54, 58-63. GPC Finding 151; Int. Findings 194-95; NRC Findings 78-80.

¹⁴ On April 19 Mr. Mosbaugh taped a number of conversations, including telephone calls between Georgia Power plant site and corporate office employees, which are included on Tape Nos. 57 and 58. The accuracy of the transcripts of these tapes (attached hereto as Exhibits D and E, respectively) have been stipulated to -- except where highlighted in bold print -- by the parties to the ASLB proceeding.

• On April 19, Mr. Mosbaugh taped himself admitting to his staff that the diesel starts statement in the April 9 letter, which was very similar to the language in the draft LER, could be accurate if there were 19 starts of the 1B diesel after the last failure which occurred on March 23; to determine this, he directed his staff to quickly review the control room logs and get the information. Tape 57 Tr. at 75-78. GPC Finding 155.

• Next on April 19, Mr. Mosbaugh participated in a group conference call during which the diesel starts language was modified to indicate that subsequent to a "comprehensive test program of the diesel control systems," at least 18 starts of each diesel had occurred without any problems or failures.¹⁵ The Plant Manager, Mr. Bockhold, assured all the participants on the call that he believed this statement was accurate and was what Mr. Cash had verified prior to April 9, 1990. Mr. Aufdenkampe informed the group that his staff was reviewing the control room logs. No one on the call raised any concern about this language. Tape 58 Tr. at 7-9. GPC Findings 159-66.

• The Georgia Power Vice President in charge of Vogtle, Mr. McCoy, telephoned an NRC manager, Mr. Ken Brockman, on April 19 to make sure the NRC understood that there had been problem starts of the 1B diesel early on after March 20 and

¹⁵ This change eliminated the concern with the earlier draft language which could have been read as saying that since March 20, there had been no problems with the diesels. GPC Finding 194, 196.

Brockman stated they did. See Tape 58 Tr. at 28-29. GPC Findings 171-73.

- On April 19, Messrs. Aufdenkampe and Mosbaugh received the Webb list of diesel starts which identified three failures of the 1B diesel after March 20 -- they were shown as occurring on March 21, 22 and 23. The Webb list showed that after the last failure (March 23) there were only 14 starts of the 1B diesel as of April 9 and 18 starts as of April 19. GPC Finding 174; see also NRC Findings 67, 75, 96.

- Messrs. Shipman, Mosbaugh and Aufdenkampe spoke once again on April 19 and discussed the final language of the LER. In attempting to verify the diesel starts statement, they were unsure of what point in time the diesel starts count began. They discussed that the Plant General Manager, Mr. Bockhold, had said the 18 and 19 starts reported to the NRC on April 9 occurred after they had recalibrated the sensors and worked the bugs out of the diesels. Mr. Aufdenkampe recommended leaving the statement the way it was and said that he believed the data that he and Mr. Mosbaugh had received, i.e., the Webb list, supported the statement in the LER. Mr. Mosbaugh did not express disagreement with Mr. Aufdenkampe. Tape 58 Tr. at 22-27. GPC Findings 175-80.

- Mr. Shipman read the LER language and Mr. Mosbaugh expressed some concern that the reference to comprehensive test program suggested a later starting point for the count but he did not pursue this concern when Mr. Shipman mentioned that Mr. McCoy

had spoken with Mr. Brockman who understood George Bockhold's basis for the numbers presented on April 9. Tape 58 Tr. at 28-29. GPC Findings 181-82.

- Later in the call, Mr. Shipman read the LER statement to Messrs. Mosbaugh and Aufdenkampe once again and no concern about this statement was expressed by anyone. Tape 58 Tr. at 31-32. GPC Finding 183. Based on the discussions with the site, Mr. Shipman believed that the final LER was accurate. GPC Finding 185.

- On April 19, Messrs. Mosbaugh and Aufdenkampe further discussed the LER and the Webb list by themselves and they also spoke with Mr. Cash about his April 9 count.¹⁶ Mr. Mosbaugh told Mr. Aufdenkampe he was having trouble finding 18 starts on the Webb list, but Mr. Aufdenkampe believed there was a good faith basis for the statement in the LER because he could count 18 starts from the Webb list after the last failure. When Mr. Aufdenkampe finally asked "Where do you want to go with this Allen?" Mr. Mosbaugh said "There's no place to go with it." Tape 58 Tr. at 34-39. GPC Findings 186-88.

- Mr. Mosbaugh testified that he understood, from the statements that Mr. McCoy and Mr. Bockhold made on the main conference call on April 19, that they intended to use in the LER

¹⁶ Mr. Mosbaugh's July OI interview, tr. 219-21, indicates that when he spoke with Mr. Cash on April 19, he realized that the 18 and 19 numbers that Cash counted and which Georgia Power management believed were problem free, were interspersed with problems or failures. He knew Georgia Power management was unaware of this fact and yet did not alert them to this information.

the same numbers that had been provided to the NRC on April 9. ASLB Tr. 5314. Mr. Mosbaugh therefore understood, at this point in time, that they intended to refer to a number of starts running through April 9, rather than through April 19. ASLB Tr. 5315, 5319; NRC Finding 63.¹⁷ Because Mr. Mosbaugh recognized this, the Webb list should and must have indicated to him that the statement was incorrect, or at a very minimum, the representations that Mr. Bockhold made and Mr. McCoy relied upon, were inaccurate. The Webb list showed only 14 consecutive successful starts of the 1B diesel generator prior to April 9. GPC Findings 235-36.¹⁸

• Mr. Aufdenkampe (who was Mr. Mosbaugh's close friend and supporter) was present for Mr. Mosbaugh's testimony on this topic. He had always believed that everyone thought the LER was correct when it went out. He realized with genuine dismay for the first time listening to Mr. Mosbaugh's testimony that Mr. Mosbaugh knew, on April 19, that the LER was wrong when it went out. ASLB Tr. 5874-75, 5880-82 (Aufdenkampe). GPC Finding 237.

¹⁷ The NRC Findings also suggest that Mr. Mosbaugh did not know the final LER diesel starts statement was inaccurate. NRC Findings 97-98. Our conclusion, which differs from the NRC's, is based on two NRC findings with which we agree: (1) a finding that Mr. Mosbaugh knew Georgia Power intended to present a start count as of April 9 (see NRC Finding 63), and (2) a finding that the Webb list clearly showed such a count was inaccurate (see NRC Finding 96).

¹⁸ Unlike Mr. Mosbaugh, Mr. Aufdenkampe, who also had access to the Webb list (which ran through April 19), did not recognize that it showed the intended LER statement to be false. ASLB Tr. 5872-75. He testified that he focused on the fact that the date showed there were at least 18 consecutive, successful starts of the diesels. Aufdenkampe Prefiled Testimony at 20.

- To cover up the fact that he understood the end point was April 9, Mr. Mosbaugh argued that he could not tell the LER statement was wrong without knowing when the comprehensive test program was completed, i.e., the starting point of the count as defined by Mr. Bockhold. ASLB Tr. 5201-02, 5205-06, 5316 (Mosbaugh). However, this explanation is not credible. There was no definition of the test program which could have provided a sufficient number of starts so that there were at least 18 problem-free diesel starts, as stated in the final LER -- there were only 14 successful consecutive starts of the 1B diesel on the Webb list between the last failure (March 23) indicated on the list and April 9. ASLB Tr. 5321-22. GPC Finding 238.

- On April 20, Mr. Webb reviewed a telecopy of the final LER that had been submitted and was surprised by the diesel start statement. His initial reaction, which he expressed to Mr. Mosbaugh, was that it was wrong, and he questioned what was meant by "subsequent to the test program." GPC Finding 258; Int. Finding 270; NRC Finding 104.

- Apparently prompted by Mr. Webb's remarks and perhaps by some guilt over his failure to ensure the accuracy of the LER, Mr. Mosbaugh proceeded to generate a list of the 1B diesel starts using four sets of source documents. ASLB Tr. 5211-12, 5148 (Mosbaugh). Mr. Mosbaugh may have used the Webb list during the preparation of his own lists. ASLB Tr. 5230 (Mosbaugh). GPC Finding 259.

• On April 30, Mr. Mosbaugh provided Mr. Bockhold a memorandum attaching his own (not Mr. Webb's) listing of the 1-B diesel starts. (Mr. Mosbaugh appears to have made no mention to Mr. Bockhold of the Webb list.) Mr. Bockhold asked Mr. Mosbaugh and Mr. Kitchens, the Assistant General Manager - Operations, to work with Mr. Cash to agree with the list and then have Technical Support propose changes to the documents as required. On May 2, Mr. Mosbaugh informed Mr. Bockhold that the list had been validated. The list showed that the April 9 presentation, the April 9 letter, and the LER were incorrect. GPC Finding 260; Int. Findings 273-74; NRC Finding 107.

• Mr. Mosbaugh admitted that he did not mention the Webb list in his 1990 written allegations to OI. ASLB Tr. 5280 (Mosbaugh). He specifically alleged that there had been inadequate verification and yet he recalls no discussion with OI in which he alerted OI to the fact that Mr. Webb and Odom had completed a list. ASLB Tr. 5281-82. In all of his very lengthy OI interview in July of 1990, he never indicated that Mr. Webb had completed a list on April 19. ASLB Tr. 5289 (Mosbaugh). Nor did he mention in his 1990 OI interview that some of the April 19 discussions referred to the Webb list. ASLB Tr. 5295 (Mosbaugh). GPC Finding 244.

• Mr. Mosbaugh believes he later gave the Webb list to OI among stacks of other documents, but did not call OI's attention to it. ASLB Tr. 5231-33 (Mosbaugh). He did not mention the list to OI, he maintains, because he felt his own

list (prepared between April 19 and April 30, 1990) was better. ASLB Tr. 5243 (Mosbaugh). GPC Finding 245.

- Mr. Mosbaugh annotated a copy of the transcript of Tape 58 for OI in 1990 or 1991. ASLB Tr. 5265 (Mosbaugh). On the portion corresponding to page 34 of Tape 58 Tr., where after the final call with Mr. Shipman Mr. Mosbaugh tells Mr. Aufdenkampe he cannot find enough starts, Mr. Mosbaugh noted that "Tom Webb and Odom was working on a list of starts." ASLB Tr. 5267 (Mosbaugh). Mr. Mosbaugh did not indicate that the list had in fact been completed and provided to him at this point in time, as he now admits. See ASLB Tr. 5270-71 (Mosbaugh). GPC Finding 246.

- When asked by OI in 1993 what type of verification Mr. Webb had provided, Mr. Mosbaugh responded, "Before the LER went out I'm not aware that Tom Webb completed and verified anything as far as the task he was sent out to do, you know. I got Tom Webb out reviewing their reactor operator logs and counting, that Odom statement. I -- it never -- no knowledge ever came back to me that he had completed his task and that he had verified anything." ASLB Tr. 5302 (Mosbaugh). And when OI asked Mr. Mosbaugh whether Mr. Webb had ever completed his verification and produced a verification document, Mr. Mosbaugh obliquely replied: "He never produced a document that verified that what was in the LER was correct, because what was in the LER was false." ASLB Tr. 5303 (Mosbaugh). OI tried yet again, asking:

Q. Did he ever produce a list of starts from the operator's logs, to your knowledge?

A. I recall there being a Tom Webb list at one time, and I can't recall if that was something that he had done preliminarily before the LER went out or -- or it was something that he finished after the LER went out. I do recall there being a Tom Webb list. Okay? But I just for the life of me can't -- I can't remember if it was a preliminary list before or list afterwards. But in either case he never produced a list that verified these statements that were made were correct.

Q. Did you ever have in your possession a Tom Webb list?

A. I may have, but I don't know. I just --

Q. Do you remember what you did with it?

A. No.

ASLB Tr. 5303-04 (Mosbaugh). GPC Finding 247.

• When asked by Georgia Power in an interrogatory whether he had ever seen a list prepared by Mr. Webb or Mr. Odom, Mr. Mosbaugh replied that he saw a list but did not know who prepared it, never saw a final list prepared by Mr. Webb or Mr. Odom, and did not have in his custody or control any list he believed was prepared by Mr. Webb or Mr. Odom. ASLB Tr. 5296-98 (Mosbaugh). Nor did Mr. Mosbaugh mention the Webb list anywhere in his prefiled testimony in the ASLB proceeding. ASLB Tr. 5331 (Mosbaugh). GPC Finding 248.

• He later retrieved a copy from the OI files when they were produced by the NRC in December 1994. ASLB Tr. 5218-19, 5234-35 (Mosbaugh). He stated that he wasn't sure what the list was when he retrieved a copy. ASLB Tr. 5237-38, 5331-32

(Mosbaugh). He put it in a file of start lists that he was using to tabulate statistical information, but somehow it "fell out." ASLB Tr. 5237 (Mosbaugh). Subsequent to Mr. Mosbaugh's having obtained a copy of the list from OI, his counsel represented that Mr. Mosbaugh did not have the Webb list. ASLB Tr. 4683-84. Mr. Mosbaugh was present next to his counsel and took no action to correct this representation. Once he recognized that Georgia Power had discovered the Webb list and intended to question him on it, however, he apparently had no trouble finding that list among his papers and reviewing it before his cross-examination. ASLB Tr. 5210-11, 5218-19, (Mosbaugh). GPC Finding 249.

• After having heard the testimony of Mr. Mosbaugh at the hearing, the NRC Staff witnesses testified that they believed Mr. Mosbaugh's culpability for the false statement in the LER extended to careless disregard -- a wilful violation under NRC regulations. ASLB Tr. 15140-42 (Matthews, Skinner, Hood). One of the Staff witnesses testified that Mr. Mosbaugh's actions were at least careless disregard (ASLB Tr. 15142 (Hood)), suggesting that he believed Mr. Mosbaugh's actions were possibly deliberate.

The above-described facts establish that Mr. Mosbaugh wilfully contributed to the submission of false information to the NRC in violation of 10 C.F.R § 50.9, for which civil penalties were later imposed on Georgia Power. In fact, it appears he was the only person who knew that the final LER was inaccurate at the time it was signed. Mr. Mosbaugh never advised

his management of the information that he had on April 19, 1990 (i.e., the Webb list) and he succeeded in covering up his culpability until the ASLB proceeding.

3. The Secretary's Decision and Remand Order.

As discussed in more detail in Section III.A below, the Secretary was misled by Mr. Mosbaugh's testimony at the DOL hearing. The Secretary's Nov. 20, 1995 Order, at 4, states that after seeing the April 9 letter, Mr. Mosbaugh "determined that Georgia Power may have intentionally misstated the reliability of the generators.... Mosbaugh reported the false statements to his managers.... Mosbaugh reviewed a draft [LER] ... and promptly reported the false information in the draft to responsible managers, but the final LER submitted to the NRC retained the false information." Based on the information available to Mr. Mosbaugh at the time of the DOL hearing, which was unavailable to Georgia Power, it is apparent that Mr. Mosbaugh's misrepresentations in his DOL testimony were no mistake, and the Secretary's findings, based on an inaccurate record, are therefore erroneous.

4. The Requirements of 29 C.F.R. § 18.54(c) are Satisfied with Respect to the Evidence Sought to be Introduced.

As set forth in Section I.B above, in order to obtain relief on the basis of newly discovered evidence, a party need only show: 1) that the newly discovered evidence relates to

facts existing as of the time of the hearing; 2) the party moving for relief "must have been excusably ignorant of the facts despite using due diligence to learn about them"; 3) that the newly discovered evidence is not cumulative; and (4) that, with the newly-acquired evidence, the outcome of the case could be different.

The after-acquired evidence described above -- Tapes 42, 57 and 58, the Webb list, Mr. Mosbaugh's testimony before NRC-OI in July 1990, Mr. Mosbaugh's written allegations submitted to NRC-OI concerning the LER violation, and testimony at the ASLB hearing in 1995 -- is significant, was unavailable to Georgia Power at the time of the DOL hearing, and relates to the events existing at the time of the DOL hearing, i.e., all of the new evidence relates to Mr. Mosbaugh's activities in connection with the LER 90-006 violation in 1990. This new evidence is not cumulative and it compels a different outcome in this proceeding.

Georgia Power was excusably ignorant of these facts prior to the close of the DOL hearing record despite using due diligence to learn about them. As set forth in the Background section above, it is indisputable that the 76 tapes withheld by NRC-OI were not available to Georgia Power prior to close of the hearing record. Tape Nos. 42, 57 and 58 were among the 76 withheld tapes. In March 1992, Georgia Power had a general understanding of events relating to LER 90-006, based on Company records and the fading recollections of its employees. However, it did not, and could not reasonably have been expected to,

discern the level of detail of personal communications among its employees at the site and corporate office which occurred on and about April 19, 1990 and which are captured on Tapes 42, 57 and 58. As discussed in the Background section above, Georgia Power made reasonable efforts in discovery in Mr. Mosbaugh's DOL cases to obtain the tapes withheld by NRC-OI but, on the basis that such tapes were the subject of an on-going investigation, Georgia Power's efforts were unsuccessful.

Georgia Power also submitted Freedom of Information Act ("FOIA") requests to the NRC to obtain the tapes and other relevant documentation. Pursuant to the FOIA, on July 22, 1991, Georgia Power requested the April 19 tapes which request was denied by the NRC on the grounds of FOIA Exemption 7(A) (i.e., "[d]isclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators.").

On October 21, 1991, Georgia Power submitted an FOIA request to NRC for all records reflecting communications between the NRC and Mr. Mosbaugh or his attorney. That request covered Mr. Mosbaugh's July 1990 OI interview as well as the written allegations he provided to NRC in May and June of 1991. That request was denied on February 11, 1992 on the basis of Exemption

7(A), except for copies of certain memoranda and correspondence not relevant to this discussion.

On November 18, 1991, pursuant to the FOIA, Georgia Power requested the NRC to produce a copy of the transcript of Mr. Mosbaugh's July 1990 interview with NRC-OI. That request was denied on December 30, 1991 on the ground of Exemption 7(A). Georgia Power appealed that request on January 23, 1992. In response, the NRC denied the appeal, citing Exemption 7(A) except as to the first 3 pages of the 255 page transcript.

Georgia Power submitted another FOIA request to NRC on March 18, 1992 for all tapes provided to NRC by Mr. Mosbaugh. That request was denied on June 17, 1992 with respect to the 76 tapes on the basis of Exemption 7(A).¹⁹ Georgia Power appealed that denial on July 15, 1992 but the NRC denied the appeal on September 10, 1992.

On May 3, 1993, during discovery in the ASLB proceeding, Georgia Power also sought to obtain the 76 tapes, as well as Mr. Mosbaugh's oral and written statements provided to NRC. The NRC objected to that discovery request on several grounds including that a number of the documents were subject to OI's on-going investigation. The NRC did release about 30 tapes which were not related to the OI investigation. The staff

¹⁹ On July 6, 1992, the NRC did produce redacted versions of two tape transcripts, Nos. 44 and 153, as well as another full transcript of Tape No. 141. The redacted information was withheld on the basis of Exemption 3 (i.e., "Section 147 of the Atomic Energy Act ... prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. § 2167).").

provided a list of documents they continued to withhold, which included Tapes 42, 57, 58 and 253²⁰ and Mr. Mosbaugh's July 1990 OI interview transcript.²¹

On August 9, 1993, Georgia Power moved to compel NRC to produce the 44 tapes and transcripts still being withheld as well as certain of the other documents evidencing Mr. Mosbaugh's statements. On August 31, 1993, the ASLB denied Georgia Power's motion to compel for 75 days, ordering the NRC Staff to produce the requested materials on November 8, 1993, unless it earlier filed a motion requesting a further extension of time.

On October 27, 1993, the NRC Staff filed a motion for a further extension of time to March 15, 1994, to produce the requested documents on the basis that they should not be released until the Commission had completed its review and made a determination on any proposed enforcement action. Georgia Power opposed this motion and the ASLB ruled that the NRC Staff was to produce the requested documents on December 18, 1993. As a result, Georgia Power finally received access to the tapes and Mr. Mosbaugh's July 1990 OI interview transcript. However, it still had not located the Webb list.

Georgia Power was aware prior to the DOL hearing, from discussions with Mr. Webb, that he had prepared a list of diesel starts. However, neither he nor other Georgia Power

²⁰ Tape 253 is discussed in Section II.C. below.

²¹ In response to Georgia Power's discovery requests, it received copies of Mr. Mosbaugh's written allegations in the June-July 1993 time frame.

representatives were able to locate it until January 1995, when it was discovered among documents in NRC-OI files, made available by the NRC for the first time in December 1994. As mentioned in Section II.B.2 above, when Georgia Power asked Mr. Mosbaugh in a 1993 interrogatory whether he had the Webb list, Mr. Mosbaugh said he did not. See ASLB Tr. 5296-98 (Mosbaugh). Mr. Mosbaugh testified that he himself retrieved a copy of the Webb list from OI files in December 1994. ASLB Tr. 5218-19, 5234-35 (Mosbaugh).

Even after Georgia Power obtained the Webb list, it was not able to fully appreciate Mr. Mosbaugh's activities in 1990 with respect to LER 90-006 until it was able to cross-examine him. Although the discovery period had been closed in August 1994, on March 6, 1995, Georgia Power moved to reopen Mr. Mosbaugh's deposition in order to question him about the Webb list. That request was denied by the ASLB on March 10, 1995. Thereafter, Georgia Power was first able to question Mr. Mosbaugh about the Webb list at the ASLB diesel generator hearing on May 22 and 23, 1995.

In support of the above representations concerning this after-acquired evidence, an affidavit by Georgia Power counsel, James E. Joiner, attesting to these facts is attached hereto as Exhibit F.

The after-acquired evidence discussed above is largely a part of the hearing record of Georgia Power's license amendment proceeding before the Nuclear Regulatory Commission ("NRC"), in which Mr. Mosbaugh intervened. A ruling and other documents from

that case were admitted into the record by the Secretary, pursuant to Complainant's May 12, 1995 Motion to Reopen, in the interest of a complete record, even though the Secretary did not consider those documents critical to his decision. See Secretary's Nov. 20, 1995 Decision and Order at 7-11. A stronger case exists for admission of the new evidence described in this motion. Without such evidence the Secretary's Decision and Remand Order will be based on an inadequate record.

5. Conclusion.

The ASLB hearing record establishes that Mr. Mosbaugh is culpable with respect to the false statement submitted to the NRC in LER 90-006, dated April 19, 1990. The circumstances surrounding his actions with respect to the Webb list, including his false testimony in the DOL hearing, establish that his actions were wilful. Significantly, had Georgia Power been aware in 1990 of Mr. Mosbaugh's actions with respect to the April 19, 1990 LER, such actions by themselves would have been a sufficient basis for termination of his employment.

The after-acquired evidence demonstrating Mr. Mosbaugh's culpability was not readily available to Georgia Power before the close of the DOL hearing record in 1992. It is relevant and material and will likely result in a different outcome in this case, i.e., dismissal of Mr. Mosbaugh's complaint pursuant to 42 U.S.C. § 5851(g). Therefore, pursuant to 29 C.F.R. § 18.54(c), Georgia Power requests that the record of the

DOL proceeding be reopened and further hearings granted to hear this important additional evidence.

C. Mr. Mosbaugh Wilfully Committed a Second Violation of NRC's Regulations Requiring Complete and Accurate Information (10 C.F.R. 50.9).

Newly-discovered evidence contained on one of the 76 tapes withheld by OI establishes that Mr. Mosbaugh wilfully allowed Georgia Power to submit false information to the NRC in August 1990 in response to NRC questions concerning who participated in the preparation and approval of LER 90-006.

On August 15, 1990, Mr. Mosbaugh recorded on Tape 253²² a telephone conference among Messrs. McCoy, Bockhold, Aufdenkampe, Frederick, Horton, Domby, himself and others at the site and Messrs. Shipman, Bailey, and possibly others at the corporate office. See Tape 253 Tr., attached hereto as Exhibit G.²³ The purpose of the call was to discuss how to respond to questions posed by an NRC Operational Safety Inspection team, on site to review operations and evaluate allegations.²⁴ Some of the questions they were attempting to answer involved who prepared LER 90-006, who approved it, who reviewed it on the PRB and who put the words "subsequent to the comprehensive test

²² As demonstrated in Section II.B above, Tape 253 was among the last 44 tapes withheld by the NRC until December 1993.

²³ The accuracy of this transcript was stipulated to by all parties in the ASLB proceeding.

²⁴ Unbeknownst to Georgia Power personnel at the time, Mr. Mosbaugh was the source of these allegations.

program" into the LER. See GPC Findings 403-04; Tape 253 Tr. at 8-15. As only Mr. Mosbaugh knew, the answers to these questions were documented on the tapes Mr. Mosbaugh made on April 19, 1990. However, the other Georgia Power personnel trying to answer these questions were totally reliant on their own recollections. During the August 15 discussion, the Georgia Power personnel discussed a number of names of those who might have been involved. See GPC Finding 408, 411. The task of boiling this down into a written response was left to Mr. Frederick, the on-site quality assurance supervisor. Notwithstanding their efforts to correctly answer the NRC questions, their collective recollections yielded a response which was inaccurate. See Georgia Power's "white paper" response attached hereto as Exhibit H. For example, the response omitted Mr. McCoy although he clearly was involved in the discussion when the "subsequent to the comprehensive test program" language was chosen. Compare, e.g., Exhibit H response with Exhibit E, Tape 58 Tr., at 7-11. In fact, it is obvious from the August 15 discussion that, other than Mr. Mosbaugh, Georgia Power personnel didn't distinguish between calls on April 19 concerning the LER. There is no evidence that Georgia Power personnel, other than Mr. Mosbaugh, intentionally provided false information; they obviously made their best efforts to collectively recall the details of the preparation of the LER on April 19. See GPC Findings 412-13.

Unbeknownst to everyone else, only Mr. Mosbaugh knew, or could readily determine, the answers to these questions

accurately. However, throughout the August 15, 1990 discussion, Mr. Mosbaugh offered no information to aid Georgia Power in answering that question. Moreover, after the response was submitted, he made no attempt to correct the information.

Mr. Mosbaugh's testimony at the ASLB hearing establishes that, by August of 1990, he had become a non-participant in the Company. Mr. Mosbaugh explained that at this point in time he was a confidential informant to NRC investigators, in fairly frequent communication with, and passing information on to, OI. He viewed his role as observing what Georgia Power was doing, and passing information on to the NRC investigator. Tr. 9184-85; 10149-50 (Mosbaugh).

In the proposed findings of fact Mr. Mosbaugh submitted in the ASLB proceeding, he addressed this topic. See Int. Findings 357-76. He states that Georgia Power's white paper response (Exhibit H) was a "material false statement." See, e.g., Int. Findings 316 and 372. Section 186 of the Atomic Energy Act of 1954 provides that any license may be revoked for any material false statement to the NRC. 42 U.S.C. § 2236(a); see also 10 C.F.R. § 50.9. There is no dispute that a technical violation occurred. While Georgia Power personnel did not realize the response was inaccurate at the time, Mr. Mosbaugh knew he had the accurate information on his tapes but did nothing to ensure the response was accurate. As a Georgia Power employee it was his duty to advise the Company of the inaccuracy in order to avoid a violation, regardless of the position to which he was

assigned at the time. His argument (Int. Findings at 209 n.87) that he was a confidential allegor with the NRC and that he was not in line management does not hold water. He had a responsibility to provide his employer with the information only he had which would have made the answers to the NRC questions accurate. He deliberately shirked his duty to the Company. Not only is this a willful violation of NRC regulations, it constitutes an independent ground for termination of Mr. Mosbaugh's employment. He would have been fired had the Company known these facts in August 1990.²⁵

The new evidence described above was on the 76 tapes withheld by OI and unavailable to Georgia Power notwithstanding Georgia Power's best efforts to obtain the tapes. This evidence is relevant and material and not cumulative and will likely result in a different outcome in this proceeding, i.e., dismissal of Mr. Mosbaugh's complaint pursuant to 42 U.S.C. § 5851(g).

Based on the foregoing, pursuant to 29 C.F.R. § 18.54(c), Georgia Power requests that the DOL hearing record be reopened and further hearings granted to hear after-acquired evidence that, as a Georgia Power employee, Mr. Mosbaugh in fact committed the above-described second violation of 10 C.F.R. § 50.9.

²⁵ The seriousness of Mr. Mosbaugh's violation is compounded as a result of his prior wilful violation of this same regulation on April 19, 1990 in connection with LER 90-006.

D. Mr. Mosbaugh Wilfully Violated NRC's Safeguards Regulations.

As discussed at the DOL hearing by Georgia Power witness Mr. Huyck, the Vogtle Security Manager, NRC regulations contained in 10 C.F.R. Part 73.21 prescribe requirements for the control of "safeguards information"²⁶ in order to protect it from disclosure to unauthorized individuals. T. 929-32; RX. 29, 77. It is indisputable that Mr. Mosbaugh did not control his tape recordings in accordance with these NRC regulations.²⁷ However, Georgia Power was unable to prove at the DOL hearing that Mr. Mosbaugh had in fact taped safeguards information on his tapes, giving rise to a violation of Section 73.21.

Mr. Huyck testified that he believed three of Mr. Mosbaugh's tape recordings (Nos. 44, 141, and 153) contained safeguards information.²⁸ T. 932-36. Mr. Mosbaugh disputed this (T. 383) and testified that at the outset of the April 13, 1990 RER meeting there was a "normal and customary announcement" that

²⁶ "Safeguards Information" is defined in 10 C.F.R. § 73.2 as "information ... which specifically identifies a licensee's ... detailed ... security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities."

²⁷ For example, at the DOL hearing, Mr. Mosbaugh testified that he allowed Mr. Timmons, a former Plant Vogtle security manager, to listen to Tape 44 even though Mr. Mosbaugh knew Mr. Timmons was no longer authorized to receive Vogtle safeguards information. T. 383-84. The same is apparently true of Tape 153. T. 48.

²⁸ Tape 44 contained discussions between Georgia Power and NRC personnel on April 13, 1990 with respect to a security Regulatory Effectiveness Review ("RER") inspection. T. 933 (Huyck).

safeguards information would be discussed during the meeting -- this advised the participants to take the necessary steps to ensure that the information discussed was properly protected from unauthorized disclosure -- at which point he turned off his tape recorder. T. 233-34, 380. Complainant's counsel also made an offer of proof that Mr. Timmons, a former Vogtle security manager, would testify that no safeguards were contained on the tapes. T. 48. Georgia Power further introduced correspondence from NRC Regional Administrator, Stewart Ebnetter, indicating that NRC was concerned Tape 44 may contain safeguards information and requesting Mr. Mosbaugh to return the tape to NRC. RX. 27, 28. However, we now know that he did tape the entire meeting and it did contain safeguards information.

As stated earlier, in late 1994, Georgia Power was provided access to certain materials in OI files. Among these materials, Georgia Power discovered evidence that the NRC had concluded Mr. Mosbaugh did, in fact, tape safeguards information on two of his tapes, that such safeguards information was not secured as safeguards, and that a violation of 10 C.F.R. § 73.21 was implicated.²⁹ These documents are attached hereto as Exhibit I. Furthermore, these materials also included a redacted Request

²⁹ As mentioned above in footnote 19, Georgia Power received redacted transcripts of Tapes 44 and 153 in July 1992, implying that the NRC had concluded the tapes contained safeguards information.

for Investigation ("RFI"), dated August 17, 1992,³⁰ attached hereto as Exhibit J, which indicated:

- 1) Mr. Mosbaugh had falsely testified at the DCJ hearing that the NRC assured him no safeguards information was on the 201 tapes returned to him on February 21, 1991.³¹
- 2) NRC Safeguards personnel and the NRC Office of General Counsel concluded that both Tapes 44 and 153 contained safeguards information.
- 3) On November 21, 1991, NRC Regional Administrator Stewart Ebnetter, requested that OI initiate an investigation to determine if Mr. Mosbaugh knew that he was recording safeguards information and was in unauthorized possession of safeguards material.

There is already sufficient evidence in the DOL hearing record on which to conclude that Mr. Mosbaugh's illegal taping of safeguards information was a wilful violation. When Mr. Mosbaugh attended the April 13, 1990 RER meeting, he knew that safeguards information was going to be discussed -- indeed, an announcement to that effect was made at the outset of the meeting. Nonetheless he taped the entire meeting.³² At the time Mr.

³⁰ The copy of the August 17, 1992 RFI which Georgia Power has received is incomplete -- the last page and most of the third page has been redacted. Georgia Power has requested the complete document from the NRC pursuant to the Freedom of Information Act, but has been verbally notified that its request is being denied.

³¹ See T. 312-14 (Mosbaugh). This is discussed in more detail in Section III.B, *infra*.

³² At the DOL hearing, Mr. Mosbaugh testified that he did not return Tape 44 to NRC pursuant to Mr. Ebnetter's Nov. 26, 1991 letter until the day before the March 11, 1992 DOL hearing. T. 384. Although he was no longer a Plant Vogtle employee at the time, such contempt for NRC's regulatory responsibilities over Plant Vogtle speaks volumes about Mr. Mosbaugh's motivation -- concern for safety and the NRC's regulatory safety function take a back seat to his personal agenda.

Mosbaugh taped safeguards information on Tape 44 (dated April 13, 1990) he was the acting Assistant General Manager - Plant Support and was responsible for the Security Department. He had been responsible for the Security Department since 1986 and was very familiar with all the safeguards regulations. T. 232-33.

Moreover, the newly discovered August 17, 1992 RFI provides convincing support that Mr. Mosbaugh's actions were wilful. This evidence demonstrates that Mr. Mosbaugh was willing to lie under oath at the DOL hearing in order to establish an excuse for accepting return of his tapes. See Section III.B below. It strongly suggests that Mr. Mosbaugh did this because he knew that the tapes contained safeguards information.

The requirements of 29 C.F.R. § 18.54(c) are satisfied with respect to the above-described materials retrieved from OI's files. First, the newly discovered evidence described above relates to facts existing as of the time of the hearing, i.e., Mr. Mosbaugh's 1990 taping of safeguards information. Second, Georgia Power was excusably ignorant of the facts despite using due diligence to learn about them. That is, Georgia Power was not aware, at the time of the DOL hearing, that NRC had (a) concluded Mr. Mosbaugh taped safeguards information on his tapes, (b) concluded that a violation of 10 C.F.R. § 73.21 was implicated, and (c) initiated a Request for Investigation of Mr. Mosbaugh's taping of safeguards information. Georgia Power made reasonable efforts to obtain this information from the NRC but was advised only that there may be safeguards information on one

tape. Third, this information is not cumulative. While Georgia Power was able to establish that the NRC was concerned the tapes may contain safeguards information, it was unable to establish that the NRC had concluded, in fact, they did contain such information. This evidence is relevant and material and will likely result in different outcome in this proceeding, i.e., dismissal of Mr. Mosbaugh's complaint pursuant to 42 U.S.C. § 5851(g).

Based on the foregoing, pursuant to 29 C.F.R. § 18.54(c), Georgia Power requests that the DOL hearing record be reopened and further hearings granted to hear after-acquired evidence that Mr. Mosbaugh, in fact, illegally taped safeguards information as a Georgia Power employee.

III. THE RECORD SHOULD BE REOPENED TO TAKE ADDITIONAL EVIDENCE RESPECTING WHETHER MR. MOSBAUGH'S COMPLAINT SHOULD BE DISMISSED ON THE BASIS OF FRAUD AND MISCONDUCT AT THE HEARING BELOW.

As stated above, Mr. Mosbaugh misled Judge Glennon and the Secretary with false testimony at the DOL hearing in March 1992. It is also evident, based on information Mr. Mosbaugh provided to NRC-OI, which was unavailable to Georgia Power prior to 1993, that Mr. Mosbaugh knew the testimony he was giving was false, intending to mislead the DOL. As set forth in Section I above, Fed. R. Civ. Proc. 60(b)(3) provides that a party may obtain relief from a final order based on fraud, misrepresentation, or other misconduct of an adverse party. On the basis of the fraud, misrepresentations and misconduct of Mr.

Mosbaugh described herein, Georgia Power would be entitled to relief as a matter of law from a final order of the Secretary from which it was aggrieved. This stands as an independent basis on which to reopen the record to admit after-acquired evidence. Moreover, such evidence will likely have a bearing on what relief, if any, Mr. Mosbaugh should be entitled to.

A. False Testimony Concerning the April 19, 1990 LER.

1. Mr. Mosbaugh's March 1992 DOL Hearing Testimony.

At the hearing, Mr. Mosbaugh testified that on April 9 or 10, 1990 he reviewed Georgia Power's April 9, 1990 Confirmation of Action ("COA") response letter to the NRC (CX. 40). He said he immediately noticed a potential problem with two statements in the letter. One of the statements indicated that since March 20, the 1A diesel had been started 18 times and the 1B diesel had been started 19 times and no failures or problems had occurred with any of these starts. Because there had been failures or problems after March 20, Mr. Mosbaugh questioned the statement. T. 258-59.

Mr. Mosbaugh testified that he then began gathering data to check the statement. He said he got copies of the control room logs and a "few other sources of information" and started putting together a list of diesel starts. Based on this information, Mr. Mosbaugh testified that he concluded that the COA response statement was false. He said that he found there were numerous trips, failures and problems after March 20 and

that he couldn't find a string of the 18 and 19 numbers where there had been no problems or failures. Mr. Mosbaugh testified that he personally raised this concern to responsible high level management, informing them that he thought it was false. T. 265-67.

Mr. Mosbaugh next testified that he reviewed a draft of LER 90-006 (CX. 42), the final version of which Georgia Power submitted to the NRC on April 19, 1990. The LER draft that Mr. Mosbaugh reviewed had wording very similar to that contained in the COA response letter, although it was different than the language used in the final LER. He said the draft LER statement was false and that is what he reported to responsible senior management before the final LER was signed. He testified that the first time he saw the final, signed LER was a couple of days after April 19, when he realized it was false. T. 268-70.

Finally, Mr. Mosbaugh testified that he wrote a memorandum, dated April 30, 1990, to George Bockhold (CX. 43), after first raising the issue with him orally, indicating that the diesel starts statements about the 1B diesel were false and attached a tabulation of starts that he had made from a review of the control room logs.

Based on Mr. Mosbaugh's DOL testimony one would conclude that the following events took place in 1990: (1) within a day or two after the April 9 COA response letter was sent, Mr. Mosbaugh compiled a list of diesel starts from the control room logs and other sources, (2) before seeing a draft LER, Mr.

Mosbaugh personally advised senior management that the April 9 letter was false because there were problems and there were not enough consecutive, problem-free starts of the diesel, (3) Mr. Mosbaugh separately reported to senior management that the draft LER was false before it was signed and that a false statement was nonetheless included in the final signed LER, and (4) Mr. Mosbaugh did not see, or was not otherwise made aware of, the final LER language before it was submitted to NRC.

When Mr. Mosbaugh gave this testimony in March 1992 he had the benefit of information, including Tapes 42, 57 and 58, which was not available to Georgia Power because of NRC-OI's on-going investigation into Mr. Mosbaugh's allegations. In hindsight, with the benefit of this information, it is frighteningly clear that the picture Mr. Mosbaugh painted is far from the truth and that he has perpetrated an elaborate fraud and cover-up concerning his responsibility and culpability for the false statement included in the April 19, 1990 LER.

2. The ASLB Hearing Record.

The ASLB hearing record, discussed in detail in Section II.B.2 above, establishes the following facts, which contradict Mr. Mosbaugh's DOL hearing testimony:

- Mr. Mosbaugh did not review the control room logs or prepare a list of diesel starts on or before April 19, 1990. He only did so after April 19.

- Mr. Mosbaugh did not immediately determine that the April 9 letter's diesel starts statement was false. After he saw the letter, he told Mr. Kochery the diesel starts statement could be accurate even though there were problem starts after March 20.

- Prior to April 19, 1990, Mr. Mosbaugh did not advise his management that the April 9 letter was false. On April 19, the concern which Mr. Mosbaugh raised was that the "no problems or failures" language in the draft LER -- and, by implication, the similar language in the April 9 letter -- could be false because there were two problems on the 1B diesel on March 22 and 23.

- The concern raised by Mr. Mosbaugh was addressed and resolved by a change in the language of the draft LER and the NRC was contacted to ensure that they were not misled into thinking there were no problems with the diesels after March 20.

- On April 19, Mr. Mosbaugh received the Webb list of diesel starts and did not share this information with the corporate office. Only he realized that the Webb list proved the message intended by Georgia Power management in the diesel starts statement of the final LER was false.

- Mr. Mosbaugh was provided the final LER language before the LER was signed and allowed his subordinate, Mr. Aufdenkampe, to provide the site's concurrence with that language to the corporate office, even though Mr. Mosbaugh knew the statement was false and that no one else realized that fact.

• After April 19, Mr. Mosbaugh concealed the Webb list to cover-up his own culpability and prepared a separate listing of diesel starts.

Mr. Mosbaugh was well aware of these facts when he testified in the March 1992 DOL hearing because he had the benefit of what was recorded on his tapes and other information which he provided to NRC-OI, all of which was unavailable to Georgia Power.³³ His intent to mislead can also be inferred from his failure to correct his false DOL testimony at any time since the hearing.

3. The Recommended Decision and Order and the Secretary's Decision and Remand Order Relied upon Mr. Mosbaugh's False Testimony.

The RD&O, at 13-15, relied upon Mr. Mosbaugh's testimony finding that Georgia Power had signed out the LER after Mr. Mosbaugh had raised his concern and that Georgia Power "repeated the incorrect post-March 20 generator start-up test results." The RD&O further indicates that when Mr. Mosbaugh saw

³³ Mr. Mosbaugh also admitted during the ASLB hearing that the affidavit he provided to the DOL in support of his May 15, 1991 Motion for Summary Judgment was inaccurate. That affidavit inaccurately distorted the events concerning LER 90-006, suggesting that Mr. Mosbaugh did not cause or contribute to the error in LER 90-006, similar to Mr. Mosbaugh's DOL testimony. It is indisputable that Mr. Mosbaugh knew that affidavit was false when, on May 28, 1991, he submitted detailed written allegations to NRC-OI, which were not made available to Georgia Power until 1993, that contradicted his DOL affidavit. Mr. Mosbaugh never corrected the false statements in his DOL affidavit. ASLB Tr. 8339-53, 8364-68.

the final LER "he felt concerned because '[i]t had been signed out false.'"

The Secretary's Nov. 20, 1995 Order, at 4, also adopted Mr. Mosbaugh's testimony and stated that after seeing the April 9 letter, Mr. Mosbaugh "determined that Georgia Power may have intentionally misstated the reliability of the generators.... Mosbaugh reported the false statements to his managers.... Mosbaugh reviewed a draft [LER] ... and promptly reported the false information in the draft to responsible managers, but the final LER submitted to the NRC retained the false information."

4. Evidence that Mr. Mosbaugh Falsely Testified at the DOL Hearing is Relevant and Material and Could Change the Outcome of this Proceeding.

In this case, there is clear and convincing newly-acquired evidence which demonstrates that Mr. Mosbaugh misled everyone at the DOL hearing about his wilful role in the violation of 10 C.F.R. § 50.9 associated with the false statement in LER 90-006, dated April 19, 1990. As a result, Georgia Power was denied an opportunity to advance the defense of Section 5851(g) based on Complainant's wilful violation of NRC regulations. As a result, this evidence is critical to an argument under Rule 60(b)(3) to obtain relief from a final order of the Secretary. Pursuant to Rule 60(b)(3), Georgia Power would be entitled to such relief if it shows "that an adverse party engaged in fraud or other misconduct, and that this conduct prevented the moving party from fully and fairly presenting his

case." Harre v. A. H. Robbins Co., 750 F.2d 1501 (11th Cir. 1985) (motion to reopen granted where perjury made a difference in moving party's approach to its case).

Apart from this, the after-acquired evidence has relevance to what, if any, relief is available to Mr. Mosbaugh. In the interest of protecting the integrity of the DOL administrative process, careful consideration should be given to whether Mr. Mosbaugh is entitled to relief under these circumstances, in particular with respect to any order for reinstatement of Mr. Mosbaugh. See Willy v. Coastal Corp. et al., 85-CAA-01 (Secretary of Labor, June 1, 1994). Reinstatement of Mr. Mosbaugh under these circumstances at Plant Vogtle would not be in the best interest of the public health and safety.⁴

Therefore, pursuant to 29 C.F.R. § 18.54(c), Georgia Power requests that the record be reopened and further hearings granted to hear the after-acquired evidence described in Section II.B above which establishes that Mr. Mosbaugh falsely testified in the DOL hearing.

B. False Testimony Concerning NRC-OI Statements.

As raised in Section II.D above, since the close of the DOL hearing, Georgia Power has obtained documentation from the NRC which establishes that Mr. Mosbaugh falsely testified at the

⁴ It is doubtful that Georgia Power could reinstate Mr. Mosbaugh and at the same time be in compliance with NRC regulations at 10 C.F.R. § 26.10(a) requiring a fitness for duty program which provides reasonable assurance that plant personnel will perform their tasks in a reliable and trustworthy manner.

DOL hearing concerning what he had been told by OI investigators about safeguards information on the 201 tapes returned to Complainant in February 1991. Specifically, NRC's August 17, 1992 Request for Investigation states:

On February 21, 1991, with no NRC safeguards review, these 201 tapes were returned to MOSBAUGH. At his DOL hearing in March 1992, MOSBAUGH testified that NRC had assured him that the tapes did not contain safeguards.³⁵ OI NRC did not give any such assurance to MOSBAUGH.

Exhibit J at 2. This evidence demonstrates that Mr. Mosbaugh was willing to lie under oath in order to establish an excuse for accepting return of his tapes. It strongly suggests that Mr. Mosbaugh did this because he knew that the tapes contained safeguards information.

The above described after-acquired evidence is clear and convincing. At the time of the DOL hearing, Georgia Power was unaware that Complainant's testimony was false and therefore had no basis to challenge it. Had Georgia Power known that NRC-OI did not so advise Mr. Mosbaugh, Complainant's defense to Georgia Power's assertion that he had violated safeguards regulations would have been severely undermined. With this evidence, Georgia Power would have a basis to request relief from a final order of the Secretary, pursuant to Rule 60(b)(3). Moreover, such evidence provides an additional basis on which to make a determination as to what, if any, relief Mr. Mosbaugh should receive.

³⁵ See T. 312-14 (Mosbaugh).

Therefore, pursuant to 29 C.F.R. § 18.54(c), Georgia Power requests that the record be reopened and further hearings granted to hear this after-acquired evidence.

C. Further Consideration of Mr. Mosbaugh's Credibility is Warranted Under These Circumstances.

The Secretary's Decision found that Mr. Mosbaugh's taping was protected activity because it "constituted evidence gathering in support of a nuclear safety complaint." Secretary's Decision and Remand Order at 13. Of course, this conclusion assumes that Mr. Mosbaugh surreptitiously taped to gather evidence to support such safety complaints, and not for some other reason, such as pursuing his personal agenda.

As set forth in Georgia Power's Brief In Reply to Complainant's Brief To The Secretary of Labor (March 5, 1993), Mr. Mosbaugh made inconsistent statements concerning the reasons for his taping. See pages 8-12 and notes 4, 5, 6 and 7. His rationale for not turning his tapes over to the NRC until ordered to produce them to GPC is also not to be believed. Now that the truth is out in the open, it appears that the reason Mr. Mosbaugh did not freely provide his tapes to the NRC was that he knew there was evidence contained on the tapes which would incriminate him in the very violations that he had raised to NRC-OI. In fact, it is likely that Mr. Mosbaugh never intended to provide his tapes to the NRC, but did so only when compelled to produce them to Georgia Power.

As discussed in Sections III.A and B above, since the DOL hearing, Georgia Power has obtained evidence that Mr. Mosbaugh falsely testified at the DOL hearing. When combined with Mr. Mosbaugh's ever-shifting explanations for taping, and his withholding those tapes from the NRC, it is apparent that Mr. Mosbaugh's credibility, when viewed in light of all the evidence, including the new evidence discussed herein, is seriously in doubt. Specifically, these factors strongly suggest that Mr. Mosbaugh's alleged reasons for taping are also not credible and that his motive for taping was an inappropriate one. Georgia Power submits that, pursuant to 10 C.F.R. § 18.54(c), it is appropriate to revisit Mr. Mosbaugh's credibility at a hearing in light of this evidence.

IV. THE RECORD SHOULD BE REOPENED TO TAKE ADDITIONAL EVIDENCE RESPECTING WHETHER MR. MOSBAUGH'S TAPE RECORDING LOST ITS PROTECTED STATUS BECAUSE HIS TAPING WAS NOT REASONABLY LIMITED TO DOCUMENTING EVIDENCE OF RETALIATION OR SAFETY VIOLATIONS AND WAS PURPOSEFULLY WITHHELD FROM THE NRC.

Following the hearing below, the October 30, 1992 RD&O concluded that "assuming Mr. Mosbaugh's tape recording activity was protected at the outset, its continuation and scope became so egregious and potentially disruptive to the workplace that it lost any protected status it may have once possessed." RD&O at 35. However, this determination was based on a limited record because 76 of Mr. Mosbaugh's tapes were unavailable at the time. The hearing proceeded notwithstanding Georgia Power's objection. See T. 6-7.

The Secretary rejected the RD&O, disagreeing that the duration and scope of Mr. Mosbaugh's taping removed it from being a protected activity. The Secretary also rejected Georgia Power's evidence which showed that as a result of his taping activity, Mr. Mosbaugh could no longer be an effective manager. Decision and Remand Order at 13-14. The Secretary's conclusion that Mr. Mosbaugh's taping was protected activity is based upon two assumptions. The first assumption is that Mr. Mosbaugh taped "in the furtherance of protected activity." The second assumption is that Mr. Mosbaugh's surreptitious one-party taping was legal in Georgia. Decision and Remand Order at 12, 15.

Based on newly-discovered evidence on the 76 tapes, the record developed at the hearing below does not represent a full and accurate picture of the nature and extent of Mr. Mosbaugh's taping. The tapes withheld by NRC-OI contain substantial evidence that Mr. Mosbaugh did not limit in any manner his taping to document evidence of safety violations. Rather, he tape recorded everything, regardless of the source. Moreover, these tapes contain evidence that, on at least three separate occasions, Mr. Mosbaugh illegally taped conversations to which he was not a participant, thereby violating Georgia State law. This conduct should be held to be unreasonable as a matter of law.

The tapes discussed below were unavailable to Georgia Power prior to the close of the DOL hearing record, notwithstanding its best efforts to acquire access to them. In

the absence of these tapes at the DOL hearing, Georgia Power could not make a complete assessment of the scope and character of Mr. Mosbaugh's taping. This after-acquired evidence contains relevant and material information which could affect the outcome of this case. Specifically, based on Mr. Mosbaugh's taping activity viewed as a whole, it is likely that Mr. Mosbaugh's complaint will be dismissed because his taping activity exceeded the bounds of reasonableness -- i.e., he went too far.

A. The Newly-acquired Evidence Demonstrates that Mr. Mosbaugh's Taping was Indiscriminate and Exceeded the Bounds of Reasonableness.

The after-acquired evidence Georgia Power has obtained shows that Mr. Mosbaugh's taping was far-reaching, indiscriminate, and not reasonably limited to documenting safety concerns. As set forth in the Affidavit of Thomas L. Penland, Jr., attached hereto as Exhibit K, many of the tapes withheld by the NRC show that Mr. Mosbaugh taped conversations that were personal, unrelated to work activities and had nothing whatsoever to do with alleged safety concerns or the safe operation of the plant. For example, Mr. Mosbaugh taped himself receiving a gift from an unidentified Georgia Power employee. (Exhibit K, ¶ 4(a).) Mr. Mosbaugh taped conversations with co-workers regarding golfing, trips to Cincinnati, U.S. business operations moving to other countries and child rearing. (Id. at ¶¶ 4(b),

(f) and (h).) Mr. Mosbaugh even taped his own interview with NRC representatives Messrs. Ron Aiello and Craig Tate and meeting with NRC investigator Larry Robinson (Id. at ¶¶ 4(e) and (j)). None of these conversations were contiguous to any discussions with Georgia Power personnel about safety concerns or discrimination.

Such indiscriminate taping is clearly not "in furtherance of protected activity" and it raises an important policy question of whether, considering his taping activities as a whole, he exceeded the bounds of reasonableness and, as a result of such conduct, should be barred from a remedy under the ERA. Furthermore, the fact that Mr. Mosbaugh taped innocuous conversations with co-workers and conversations with various NRC representatives on multiple occasions raises further questions regarding his true motivations.

B. Mr. Mosbaugh Recorded Conversations To Which He Was Not A Party in Violation of Georgia Law.

The clandestine tape recording of a conversation by one who is not a party to that conversation is illegal under Georgia law. Georgia's eavesdropping statute, O.C.G.A. § 16-11-62(1), provides:

It shall be unlawful for: (1) Any person in a clandestine manner intentionally to overhear, transmit, or record or attempt to overhear, transmit, or record the private conversation of another which shall originate in any private place

O.C.G.A. § 16-11-60 defines "private place" as "a place where one is entitled reasonably to expect to be safe from casual or

hostile intrusion or surveillance." O.C.G.A. § 16-11-69 provides that any violation of this section is a felony.

While both O.C.G.A. § 16-11-66 and Georgia case law limit the scope of O.C.G.A. § 16-11-62(1) to cases of clandestine recording by one not a party to the conversation, this limitation does not apply to situations, such as those discussed below, where the individual(s) being recorded are unaware that the recording party is listening in on the conversation. In Parrott v. Wilson, 707 F.2d 1262 (11th Cir. 1983), cert. denied, 464 U.S. 936 (1983), the United States Court of Appeals for the Eleventh Circuit held that Georgia law prohibits only clandestine taping by persons not parties to the conversation. See also State v. Birge, 240 Ga. 501, 241 S.E.2d 213, cert. denied, 436 U.S. 945 (1978). Thus, secret third-party recording of conversations is illegal in Georgia.

At the DOL hearing, Georgia Power introduced limited evidence that Mr. Mosbaugh's taping was illegal because he secretly taped a conversation on the Vogtle bridge line³⁶ to which he was not a party. See Georgia Power's Post Hearing Brief, dated May 18, 1992, at 40, 78-79, 94-95. Although the ALJ found that Mr. Mosbaugh's taping was so disruptive that it lost its protected status, he did not make a specific ruling on the legality of Mr. Mosbaugh's taping.

³⁶ The bridge line allows multiple persons to be connected by telephone simultaneously from different locations by dialing the bridge line number.

Since the hearing, Georgia Power has learned that certain tapes were made by Mr. Mosbaugh by eavesdropping on the conversations of others at the plant and in Birmingham. These tapes (Nos. 159, 168 and 222) were among the tapes withheld by the NRC until 1993.³⁷

Each of these episodes of tape recording by Mr. Mosbaugh appears to constitute a criminal violation of O.C.G.A. § 16-11-62, since in each of these examples Mr. Mosbaugh secretly tape recorded a conversation to which he was not a party. They are described in affidavits of Mr. Mark Ajluni and Mr. George Bockhold, Jr., attached hereto as composite Exhibit L.

Mr. Mosbaugh's recording of the June 11, 1990 telephone conversation (Tape 159) between Mr. Bockhold and Mr. Rushton is perhaps the most blatant example of illegal recording. By secretly recording this conversation while hidden outside the corner of Mr. Bockhold's office, Mr. Mosbaugh did "in a clandestine manner intentionally . . . overhear . . . or record . . . the private conversation of another which [did] originate in [a] private place." O.C.G.A. § 16-11-62(1). In this instance of taping, neither party to the conversation was aware that Mr. Mosbaugh was listening in on the conversation while hidden around the corner from Mr. Bockhold's office. See Affidavit of George

³⁷ Tapes 159 and 168 were withheld until December 1993. See NRC Staff Response to Georgia Power Company's First Request for Production of Documents by the NRC Staff (June 18, 1993), Exhibit 5 to Affidavit of James E. Joiner, attached hereto as Exhibit F. Tape 222 was among the 76 tapes withheld by NRC-OI and released to Georgia Power in mid-1993.

Bockhold, Jr. at ¶¶ 3-4. Therefore, Mr. Mosbaugh cannot possibly avail himself of either the consent exception to the Georgia eavesdropping statute or the argument that he was a "party" to the conversation. Nor can Mr. Mosbaugh dispute that Mr. Bockhold's office is a place where Mr. Bockhold could reasonably expect that his conversations were not intercepted. This conversation occurred not on a public telephone or even in an open cubicle, but on Mr. Bockhold's own telephone from within his private office. At least one court construing "oral communication" within the meaning of 18 U.S.C. § 2510, the Federal eavesdropping/wiretapping statute, has held that an individual conversing within the confines of his office had a reasonable expectation of privacy even though the door to his office was open. See U.S. v. McIntyre, 582 F.2d 1221 (9th Cir. 1978). Mr. Mosbaugh's recording of this conversation was thus a criminal violation of Georgia law.

Even the instances where Mr. Mosbaugh was in the presence of one party to the conversation -- such as the June 18, 1990 telephone conversation between Carolyn Cross Tynan and Mark Ajluni (Tape 168) -- constitute violations of O.C.G.A. § 16-11-62(1), since Mr. Mosbaugh's silent presence on one end of the telephone conversation did not make him a "party" to the conversation within the meaning of the cases interpreting this statute to prohibit only the secret recording of a conversation by one not a party to the conversation. See, e.g., State v. Birge, 240 Ga. 501, 241 S.E.2d 213 (1978); Mitchell v. State, 239

Ga. 3, 235 S.E.2d 509 (1977). While O.C.G.A. § 16-11-62 does not define "party," that statute does expressly extend its scope to situations where the recorded party would have a reasonable expectation of privacy. See O.C.G.A. § 16-11-60 (defining "private place" as "a place where one is entitled reasonably to expect to be safe from casual or hostile intrusion or surveillance"). Since Mr. Ajluni reasonably assumed that Mr. Mosbaugh would not be secretly present listening in on the conversation, see Affidavit of Mark Ajluni at ¶ 6, Mr. Mosbaugh cannot escape the purview of this statute on the spurious ground that he was in the presence of the other party to the conversation. Moreover, the Georgia cases limiting the scope of O.C.G.A. § 16-11-62(1) to third-party recording make it clear that a "party" is a person to whom the conversation is directed. See Mitchell, 239 Ga. at 4-5 ("[the defendant] did not secretly listen to a conversation addressed to the ears of another.") (citation omitted); Birge, 240 Ga. at 502 ("If one person is at liberty to repeat what another has said to him . . . how can one's freedom of speech be violated by mechanically assuring accuracy between private conversationalists?") (emphasis added).

Furthermore, the fact that one party to the June 18 conversation, Ms. Tynan, permitted Mr. Mosbaugh to listen to the conversation through the speakerphone is insufficient to satisfy the consent exception of O.C.G.A. § 16-11-66. This statute provides a logical extension to the rule that one-party recording is legal, stipulating that a third party can "intercept" a

conversation with the consent of the parties to the conversation. At the time the recordings in question occurred, the exemption under Section 16-11-66 required consent from both parties to the conversation. Although the Georgia statute does not define the word "interception," that word is to be given an interpretation consistent with the definition in 18 U.S.C. § 2510(4). Evans v. State, 252 Ga. 312, 314 S.E.2d 421, cert. denied, 469 U.S. 826 (1984). Section 2510(4) defines "intercept" as "the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device." (emphasis added). Because Ms. Tynan did not consent to Mr. Mosbaugh taping -- Mr. Mosbaugh has testified that no one other than his wife and lawyer knew he was taping³⁸ -- she did not consent to his "interception." Thus, neither party consented to Mr. Mosbaugh's recording.

A similar analysis demonstrates that Mr. Mosbaugh's July 27, 1990 recording of a Vogtle bridge line conversation in which George Bockhold participated (Tape 222), made from the office of another participant in the conversation, violated Georgia law. Although one participant to the conversation was aware of Mr. Mosbaugh's presence during the conversation, no participant authorized Mr. Mosbaugh to "intercept" the conversation through his recording device. Moreover, as Mr. Bockhold's affidavit demonstrates, Mr. Bockhold reasonably

³⁸ See Excerpt of the April 7, 1994 deposition of Mr. Mosbaugh in the ASLB proceeding, attached hereto as Exhibit M.

assumed that Mr. Mosbaugh was not eavesdropping on the conversation. Affidavit of George Bockhold at ¶¶ 5-7. Bridge line conversations, unlike ordinary telephone conversations, could be joined by any party who knew the number to call. However, all parties to the bridge line conversation were expected to announce themselves, and Mr. Bockhold knew at the time of the conversation that Mr. Mosbaugh's duties did not include participation in this conversation. It is indisputable that no party to the conversation gave Mr. Mosbaugh permission to record the conversation. Thus, Mr. Mosbaugh cannot escape the purview of the Georgia eavesdropping statute by claiming that he was a "party" to the conversation or by invoking the consent exception to this statute.

C. This Case Presents a Significant Policy Issue and Should Not be Decided on an Incomplete Record.

As set forth in Respondent Georgia Power Company's Post-Hearing Brief, dated May 18, 1992, there is substantial authority that protected activity has a limit. Post-Hearing Brief at 93-104, citing, inter alia, McDonnell/Douglas Corp. v. Green, 411 U.S. 792, 803-04, 93 S. Ct. 1817, 1825 (1973); Hochstadt v. Worcester Foundation, Etc., 545 F.2d 222, 230 (1st Cir. 1976).

Significantly, former NRC Chairman Ivan Selin wrote to the Senate Committee on Environment and Public Works on July 14, 1993, expressing the NRC's opinion on whether one-party taping should be treated as protected activity under Section 5851. This

letter was admitted into evidence, although not considered, by the Secretary. See November 20, 1995 Decision and Remand Order at 8-9. Chairman Selin concluded that

[1]awful taping of conversations to which the employee is a party to obtain safety information, carried out in a limited and reasonable manner, for the purpose of promptly bringing such material to the attention of the licensee or the NRC, should not be a valid basis for terminating an employee.

Once an employee has acted to gather evidence, the employee should inform either the licensee or the NRC, of the employee's actions. Prompt notification is in the public interest because it enables the NRC and/or the licensee to act promptly to protect public health and safety, to recognize and correct any possible safety violation, or to address any possible discrimination. Surreptitious taping properly carried out under the direction of the NRC should afford the employee protection under [Section 5851] for such action.

The current DOL hearing record is not adequate to properly apply the considerations in Chairman Selin's letter and the applicable case law. The after-acquired evidence discussed in this Section IV provides strong support for a conclusion that Mr. Mosbaugh's taping was not carried out in a limited and reasonable manner, and was also conducted illegally. Moreover, evidence concerning the reasons for Mr. Mosbaugh's taping, and why he did not promptly turn over, or advise the NRC of, his tapes -- indeed, whether he ever intended to provide the NRC with his tapes -- is relevant in determining whether his taping was reasonable.

D. Conclusion.

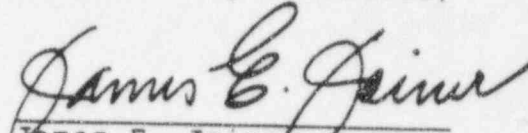
Pursuant to 29 C.F.R. § 18.54(c) Georgia Power requests that the record of this case be reopened and further hearings


granted to hear the above-described, after-acquired evidence and to cross-examine Mr. Mosbaugh regarding his taping activity as a whole. Had this new evidence been in the record which the Secretary reviewed, he may have decided this case differently. It is essential that the Secretary have the benefit of a complete record in this case which involves an important policy issue -- when does an employee's protected activity go too far and become so abusive that it should be denied protection under the employee protection provision of the ERA.

CONCLUSION

For all of the reasons stated above, Georgia Power respectfully requests, pursuant to 10 C.F.R § 18.54(c) that the record in this case be reopened and further hearings granted on the basis of the after-acquired evidence described herein.

Respectfully submitted,


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Attorneys for Respondent
Georgia Power Company

DATED: December 13, 1995

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JESSE P. SCHAUDIES, JR.

WRITER'S DIRECT DIAL NUMBER
404-658-8054

VIA FAX 202-633-0325

January 10, 1992

The Honorable Robert M. Glennon
Office of Administrative Law Judges
United States Department of Labor
Suite 400
800 K Street, N.W.
Washington, D.C. 20001

Re: Mosbaugh v. Georgia Power Company
Case Nos. 91-ERA-1 and 91-ERA-11

Dear Judge Glennon:

We look forward to our next conference call with you Monday, January 13, 1992, at 10:00 a.m. We have continued our review of the tapes and will provide you and Mr. Kohn with a full update of our progress at that time. I can report that many of the tapes provided information that we are considering using in the presentation of Respondent's case in chief, as well as anticipated impeachment efforts. We have every reason to be confident that our continued review of the tapes will produce more evidence of this nature. As you know from prior filings, there is a continuing question of whether any recording was performed and maintained in violation of the law. This is a threshold question, because the answer may act to divest the Court of jurisdiction.

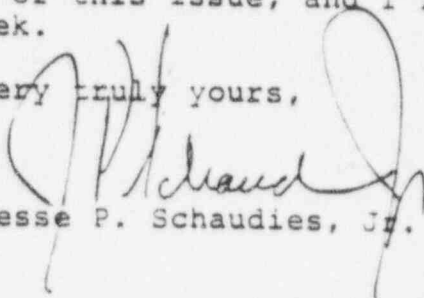
My real purpose for sending this letter in advance of our conference call on Monday is to suggest including another party during that conference. In early November 1991, you received a letter from NRC Solicitor Alexander Cordes, in which he stated that he would have a complete update of the NRC investigation available for you by approximately the end of November, 1991. To the best of our knowledge, Mr. Cordes has not yet provided that information. Georgia Power Company is approaching the time when it could begin a meaningful review of the additional seventy-seven (77) tapes that are in the possession of the NRC. I

The Honorable Robert L. Glennon
January 10, 1992
Page 2

respectfully request that Mr. Cordes, or one of his assistants, be invited to participate in the conference call on Monday. I would hope that his participation in the call would serve to either facilitate release of additional tapes, or provide additional insight into the Commission's timetable for the remaining material.

I appreciate your consideration of this issue, and I look forward to speaking with you next week.

Very truly yours,



Jesse P. Schaudies, Jr.

JPSJr./sm

Enclosure

cc: Michael D. Kohn, Esquire (via FAX 202-462-4145)
Sandra Michaels, Esquire (via FAX 681-4209)
James E. Joiner, Esquire

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January 29, 1992

The Honorable Robert M. Glennon
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United States Department of Labor
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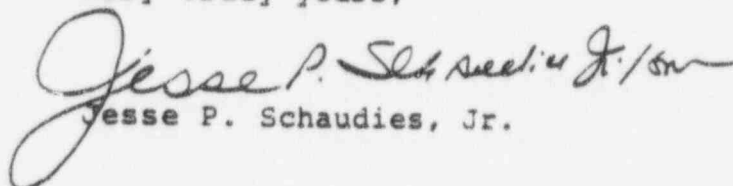
Re: Mosbaugh v. Georgia Power Company
Case Nos. 91-ERA-1 and 91-ERA-11

Dear Judge Glennon:

In our conference call earlier this month I understood you to say that you would contact the NRC in an effort to determine whether there was any possibility of the release of additional tapes prior to the trial of the above-captioned matter that is presently scheduled for March 10, 1992. Inasmuch as you have ordered the parties to exchange pretrial filings on February 21, 1992, I was curious to learn if you had received any further information from the NRC. Obviously, their release of any additional tapes would have an impact on our preparation, and we would like to be able to know their plans as soon as possible.

I appreciate your attention to this matter, and I look forward to hearing from you.

Very truly yours,


Jesse P. Schaudiers, Jr.

JPSJr./sm

cc: Mr. C. Kenneth McCoy (via United States Mail)
Michael D. Kohn, Esquire (via FAX 202-462-4145)
Sandra Michaels, Esquire (via United States Mail)
James E. Joiner, Esquire



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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

February 9, 1994

(CORRECTED COPY)

MEMORANDUM FOR: Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

FROM: David B. Matthews, Chairman
Vogtle Coordinating Group

SUBJECT: VOGTLE COORDINATING GROUP ANALYSIS

This memorandum forwards the Vogtle Coordinating Group's analysis of the evidence in support of the conclusions it reached following a detailed review of evidence associated with allegations that senior officials of Georgia Power Company (GPC) made material false statements regarding the reliability of diesel generators at the Vogtle facility. The report of the Office of Investigations (OI) on this subject was issued on December 17, 1993. The analysis includes a comparison of the Group's conclusions with those of OI. Charts depicting the licensee organization in mid-1990 and the current positions of key individuals are also provided for your information.

The Group's conclusions remain unchanged from those presented to NRC management on January 4, 1994. However, the Group did reach several additional conclusions. This analysis includes two additional performance failures on the part of Bockhold related to the submittals made by GPC on April 19 and June 29, 1990, and a performance failure by McCoy related to the August 30, 1990, submittal. We also concluded that the members of the Vogtle Plant Review Board (PRB) acted unreasonably in approving the August 30, 1990, letter.

By copy of this memorandum, the Director, OE, is being provided the Group's analysis in order to develop a final enforcement proposal and Commission Paper in accordance with the commitment agreed upon during the February 2, 1994, meeting with the EDO. Further, based on the agreements reached during that meeting, the Group understands that Item 4 of our September 16, 1993, charter is now the responsibility of OE. All other tasks in that charter are now complete.

A handwritten signature in cursive script, reading "D B Matthews".

David B. Matthews, Chairman
Vogtle Coordinating Group

Enclosures and cc:
See next page

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MEMO TO T. MURLEY

DATED: February 9, 1994

Enclosures:

(CORRECTED COPY)

1. Vogtle Coordinating Group's
Analysis of OI Report
2. GPC Organization Charts

cc w/enclosures:

J. Taylor, EDO
J. Milhoan, DEDR
J. Lieberman, OE
S. Ebnetter, RII
B. Hayes, OI
L. Chandler, OGC
F. Miraglia, NRR
W. Russell, NRR
G. Lainas, NRR
E. Merschhoff, RII
J. Gray, OE
J. Goldberg, OGC
E. Reis, OGC
A. Herdt, RII
B. Holian, OEDO
S. Varga, NRR
L. Reyes, RII

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COORDINATING GROUP ANALYSIS OF EVIDENCE
AND CONCLUSIONS

INTRODUCTION

The Vogtle Coordinating Group (Group) has undertaken a detailed evaluation of the evidence related to Diesel Generator (DG) reliability referenced by the Office of Investigations (OI) in OI Investigation Case Number 2-90-020R. As a result of its detailed evaluation, and in accordance with the Group Charter of September 16, 1993, the Group identified violations of Nuclear Regulatory Commission (NRC) requirements and developed a recommended course of action, including a draft enforcement action, for management consideration. The Group's preliminary conclusions and a proposed enforcement action are contained in its Memorandum of December 17, 1993.

In its Memorandum and the accompanying draft enforcement action, the Group set out the specific violations that it identified and a brief analysis of the causes of each violation. The Group then proceeded to prepare a more detailed analysis of the evidence in support of its conclusions, as reflected in this document. Specific references to the evidence in support of the Group's conclusions are included.

Contemporaneous with the issuance of the Group's Memorandum, on December 17, 1993, OI issued its Report of Investigation (OI Report). The Group has reviewed the OI Report. The approach used by OI in its Report was to set out numbered paragraphs characterizing its view of the evidence associated with each allegation which OI investigated. OI then set out a brief conclusion with regard to each allegation.

The analysis below sets out the Group's analysis and conclusions for each matter in the OI Report and a comparison of each OI conclusion with the conclusion reached by the Group. Where the Group agreed with an OI evidentiary characterization and that characterization was an important piece in the Group's analysis, the Group includes that evidentiary statement. In instances where the Group viewed evidence differently or relied on evidence not cited by OI, such evidentiary paragraphs are marked with an asterisk.

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Allegation No. 1: Providing Inaccurate and Incomplete DG Test Data in Oral Presentation to the NRC on April 9, 1990.

Allegation No. 2: Submission of Misleading, Inaccurate, and Incomplete DG Test Data in Letter of Response to Confirmation of Action Letter, Dated April 9, 1990.

COORDINATING GROUP CONCLUSION FOR ALLEGATION NOS. 1 AND 2:

The Group evaluated the events that occurred on April 9, 1990, and concluded that the April 9 presentation and letter contained the same inaccurate information. Accordingly, the Group analyzed the failure to provide accurate DG start information in the April 9 presentation and letter together. The root causes of this failure were (1) the Vogtle Electric Generating Plant (VEGP) General Manager (BOCKHOLD) did not exercise reasonable care in directing the Unit Superintendent (CASH) to collect DG start information and in assessing what CASH gave him and (2) CASH did not exercise reasonable care in performing and reporting his count. These failures did not involve wrongdoing. The inaccuracy was material in that the NRC relied, in part, upon the information provided by GPC in an April 9 oral presentation and letter in reaching the NRC decision to allow Unit 1 to return to power operation.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR ALLEGATION NOS. 1 AND 2:

On April 9, 1990, Georgia Power Company (GPC) made an oral presentation to the NRC in the Region II (RII) office. The presentation was in response to a verbal request by the NRC and the NRC Confirmation of Action Letter of March 23 and was in support GPC's request for VEGP, Unit 1 restart approval. In addition, following the oral presentation of April 9, GPC submitted a letter to the NRC which contained the same DG start information that was presented during the oral presentation.

Prior to the April 9 presentation, the Vice President - Vogtle Project (McCOY) tasked BOCKHOLD with the responsibility of presenting the results of the DG testing. Evidence exists to support that BOCKHOLD did not intend to present a complete accounting of all DG testing since the March 20 event. BOCKHOLD intended to present a number of consecutive successful DG starts to demonstrate that the DGs would perform their intended function, i.e., that they were operable. The Group concluded that presenting a number of consecutive successful starts would not have been inconsistent with the NRC's request for the licensee to address the reliability and performance of

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the DGs. Furthermore, presenting a number of consecutive successful DG starts to demonstrate the capability of the DGs to perform their intended safety function was not inconsistent with the NRC characterization of DG testing in NUREG-1410, "Loss of Vital AC Power and the Residual Heat Removal System During Mid-Loop Operations at Vogtle Unit 1 on March 20, 1990."

BOCKHOLD was personally involved in the preparation of several transparencies for use in the April 9 presentation. He stated that he drafted the upper part of Slide 10, "Diesel Testing," and subsequently tasked CASH with collecting the number of successful starts associated with operability. Given CASH's position (Unit Superintendent), it was reasonable for BOCKHOLD to ask CASH to perform this task. BOCKHOLD was aware of problems on DG 1B during overhaul. However, BOCKHOLD failed to adequately specify the starting and ending points for the count to ensure that the count did not include these problems and failed to ensure that CASH understood his criteria for "successful starts." Similarly, CASH failed to ensure that he understood specifically what BOCKHOLD wanted before he performed the task.

CASH collected DG start data from the Control Room Log and the Shift Supervisor's Log, counting starts without significant problems (i.e., problems that would not have prevented the DG from running during an emergency). CASH stated that he started his count for both DGs after the March 20 event. After collecting DG start count information, CASH reported back to BOCKHOLD. Although CASH made conflicting statements regarding what information he gave BOCKHOLD, the Group concluded that CASH just gave BOCKHOLD oral DG start totals for the 1A and 1B DGs, namely 18 and 19 starts, respectively.

The Group concluded that BOCKHOLD failed to ensure that the data CASH provided was the information BOCKHOLD asked for and intended to present. Specifically, BOCKHOLD did not determine the point at which CASH began his count (i.e., the specific start number, date or time) or whether CASH's data included any problems or failures. CASH, in turn, failed to ensure that the data that he had collected and reported to BOCKHOLD was what BOCKHOLD wanted. Information was then presented to the NRC in the April 9 oral presentation by BOCKHOLD and the April 9 letter that there were 18 and 19 successful consecutive starts on the 1A and 1B DGs, respectively, without problems or failures.

The corporate Licensing Manager - Vogtle Project (BAILEY) drafted the letter based on the slides and input from site personnel. The information concerning the number of diesel starts and the statement concerning "no problems or failures" was derived from the slides later presented on April 9. This document was not reviewed by the Plant Review Board (PRB), but was reviewed by BOCKHOLD and MCCOY prior to being signed by the GPC Senior Vice

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President - Nuclear Operations (HAIRSTON). BOCKHOLD reviewed the draft letter with the understanding that it was intended to reflect the same information that was presented during the April 9 presentation. He viewed the language "no problems or failures" as a way of explaining successful starts. The NRC understood the oral presentation and letter as presenting the number of consecutive successful starts without problems or failures after the March 20 event.

Because of the performance failures identified above, GPC's report of starts in the presentation and letter included three 1B DG starts with problems that occurred during DG overhaul and maintenance activities (a high lube oil temperature trip on March 22, 1990; a low jacket water pressure/turbo lube oil pressure low trip on March 23, 1990; and a failure to trip on a high jacket water temperature alarm occurring on March 24, 1990). The correct number of consecutive successful starts without problems or failures was 12 for 1B DG--a number significantly less than that reported by GPC to the NRC on April 9. The inaccuracy was material in that the NRC relied, in part, upon the information provided by GPC in an April 9 oral presentation and letter in reaching the NRC decision to allow Unit 1 to return to power operation.

EVIDENCE FOR ALLEGATION NOS. 1 AND 2:

1. On March 23, 1990, the NRC issued a Confirmation of Action Letter (CAL) to GPC that, among other things, confirmed that GPC agreed not to return VEGP Unit 1 to criticality until the Regional Administrator was satisfied that appropriate corrective actions had been taken, and that the plant could safely return to power operations. (Exhibit 4) *
2. BROCKMAN (NRC RII) called McCOY before the presentation and told McCOY that he should be prepared to show the NRC the reliability and performance of the DG's at the presentation. (Exhibit 20, p. 1) (See also BROCKMAN'S response to Interrogatory 3 of GPC First Set of Interrogatories, December 23, 1993.) *
3. In a letter dated April 9, 1990, GPC stated: "Since March 20, 1990, GPC has performed numerous sensor calibrations (including jacket water temperatures), extensive logic testing, special pneumatic leak testing, and multiple engine starts and runs under various conditions. Since March 20, the 1A DG has been started 18 times, and the 1B DG has been started 19 times. No problems or failures have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on April 6, 1990, and the 1A D/G started and loaded properly." (Exhibit 27, p. 3) *

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4. HAIRSTON stated that, "When I signed the letter our intent was to just communicate what had been said in the meeting." (Exhibit 31, p. 30) *
5. McCOY stated that he reviewed the April 9 letter in draft form, and read it several times before it was signed by HAIRSTON. He said that he recalled reading the wording regarding 18 and 19 successful starts since March 20 with no failures or problems. He said that he thought the wording was already in the letter during his reviews, and that the letter attempted to capture the same information that was presented orally. (Exhibit 29, p. 16)
6. McCOY tasked BOCKHOLD with the responsibility of presenting the results of the DG testing at the presentation. (Exhibit 13, p. 5)
7. BOCKHOLD stated that GPC tried to do the most comprehensive test sequence that they could think of to make the DGs operable and that GPC shared the test sequence with the Incident Investigation Team (IIT). BOCKHOLD stated that the number% of successful starts at the bottom of Slide 10, that showed the test sequence, were just put on the slide because GPC had made a lot of DG starts and he was not aware of any problems that would have made the DGs inoperable at the end of that test sequence. (Exhibit 12, pp. 4-5) *
8. CASH, BOCKHOLD, McCOY, and HAIRSTON believed, and expected NRC personnel at the April 9 meeting to understand, that the 18 and 19 starts were consecutive successful starts. (GPC's Response to Interrogatory 7 (f and g) of the NRC Staff's First Set of Interrogatories, dated August 9, 1993) *
9. CASH stated that the intent of the start count was to define the scope of the test program. (Exhibit 10, p. 12) *
10. BOCKHOLD stated that the slide was not intended to show all testing, but rather to show the nature of the testing and to show that GPC had run the machine a lot, and that it was not a fluke when the DGs passed their operability tests. (Exhibit 13, pp. 15-16)
11. BOCKHOLD explained his use of the term successful starts on Slide 10 by making an analogy to a car. BOCKHOLD stated, "...it's kind of like you have a car and you put all new parts on it, and you maybe stay with the original block and cylinders because you know they're good, and you put all new controls on the car, and then you go and start it six times or ten times or twelve times. And this flavor was, gee, you started it and it started, fine." (Exhibit 13, pp. 13-14) *

- PREDECISIONAL INFORMATION -

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12. BOCKHOLD stated that the 1-B engine was in overhaul, and right at the end of the overhaul period GPC tried to start the engine and received "some failures to start and we changed some components. Then after the overhaul period we went into this extensive calibration and logic testing and bubble testing and multiple starts, that's when we started counting these nineteen--that's when Jimmy Paul [CASH] started counting these nineteen starts..." (Exhibit 12, p. 18) *
13. In response to a question about the start point for the DG count, the corporate General Manager - Nuclear Support (SHIPMAN) stated on April 19 that BOCKHOLD said he started his count after sensor calibration and logic testing. (Exhibit 36, p. 21) *
14. On April 2, 1990, the NRC IIT team leader (CHAFFEE) asked BOCKHOLD for the number of "successful starts" after GPC replaced switches. (NRC IIT transcript, dated April 2, 1993, p. 47) *
15. NUREG-1410, Appendix J, Section 3.1 describes a series of tests as, "Control System Functional Testing," that the licensee believed would provide "a comprehensive troubleshooting plan for root-cause determination that encompassed all suspect equipment involved in the incident." The first test described in this section for the 1A DG is a UV run test performed on March 29. (Appendix J, p. 13) *
16. NUREG-1410, Appendix J, Section 3.1 states, "On the basis of the number of successive successful starts, the licensee believes that emergency diesel generator 1A is fully operable and capable of performing its safety function." (Appendix J, p. 20) *

GROUP NOTE: The Group could not identify the definition of the term "successful start" in NUREG-1410.

17. BOCKHOLD stated that he was the overall architect of the "Diesel Testing" transparency, and that he worked with BURR, assigned to VEGP DG testing, and CASH on the details of the chart. (Exhibit 13, p. 6)
18. Slide 10, "Diesel Testing," presented to the NRC on April 9 listed starts and other activities on DGs 1A and 1B after March 20 and indicated that DG 1A and DG 1B had 18 and 19 successful starts, respectively. (Exhibit 7) *
19. The VEGP Manager - Technical Support (AUFDENKAMPE) stated that BOCKHOLD originally asked him to have one of his

- PREDECISIONAL INFORMATION -
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- employees perform the DG count. AUFDENKAMPE told him that his staff did not normally perform this function--that he got his information from the VEGP Manager - Engineering Support (HORTON). (Exhibit 38, pp. 10-11)
20. BOCKHOLD asked CASH to compile the number of successful starts associated with operability. (Exhibit 12, p. 5) *
 21. BOCKHOLD stated that, at the time he directed that the count be performed, he knew about problems with DG 1B that occurred during overhaul. (Exhibit 13, p. 47) *
 22. BOCKHOLD stated that when he gave CASH his instructions on what numbers he wanted him to obtain, he (BOCKHOLD) told him to get "successful starts," and was probably not "crystal clear" with his instructions. (Exhibit 13, p. 10)
 23. BOCKHOLD acknowledged that the term "successful start" did not have any statistical value when evaluating DG reliability, but that it was, "just a subjective feeling to say we ran the engine a lot and, you know, it proved to be reliable." (Exhibit 12, p. 12)
 24. BOCKHOLD stated that he came up with the term "successful start" without a great deal of thought, but he knew at the time he told CASH to go count successful starts that they were, "very different than a valid test," and that he did not want the "successful start" terminology to relate to the "Reg. Guide" definition of a valid test. (Exhibit 13, p. 18)
 25. BOCKHOLD stated that he did not recall his instructions to CASH regarding the point at which CASH was to start his count of successful starts. (Exhibit 13, p. 10) (Exhibit 12, p. 8)
 26. BOCKHOLD stated that he used the term "successful start," but that he did not tell CASH any criteria to use before CASH started counting DG starts. BOCKHOLD stated that he assumed CASH had some criteria when CASH came back with the number. BOCKHOLD stated that they did not go into a discussion about the criteria on the successful starts. (Exhibit 13, p. 19)
 27. CASH stated that he did not recall BOCKHOLD's specific instructions, and acknowledged that somehow he knew before he went to count starts that he was to count the starts without any significant problems. (Exhibit 10, p. 11)
 28. CASH stated that, to him, a significant problem meant something that would have prevented the diesel from running during an emergency. (Exhibit 10, p. 11)

- PREDECISIONAL INFORMATION -
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29. CASH stated that he was not looking for successful valid starts, only starts without significant problems. (Exhibit 9, p. 3)
30. CASH stated he obtained his count of successful starts from the Unit Control Log and the Shift Supervisor's Log. (Exhibit 9, p. 4)
31. CASH stated that the starting point of his count was with the troubleshooting starts that were done on the night of March 20 and that the ending point was sometime shortly before the meeting in Atlanta with the NRC. (Exhibit 9, p. 7)
32. CASH stated that at the time he constructed his list and counted successful starts for BOCKHOLD prior to April 9 presentation, he included the following two starts on the 1B DG as successful starts in his count: (1) March 22 that included a high lube oil temperature trip, and (2) March 23 that included a low jacket water pressure/turbo lube oil pressure low trip. (Exhibit 10, pp. 15-18)
33. CASH stated that the only 1B DG starts subsequent to March 20 that he did not count as successful were the attempted starts at 9:49 p.m., 9:56 p.m., and 10:02 p.m., on March 21. (Exhibit 10, pp. 19-20)
34. CASH admitted that he identified starts with problems when he performed his count. He did not consider these problems to be significant. CASH further stated that he did not discuss these problems with BOCKHOLD at all. (Exhibit 9, pp. 15-16)
35. CASH stated that he "turned the data over to Mr. BOCKHOLD and he [BOCKHOLD] prepared some point papers" in which CASH assisted BOCKHOLD's secretary with format only. He stated that he had listed the information in table form with date, time, reason started, and comments. CASH believed that he gave the table to BOCKHOLD. (Exhibit 9, pp. 5-6)
36. CASH stated, in his August 14, 1990, Special Team Inspection (STI) testimony, that he also had a summary of the number of starts, and that he believed that he also gave this summary to BOCKHOLD. He advised that he thought that BOCKHOLD primarily used just the summary of the number of starts. (Exhibit 9, p. 6)
37. In his June 14, 1993, testimony, CASH stated that his only assistance in the preparation of the transparency was with the "format and supplying the start-count numbers." He advised that the "transparencies were in general prepared

- PREDECISIONAL INFORMATION -
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- when he got there." He stated that he did not know how the descriptions of the diesel tests that were above the lines on the transparency were developed. (Exhibit 10, pp. 26-27)
38. In his August 14, 1990, STI testimony, CASH stated that the 18 and 19 successful starts shown on the transparency were "all the starts that I was aware of at the time." He further stated, "Those were the numbers that I came up with at the time." (Exhibit 9, p. 8)
 39. In his June 14, 1993, testimony, CASH stated that he did give BOCKHOLD a specific start count, but that he could not recall the specific numbers, and that he could not recall writing down any numbers of starts for BOCKHOLD. CASH advised that, based upon his review of the logs, the numbers he gave to BOCKHOLD would have been greater than 18 and 19. (Exhibit 10, pp. 48-50)
 40. BOCKHOLD stated that the DG count came, "Just verbally from Jimmy Paul [CASH]." (Exhibit 12, p. 7)
 41. CASH stated that he supplied BOCKHOLD with a start count. (Exhibit 10, p. 24) *
 42. CASH told AUFDENKAMPE and the Acting Assistant General Manager - Plant Support (MOSBAUGH) on April 19 that he gave BOCKHOLD "every start that we have done" and that he just gave BOCKHOLD "totals." "I'm not sure if I told him [BOCKHOLD] the failures or not." (Exhibit 36, p. 35) *
 43. BAILEY stated that he prepared the GPC letter of April 9 to NRC in parallel with the preparations for the April 9 meeting with NRC. He stated that different people reviewed the letter at different times, but that he was doing most of the preparation, working with the site people. (Exhibit 28, p. 7)
 44. McCOY stated that the April 9 letter was prepared under the direction of the licensing manager, BAILEY. (Exhibit 29, pp. 15-16)
 45. BAILEY stated that it was his understanding that "we" probably put the statement regarding 18 and 19 starts with no problems or failures into the April 9 letter, prior to the presentation, based on the information that was on the "DIESEL TESTING" transparency. He stated that he did not recall who, at the site gave him that information, but he knew that he had talked to AUFDENKAMPE and BOCKHOLD regarding normal NRC correspondence during this time frame. (Exhibit 28, pp. 11-12)

- PREDECISIONAL INFORMATION -
NOT FOR RELEASE WITHOUT THE APPROVAL OF THE DIRECTOR, NRR

46. AUFDENKAMPE then stated, after seeing a corporate Licensing Engineer's (STRINGFELLOW's) initials on the April 9 letter, and a recent conversation with BAILEY, that he recalled that most of the April 9 letter had been done in conjunction with his [AUFDENKAMPE's] people and STRINGFELLOW. According to AUFDENKAMPE, this was prior to the April 9 meeting with NRC, and in response to the NRC Confirmation of Action letter. (Exhibit 38, pp. 27-28)
47. AUFDENKAMPE said that he had always assumed that the numbers (18 and 19) in the April 9 letter came from the April 9 presentation, and that he could not recall if BAILEY had told him that. (Exhibit 38, p. 26)
48. STRINGFELLOW stated that he recalled BAILEY coming back to Birmingham after the presentation and telling him that "they" had rewritten a letter on the airplane on the way back, and that he recalled helping to get that letter typed. He stated that he did not recall having any involvement in actually drafting the words in that letter. He stated that he seemed to recall the "they" that BAILEY was talking about as being on the plane was BAILEY and HAIRSTON, but that he did not remember who all was on the plane. (Exhibit 30, pp. 10-11)
49. BOCKHOLD said that he would speculate that Jim BAILEY had drafted the April 9 letter, and that "people" reworked the data from the transparency "into the letter form and the LER form with some slight wording modifications to enhance its readability, and because of that the error got propagated from the presentation into the letter and into the LER." (Exhibit 12, p. 15)
50. McCOY compared the statement regarding diesel starts that was in the letter, to the information on the "DIESEL TESTING" slide. He said that "whoever crafted this sentence looked probably at this slide and tried to describe in one sentence what's presented here (on the slide)." McCOY stated, "It starts with the March 20th event on the slide and ends with the number of successful starts in both cases." (Exhibit 29, p. 17)
51. BAILEY stated that he did not know whether the site or Birmingham first inserted that language into the letter, but that if Birmingham had done it, it would have been based upon information from the site. (Exhibit 28, p. 17)
52. BAILEY advised that although the VEGP PRB did not formally review the April 9 letter and vote to recommend that the General Manager send it, he stated that many of the VEGP

- PREDECISIONAL INFORMATION -
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- managers who are PRB members reviewed and commented on the letter. (Exhibit 28, p. 51)
53. BOCKHOLD stated that he did not think the April 9 letter was approved by the VEGP PRB prior to its issuance, but that many documents like that letter would go through the PRB. (Exhibit 13, p. 39)
54. McCOY stated that he did not know if the April 9 letter had been reviewed and approved by the PRB. He advised that a PRB review of that letter was not required, but that he would have expected that those people were aware of the contents of the letter before it was submitted. (Exhibit 29, p. 24)
55. HAIRSTON advised that it was his understanding that the VEGP PRB did not review the April 9 letter. (Exhibit 31, p. 23)
56. AUFDENKAMPE stated that he did not think the VEGP PRB was involved in the preparation or review of the April 9 letter. (Exhibit 38, p. 27)
57. SHIPMAN stated that he did not know whether the VEGP PRB reviewed the April 9 letter before it was issued. He advised that this letter would normally be the type of thing that the PRB would review, but he would speculate that, in this case, there might not have been a review because of the "timeliness," and because of BOCKHOLD's direct involvement with the information. (Exhibit 39, pp. 26-27)
58. BAILEY advised that, after the April 9 meeting with NRC, on the way back to Birmingham in the corporate plane, he, McCOY, and HAIRSTON made a few minor modifications to the letter, and then sent it out that day. He said that the modifications made did not involve the statement about the 18 and 19 starts with no problems or failures. He stated that, to his recollection, the three of them were the only people on the plane. (Exhibit 28, p. 18)
59. BOCKHOLD reviewed the April 9 letter prior to its submittal. In discussing his review, he stated, in part, that, "I didn't write those sentences. I -- my practice had been to read this information rather quickly and see if anything jumped out at me that was not correct. My practice had not been to study this information, because we had a whole group of people both at the site and in corporate whose job was to do this." (Exhibit 13, p. 37) *
60. BOCKHOLD advised that the statement in the April 9 letter that said no problems or failures occurred on either DG was a rewording of successful starts, and that as "an attempt to

- PREDECISIONAL INFORMATION -
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make it clearer in Ken McCOY's mind...I told Ken that yeah, that change could be made...." (Exhibit 12, p. 16)

61. BOCKHOLD advised that he probably had a phone conversation with McCOY or BAILEY concerning the statements in the April 9 letter about successful starts with no failures or problems, but those statements were just a narrative description of what was on the "DIESEL TESTING" transparency. (Exhibit 13, pp. 34-36)
62. BOCKHOLD stated that, in his mind, "Successful Starts" is basically the same as, "no failures or problems." (Exhibit 13, p. 36)
63. BROCKMAN stated that he interpreted the statement regarding successful diesel starts in the April 9 GPC response to the NRC Confirmation of Action Letter to mean basically the same thing as in the April 9 presentation by GPC. (Exhibit 20, p. 2)
64. The Regional Administrator, NRC RII (EBNETER) stated that he understood that the successful DG start counts presented during the April 9 meeting began at the date of the March 20 event and ended at approximately the time of the April 9 presentation. (Exhibit 18, pp. 1-2) *
65. The GPC's August 30, 1990, letter and Table 2 appended to it indicate that there were 12 consecutive successful starts on the 1B DG as of April 9, 1990. (Exhibit 45) *
66. The NRC relied, in part, upon the information provided by GPC in an April 9 oral presentation and letter in reaching the NRC decision to allow Unit 1 to return to power operation. ("NRC Staff Supplemental Response to Intervenor's First Set of Interrogatories and Request for Documents," September 15, 1993, Responses 4 and 6) *

OI CONCLUSIONS REGARDING ALLEGATION NOS. 1 AND 2:

OI concluded that on April 9, 1990, BOCKHOLD deliberately presented incomplete and inaccurate information to NRC regarding the testing of the VEGP Unit 1 DGs conducted subsequent to a March 20, 1990, Site Area Emergency (SAE) at VEGP. This occurred at the NRC, RII offices in Atlanta, GA, during a GPC oral presentation in support of their request to return VEGP, Unit 1 to power operations.

OI concluded that, based on BOCKHOLD's deliberate actions, GPC presented a misleading, incomplete, and inaccurate statement of diesel test results in its April 9, 1990, submittal.

- PREDECISIONAL INFORMATION -
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COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS FOR
ALLEGATION NOS. 1 AND 2:

OI concludes that BOCKHOLD deliberately withheld information from the NRC about problems or failures that had occurred on the 1B DG because he directed CASH to count only successful starts.

The Group concluded that incorrect information (19 successful starts for DG 1B with no problems or failures) was presented as a result of the failure of GPC personnel to exercise reasonable care during data collection and use, rather than as a result of deliberate action on the part of BOCKHOLD as concluded by OI. Specifically, the Group concluded that BOCKHOLD did not intend to present a complete accounting of all DG starts following the March 20 event. He wanted to show that the DGs had been tested and started a large number of times following DG overhaul activities. There were no unsuccessful starts or problems or failures after overhaul activities. BOCKHOLD's intent to present successful starts after overhaul activities was not inconsistent with the NRC's request for the licensee to address the reliability and performance of the DGs. However, BOCKHOLD failed to clearly identify the start point for the count to CASH. As a result, the 19 trouble-free starts presented included problems and failures. The Group could not conclude that BOCKHOLD knew that the information that CASH had given him included problems or failures or that CASH's start point for his count was not the first start after overhaul activities for the 1B DG.

Allegation No. 3: Submission of False Statement of DG Test Data in LER 90-006, dated April 19, 1990.

COORDINATING GROUP CONCLUSION FOR ALLEGATION NO. 3:

GPC submitted an inaccurate statement of DG test data in Licensee Event Report (LER) 90-006 dated April 19, 1990. Specifically, the licensee failed to provide accurate information with respect to the number of consecutive successful DG starts subsequent to the completion of a "comprehensive test program" (CTP).

The root causes for this failure were as follows. First, BOCKHOLD failed to exercise reasonable care in agreeing to the use of the term CTP in the LER since this term failed to adequately identify when the reported count of consecutive successful DG starts began. Second, SHIPMAN and AUFDENKAMPE failed to exercise reasonable care in the preparation of the April 19 LER in that: (1) they did not fully understand the term CTP, and (2) in light of the different interpretation of the term

- PREDECISIONAL INFORMATION -
NOT FOR RELEASE WITHOUT THE APPROVAL OF THE DIRECTOR, NRR

CTP raised by MOSBAUGH, they were aware that the term was either imprecise or ambiguous. Third, MOSBAUGH acted unreasonably in failing to resolve his concern about the definition of the term CTP. This failure contributed to the inaccuracy in the April 19 LER. The inaccuracy was material in that knowledge by the NRC of a lesser number of consecutive successful starts on 1B DG following completion of the CTP without problems or failures could have had a natural tendency or capability to cause the NRC to inquire further.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR ALLEGATION NO. 3:

A draft of LER 90-006, which was approved by the PRB on April 19 was based in part on information presented to the NRC on April 9 and adjusting the count of successful starts to reflect additional DG starts that occurred following April 9. During telephone calls on April 19, site and corporate personnel discussed HAIRSTON'S request that "greater than 20 starts" be verified and site concerns regarding accuracy of the start counts reported on April 9. MOSBAUGH and AUFDENKAMPE questioned the accuracy of the draft LER, given that there were trips in the 1B DG after March 20. They did not think that the statement concerning "no problems or failures" was correct.

During a teleconference between site and corporate personnel to address concerns that a count beginning on March 20 would include trips, BOCKHOLD confirmed that the start count reported on April 9 began later--after completion of the CTP. In agreeing to the use of the term CTP in the LER, BOCKHOLD acted unreasonably since that term was inadequate to specify the start point for the April 9 start count. BOCKHOLD intended to convey that the count began after testing of the DG control systems which did not require diesel starts, i.e., the calibration of the Calcon sensors and logic testing of the control systems. It was reasonable to interpret, however, that the CTP was completed with the first successful test to demonstrate operability, a point in time significantly later than the point intended by BOCKHOLD. This was the interpretation given to this term by GPC and the NRC.

In later discussions regarding the draft LER, SHIPMAN, AUFDENKAMPE and MOSBAUGH acknowledged that they could not identify the specific DG start that represented the starting point for the count presented to the NRC, i.e., the first start following completion of the CTP. SHIPMAN, AUFDENKAMPE and MOSBAUGH were aware that BOCKHOLD had earlier stated that his April 9 count began after instrument recalibration. MOSBAUGH stated at that time that his understanding of the CTP would be a test program to determine root causes and restore operability. The three collectively failed to clarify the term before issuance of the LER. As a result of the failure of GPC to adequately

- PREDECISIONAL INFORMATION -
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specify when to begin the start count as of April 19, the 1A and 1B DG start counts reported on April 19 overstated the actual counts by including starts that were part of the CTP. The inaccuracy was material in that knowledge by the NRC of a lesser number of consecutive successful starts on 1B DG following completion of the CTP without problems or failures could have had a natural tendency or capability to cause the NRC to inquire further.

GROUP NOTE: The Group has not identified any evidence in its review which addresses this materiality finding. Based on its review of the evidence, however, the Group has determined that the information of interest was material, i.e., it had a natural tendency or capability to influence an NRC decision maker.

EVIDENCE FOR ALLEGATION NO. 3:

1. LER 50-424/90-06 dated April 9, 1990, states "After the 3/20/90 event the control systems of both engines have been subjected to a comprehensive test program. Subsequent to this test program DG 1A and DG 1B have been started at least 18 times each and no failures or problems have occurred during any of these starts." (Exhibit 37, p.6) *
2. On April 19, 1990, during a conference call between STRINGFELLOW, AUFDENKAMPE, and MOSBAUGH concerning resolution of corporate comments on the LER, AUFDENKAMPE, in the presence of MOSBAUGH, told STRINGFELLOW that they think the number of starts in the LER is a "material false statement." (Exhibit 34, p. 91)
3. STRINGFELLOW told AUFDENKAMPE and MOSBAUGH that, "It just dawned on me what Al [MOSBAUGH] was saying a minute ago. In other words, if we say, 'and no problems or failures have occurred in any of these starts' you're saying that's not true." (Exhibit 34, p. 96)
4. In a conference call on April 19, 1990, STRINGFELLOW, AUFDENKAMPE and SHIPMAN were told by MOSBAUGH that if the LER states there were no problems or failures, then the LER would not be correct. (Exhibit 34, p. 104)
5. SHIPMAN recognized that there is not only a problem with the statement in the draft LER, but also with what, "George [either HAIRSTON or BOCKHOLD] wrote and took and told the... EBNETER last Monday in Atlanta." (Exhibit 34, p. 104)
6. SHIPMAN stated that we (GPC) need to find out what is correct and make sure the correct information is presented. (Exhibit 34, p. 107)

- PREDECISIONAL INFORMATION -
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7. SHIPMAN requested MOSBAUGH to get the correct information on the number of starts. (Exhibit 34, p. 107) *
8. SHIPMAN stated that if the information is not correct they (GPC) need to get it out of the report regardless of what George [HAIRSTON or BOCKHOLD] told EBNETER. (Exhibit 34, p. 108)
9. MOSBAUGH told his staff to check the logs to see if there had been 19 starts on the 1B DG since 5:31 PM on March 23. If it is less than 19, then the statement is false. (Exhibit 34, p. 121) *

GROUP NOTE: A complete list of DG start data was not available during this conversation.

10. In late afternoon on April 19 during a conference call between site and corporate personnel, AUFDENKAMPE stated that his people (the people who prepared the LER) took the 18 and 19 starts based on the April 9 letter and added the starts that had occurred subsequent to April 9 and came up with greater than 20. (This was in response to a question raised by HAIRSTON that the staff was trying to answer.) (Exhibit 36, p. 8)
 11. BOCKHOLD agreed with the "greater than 20" terminology. (Exhibit 36, p. 8)
 12. McCOY stated that they need to be sure that we (GPC) know the number of starts after completion of the "comprehensive test program." (Exhibit 36, p. 8)
- GROUP NOTE: This is the first known use of this term.
13. BOCKHOLD stated to the group that CASH verified the numbers presented in the conference (in Atlanta) were correct. McCOY responded to this statement by saying that "You ought to use those numbers" in the LER. (Exhibit 36, p. 8)
 14. BOCKHOLD confirmed that the count of diesel starts presented to the NRC on April 9 began after completion of the comprehensive test of the control system on each diesel. (Exhibit 36, p. 9)
 15. BOCKHOLD stated that the 1-B engine was in overhaul, and right at the end of the overhaul period GPC tried to start the engine and received "some failures to start and we changed some components. Then after the overhaul period we went into this extensive calibration and logic testing and bubble testing and multiple starts, that's when we started

- PREDECISIONAL INFORMATION -
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counting these nineteen--that's when Jimmy Paul started counting these nineteen starts" (Exhibit 12, p. 18)

16. BOCKHOLD intended that the CTP refer to testing of the diesel control systems which did not require diesel starts, i.e., calibration of the Calcon sensors and the logic testing of the control systems. (GPC's response to the NRC Staff's First Set of Interrogatories, Response 1.a and 1.b, dated August 9, 1993) *
17. Referring to the diesel starts prior to the calibration of all the Calcon sensors, SHIPMAN stated to AUFDENKAMPE and MOSBAUGH on April 19 "...and they should not be included because they were part of the return to service of the diesel coming out of the overhaul, and this count only included those starts after we had calibrated all these sensors. John [AUFDENKAMPE], you heard George BOCKHOLD'S logic." (Exhibit 36, p. 20)
18. NUREG-1410, Appendix J, Section 3.1, describes a series of tests, "Control System Functional Testing," that the licensee believed would provide "a comprehensive troubleshooting plan for root-cause determination that encompassed all suspect equipment involved in the incident." The last test in this section for the 1A DG is the Operability Test described therein as, "The final test of the licensee's troubleshooting plan test sequence was the emergency diesel generator 6-month operability test used to satisfy technical specification surveillance requirements." (NUREG-1410; Appendix J, p. 13) *
19. The numbers of consecutive successful starts subsequent to completion of the CTP as of April 19 were 10 and 12 for the 1A and 1B DG respectively. (Exhibit 41) *
20. The Safety Audit and Engineering Review (SAER) audit report, dated June 29, 1990, selected the first successful start performed using the Diesel Generator Operability Test procedure as the completion of the CTP. (Exhibit 43) *

GROUP NOTE: To help resolve the uncertainty regarding the definition of the end of the CTP, an end point had to be designated to allow the report to be responsive to HAIRSTON'S requirement that the audit determine the correct information to report to the NRC.

21. In response to a question about the start point for the DG count, SHIPMAN stated on April 19, 1990, that BOCKHOLD said he started his count after sensor calibration. (Exhibit 36, p. 21) *

- PREDECISIONAL INFORMATION -
NOT FOR RELEASE WITHOUT THE APPROVAL OF THE DIRECTOR, NRR

22. SHIPMAN stated that BOCKHOLD said that the count started after GPC had completed the instrumentation recalibration and somebody generated the data on that basis. (Exhibit 36, p. 22) *
23. MOSBAUGH stated his understanding of the CTP would be a test program to determine root causes and restore operability. (Exhibit 36, p. 26) *
24. During the final conference call, in which the LER was approved by the site, AUFDENKAMPE, MOSBAUGH and SHIPMAN discussed language in the LER with regard to the CTP and acknowledged that they are unclear as to what the term means. (Exhibit 36, pp. 21-26) *
25. During PRB Meeting 90-60, the chairman (KITCHENS) instructed, apparently AUFDENKAMPE, that he should either verify that the number of starts was correct or take the numbers out, and indicated that the LER should not include the words "no problems or failures." (Exhibit 34, p. 62) *
26. During PRB Meeting 90-60, KITCHENS stated to AUFDENKAMPE (assumed) that he should make sure whatever numbers are used do not result in a false statement. (Exhibit 34, p. 63) *
27. During a conference call on April 10, 1990, members of the NRC IIT asked GPC for diesel starts and stops and explained to AUFDENKAMPE that the IIT could not come up with the same number of starts that was presented by GPC to the NRC during the restart briefing the previous day. KENDALL (an NRC IIT member) indicated that if GPC had additional information not provided to the IIT, it should be provided so that the team would have a complete record. (Exhibit 105, p. 4-6) *
28. Regarding the final words in the LER concerning DG start counts, AUFDENKAMPE asked MOSBAUGH if he (MOSBAUGH) took exception to the words. MOSBAUGH did not respond to this question. (Exhibit 36, p. 26) *
29. After the final conference call in which the LER was approved by the site, MOSBAUGH tells AUFDENKAMPE that he (MOSBAUGH) cannot find "enough starts," i.e., as many starts as specified in the LER. (Exhibit 36, p. 34) *
30. After the final conference call in which the LER was approved by the site, CASH told MOSBAUGH and AUFDENKAMPE that he started his counts on March 20, 1990. (Exhibit 36, p. 36) *
31. CASH told AUFDENKAMPE and the Acting Assistant General Manager - Plant Support (MOSBAUGH) on April 19 that he gave

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BOCKHOLD "every start that we have done" and that he just gave BOCKHOLD "totals." "I'm not sure if I told him [BOCKHOLD] the failures or not." (Exhibit 36, p. 35) *

32. AUFDENKAMPE stated to MOSBAUGH that the comprehensive test program is not defined but you have to assume that BOCKHOLD told SHIPMAN that it started after the 3rd failure that occurred on the 1B DG. (Exhibit 36, pp. 36-37) *
33. MOSBAUGH stated that when he saw that successive LER drafts were carrying over the same, apparently false, statement of diesel starts as set forth in the April 9 letter, he started looking into it, but until he had the whole list of all the starts, he couldn't affirmatively say that the statements were wrong. (Exhibit 5, pp. 217-219) *
34. MOSBAUGH stated that the LER got signed out without an adequate review of the new basis of "subsequent to the test program," and we had known failures. (Exhibit 5, p. 227)

GROUP NOTE: MOSBAUGH was with AUFDENKAMPE when the final site approval was given for the LER.

35. McCOY stated that there was no effort to cover up, because, "we had all kinds of NRC people there throughout this period participating, watching the tests, looking at the logs, everything else." (Exhibit 29, p. 34)
36. McCOY acknowledged that, when the final April 19 LER went out to NRC, he was satisfied that any issues involved had been resolved and clarified. (Exhibit 29, p. 60)
37. McCOY stated during his OI interview that, to his knowledge, which was based on what he just heard on Tape 58 (Exhibit 35), the end point of the test program was defined by the time the LER went out on April 19. He stated that BOCKHOLD had indicated that the start count information was after the completion of the test program, so he (McCOY) had every reason to believe that they knew when the end of the test program was, and they were counting the starts from that point. (Exhibit 29, p. 63)
38. HAIRSTON stated that when he signed out the LER, he believed it was accurate and consistent with the information in the April 9 letter. (Exhibit 31, p. 50)
39. HAIRSTON stated during the 1993 interview that his general impression on April 19, 1990, was that different people had recounted and verified the DG start data. (Exhibit 31, p. 107) *

- PREDECISIONAL INFORMATION -
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OI CONCLUSION REGARDING ALLEGATION 3:

HAIRSTON, with, at a minimum of careless disregard, submitted a false statement of DG test results to the NRC in LER 90-006, dated April 19, 1990. This false statement was submitted as a direct result of deliberate actions by HAIRSTON, McCOY, SHIPMAN, and BOCKHOLD.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS FOR ALLEGATION NO. 3:

Although HAIRSTON submitted an inaccurate statement to the NRC in that he signed the letter transmitting the LER to the NRC, the Group could not conclude that he acted with careless disregard or negligence in his actions associated with this LER. The Group also could not conclude that the inaccurate statement was the result of deliberate actions by HAIRSTON, McCOY, SHIPMAN and BOCKHOLD. OI relies, in part, on a tape purported to contain a statement, "I'll testify to that" by McCOY and "Just disavow" by SHIPMAN, as evidence that GPC senior managers knowingly changed words in the LER and created a false statement. The Group has reviewed those tape excerpts in detail and reached the following conclusions. The Group concluded that the words, "I'll testify to that" were spoken by McCOY, but the Group was unable to conclude that the words "Just disavow" were spoken by SHIPMAN. The Group further concluded that the tape captures fragments of simultaneous conversations and it is unclear as to which words apply to which conversation. Finally, the Group concluded that even if the statements had been spoken as determined by OI, they are equally susceptible to interpretations that do not reflect wrongdoing.

In addition, the Group found that a pattern of poor performance by BOCKHOLD began to emerge as the Group reviewed the evidence associated with Allegation No. 3. As noted in the Group's conclusions for Allegation Nos. 1 and 2 concerning April 9, 1990, BOCKHOLD failed to exercise reasonable care when directing CASH to collect information for the restart presentation to the NRC and again when assessing what CASH had given him.

After April 9, site personnel questioned the accuracy of the statement concerning the number of consecutive DG starts without problems or failures. Given these questions and that BOCKHOLD was uniquely aware of the informal means by which the data was developed for the April 9 letter, a reexamination of the April 9 data was warranted before submission of the LER 90-006. However, the erroneous information (characterized with specific reference to a CTP) was again reported to the NRC prior to the completion of efforts to validate the underlying data.

- PREDECISIONAL INFORMATION -
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There was no evidence to show that BOCKHOLD, knowing that the April 9 information was quickly assembled and reported to him informally, directed any review of the data to assure that the information in the April 19 LER was accurate. BOCKHOLD's statement during an April 19 phone call that the count he presented on April 9 had been "verified correct" by CASH implied that no further investigation of the data was necessary and may have led some GPC personnel to conclude that an adequate review of the DG start data had been completed. McCOY's response that "You ought to use those numbers" indicated that McCOY relied on BOCKHOLD's assurances that the data was correct. HAIRSTON also stated that he thought the April 19 data had been checked.

In light of the questions raised about the accuracy of the DG start information, BOCKHOLD failed to take sufficient action to ensure that these questions were resolved. Sufficient actions, if taken, could have enabled GPC to identify errors in the April 9 letter before the issuance of the LER.

Allegation No. 4: Submission of False Statement of Reasons Why DG Test Data in LER 90-006 Was Inaccurate, as Stated in Revision 1 to LER 90-006, Dated June 29, 1990.

COORDINATING GROUP CONCLUSION FOR ALLEGATION NO. 4:

The Group concluded that there were three examples where inaccurate or incomplete information was provided in the June 29, 1990, letter.

The first example involves GPC's failure to include information clarifying the April 9 letter. The root cause for this failure was that GPC staff and management acted with careless disregard when it failed to correct the omission after being notified by a GPC employee that the letter failed to include information to clarify the DG start counts reported in the April 9 letter. The incompleteness was material in that the NRC subsequently requested GPC to make a submittal clarifying the April 9 letter.

The second example involves GPC's failure in erroneously attributing DG start record keeping practices as a reason for the difference between the DG starts reported in April 19 LER and in the June 29 LER revision. The root cause of this failure was that GPC acted with careless disregard when it failed to adequately determine the root cause for the reporting errors on April 9 and April 19 and, as a result, stated reasons in the cover letter that were inaccurate. The inaccuracy was material in that it could have led the NRC to conclude that the correct root causes for the difference in the number of diesel starts

- PREDECISIONAL INFORMATION -
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reported in the April 19 LER and the June 29 letter had been identified by GPC.

The third example involves GPC's failure to state that the root causes for the difference between the DG start counts in the April 19 LER and the June 29 letter were personnel errors. The root cause for this failure was that GPC acted with careless disregard when it failed to adequately determine the root cause for the reporting errors on April 9 and April 19 and, as a result, stated reasons in the cover letter that were incomplete. The incompleteness was material in that, had the correct root causes for the differences in the number of diesel starts been reported in the April 19 LER and the June 29 letter, it could have led the NRC to seek further information.

GROUP NOTE: With regard to examples two and three above, the Group has not identified any evidence in its review which addresses these materiality findings. Based on its review of the evidence, however, the Group has determined that the information of interest was material, i.e., it had a natural tendency or capability to influence an NRC decision maker.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR CONCLUSION NO. 4:

On April 30, 1990, MOSBAUGH gave BOCKHOLD a listing of 1B DG starts. BOCKHOLD returned the list to MOSBAUGH the same day with an attached note to MOSBAUGH and KITCHENS directing them to have Engineering and Operations work together to verify the list and have Technical Support prepare proposed changes to documents as required. The listing was confirmed on May 2 and showed that the start counts reported in the April 9 presentation, the April 9 CAL response letter and the April 19 LER were incorrect. MOSBAUGH provided the validated list to BOCKHOLD on May 2, when they agreed that the LER needed to be revised to reflect the correct number of starts. They also agreed that the April 9 letter needed to be corrected and proposed that it be done in the planned May 15, 1990, letter.

On May 8, MOSBAUGH prepared a draft revision of the LER for PRB review, which included revised DG start data. A PRB-approved draft was forwarded to corporate offices on May 14. GPC also issued a May 14, 1990, letter which addressed corrective actions related to the event, but did not mention the error in DG starts reported in the April 9 letter.

After being informed that the April 19 DG start counts were in error, HAIRSTON informed EBNETER in May that a revision to the April 19 LER would be submitted, in part, to correct the DG start counts. In early June, after being provided conflicting data for the second time about the actual number of DG starts as of

- PREDECISIONAL INFORMATION -

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April 19, HAIRSTON again notified EBNETER. He also requested a GPC audit be conducted to establish the correct data and to determine why the errors were made. The audit, conducted from June 11 to June 29, 1990, narrowly focused on a review of diesel records (Test Data Sheets, Shift Supervisor's Log and Diesel Generator Start Log) to verify the number of DG starts. The audit did not identify any specific cause for the error in the number reported in the LER. The audit stated, however, that "[t]he error introduced in the LER appears to be the result of incomplete documentation." The audit report stated that there were incomplete and missing entries regarding DG operations in the Shift Supervisor's Log (which was one of the sources used by CASH in collecting data for the April 9 presentation and CAL response letter). The audit also noted, "It appears that confusion about the specific point at which the test program was completed exists." The Group concluded that the audit was insufficient in scope. It should have examined the performance of BOCKHOLD and CASH in collecting the initial data and could have identified their inadequate performance as the root causes for the erroneous information reported on April 9 and in the April 19 LER.

Various drafts of the cover letter for the LER revision had been prepared and were subsequently reviewed by HAIRSTON. Due to the failure of the drafts to address the causes of the reporting errors, HAIRSTON and MCCOY became personally involved in drafting language as to those causes and counted DG starts listed in the audit report. A revised LER was sent to the site for review on June 29. The June 29 draft of the cover letter for the LER revision, that was reviewed by BOCKHOLD and other site personnel, also mentioned that it would clarify the April 9 letter DG information.

During the review of the June 29 draft, a VEGP Technical Assistant (TA) (MOSBAUGH - formerly the Acting VEGP Assistant General Manager - Plant Support) noted that the letter was incomplete and challenged the accuracy of the reasons stated in the draft cover letter in conversations with the Supervisor -SAER (FREDERICK), the VEGP Assistant General Manager - Plant Support (GREENE), HORTON, and a corporate Licensing Engineer - Vogtle Project (MAJORS). MOSBAUGH stated that: (1) even though the letter specifically claimed it would clarify the DG starts reported on April 9, it neither provided the clarification nor provided any further discussion of the concern, (2) DG record keeping practices were not a cause of the difference in the DG starts reported in the April 19 LER because adequate information was available when the counting errors were made, and (3) the erroneous counts resulted from personnel errors in developing the count. The Group concluded that FREDERICK, HORTON, MAJORS, and GREENE acted with careless disregard in failing to resolve one or more of these concerns.

- PREDECISIONAL INFORMATION -
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FREDERICK was aware that the audit (that formed the basis for the reasons stated in the June 29 letter) was narrow in scope and did not identify a specific cause for the error in the number of 18 starts reported in the April 19 LER. He was also aware that observations stated in the audit report were inappropriately being used to identify the root causes for the errors in the April 19 LER. MOSBAUGH and HORTON made FREDERICK aware of this inaccuracy, but FREDERICK with plain indifference defended the inaccuracy. Also, FREDERICK was made aware by MOSBAUGH on June 12 that, to identify the root cause of the error in the April 19 LER (i.e., personnel errors), the audit scope would need to include an assessment of the performance of BOCKHOLD and CASH, the individuals that developed the initial count. Yet, the audit report did not include either BOCKHOLD or CASH in the list of persons contacted during the audit. On June 29, FREDERICK was again made aware by MOSBAUGH that the root cause for the difference was personnel error. The Group concluded that, despite this claim from a knowledgeable person, FREDERICK acted with careless disregard when he failed to adequately address this concern prior to issuance of the June 29 letter.

HORTON was responsible for the Diesel Start Logs and agreed with the audit report findings regarding deficiencies in their condition. Given that his logs had not been used by CASH, HORTON pointed out that it was wrong to state that the condition of his logs caused errors in the information initially provided to the NRC. HORTON understood and agreed that DG record keeping practices were not a cause of the difference in the DG starts reported in the April 19 LER and the June 29 letter. The Group concluded that HORTON, although disagreeing with the statement that diesel record keeping practices were the cause for the error, acted with careless disregard in approving the draft cover letter as a voting member of the PRB.

MAJORS was the corporate licensing engineer who had staff responsibility for preparing the cover letter for the LER revision. HAIRSTON specifically directed MAJORS to work closely with the site to ensure that the submittal was accurate and complete. The Group concluded that despite (1) this clear direction, (2) the site informing him that the June 29 letter failed to address the April 9 letter, and (3) the site informing him that the April 9 errors were different from the April 19 LER that it referenced, MAJORS acted with careless disregard in failing to address the concern raised about April 9 prior to issuance of the letter.

GREENE was apprised by MOSBAUGH (who had been involved in preparing the April 19 LER and had been heavily involved in developing an accurate DG start count) of concerns regarding the June 29 letter. MOSBAUGH identified to him the failure of the June 29 letter to address the April 9 letter that it referenced

- PREDECISIONAL INFORMATION -
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and he pointed out the erroneous causes stated for the reasons for the difference in the June 29 DG start counts. The Group concluded that GREENE acted with careless disregard in that he was indifferent to these concerns and, as a voting member of the PRB, approved the June 29 submittal.

EVIDENCE FOR ALLEGATION NO. 4:

1. GPC's June 29, 1990, cover letter to the revised LER stated: "This revision is necessary to clarify the information related to the number of successful diesel generator starts as discussed in the GPC letter dated April 9, 1990, and the LER dated April 19, 1990, and to update the status of corrective actions in the LER. . . . The number of successful starts included in the original LER included some of the starts that were part of the test program. The difference is attributed to diesel start record keeping practices and the definition of the end of the test program. (Exhibit 41) *
2. In an attempt to resolve his concerns about the accuracy of information provided to NRC, MOSBAUGH compiled a list of 1B DG starts and gave it to BOCKHOLD with a cover note, dated April 30, 1990, stating, "I believe that previous statements made to the NRC regarding 1B Diesel starts were incorrect in light of this data." (The cover note is GPC's Exhibit 7 in Attachment 3 of GPC's letter to NRC of April 1, 1991. The list was given to the NRC by MOSBAUGH as part of his allegation.) *
3. On April 30, 1990, BOCKHOLD responded to MOSBAUGH's note and list of the same date. "Have Engineering and Ops (JP Cash) work together to agree with the list, then have Tech Support propose changes to documents as required." (GPC Exhibit 7 in Attachment 3 of its letter to NRC of April 1, 1991) *
4. MOSBAUGH stated that BOCKHOLD told him to verify his list with CASH and he (MOSBAUGH) had some trouble getting CASH to participate. He said that CASH never sat down with him and went over his (MOSBAUGH's) list, but CASH finally said MOSBAUGH's list was correct. He stated that he also had STOKES involved in the validation process. (Exhibit 5, p. 229)
5. On May 2, 1990, MOSBAUGH gave BOCKHOLD a listing of starts for DG 1A and confirmed that his previous list of April 30 for DG 1B was correct. (Listing titled "DG1A Start History For March and April" provided by MOSBAUGH to OI during interview on July 19, 1990, and identified as "Start information on 1A Diesel given to George Bockhold on 5-2-90 saying 1B & 1A information was correct.") *

- PREDECISIONAL INFORMATION -
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6. After MOSBAUGH gave BOCKHOLD a validated list of starts, BOCKHOLD and MOSBAUGH agreed that the LER should be revised and MOSBAUGH indicated that site personnel were already working on it. BOCKHOLD questioned if the April 9 letter also needed to be revised. BOCKHOLD and MOSBAUGH agreed that the April 9 letter could be corrected via the planned May 15th letter. They also agreed that it would be best to use the same terminology in these documents. (Group Transcript of Tape 90, Side A, p. 2) *
7. A May 14, 1990, letter to the NRC provided information on corrective actions after the event and did not address any errors in the April 9, 1990, letter. (GPC letter to NRC, "Vogtle Electric Generating Plant Corrective Actions for Site Area Emergency," dated May 14, 1990.) *
8. HAIRSTON was told by either McCOY or SHIPMAN about mid-May 1990 that there was an error in the DG count data submitted to NRC on April 19, 1990. (Exhibit 31, pp. 76-77)
9. About May 24, 1990, HAIRSTON phoned EBNETER and reported that the number in the April 19 LER was incorrect. HAIRSTON gave EBNETER new numbers and stated that an LER revision would be submitted with the correct number for the start data. HAIRSTON stated that he told EBNETER that he was going to give him two revisions to the April 19 LER. He stated that one revision would give him (EBNETER) the correct number of starts, and the other would provide the lab test data on the temperature switches. (Exhibit 31, pp. 78-79)
10. HAIRSTON stated that when he received a draft of a revision to the LER on June 8, 9, or 10, 1990, it had both the lab results and diesel start counts in it. He advised that the counts at that point were 10 and 12. He stated that right at that point he went to SHIPMAN, and they got the QA representative at the VEGP site on the phone and ordered the audit. (Exhibit 31, pp. 79-80)
11. HAIRSTON, in the presence of SHIPMAN, called FREDERICK (because AJLUNI, the QA Manager, was out of town) and requested that an SAER audit be performed. "This number [in the draft LER revision] had changed [from the one HAIRSTON had phoned in to EBNETER], and I wanted to know what the correct number was, and I wanted to know why we were having trouble counting these numbers and to give me a report." (Exhibit 31, pp. 78-81) *
12. HAIRSTON advised that, in his June 14, 1990, call to EBNETER, he told EBNETER that he was going to have an audit

- PREDECISIONAL INFORMATION -
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- done, and that a copy of the report would be given to the resident inspector. (Exhibit 31, p. 84)
13. HAIRSTON told OI that after receiving a draft LER revision that discussed valid starts and different time frames, he informed his staff that they had to explain why the numbers changed. (Exhibit 31, p. 87)
 14. On June 12, 1990, FREDERICK informed MOSBAUGH about the scope of the SAER audit. "I'm supposed to not only come up with a number; I'm supposed to come up with why the discrepancy exists." (Exhibit 98, p. 24)
 15. MOSBAUGH informed FREDERICK that he needed to talk to BOCKHOLD and CASH to get the facts surrounding the development of the DG start information presented to the NRC on April 9 and included in the April 19 LER. (Exhibit 97, p. 24) *
 16. The SAER audit report transmitted by memo to BOCKHOLD, dated June 29, 1990, stated that the audit was narrow in scope and was limited to a review of certain DG records (Test Data Sheets, Shift Supervisor's Logs and Diesel Start Logs). (Exhibit 43, Audit No. OP26-90/33, p. 1) *
 17. The SAER audit report stated that there were incomplete and missing entries regarding DG operations in the Shift Supervisor's Log. (Exhibit 43, Audit No. OP26/90-90/33, p. 2) *
 18. The SAER audit report stated that, "No specific cause for the error in the LER number of 18 starts was identified. However, it appears the major problem was that on April 19, 1990, when the LER was prepared, the Diesel Generator Start Log had not been updated.... Also, it appears that confusion about the specific point at which the test program was completed exists. Therefore, successful starts made during the test program were counted.... The error introduced in the LER appears to be the result of incomplete documentation." (Exhibit 43, p. 4) *
 19. In performing his count, CASH stated he obtained his count of successful starts from the Unit Control Log and the Shift Supervisor's Log. (Exhibit 9, p. 4)
 20. Persons contacted during the SAER audit were listed in the audit report and do not include BOCKHOLD or CASH. (Exhibit 43, Audit No. OP26-90/33, p. 1) *
 21. FREDERICK did not know during the audit that CASH had not used the DG start sheets in the count of starts that he gave

- PREDECISIONAL INFORMATION -
NOT FOR RELEASE WITHOUT THE APPROVAL OF THE DIRECTOR, NRR

- BOCKHOLD for the oral presentation to NRC. (Exhibit 40, p. 50) *
22. FREDERICK could not recall asking BOCKHOLD or CASH about how CASH performed his count. FREDERICK said the audit group "looked at various documents and didn't necessarily work off of hearsay from anybody or worry about what anybody else had done before us." (Exhibit 40, pp. 38-39) *
 23. CASH stated, in his June 14, 1993, testimony, that in early 1993 was the first time anyone had ever asked him to reproduce his count of diesel starts. (Exhibit 10, p. 36)
 24. HAIRSTON stated that there were several revisions to the "cover sheet" of the revision to the LER. He advised that he could not recall who he worked with on that, but it could have been MAJORS. Since the several revisions that he had received had not provided reasons for the reporting errors in the April 19 LER, HAIRSTON stated that he directed that the cover letter was to explain what those reasons were. (Exhibit 31, pp. 87-89)
 25. MOSBAUGH provided OI six iterations of the cover letter to the June 29 revision to the LER. The first five drafts did not make any reference to the April 9 letter. (Exhibit 5, pp. 242-248, and Exhibit 16-20 in Attachment 3 to GPC's April 1, 1991, 2.206 petition response) *
 26. MAJORS stated, on June 29, 1990, that the terminology, "The discrepancy is attributed to diesel start record keeping practices" was a "George [HAIRSTON] and Ken McCOY designed sentence, and they're referring there to this audit report..." (Exhibit 57, p. 55). MAJORS advised that if he said that, it's probably accurate, and that he was referring to HAIRSTON, not BOCKHOLD. (Exhibit 42, pp. 24-27) *
 27. McCOY advised that he was involved in the preparation and review of the cover letter to the June 29 revision to LER 90-006. (Exhibit 29, p. 60)
 28. BOCKHOLD stated that he did not recall being involved in the preparation of the June 29 cover letter, but that he probably reviewed it. He did not recall anything "jumping out" at him as being wrong with the cover letter. (Exhibit 13, p. 84)
 29. FREDERICK, on June 29, 1990, told MOSBAUGH and HORTON that his understanding from MAJORS was that HAIRSTON may have written the last sentence of the cover letter to the LER revision himself. (Exhibit 57, p. 19)

- PREDECISIONAL INFORMATION -
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30. McCOY told OI that he read the audit report and reviewed the logs and lots of data in an effort to clarify the DG start issue. During the preparation of the June 29 submittal, he did not recall talking to BOCKHOLD, but he talked to AJLUNI, his QA manager, about the details of the audit. McCOY went through the logs FREDERICK had gathered in an effort to understand for himself how the error had been made and what was the accurate information. (Exhibit 29, pp. 25-27) *
31. McCOY stated that when the revision to the LER went out on June 29 the reasons given in the cover letter for the differences in the starts were correct. He stated that this was based upon a QA audit in which he had confidence. (Exhibit 29, p. 65)
32. HAIRSTON advised that he recalled reviewing the report of that audit, and that, "Whatever the audit said was what I knew. I didn't know any more than that." (Exhibit 31, p. 77)
33. HAIRSTON stated that he and McCOY "sat down with the [SAER Audit Report] tables," were told where the test program ended, and he made McCOY count DG starts to assure that the starts reported agreed with the number on the SAER tables. (Exhibit 31, p. 87-88)
34. On June 29, during a discussion of the cover letter for the LER revision, MOSBAUGH stated to MAJORS, in the presence of GREENE, WEBB, ODOM, and FREDERICK, that although the cover letter stated that it addressed both the April 9 letter and April 19 LER, it only addressed the difference in the April 19 LER. MOSBAUGH also stated that the April 9 errors were different than the April 19 LER errors. (Exhibit 57, pp. 61-62) *
35. On June 29, MOSBAUGH informed GREENE and FREDERICK that DG record keeping practices were not a cause of the difference in the DG starts reported in the LER because adequate information was available when the counting errors were made. (Exhibit 57, pp. 68-69) *
36. On June 29, MOSBAUGH informed GREENE and FREDERICK of his belief that the cause for the LER being submitted with incorrect information was "... due to personnel error, carelessness, and negligence." (Exhibit 57, p. 45) *
37. MOSBAUGH stated to GREENE, ODOM and WEBB, in a phone conversation with MAJORS that, "We didn't get different numbers because we changed our record keeping practices. We got different numbers because we failed to accurately count in the beginning...." (Exhibit 57, p. 60) *

- PREDECISIONAL INFORMATION -
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38. MAJORS stated to MOSBAUGH, GREEN, and FREDERICK that "... George [BOCKHOLD or HAIRSTON - no conclusive evidence] was afraid that if we didn't mention the April 9th letter, the NRC might interpret it as trying to avoid discussing it." (Exhibit 57, p. 62) *
39. MAJORS, referring to HAIRSTON, said, "And he made it clear to me that I wanted for my own benefit should have a clear understanding of the basis for the numbers that went into the revised LER. In other words, he indicated to me that -- that I would not want to be responsible solely myself for the numbers that went in there; I would want to have a good basis for it.... So I took that to understand that he was concerned about the error that was made in the first LER and the implications that that error could be looked at as a material false statement and so forth and so on and that I wouldn't want to be sucked into that sort of thing." (Exhibit 42, pp. 30-31) *
40. MAJORS stated that he had a conference call with the site, and there was a pretty good discussion on what should be said in that cover letter. He stated that it did seem strange to him to send out a cover letter that said, "Here's a correction, and never ... say anything about what caused the error in the first place." (Exhibit 42, pp. 18-19)
41. HORTON disagreed with the cover letter assertion that poor diesel record keeping practices was a root cause of the NRC being provided incorrect information, but agreed that the diesel logs were not up to date. (Exhibit 57, pp. 19-30) *
42. FREDERICK knew that the SAER audit report did not say why an error was made - it only stated what the conditions were when the LER was written. (Exhibit 57, p. 23). However, he was aware that the audit report was being used as a basis for telling the NRC why the initial LER numbers were wrong: "I think what we're talking about is Mr. Hairston trying to explain why we made a mistake." (Exhibit 57, p. 29) *
43. MOSBAUGH clearly pointed out to GREENE the deficiencies in the cover letter. However, GREENE responded by saying instead, "I think I have all the information I need." (Exhibit 57, pp. 66-69) *
44. MCCOY told OI that he called BROCKMAN on August 28, 1990, to discuss several things, including the DG letter that he was preparing as a result of an NRC request, and his commitment, during the NRC STI to clarify DG starts in the April 9 letter. (Exhibit 29, p. 72) *

- PREDECISIONAL INFORMATION -
NOT FOR RELEASE WITHOUT THE APPROVAL OF THE DIRECTOR, NRR

45. The PRB (KITCHENS, GREENE, HORTON, COURSEY, and CASH) unanimously recommended approval of the cover letter to the LER Revision. (VEGP PRB Minutes for Meeting No. 90-91, dated June 29, 1990) *

OI CONCLUSION REGARDING ALLEGATION 4:

Based on the evidence developed during the investigation, it is concluded that HAIRSTON, with, at a minimum of careless disregard, submitted a false statement to NRC in the letter of transmittal of Revision 1 to LER 90-006, dated June 29, 1990. This false statement pertained to the reasons stated as to why the GPC statement of diesel testing in the original LER 90-006 was inaccurate.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS FOR ALLEGATION NO. 4:

The Group found insufficient evidence to conclude that HAIRSTON acted with careless disregard in ensuring complete and accurate information was provided to the NRC. To the contrary, he personally spoke with EBNETER to inform him that mistakes had been discovered in information previously provided to the NRC and that corrected information was being developed. He further instructed McCOY to inform BROCKMAN and to ensure that BOCKHOLD informed the NRC Resident Inspector. HAIRSTON initiated action to ensure the revised information would be correct by ordering that a QA audit be performed to determine the correct data to report to the NRC and to determine why mistakes had been made in the initial data. He discussed this with EBNETER and stated that a copy of the audit report would be provided to the Resident Inspector.

The Group concluded that BOCKHOLD, McCOY, and HAIRSTON failed to exercise reasonable care to ensure information provided to the NRC was complete. McCOY and HAIRSTON were actively involved in the preparation of the June 29 cover letter. BOCKHOLD and McCOY reviewed, and HAIRSTON signed, the June 29 cover letter which stated that its purpose was, in part, to clarify information provided to the NRC on April 9. However, no such clarification, or even a relevant discussion of the April 9 information, was provided in the June 29 submittal.

The Group also concluded that FREDERICK, GREENE, HORTON and MAJORS acted with careless disregard as described in the analysis section for this allegation. The actions of these individuals resulted in the failure of HAIRSTON'S efforts to provide complete and accurate information to the NRC regarding the root cause of the errors in GPC'S letters of April 9 and 19, 1990.

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Allegation No. 5: Submission of False and Misleading Statements of Reason Why DG Test Data in April 9, 1990, Letter Was Inaccurate, as Stated in the GPC Clarification Letter, dated August 30, 1990.

COORDINATING GROUP CONCLUSION NO. 5:

The Group concluded that GPC failed to provide complete information with respect to the root causes of the error in the April 9 letter and the April 19 LER. The August 30 letter stated that the error in the April 9 letter and presentation (and the April 19 LER) were caused, in part, by an error made by the individual who performed the count of DG starts (CASH). This statement is incomplete in that it failed to identify all personnel errors made by BOCKHOLD and CASH. The root cause of the incompleteness was the failure of GPC to exercise reasonable care in adequately identifying the causes for the error in the April 9 letter and the April 19 LER. The incompleteness was material in that, had the correct root causes for the error in the April 9 letter regarding DG start counts been reported, this information could have led the NRC to seek further information.

GPC also failed to provide accurate information with respect to the correct root cause of the errors in the April 9 letter. The August 30 letter also stated that the errors in the April 9 letter and presentation (and the April 19 LER) were caused, in part, by confusion in the distinction between a successful start and a valid test. This information was inaccurate. The root cause for providing this inaccurate information was careless disregard displayed by BOCKHOLD after concerns about the accuracy of the statement were raised. The inaccuracy was material in that it could have led the NRC to conclude that the correct root causes for the error in the April 9 letter had been identified by GPC.

GROUP NOTE: With regard to above examples, the Group has not identified any evidence in its review which addresses these materiality findings. Based on its review of the evidence, however, the Group has determined that the information of interest was material, i.e., it had a natural tendency or capability to influence an NRC decision maker.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR CONCLUSION NO. 5:

GPC was clearly aware as early as May 2 that the April 9 letter was incorrect. Such notice was provided by MOSBAUGH'S verification with Operations of the accuracy of his April 30, 1990, listing of diesel starts. GPC failed to take sufficient actions to correct the April 9 letter and to determine the reasons for the errors it contained. While GPC undertook efforts to correct the April 19 LER, it narrowly focused only on that

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submittal. Specifically, GPC conducted an audit from June 11-29, 1990, the scope of which was limited to review of DG records in an attempt to correct the start count reported in the April 19 LER. HAIRSTON and McCOY were directly involved in the development of the June 29 letter and used the audit report to develop reasons for the error in the April 19 LER. Although the June 29 submittal stated that the purpose of the LER revision was to clarify information related to the number of DG starts reported in the April 9 letter and the April 19 LER, the cover letter only stated the number of successful starts subsequent to the completion of the CTP as of April 19 and attempted to explain the reasons for the error in only the April 19 LER. The June 29 LER revision submitted with the letter also did not clarify the DG start data as of April 9 in that it only reported the number of valid tests conducted March 21 through June 7. As of June 29, GPC had not initiated any action to determine the root cause for the error in the April 9 letter.

During the STI exit interview on August 17, 1990, BOCKHOLD and McCOY were specifically notified by the NRC that the revised LER did not adequately clarify the DG start information contained in the April 9 letter, and NRC requested GPC to provide clarification of this submittal. Despite having been advised of NRC concerns and of the need for a submittal, GPC did not adequately examine the root causes of the April 9 error. Rather, GPC forwarded a submittal to the NRC on August 30 regarding the April 9 letter that was drafted at corporate headquarters under the direction of McCOY, without an assessment of the actions of BOCKHOLD and CASH who developed the erroneous information for the April 9 letter. Such an assessment would likely have identified the personnel errors in requesting the count, reporting the count and assessing what the results represented (see discussion of Allegation 1 and 2, above). As a result, no adequate evaluation of the root causes of the error in the April 9 letter was available to GPC at the time of the August 30 submittal. By stating that an error was made by the individual who performed the count of DG starts for the April 9 letter, GPC's August 30 letter was incomplete with respect to identifying the root causes for the error in the April 9 letter. The incompleteness was material in that, had the NRC known of the root causes for the error in the April 9 letter regarding DG start counts, it could have led the NRC to seek further information.

In addition, the letter erroneously suggested that one of the reasons for the error in the April 9 letter and the April 19 LER was "confusion in the distinction between a successful start and a valid test" by the individuals who prepared the DG start information for the April 9 letter. During the August 29 PRB meeting, the VEGP Manager - Technical Support (AUFDENKAMPE) raised concerns about the accuracy of the statement. BOCKHOLD admitted that CASH was not confused about the distinction between

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successful starts and valid tests when the start data was collected for the April 9 letter, but stated that the sentence was not in error because other people were confused. BOCKHOLD acknowledged that there was confusion among individuals after April 9, but admitted that CASH was not confused when he developed the information. Confusion after April 9 was not relevant to reasons for the error in the April 9 letter. By retaining this wording, the first reason was inaccurate. BOCKHOLD acted with careless disregard in failing to adequately deal with concerns raised regarding this statement. The Group also concluded that the members of the PRB (GREENE, AUFDENKAMPE, HORTON, COURSEY, AND BURMEISTER) collectively failed to exercise reasonable care in not adequately resolving the concerns that had been raised about the accuracy of the first reason. As a result, the August 30 letter was inaccurate. The inaccuracy was material in that it could have led the NRC to conclude that GPC had identified the root cause of the errors in the April 9 letter and the April 19 LER.

EVIDENCE FOR CONCLUSION NO. 5:

GROUP NOTE: Evidence supporting the Group's conclusion that GPC failed to provide complete information with respect to the root causes of the error in the April 9 letter and the April 19 LER is, in part, identified in the earlier discussion supporting Conclusion No. 4. The evidence cited earlier addresses GPC's actions up to and including activities on June 29.

1. On August 30, 1990, GPC, under signature of McCOY, submitted a letter to the NRC captioned "Vogtle Electric Generating Plant Clarification of Response to Confirmation of Action Letter." This letter states, "The confusion in the April 9th letter and the original LER appear to be the result of two factors. First, there was confusion in the distinction between a successful start and a valid test. ... Second, an error was made by the individual who performed the count of DG starts for the NRC April 9th letter." (Exhibit 45) *
2. McCOY identified a fundamental issue among the concerns raised by the NRC during the STI conducted in August 1990. McCOY identified this issue as whether what was presented to the NRC on April 9, 1990, was accurately presented and whether--if there was an error--there was a rational basis for the error or was it an intentional error. (Exhibit 68, pp. 32-33)

- PREDECISIONAL INFORMATION -
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3. McCOY stated that his notes of an August 17 meeting with the STI team showed GPC discussed the error in the report of DG starts and made a commitment to supply additional data and clarification. (Exhibit 29, p. 76-77) *
4. McCOY stated that he was briefed daily on the progress of the diesel testing after the March 20 event, and was involved in some of the discussions with the NRC inspectors regarding the diesel test results. (Exhibit 29, p. 10)
5. McCOY told OI that he called BROCKMAN on August 28 to discuss several things, including the DG letter that he was preparing as a result of an NRC request, and his commitment, during the NRC STI to clarify DG starts in the April 9 letter. (Exhibit 29, p. 72) *
6. STRINGFELLOW stated that when the NRC was at VEGP for their STI during August 1990, he recalled McCOY directing him to write a letter to the NRC clarifying the April 9 letter. (Exhibit 30, pp. 85-86)
7. GREENE advised that the reason behind the August 30 letter was that the NRC STI team didn't feel that the April 9 letter had been corrected properly. He stated that GPC's efforts in the August 30 letter were to recount GPC's understanding, as of August 30 how GPC believed the counts were done. (Exhibit 47, pp. 36-37)
8. STRINGFELLOW stated that the August 30 letter was a detailed listing of diesel starts between March 20 and April 9 that was intended to clarify the diesel starts during that period, and that was the purpose of that letter. (Exhibit 30, pp. 27-29)
9. STRINGFELLOW stated that he started with the QA report on diesel starts, discussed the report with AJLUNI, FREDERICK, McCOY, and RUSHTON, and he came up with a first draft of the August 30 letter. He said that he distributed the draft letter to those people he had talked to for their review and comment. He said the letter went through several sets of comments, and it got to the point where he sent it to the site for their review. (Exhibit 30, p. 86)
10. STRINGFELLOW said that he had developed two tables, based upon the QA report, that were attached to the letter, and that the site did their own verification of the tables. He advised that the site sent their reviewed copy of the letter, with their own tables attached, and that was what McCOY ultimately signed out. (Exhibit 30, pp. 86-87)

- PREDECISIONAL INFORMATION -
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11. McCOY acknowledged that he did recall reading and signing the August 30 letter of clarification of the April 9 letter, from GPC to NRC. (Exhibit 29, p. 77)
12. HAIRSTON stated that he was not involved in the preparation or review of the August 30 letter of clarification to NRC. He stated that he believed that he was out of the office when it was signed out. (Exhibit 31, p. 94)
13. SHIPMAN advised that he would have reviewed the August 30 letter of clarification from GPC to NRC as he had reviewed the other cover letters and bodies of LERs. (Exhibit 39, p. 74)
14. MAJORS acknowledged that he had no involvement with the preparation or review of the August 30 letter from GPC to NRC regarding the clarification of the April 9 letter. (Exhibit 42, p. 35)
15. McDONALD acknowledged that he did not recall having any part in the preparation or review of the GPC August 30 letter of clarification to NRC regarding the GPC April 9 letter. (Exhibit 48, p. 17)
16. FREDERICK stated that he participated as an interface with the team leader of the NRC STI, and he helped keep track of the concerns of the NRC and the position of GPC with regard to those concerns. He stated that if that information was used in the preparation of the August 30 letter, he would have been involved, but other than that, he had no involvement. (Exhibit 40, p. 67)
17. BAILEY stated that he had no involvement in the August 30 letter to NRC. He stated that STRINGFELLOW worked with McCOY on the development of that letter. (Exhibit 28, p. 53)
18. STRINGFELLOW acknowledged that, to the best of his knowledge, the reasons stated in the letter for the incorrect information provided to NRC in the April 9 letter are correct. He acknowledged that he did not have first-hand knowledge that the reasons were correct, but the letter was prepared from his discussions with McCOY, FREDERICK, AJLUNI, and RUSHTON. (Exhibit 30, pp. 88-89)
19. BOCKHOLD told OI that he normally reviewed every final draft letter that went out of the site, but he did not recall reviewing or approving the August 30 letter. (Exhibit 13, p. 86)

- PREDECISIONAL INFORMATION -
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20. GREENE indicated that a copy of a draft of the August 30 letter (Exhibit 46) appeared to contain BOCKHOLD's handwritten note to the PRB which says, "Please review and recommend approval or provide comments today. G. Bockhold." (Exhibit 47, pp. 41-42)
21. The PRB discussed drafts of the of August 30 clarification letter in meetings held on August 28, 29 and 30. The voting members (and voting alternates) present were GREENE (Chairman), AUFDENKAMPE, HORTON, COURSEY, AND BURMEISTER. FREDERICK attended as a non-voting member. BOCKHOLD attended the August 29 and August 30 meetings as a guest/technical advisor. MOSBAUGH attended the August 30 meeting as a guest/technical advisor. (VEGP PRB Meeting Minutes for Meeting Nos. 90-109, 90-110, 90-111) *
22. On August 28, FREDERICK questioned whether providing the tables prepared by corporate was a good idea. (VEGP PRB Minutes for Meeting No. 90-109) *
23. AUFDENKAMPE stated that he was at the PRB when the August 30 letter was discussed. He also stated that HORTON had stayed at the plant until 3:00 or 4:00 a.m. checking the tables attached to this letter, before HORTON would vote in the PRB on it. (Exhibit 38, pp. 129-130)
24. HORTON reviewed the data presented in the tables for the August 30 letter, reformatted the tables, and added a column with comments for each start. (VEGP PRB Minutes for Meeting No. 90-110) *
25. BOCKHOLD's response to comments that the draft be revised to state its purpose at the outset is that, "[i]f Birmingham likes this letter written this way, . . . that's what we should do." BOCKHOLD states his view that the organization of the information in the letter does not affect its accuracy. BOCKHOLD further states that he wants a unanimous recommendation from the PRB before he concurs in the August 30 letter. (Exhibit 60, p. 43-45) *
26. On August 30, BOCKHOLD changed the word "errors" to "confusion" and changed "valid start" to "valid test" on page one, paragraph three of the draft clarification letter. (Exhibit 60, p. 35; see VEGP PRB Meeting Minutes for Meeting No. 90-111) *
27. During the August 30 PRB meeting, AUFDENKAMPE questioned whether there was confusion between successful starts and valid tests. BOCKHOLD admitted that CASH was not confused about the distinction between a successful start and a valid test when he performed his count. AUFDENKAMPE stated that

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the sentence is in error. (Exhibit 60 pp. 39-41; see VEGP PRB Minutes for Meeting No. 90-111) *

28. BOCKHOLD replied to AUFDENKAMPE that "[t]he sentence is not in error and maybe should go someplace else" since "everybody else, the more we got into it," got confused. "On that date, Jimmy [CASH] wasn't confused. He thought he had counted successful starts." (Exhibit 60, p. 41) *
29. BOCKHOLD acknowledged to OI that his reading of the August 30 letter indicated that the confusion mentioned in the letter was not that the NRC was confused, and not that confusion existed between the NRC and GPC, but that there was confusion within GPC. He stated that, "Our [GPC] communications was not clear enough on diesel starts and successful starts and valid tests and -- and we did not have -- we did not realize how difficult it was to come up with the right set of tables and numbers associated with those things." (Exhibit 13, pp. 89-90)
30. BOCKHOLD told OI that he has not been confused about the distinction between a successful start and a valid test. (Exhibit 13, p. 87)
31. CASH indicated that he was not confused about what BOCKHOLD asked him to count for the April 9 presentation. (Exhibit 10, p. 88)
32. CASH stated that he did not recall being involved in the preparation of the GPC letter to NRC dated August 30, and further stated that he was not involved with the tables of diesel starts that were attached to the letter. (Exhibit 10, p. 83)
33. CASH did not believe that he made a mistake in what he was counting at the time. (Exhibit 10, p. 91)
34. CASH stated that he did not recall anyone from GPC ever discussing with him what kind of error he made, and he stated he never saw the August 30 letter until 1993. (Exhibit 10, p. 92)
35. As of July 1, 1993, McDONALD had not talked to BOCKHOLD or CASH about how they arrived at the data for the April 9, 1991, presentation, and had not asked any of the other managers in his chain of command about that issue. (Exhibit 48, pp. 19-20)
36. McDONALD acknowledged that he did not know what kind of an error CASH made in counting the starts. (Exhibit 48, p. 20)

- PREDECISIONAL INFORMATION -
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37. In 1993, CASH indicated that the only start he would not have counted (as indicated by the typed list that GPC offered during the interview as being representative of his count) was an April 1 start that never occurred. (Exhibit 10, p. 21)
38. AUFDENKAMPE stated that there wasn't confusion between a successful start and a valid test, but rather there was confusion about exactly what we were counting, and when we started to count. (Exhibit 38, p. 130)
39. McCOY stated that he could not speculate on whether or not there was any confusion in the mind of CASH, with respect to valid tests versus successful starts, when CASH went to get his data. He said that he did not have any basis for speculation on that. (Exhibit 29, p. 79)
40. FREDERICK acknowledged that there was no confusion in his mind between a successful start and a valid test. He had no knowledge that there was any confusion in BOCKHOLD or CASH's minds regarding successful starts and valid tests, either. (Exhibit 40, p. 68)
41. FREDERICK stated that the letter is poorly worded, and did not express what the confusion really was, but it was his belief that GPC had not clarified it for the NRC staff. (Exhibit 40, p. 72)
42. BOCKHOLD told OI that none of his managers in the corporate offices in Birmingham had asked him, during the period April 9 to August 30 to specify exactly how he had arrived at the numbers of successful diesel starts that he had presented to the NRC on April 9, 1990. He stated that if they had, he would have responded that he had used numbers verified by CASH. (Exhibit 95)

OI CONCLUSION REGARDING ALLEGATION 5:

OI concludes that McCOY, with, at a minimum of careless disregard, submitted both a false and a misleading statement in the August 30, 1990, letter to NRC. These false and misleading statements pertained to the reasons why the statement of diesel testing in the GPC Confirmation of Action Response letter, dated April 9, 1990, was inaccurate.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS ON ALLEGATION 5:

The Group could not identify evidence that McCOY acted with careless disregard. BOCKHOLD, not McCOY, specifically knew that CASH was not confused about successful starts vs. valid tests on

- PREDECISIONAL INFORMATION -
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April 9. BOCKHOLD, as VEGP General Manager, had the responsibility to ensure that information submitted in the August 30 letter was accurate. BOCKHOLD had personal knowledge and had been informed by AUFDENKAMPE that CASH, the Unit Superintendent, understood the distinction between successful starts and valid tests.

The evidence supports that GPC failed to exercise reasonable care in examining and identifying the root cause of the April 9 error. The performance deficiencies of CASH or BOCKHOLD were not examined or fully explained despite GPC being made aware that the April 9 errors were attributable to personnel errors. The reasons presented in the letter were inaccurate and incomplete largely due to the failure of GPC to conduct a thorough review of the facts and individual actions which contributed to the erroneous information provided on April 9, April 19 and June 29. Although McCOY was told during the April 19 conference call that CASH had collected the start data for BOCKHOLD, he had no direct knowledge as to how CASH performed or whether he was confused. By contrast, BOCKHOLD, the original requestor of the data, was directly involved in developing the information presented to the NRC on April 9 and actively reviewed the information in the August 30 letter.

McCOY acted unreasonably in failing to assure that the August 30 letter adequately explained the reasons for the errors in the April 9 letter. McCOY committed during the August 17 meeting with the STI team to provide a clarification to the NRC regarding the April 9 letter. McCOY was aware of the seriousness of the NRC concerns regarding the possible errors in the April 9 letter including potential wrongdoing.

The Group could not identify any evidence that McCOY, despite this information, took adequate steps to ensure that a root cause analysis was performed. Specifically, McCOY failed to assure that the performance of BOCKHOLD and CASH in developing the April 9 DG start data was critically examined. Thus, the Group concluded he failed to exercise sufficient oversight of the preparation of the August 30 letter to assure that serious NRC concerns were accurately addressed.

Allegation No. 6: Withholding, on April 9, 1990, Knowledge of Recent Out-of-Tolerance DG Control Air Dew Point Readings by the VEGP GM.

COORDINATING GROUP CONCLUSION FOR ALLEGATION NO. 6:

GPC failed to include information regarding DG starting air quality in its April 9, 1990, letter to the NRC regarding restart of Vogtle Unit 2. The incompleteness was material in that the

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NRC relied, in part, upon the information presented by GPC in its letter of April 9 in reaching the decision to allow Unit 1 to return to power operation.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR CONCLUSION NO. 6:

The air for starting a DG and operating its instruments and controls is derived from the starting air system. The starting air system contains dryers designed to control moisture (i.e., dew point) at acceptable levels. GPC presented an incomplete discussion regarding control of dew points in its April 9 letter by only stating that initial reports of high dew points were attributed to faulty instrumentation. The root cause of this problem was the failure of GPC to exercise reasonable care. Specifically, an adequate review of maintenance records and deficiency cards associated with Unit 1 would have revealed that high dew points were also attributable to system air dryers occasionally being out of service for extended periods and to system repressurization following maintenance, as documented in NRC Inspection Report No. 50-424, 425/90-19, Supplement 1, dated November 1, 1991. These additional reasons for the high dew points should have been included in the April 9 letter. The Group concluded that the discussion regarding dew points was incomplete and the Group concluded that GPC as an entity failed to act reasonably to assure that the information was complete. The incompleteness was material in that the NRC relied, in part, upon the information presented by GPC in its letter of April 9 in reaching the decision to allow Unit 1 to return to power operation.

The evidence gathered by OI does not indicate how or by whom the air quality portion of the April 9 letter was prepared. It was likely prepared by corporate licensing personnel and reviewed at the site. BOCKHOLD was one of the reviewers of the April 9 letter. The nature of his review was a quick review placing reliance on people at both corporate and the site whose job was to prepare the letter.

Although BOCKHOLD did review the April 9 letter, the Group did not conclude that he acted unreasonably in failing to identify the omission. Dew points are a measure of air quality. The significant technical issue is that air quality be satisfactory. While a low dew point can assist in assuring air quality, air quality may be satisfactory even where high dew points are found. This was the case at Vogtle. Vogtle had a history of high dew points. This was confirmed by the NRC inspection. However, the air quality at Vogtle was found satisfactory for the reasons stated in the April 9 letter as confirmed by the NRC inspection effort. The Group concluded that a review of the letter by BOCKHOLD likely would have focused on the primary technical issue, i.e., air quality and the reasons given to support the

- PREDECISIONAL INFORMATION -
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conclusion that air quality was satisfactory. This information in the letter was correct. That this was the likely nature of BOCKHOLD'S review of the letter is supported by his response to concerns brought to him by MOSBAUGH regarding air quality on April 11. In response to concerns regarding dew point control, BOCKHOLD participated in a full discussion of the issue with MOSBAUGH and his engineers. BOCKHOLD'S focus during this discussion was on the substantive issue - air quality. At the end of that discussion, the consensus was that air quality was acceptable and that the statement in the April 9 letter regarding air quality was correct.

In addition, the failure in this case involved an omission. The statement in the letter regarding faulty instrumentation is correct, however, the statement is incomplete. A reviewer would inherently have greater difficulty in identifying an omission than in identifying an inaccuracy.

GPC, as an entity, should have prepared an accurate discussion of air quality. The Group did not believe, however, that BOCKHOLD, as a reviewer, should have necessarily identified the omission with respect to Unit 2, even though he was aware shortly before the April 9 presentation that high dew points had occurred on Unit 2 due to air dryers being out of service. Although the discussion of air quality in the April 9 letter was general in nature, the focus of the April 9 letter was Unit 1 and not Unit 2.

EVIDENCE FOR ALLEGATION NO. 6:

1. The April 9 GPC letter requesting restart focused on Unit 1 and stated that, "GPC has reviewed air quality of the DG air system including dewpoint control and had concluded that air quality is satisfactory. Initial reports of higher than expected dewpoints were later attributed to faulty instrumentation." (Exhibit 27, p. 3)
2. BOCKHOLD reviewed and commented on the April 9 letter prior to it being signed out. (Exhibit 13, p. 34) *
3. High dew points at Vogtle were due to faulty instrumentation, system air dryers occasionally being out of service for extended periods, and system repressurization following maintenance. Air quality at Vogtle at the time of restart of Unit 1 in April of 1990, was satisfactory. (NRC Inspection Report No. 50-424, 425/90-19, Supplement 1, dated November 1, 1991, p. 10) *
4. BOCKHOLD would review documents quickly. "I -- my practice had been to read this information rather quickly and see if anything jumped out at me that was not correct. My practice

- PREDECISIONAL INFORMATION -
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had not been to study this information, because we had a whole group of people both at the site and in corporate whose job was to do this." (Exhibit 13, p. 37) *

5. On April 11, 1990, BOCKHOLD stated in a conversation with Vogtle engineers KOCHERY, STOKES and HORTON that he knew about a bad dew point reading on the Unit 2 DG shortly before he made his presentation to the NRC. (Exhibit 66, p. 51)
6. The faulty dew point readings on the Unit 2 DG that BOCKHOLD discussed with his engineers were attributable to the failure to use air dryers. (Exhibit 66, pp. 42-48; p. 51) *
7. On April 11, 1990, BOCKHOLD was aware of what the April 9 letter to the NRC said about air quality and dew point readings and believed it focused on Unit 1. (Exhibit 66, pp. 40-41)
8. BOCKHOLD discussed the air quality and the related dew point issue with his engineers on April 11, 1990, in response to concerns raised by MOSBAUGH. The consensus at the end of that discussion was that air quality at Vogtle was satisfactory and that statements in the April 9 letter regarding air quality remained valid. (Exhibit 66, pp. 42-48) *
9. The NRC relied, in part, upon the information regarding control air dew points provided by GPC in the April 9, 1990, letter in reaching the NRC decision to allow Unit 1 to return to power operation. ("NRC Staff Supplemental Response to Intervenor's First Set of Interrogatories and Request for Documents," September 15, 1993, Response 16)

OI CONCLUSION REGARDING ALLEGATION 6:

Based upon the evidence developed in this investigation, it is concluded that BOCKHOLD had knowledge, at the time of his oral presentation to NRC on April 9, 1990, that there continued to be out-of-tolerance dew point readings on the control air of the VEGP, Unit 2 DGs as recently as the day before his presentation. In addition, BOCKHOLD knew that GPC, as part of their justification for restart of Unit 1, was claiming that VEGP DG was satisfactory, and that GPC was attributing their bad dew point readings to faulty instrumentation. BOCKHOLD deliberately withheld from NRC, his knowledge of the relevant, material information regarding the recent bad dew point readings, and permitted the GPC claims of satisfactory air quality, and bad readings due to faulty instrumentation, to be issued in the GPC

- PREDECISIONAL INFORMATION -
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April 9, 1990, letter of response to the NRC Confirmation of Action.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS FOR ALLEGATION NO. 6:

OI concluded that BOCKHOLD deliberately withheld information regarding the reasons for high dew point readings from the NRC on April 9, 1990. The Group found insufficient evidence to support that any dew point representations were made at the oral presentation to the NRC on April 9. With regard to the April 9 letter, the evidence does not disclose the origins of the letter. BOCKHOLD did review the letter which discussed the substantive issue of air quality and the related issue of dew point control. The Group concluded that it would not have been unreasonable for BOCKHOLD to focus on the substantive issue of whether air quality was satisfactory rather than the related issue of dew point control. That his focus would be so directed is supported by his participation with MOSBAUGH and Vogtle engineers when discussing this issue on April 11 where his focus was on air quality. In addition, the April 9 letter was focused on Unit 1 while the high dew points of which BOCKHOLD was aware occurred on Unit 2. Finally, the matter involved an omission rather than an inaccuracy which would be more difficult for a reviewer to detect.

Allegation No. 7: Submission of Inaccurate Information Regarding the Participation of the GPC Senior VP of Nuclear Operations in a Late Afternoon Phone Call on April 19, 1990, in Which the Wording of LER 90-006 was Revised.

COORDINATING GROUP CONCLUSION FOR ALLEGATION NO. 7:

The Group concluded that there is a reasonable basis for the information submitted by GPC in its April 1, 1991, response to the MOSBAUGH and HOBBY 10 C.F.R. § 2.206 petition and the allegation. Therefore, the Group could not conclude that GPC submitted inaccurate information, as alleged.

COORDINATING GROUP ANALYSIS OF THE EVIDENCE FOR CONCLUSION NO. 7:

The Group has reviewed the footnote set out in GPC's April 1, 1991, response to the MOSBAUGH and HOBBY 10 C.F.R. § 2.206 petition and the allegation. The allegation misquotes the footnote by using the word "revised" instead of "reviewed." The Group concluded that a reasonable interpretation of the footnote is that it refers to the last taped phone call on April 19, 1990, during which the final draft of the LER was reviewed and approved by the site.

- PREDECISIONAL INFORMATION -
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There were several telephone calls between site and corporate personnel on April 19. HAIRSTON participated in a portion of a telephone call on April 19 after the language CTP was developed for inclusion in a draft of the LER. BOCKHOLD also participated in this call in which several revisions were made to the draft LER.

Subsequently, a draft containing proposed revisions including the CTP language was reviewed by STRINGFELLOW, MOSBAUGH, SHIPMAN, AUFDENKAMPE, and SCHWARTZWELDER during a later call on April 19. Although a GPC document identifies that it believes that BOCKHOLD participated in that telephone call, and McDONALD, in response to an OI question, identified BOCKHOLD as a participant, the Group determined that neither BOCKHOLD nor HAIRSTON were participants in the later call. The final wording of the LER was reviewed and approved during this call. Following this call, the LER was presented to HAIRSTON for his signature.

Based on this information, the Group concluded that a submission of inaccurate information regarding the participation of HAIRSTON was not substantiated.

EVIDENCE FOR ALLEGATION NO. 7:

1. By letter dated April 1, 1991, GPC responded to the NRC regarding a 2.206 Petition submitted to NRC by MOSBAUGH and HOBBY. The letter, signed and sworn to by McDONALD, stated with respect to the April 19 LER, that: "[t]he wording was reviewed by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe the final draft LER presented to him after the call was accurate and complete." (Enclosure to GPC letter of April 1, 1991, at attachment 3, page 3, footnote 3) *
2. It was alleged that GPC's 2.206 response of April 1, 1991, stated that "[t]he wording was revised [sic.; reviewed] by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe that the final draft LER presented to him after the call was accurate and complete." (MOSBAUGH Memo to the NRC, "Georgia Power/SONOPCO 2.206 Petition Response is Filled with Lies," signed May 28, 1991) *
3. In an April 19 phone call involving SHIPMAN, STRINGFELLOW, MOSBAUGH, BOCKHOLD, McCOY, and AUFDENKAMPE regarding a draft of LER 90-006, the language "subsequent to this [comprehensive] test program" was developed. HAIRSTON

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- joined the phone call after the language was developed and, as pertinent to the DG start data, questioned whether the trip issue had been resolved. (Exhibit 36, pp. 8-12) *
4. During a later phone call on April 19, 1990, MOSBAUGH, AUFDENKAMPE, SHIPMAN, SWARTZWELDER, and STRINGFELLOW reviewed final revisions to LER 90-006. During this call, the site approved the final draft. HAIRSTON did not participate in the call. (Exhibit 36, pp. 20-32) *
 5. A GPC "White Paper," dated August 22, 1990, captioned "Response to NRC Question Concerning Diesel Starts Reported on April 9, 1990, and in LER 09-06, Revisions 0 and 1," indicated that GPC believed that BOCKHOLD, MOSBAUGH, AUFDENKAMPE, and SHIPMAN were on the "phonecon" in which the final revision of LER 90-06, Revision 0 was prepared. (Exhibit 44)
 6. McDONALD stated that he recalled that there were four people on that call: BOCKHOLD, SHIPMAN, MOSBAUGH, and AUFDENKAMPE. He stated that when "we" asked those people, none of them could remember that HAIRSTON was on the call. (Exhibit 48, pp. 25-27)

OI CONCLUSION REGARDING ALLEGATION NO. 7:

Based upon the evidence developed in this investigation, it is concluded that McDONALD, as the sworn signatory of the GPC Response to the MOSBAUGH/HOBBY 2.206 Petition, dated April 1, 1991, provided inaccurate information to NRC by stating in the Response that HAIRSTON was not a participant in the late afternoon conference call on April 19 in which the wording of GPC LER 90-006 was revised by corporate and site representatives. The audio tape of that conference call established that HAIRSTON was not only a participant in a portion of that call, but that he addressed the issue of DG starts and "trips" as they applied to the LER.

It could not be established that McDONALD was aware that HAIRSTON was a party to the telephone call on April 19 and deliberately provided false information to the NRC.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS FOR ALLEGATION NO. 7:

The Group found that the OI Report misquotes the footnote by using the word "revised" instead of "reviewed." The Group also found that the final draft of the LER was reviewed, during the last taped telephone call on April 19 and that HAIRSTON did not participate in the call. OI construed the footnote as referring

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to the earlier taped phone call on April 19 in which HAIRSTON did participate briefly. However, since it is reasonable to conclude that the footnote refers to the later telephone call on April 19 where the language concerning CTP was "reviewed," the Group could not find that GPC submitted inaccurate information.

COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS ON OVERALL GPC PERFORMANCE:

OI concluded, based on the combination of the findings contained in the OI Report (Case No. 2-90-020R) and its overall review of the numerous audio tape recordings of internal GPC conversations regarding their communications with the NRC on a range of issues, that at least in the March-August 1990 time frame, there was evidence of a closed, deceptive, adversarial attitude toward NRC on the part of GPC senior management. OI found that this attitude fostered a noticeable degree of frustration on the part of various GPC technical support and engineering personnel with respect to GPC providing information, not known to NRC, that had the potential of resulting in NRC enforcement action.

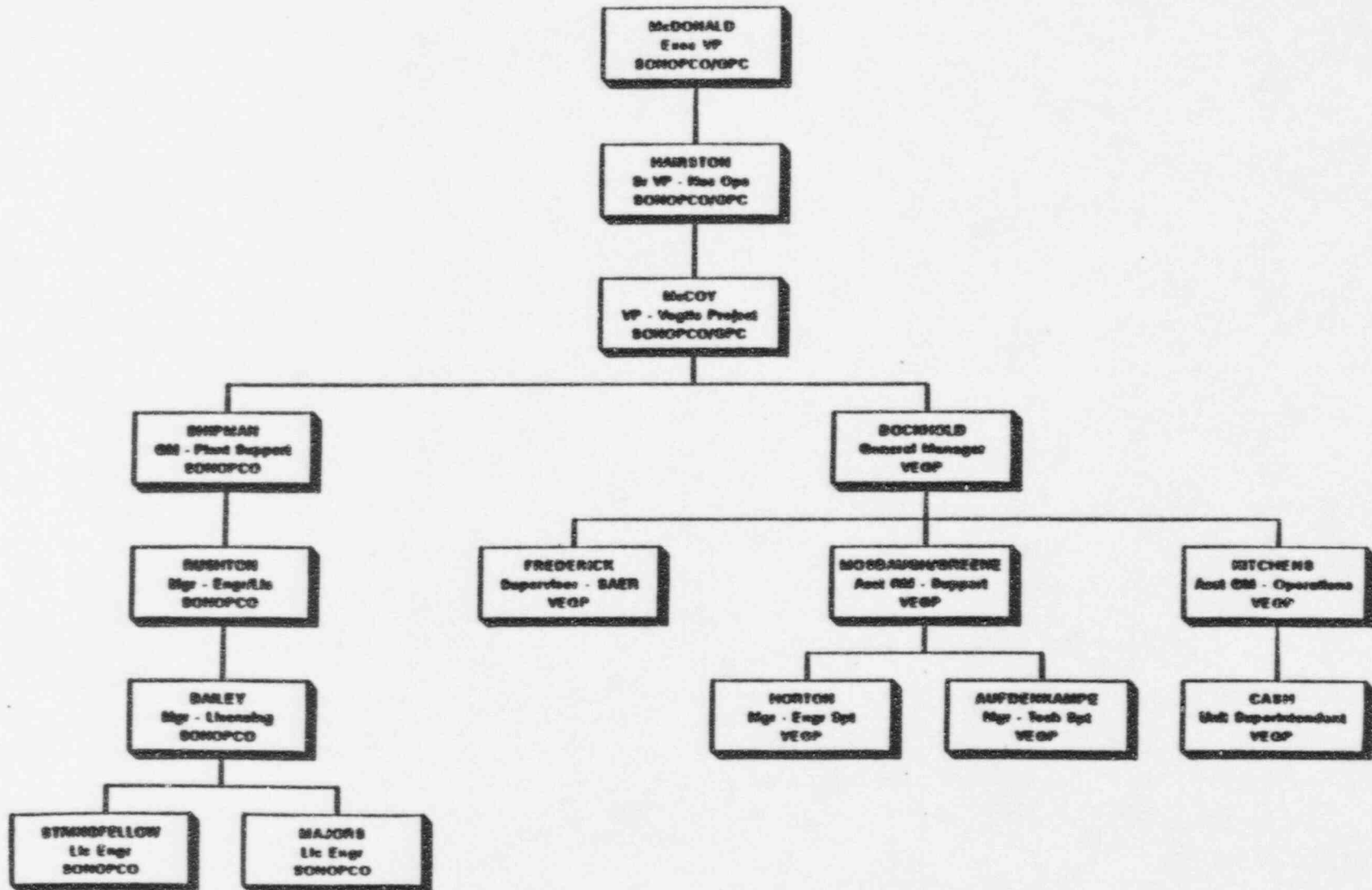
The OI conclusions are based upon their review of numerous audio tape recordings of internal GPC conversations on a range of issues during the March-August 1990 time frame. The Group's evaluation addresses the same period but has been limited, in accordance with its Charter, to determining what the tapes and other evidentiary materials revealed about GPC's performance related to the reporting of diesel generator testing. Based on the scope of this review, the Group developed an assessment of GPC's performance that is narrower than the OI conclusion. The Group concluded that there were multiple failures within GPC during the period from April through August 1990. These failures resulted in GPC providing to the NRC incomplete and inaccurate information associated with DG testing and, thereafter, inaccurate and incomplete reasons as to why the initial information submitted to the NRC was inaccurate. The Group identified two instances where managers and supervisors acted with careless disregard (wrongdoing) and numerous instances where managers and supervisors failed to exercise reasonable care in providing information to the NRC. In no case was the Group able to find that any individual deliberately provided inaccurate or incomplete information to the NRC.

The Group, in its review of the tapes associated with its Charter, did observe a number of instances where GPC employees made statements and took actions which could be viewed as indicative of a poor attitude toward the NRC, particularly in communications with the NRC. In those cases where the evidence supported unreasonable conduct or careless disregard on the part of GPC employees, that conduct is discussed in the Group's

- PREDECISIONAL INFORMATION -
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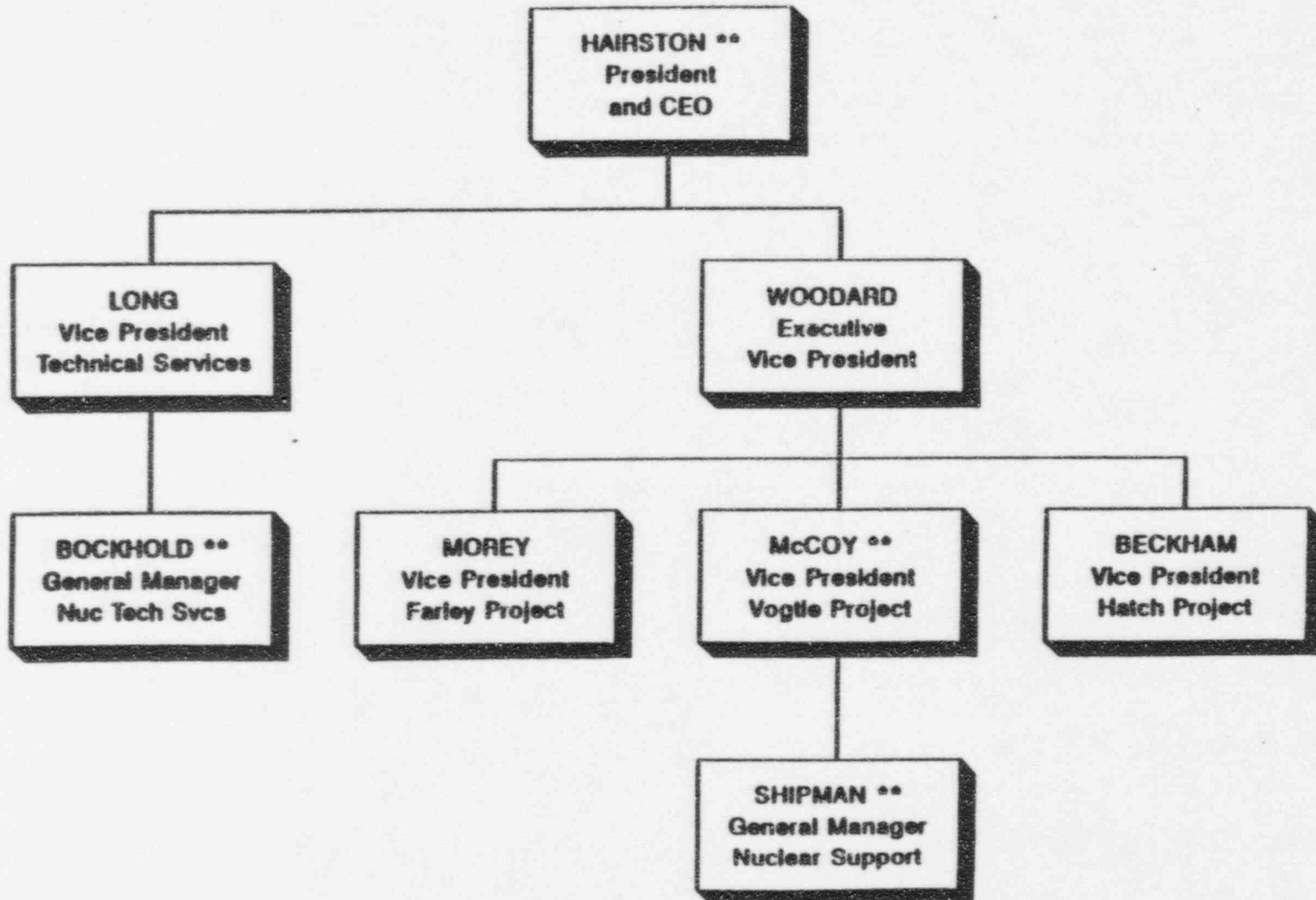
analysis. In those instances where the evidence was insufficient for the Group to reach a general consensus with regard to the statements or conduct at issue, the conduct was not used as a basis for any conclusions reached by the Group. The Group notes that it also observed instances where GPC employees made statements and took actions which could be viewed as indicative of an attitude consistent with providing the NRC with complete and accurate information. The Group could not identify sufficient evidence to reach an overall conclusion as to a prevailing attitude toward the NRC on the part of the GPC employees identified in the analysis. The Group did conclude that GPC performance during this time period in its communications with the NRC regarding DGs was seriously deficient.

LICENSEE MANAGEMENT STRUCTURE (Mid-1990)



CURRENT POSITIONS OF KEY INDIVIDUALS

Southern Nuclear Operating Company



** Persons identified in OI and Staff reports.

[Marginalia: Third Floor, Service Building,
Engineering Offices.]

1
2
3
4 VOICE: [Inaudible.]
5 Stokes: [Inaudible] they started the diesel like twice on
6 that diesel where [inaudible].
7 VOICE: Yeah.
8 Stokes: We still had gas in the machine.
9 Mosbaugh: We had gas in the machine.
10 Blount: I gave them a little lecture on cutting the damned
11 thing off. Don't ever cut it off.
12 Mosbaugh: With hydrogen in the machine, yeah.
13 Blount: They just got lucky. If it had been up like say
14 that flange had held like eight or nine more
15 pounds ... and they cut it off, it would have
16 blown across the seal, and taken all the oil with
17 it. We did that on Unit 2 with air. It makes a
18 big mess. But when you're up and running at a low
19 level like that, your lube oil supply will seal it
20 to a certain degree. We never like to trust that.
21 That's a secondary option.
22 VOICE: [Inaudible.]
23 Blount: That switch just probably needs a little
24 adjustment.
25 Mosbaugh: Okay. So they were, what, not going to proceed
26 with torsional until they --
27 Kavi: No.

1 Mosbaugh: They were.
2 VOICE: They were.
3 Blount: Montgomery just called and said they were probably
4 going to fire up in the next hour.
5 Kavi: Right. They were waiting for the GE people to
6 come back.
7 Mosbaugh: Okay. They were going to run it up to speed and
8 then they were going to call the GE people back
9 in.
10 Kavi: [Inaudible.]
11 Mosbaugh: They were going, reenter the torsional test. That
12 was the plan.
13 Kavi: Right. They were going to take it up to 1800 RPM
14 put excitation on [inaudible], that negative
15 sequence occurrence [inaudible].
16 Mosbaugh: I thought they were going to play around at about
17 100 RPM initially.
18 Blount: Well, we already played around --
19 Kavi: That test is already done.
20 Mosbaugh: Oh, the 100 RPM stuff is done?
21 Kavi: Yeah. The 100 to 1800, they already checked out
22 everything.
23 Mosbaugh: Okay. I didn't know if they were going to do that
24 or not.
25 Blount: There's slight vibration in No. 6 and No. 7
26 bearings that's running about six mils. They
27 don't think it's a problem. They think when they

1 finish loading the machine that those will settle
2 out, and that's not a big deal. Montgomery just
3 called and said that they were just sitting around
4 waiting now to get everybody in so they could go
5 back up, take it up to 18, load it, I mean --
6 VOICE: Excitation [inaudible].
7 Mosbaugh: Bring it down, start stepping up the [inaudible].
8 VOICE: Okay.
9 Blount: Everything's running good so far.
10 Mosbaugh: Okay.
11 Blount: Except for our seal oil pump. And that was just
12 the pressure switch.
13 Mosbaugh: Good.
14 Blount: I mean, there's a certain amount of vibration that
15 goes into when you start [inaudible].
16 Mosbaugh: Oh, yeah.
17 VOICE: [Inaudible.]
18 Blount: Okay. But I did check that pressure this morning.
19 It was running good and the DP across the seals
20 was running at eight pounds like it's supposed to.
21 Mosbaugh: Gover's here and Junior's gone --
22 Blount: Yeah. [Bill] Gover's been in the control room all
23 morning. He's babysitting.
24 Mosbaugh: Yeah.
25 Burwinkle: Is that the special assignment that we picked up?
26 Mosbaugh: What?

1 Burwinkle: To babysit this control room?
2 Mosbaugh: No. He's the test leader for -- he and Junior are
3 doing the torsional test on twelves. And, yes,
4 that's a special assignment.
5 Burwinkle: I mean, you all said he wasn't allowed to leave
6 the control room or something.
7 Blount: Well --
8 Mosbaugh: I didn't know about that.
9 Blount: They're all hot to trot. So, you know, if you can
10 make them happy and keep them all satisfied,
11 [inaudible].
12 Burwinkle: Maybe it was just Ops [inaudible].
13 Blount: I'd sit on my head in there if it would make them
14 happy.
15 Mosbaugh: Hold their hands.
16 [walking sounds; door opening/closing sounds]
17 Mosbaugh: Yes.
18 VOICE: [Inaudible.]
19 Mosbaugh: No. No. That's not right.
20 Minyard: That's not right.
21 Mosbaugh: Can't be right. Can't be right. Just
22 [inaudible].
23 Minyard: Okay. To do any better than --
24 Mosbaugh: There's something fairly gross wrong.
25 Minyard: No. Let me explain. If you use exactly the way
26 Aufdenkampe said to ... you're either on line, off

1 line, or sloping down. You'll come out with 86
2 percent which is not our goal. Our goal is 79.
3 So we tried to take them off and come up with it.
4 Now, if you want to, we can take them off at 100
5 percent.

6 Mosbaugh: Make a copy of that for me. Let me -- I'll take
7 care of that.

8 [Pause.] [Break in taping.]

9 VOICE: [Inaudible] option, other than, to, you know,
10 shoot ourselves in the foot.

11 VOICE: [Inaudible.]

12 Holmes: Now, if it turns out something that we have to tag
13 out the RWST, then we can, you know, on a special
14 case, make sure we patch up the path and put that
15 flow path. I figure that keeps it simpler if we
16 come up with a special case that we can just put
17 together and figure out a way around it, because
18 there are some options that I didn't want to put
19 down there that we can exercise.

20 [Simultaneous inaudible conversation.]

21 VOICE:RWST [Inaudible] If we have work in that
22 area, then [inaudible].

23 VOICE: Yeah. The little page I wrote up on the front,
24 there's a typo on there. [Inaudible.] It's
25 marked right on the print.

26 VOICE: We can mark it right on the print.

1 VOICE: But I don't know why I said heat exchangers.
2 [Simultaneous conversation.]
3 VOICE: I heard there was a little bat there, huh? The
4 painters was up there working, and he come
5 tumbling out of the duct work.
6 VOICE: Yeah.
7 VOICE: I guess he got pretty high.
8 VOICE: That must have been the trouble in there, right?
9 Them unauthorized starts?
10 VOICE: Well, we also figured out that that may be why
11 your count was low [inaudible].
12 VOICE: Yeah.
13 VOICE: Accountability.
14 VOICE: Yeah.
15 VOICE: [Inaudible] extra one in the plant that wasn't
16 badged in is because he doesn't have his badge.
17 VOICE: Yeah.
18 VOICE: [Inaudible] they'll frisk [inaudible].
19 VOICE: You're going to have to take him through HP before
20 you let him out, I would think.
21 VOICE: I believe [inaudible].
22 Mosbaugh: He's already out.
23 VOICE: He's not out of the plant.
24 VOICE: I think there was a snake we found and they wanted
25 to frisk it or whatever before they turned it
26 loose.

1 VOICE: I don't know whether we found him in one of the
2 outside areas or whether it [inaudible].
3 Mosbaugh: With the snake, we send him down [inaudible] power
4 area.
5 Mosbaugh: Down on the bottom where it's potentially
6 contaminated.
7 VOICE: In fact, though, they still need to check with HP.
8 VOICE: The bat?
9 VOICE: The bat.
10 VOICE: Yeah. He's a cute little thing.
11 VOICE: On the torsional, do you what's going on.
12 VOICE: I don't know where they are at. I know they made
13 me roll up to 1800 and everything was fine and
14 they were coasting down and getting the
15 [inaudible] point. I think we had a problem with
16 the seal oil pump.
17 VOICE: Yeah. They did some adjustments [inaudible].
18 VOICE: You don't want them.
19 VOICE: No.
20 VOICE: And took care of a couple other little problems
21 while they were up that they would have found.
22 VOICE: Hey, Allen.
23 Mosbaugh: I have heard a vicious rumor.
24 Hallman: Which is?
25 Mosbaugh: Are you going to license school, or anything like
26 that?

1 Hallman: Yeah.
2 Mosbaugh: Oh, you are. Oh, okay.
3 Hallman: Are you?
4 Mosbaugh: I don't know.
5 [Laughter.]
6 Mosbaugh: I mean, you're lucky, at least you know. Oh, you
7 have a letter.
8 Hallman: No. That's the thing [inaudible].
9 VOICE: Oh.
10 Hallman: That was from my counterpart at Hatch.
11 Mosbaugh: Oh, Hatch, Don Hallman.
12 Hallman: Addressed to Hatch.
13 Mosbaugh: Hatch.
14 Hallman: Yeah.
15 Mosbaugh: Oh, maybe you're going to Hatch.
16 Hallman: That's right. I'll go call him back, and say, what
17 do you know that I don't know.
18 Mosbaugh: But this is more than a vicious rumor.
19 Hallman: I very much hope to be accepted to license school.
20 Mosbaugh: You hope to?
21 Hallman: Yes.
22 Mosbaugh: Oh. Did somebody ask you or --
23 Hallman: I have asked various people, and I think Skip's
24 approved it, and I think George's approved it. I
25 don't know how much corporate gets involved in
26 these things.

1 Mosbaugh: I had -- well, I guess -- yeah. We just published
2 the list, and I --

3 Hallman: My name wasn't on it.

4 Mosbaugh: Your name wouldn't be on that because that was the
5 list of general solicitations, not any --

6 Hallman: Oh, okay.

7 Mosbaugh: -- Not manager in training type slots. Yeah.
8 Okay. I had heard that.

9 Hallman: Yeah, I want to do that.

10 Mosbaugh: Yeah. I want to do that, too. I've done it
11 before. Okay.

12 [Pause.] [Walking sounds; whistling.]

13 Mosbaugh: So how is the torsional test coming?

14 Greene: Well, the only problem is we are at the rated
15 speed and we're waiting for the experts to get in.

16 Mosbaugh: Yeah.

17 Greene: We're running all of our surveillances while we're
18 waiting. No. 7 bearing --

19 Mosbaugh: I heard we had some kind of vibration.

20 Greene: No. 7 [inaudible].

21 Mosbaugh: Not. Real high. They'll probably wear in.
22 They'll probably wear in.

23 Greene: Not only that, you'd want to get up [inaudible].

24 Mosbaugh: Well, when we have it loaded.

25 Greene: There's no big rush on that. That might actually
26 be a problem with that. [Inaudible] and that's

1 it. Waiting on them to get there and in the
2 meantime we're doing all the surveillances. Right
3 now, we're doing it at 1800.

4 Mosbaugh: [While eating food.] I heard there was a problem a
5 couple days ago with the seal oil pump being
6 turned off.

7 Greene: Yeah.

8 Mosbaugh: Could you tell me about that?

9 Greene: Yeah. Let me see if I can tell you what happened.
10 What they think happened is they turned it off
11 [inaudible]. It was part of isolating for this
12 hydrogen.

13 Mosbaugh: Yeah.

14 Greene: So they turned off the seal oil pump.

15 Mosbaugh: Yeah.

16 Greene: And for some reason in our procedure the
17 regulating valves between the lube oil system and
18 the seal oil system is shut, and I think the
19 procedure is -- I mean, they did what's in the
20 procedure, and they put the -- they went into
21 [inaudible] or [inaudible] and they rolled off the
22 jack without any seal oil on them.

23 Mosbaugh: I heard we almost pulled oil across the seals, or
24 perhaps.

25 Greene: Those are babbit seals and you don't know what
26 you've got until you look. They should know by

1 now [inaudible] problem. I haven't heard anybody
2 say they tried to look at [inaudible].
3 Mosbaugh: Uh-huh.
4 Greene: But if there is a problem, [inaudible].
5 Mosbaugh: Yeah.
6 VOICE: Is the PRB meeting still going on?
7 VOICE: Uh --
8 VOICE: I heard it's 2 to 3.
9 Mosbaugh: Yeah, I think it probably is. In fact, I just got
10 done talking on the budget, and talking to
11 Birmingham, and getting the status, and it'll now
12 go to the PRB.
13 VOICE: I'm trying to find a room to have [inaudible]
14 meeting. Can I have it in here?
15 Greene: Have what kind of meeting?
16 VOICE: A critique team meeting.
17 Greene: As far as I know, there are no scheduled meetings
18 in here. Let's check with Melvin.
19 [Pause.] [Walking sounds; door closing sounds;
20 muffled background conversations.]
21 [Inaudible conversation.]
22 [Marginalia: PRB enter.]
23 VOICE: [Inaudible] couple days after [inaudible].
24 VOICE: But now it has been. And I don't know that the
25 word has been put out that the backup ENN is now
26 equivalent to the regular ENN.

1 Kitchens: The safest thing to do would be to strike the last
2 sentence. I'll maintain I can show you documents
3 that [inaudible].

4 VOICE: Yeah.

5 VOICE: [Inaudible] and all that.

6 VOICE: [Inaudible.]

7 Mosbaugh: Well, I had seen that before I came in here and
8 when I read that, I read something about -- more
9 into it, like relative to the power supplies. And
10 I think really only yesterday and the day before
11 did we discover the true source for the power
12 supplies and so forth. Uh...

13 VOICE: [Inaudible.]

14 VOICE: They're little signs we added.

15 [Simultaneous discussion.]

16 Kitchens: A little plastic sign that says [inaudible].

17 VOICE: [Inaudible], all the ENNs, [inaudible],
18 everything.

19 Mosbaugh: How come there were people researching this all in
20 the last two days?

21 VOICE: Who was doing it?

22 Mosbaugh: Electrical engineering.

23 VOICE: I don't know. They could be ...

24 Mosbaugh: Emergency -- it all stemmed out of that thing for
25 the governor.

26 VOICE: [Inaudible.] Because that's been a week or two.

1 Mosbaugh: Where are they powered from?
2 Swartzwelder: I don't know.
3 VOICE: [Inaudible.]
4 VOICE: [Inaudible.]
5 Kitchens: It's just a little plastic sign like this
6 [inaudible].
7 Aufdenkampe: What did George's memo say on communication
8 [inaudible] I mean, it was just [inaudible]
9 emergency directives, basically.
10 VOICE: Communicators.
11 VOICE: Communicators
12 Kitchens: Communicators and emergency directives. It was
13 really [inaudible]. It did not say what power
14 supply it comes from.
15 Mosbaugh: That's the memo we're referencing?
16 Kitchens: That was [inaudible].
17 Aufdenkampe: I think that's what Hairston was after, is that he
18 wants some verbiage that we've discussed with our
19 people concerning how to communicate next time.
20 Kitchens: I think it would be safer just to say that
21 [inaudible] -- I think it's safer to say emergency
22 directors and communicators have been instructed
23 concerning emergency communication systems and
24 their use, and not say anything about the power
25 supply. That's just a general statement.
26 Mosbaugh: I think we need to be more general.

1 Kitchens: I don't remember anything, any instructions given
2 out to anyone about power supplies.
3 Aufdenkampe: Instructions have been given to emergency
4 directors and communicators concerning
5 [inaudible].
6 Kitchens: [Inaudible] communicators [inaudible]. . . had to
7 approve it [inaudible] how to handle it at this
8 point now that we have modified the back-up unit.
9 VOICE: [Inaudible.]
10 Kitchens: I'm not sure that we've gone out and trained
11 everybody. [Inaudible] the communicators and the
12 emergency directors.
13 Aufdenkampe: Well, you know, I guess the questions would be --
14 we're not trying to mislead anybody with this
15 statement, and we have to have justification for
16 why this statement is correct. [Inaudible.]
17 VOICE: What about this front page?
18 Aufdenkampe: It's okay, as far as I know. [Inaudible.]
19 VOICE: I just don't see the [inaudible].
20 VOICE: [Inaudible.]
21 Aufdenkampe: It doesn't have to be in there [inaudible.]
22 Kitchens: I understand -- we -- our comment was change it
23 from 16 pages to eight pages, and take out all
24 that emergency planning stuff that's not required.
25 [Inaudible.]
26 VOICE: [Inaudible.]

1 Mosbaugh: Did you correct the diesel starts. I had given
2 John a comment on the diesel starts.

3 Aufdenkampe: We have, there is a comment in the PRB minutes to
4 either verify the sentence, reword the sentence,
5 or delete the sentence. That's what we're
6 actually doing.

7 [Sound of Recorder being turned off and on again.]

8 Kitchens: Now, if we can verify the, the sentence, I think
9 it would be more appropriate to say since March
10 the 20th that there's been, there were 18
11 consecutive starts of the DG. John is going to go
12 and either verify it or take these numbers out,
13 and take out the wording that says there are no
14 problems or failures -- basically says that there
15 are no failures and no problems. [Inaudible.]

16 Frederick: I think what caught his attention on the number of
17 starts was when they tallied them up in front of
18 the NRC, there were a different number. One came
19 out 20, and [Inaudible].

20 Kitchens: Yeah, but we've started them a dozen times
21 [inaudible].

22 [Marginalia: (Milt Hunt) Chaffee team had
23 questioned the start data in COA and couldn't
24 figure how we counted starts.]

25 Frederick: I know. And I think that's his real question on
26 the number.

1 VOICE: I believe --
2 [Inaudible conversation.]
3 Kitchens: In 20 minutes, we could verify the number, whether
4 it's 20 or not. Go through the log and look it
5 up. But John picked that as an action item. He's
6 going to verify if that's wrong or not. If it's
7 wrong, we'll take it out. Or if its right
8 [inaudible]. The other part was maybe to simplify
9 the sentence not to make it sound so all
10 encompassing. George pointed out there was a
11 failure of one of the, of the B diesels right
12 after the maintenance work on it.
13 Mosbaugh: Yeah. That was my comment.
14 Kitchens: I don't think anybody would hold that failure
15 against us since it's the diesel that's just been
16 disassembled. It wasn't operable. So we don't
17 want to make a statement with no failures and no
18 problems.
19 Mosbaugh: Yeah. I don't think you can make that statement.
20 Kitchens: We'll say "since March 20th, the diesels have been
21 started more than 20 times each, successfully,"
22 some words like that that -- whatever number it
23 comes out to be [inaudible]. Make sure its not a
24 false statement. Do you have any other comments,
25 Allen?
26 Mosbaugh: I just got a chance to look through it briefly,

1 and that's all I saw.

2 Kitchens: Okay. [Inaudible] Mr. Hairston's comments and
3 the few comments that we've had on this initial
4 comment.

5 Kitchens: Lets take a vote

6 VOICE: Do you want to vote Allen, or abstain?

7 Mosbaugh: Uh. I just came in. I probably should abstain.

8 VOICE: [Inaudible.]

9 VOICE: We're going to defer LER 2-90 [inaudible] PRB
10 Monday morning.

11 VOICE: [Inaudible.]

12 VOICE: [Inaudible.]

13 [Pause.]

14 VOICE: Actually, everybody thought I was going to comment
15 on that

16 VOICE: I [inaudible].

17 VOICE: I don't care. I don't what [inaudible]." I don't
18 know what MTS is. [Inaudible], but I don't know
19 what it is.

20 VOICE: Management technical support.
21 [Inaudible conversation.]

22 VOICE: Then why go in and put engineering everywhere.
23 [Inaudible conversation.]

24 VOICE: Anybody have any more comments?

25 VOICE: [Inaudible.] I never asked for any of these
26 [inaudible].

1 [Inaudible conversation.]
2 Kitchens: Okay. Let's all vote 0409. [Inaudible.] All in
3 favor, raise your hands. You got it.
4 [Inaudible conversation.]
5 VOICE: As I recall, [inaudible].
6 VOICE: Minority opinion by far.
7 VOICE: 254.
8 VOICE: My comment was we added this thing in here about
9 the [inaudible] was set up to [inaudible]. Okay,
10 but you're responsible for all the work that's on
11 the shift. Really, the work foreman or supervisor
12 [inaudible] set up some work on [inaudible].
13 We're talking about just setting up a certain
14 housekeeping thing [inaudible].
15 VOICE: [Inaudible.]
16 VOICE: Yeah.
17 VOICE: [Inaudible.]
18 Handfinger: [Inaudible] a real problem. We have 254 and
19 20-14-17. We should not have two procedures; we
20 should have a procedure for control. The 20-427
21 that we talked about this morning? Maintenance
22 had nothing to do with setting up the zone
23 cleanliness. Maintenance had nothing to do with
24 it. Wasn't even there.
25 Kitchens: That's fine. The people that are responsible for
26 doing that [inaudible].

1 Handfinger: That's what I'm saying. That ought to be --
2 Kitchens: It depends on what you work on. Suppose you're
3 going to go work on the --
4 VOICE: You're right. It should be a plant --
5 VOICE: [Inaudible.]
6 Handfinger: Should be a plant administrative procedure that we
7 all follow, and it should be -- the person that's
8 responsible for performing the work should be the
9 person that sets up the [inaudible].
10 Kitchens: But what if [inaudible] administrative procedure?
11 Handfinger: Yeah. But I'm saying we need to get rid of this
12 one --
13 Kitchens: That's your's, isn't it?
14 Handfinger: -- and incorporate it in -- no. I'm saying we
15 need to get rid of 20 -- 20-427C is what do it by,
16 what you do 254B by. You ought to have a
17 procedure on how we're going to go do this,
18 incorporate 20-427C into 254C. So it's just what
19 you just said -- have the person responsible for
20 performing the work implement the control.
21 Kitchens: Okay. You agree with my comment. But you have an
22 additional comment that we need to find a
23 [inaudible] procedure that gives them guidance on
24 how to do that.
25 Handfinger: Right.
26 VOICE: [Inaudible.]

1 VOICE: 20-427(b) is --
2 Kitchens: We took it out this one and put it in
3 [inaudible] a long time ago?
4 [Marginalia: Cleanliness control procedure
5 discussion.]
6 VOICE: Yeah.
7 VOICE: [Inaudible.]
8 Kitchens: Yeah, but there are other work groups that need to
9 do this. He had a good example for [inaudible]
10 this, or --
11 Mosbaugh: Do we do that not under a work order?
12 VOICE: [Inaudible.]
13 Mosbaugh: We don't do that under a work order.
14 Kitchens: We do his part under a work order.
15 Mosbaugh: Yeah, I know, but other --
16 Kitchens: But not all the work that we would want to do.
17 VOICE: [Inaudible.]
18 VOICE: [Inaudible] establishment of [inaudible].
19 VOICE: For a refueling job.
20 Mosbaugh: I'm just thinking, you know --
21 VOICE: [Inaudible.]
22 Mosbaugh: If you were going to have requirements. We'd do it
23 per a work order.
24 Handfinger: If we're going to do tank work, we have a specific
25 cleanliness requirement when we're going into a
26 tank.

1 VOICE: Or generator.

2 Handfinger: Yeah, something like that. We would have a
3 specific order. For typical work, we don't have
4 the criterion.

5 Kitchens: You've got very little left in there. It does
6 have materials accountability. I think I
7 understand what you're saying. I believe that it
8 used to be in this procedure?

9 VOICE: We took it out.

10 Kitchens: We took it out of Admin procedures and put the
11 details in there.

12 Mosbaugh: You know, there are two ways you can handle that.
13 You could pull it back out and put it in the Admin
14 procedure or you could require work orders when
15 you have cleanliness control.

16 Lackey: It would be much easier if we had one procedure
17 that laid it all out.

18 Kitchens: There's no reason that Operations or Chemistry
19 couldn't go to Procedure 20 and then 427(c) and
20 find out what [inaudible].

21 VOICE: [Inaudible.]

22 Kitchens: I think that 90 percent of the time we do it, it's
23 going to be by work orders, and Harvey's going to
24 do it, maybe more, because other times that we do
25 it, they put it in this procedure that the person
26 responsible has to do it. This one Harvey, it

1 does give you -- it does reference that 20,000 in
2 427(c). So as long as we put it in here for now,
3 everybody else is going to have to do whatever you
4 require.

5 Handfinger: That's just fine.

6 VOICE: If you want to take some of the steps out of that
7 procedure and put it in here, that would be fine.

8 Handfinger: The problem I have is I'm going to try to answer a
9 QA AFR that has nothing to do with the work
10 activity, and I'm going to make some commitments,
11 and I'm not the one that's implementing the order.

12 Kitchens: Okay. For that particular one, what we need you
13 to do and I'm going to ask him to do is we're
14 going to get our buddies from CSO or somebody in
15 here, and we're going to establish the controls
16 for the refueling outage, the refueling floor, and
17 the fuel handling building. Whether they use that
18 procedure or this procedure, I don't care what
19 they do. I think the cause of that we're getting
20 to, we didn't have that clearly identified as to
21 who had to do that thing, and so when it came up
22 and they started having problems, the people that
23 tried to take care of it, didn't take care of it.
24 I don't think we just ignored it, but we didn't do
25 a very good job.

26 Handfinger: I think we --

1 Kitchens: This time, we'll set up some person to control
2 access to and accountability for materials, people
3 and cleanliness for the containment and for the
4 refueling areas. But most of the time, other than
5 refueling example, and I'm sure there are going to
6 be a few other times, most of the time when we do
7 this, I think it's going to be you guys
8 [inaudible].

9 Handfinger: Ninety percent.

10 Kitchens: I think all they're really trying to do in this
11 procedure is make it be responsive. [Inaudible.]

12 Tynan: That still doesn't change --

13 VOICE: We might have [inaudible].

14 Tynan: We're still going to keep [inaudible], so that's
15 fine. [Inaudible] person responsible for the work
16 activity. [Inaudible.]

17 Kitchens: I understand that. I agree with the changes.
18 [Inaudible] accountability in material control,
19 you don't necessarily have to [inaudible].

20 Tynan: I agree, but [inaudible].
21 [Inaudible conversation.]

22 Tynan: So what you're looking for right now is change
23 this superintendent to the individual responsible
24 for the work activity.

25 Kitchens: Right. Or I would say the foreman or supervisor
26 responsible for the work activity is responsible

1 for ensuring controls are. I think we need to
2 definitely take those out and put them in here.
3 And there's already a section to do that. We
4 could probably do it if we want to. And a couple
5 of years from now, we'll take it out again.

6 [Inaudible conversation.]

7 Kitchens: Any other comments on this? All in favor, raise
8 your hand.

9 VOICE: Deficiency Card 1-90-195.

10 Swartzwelder: Alright. The only comment I had was I couldn't
11 remember what our position was on Wednesday --
12 things like improper fuses in [inaudible] panel
13 will require detailed [inaudible] review to
14 discover potential effects. Did we table those,
15 or will we take them now, we'll wait until they
16 come back?

17 Aufdenkampe: In general, [inaudible] believe it's reportable,
18 we say it's not reportable based on the
19 information available [inaudible]. If new
20 information comes available [inaudible].
21 Sometimes, we don't always do it that way because
22 sometimes there is information that would lead to
23 believe that it is reportable, and those are the
24 cases that are different.

25 Swartzwelder: No, I do not have a comment, I think its okay.

26 Kitchens: I'll take a vote on this thing. All in favor,

1 raise your hands. Did you get a chance to read
2 any of these over?
3 VOICE: Nope.
4 Tynan: [Inaudible] that I have another ISI letter. There
5 are three now --
6 VOICE: I don't think [inaudible].
7 Kitchens: Tell you what, why don't, tomorrow, why don't we
8 do all those, the annual report, and the LER that
9 we tabled, and do those at 8:30 in the morning.
10 Tynan: There were several letters [inaudible].
11 Aufdenkampe: What's happening on the these is the ISI people
12 [inaudible] from corporate have sent us down a
13 report, then later on they sent us down a letter.
14 Kitchens: And now we're getting a cover letter.
15 Aufdenkampe: I will fix that problem.
16 VOICE: When you see it, you will see it all together.
17 [Inaudible.]
18 [Inaudible simultaneous conversation with sounds
19 of paper shuffling.]
20 Kitchens: [Inaudible] discussion item didn't seem to be
21 enough to vote on it. [Inaudible.]
22 VOICE: Well, I think we ought to talk about one --
23 VOICE: One came back.
24 VOICE: -- [inaudible] came back because George had a
25 comment on the one that went to him for signature
26 [inaudible] a couple weeks ago, I guess. He

1 approved it. He changed all the titles and
2 everything, but George asked for the -- he asked
3 for the changes on those two pages.

4 Tynan: Basically change operation [inaudible]
5 superintendent to be superintendent, but the
6 section on responsibility in the back [inaudible].
7 The problem -- and I sent it back to George this
8 morning -- I haven't heard from him -- is the FSAR
9 is exactly what it means. So in order to change
10 that second page, we have to --

11 Kitchens: I looked at that before. It used to be more this
12 way, and then we changed it and we changed the
13 FSAR to be the other way. I think that George's
14 direction in asking us to change it back is okay,
15 but I remember when it was --
16 [Inaudible conversation.]

17 Kitchens: And give George the information.
18 [Inaudible conversation.]

19 Kitchens: [Inaudible] George found that out, he was
20 [inaudible]. We are directed to [inaudible].

21 VOICE: [Inaudible.]

22 Kitchens: After you hear back from George, let us know.
23 What are you going to do, we'll approve this under
24 the -- this is in addition to the previous one we
25 approved, and the tech evaluation that went with
26 it, or do you want to do another [inaudible]?

1 Tynan: [Inaudible] to approve it [inaudible] technical
2 evaluation, that's correct. But I cannot actually
3 [inaudible] approve it without seeing it. The
4 only thing I can [inaudible] approve is that first
5 page change.
6 [Inaudible simultaneous conversation.]
7 Aufdenkampe: Why don't we just table it?
8 VOICE: [Inaudible.]
9 Kitchens: In the meantime, is George holding up signing all
10 the other changes that you had to it?
11 [Marginalia: Discussion of computer software
12 control procedure to end of tape (Side A, p. 86).]
13 VOICE: [Inaudible.]
14 Kitchens: Okay. Let's talk about the flow chart now.
15 Tynan: What I did for [inaudible] synopsis of [inaudible]
16 required in this Procedure 410. [Inaudible] over
17 the last seven months more controls into our
18 software program, not hardware, software,
19 [inaudible] quality assurance [inaudible]. What
20 this procedure does is pretty much mimics what
21 Plant Farley has [inaudible]. This procedure does
22 have [inaudible], but it provides you with generic
23 procedures in specific categories, A, B, or C, and
24 these categories have specific requirements
25 [inaudible] combination of the documentation,
26 approval, what level of approval, [inaudible]. The

1 second page is kind of an example where
2 [inaudible] software [inaudible] different
3 categories [inaudible]. The procedure is not
4 specific; it doesn't say [inaudible] this
5 category, or [inaudible]. It doesn't say that,
6 you have to make that call.

7 VOICE: [Inaudible.]

8 Tynan: And the last two pages are the comments that we
9 received from the department. Some, we haven't
10 received, but most of them are [inaudible].

11 Mosbaugh: The procedures vary. The old procedure
12 [inaudible] was very specific and very hard to
13 follow, okay? The new procedure is really not very
14 specific, and I think it's easier to follow. But
15 it's very broad. Any software it picks up...

16 Swartzwelder: I probably would, on my review, [inaudible]. I
17 think that the 410 that exists now is extremely
18 easy for me to follow, and the new one would be
19 extremely difficult for me to follow. And I feel
20 that just like design change requests, computer
21 software change requests should be handled in the
22 exact same type manner, and I shouldn't have to
23 get involved in the level of detail that
24 [inaudible].

25 Aufdenkampe: Well, the flow in here is exactly the same as
26 [inaudible]. [Movement sounds.] The only

1 difference is the departments are responsible for
2 their own software [inaudible]. That's the
3 difference.
4 [Inaudible conversation.]
5 VOICE: Why do I want to do that?
6 Swartzwelder: You have one in your office.
7 [Inaudible conversation.]
8 VOICE: The question is why do I want to do that.
9 Swartzwelder: No reason I know of.
10 Aufdenkampe: Well, no, that's not true, Jim, I'll take that
11 back. What you have to do -- [inaudible]. You
12 don't really have to do that. What you have to be
13 able to show is it's not a Category A or B
14 software. The only real way to do that that the
15 procedure recognizes is to do the [inaudible]. So
16 if you're comfortable that what you've got on your
17 PC is not an A or a B, and nobody would ever
18 question it, then you're fine. But if it's a
19 Category A or B software, then you've got
20 [inaudible] it falls under 410. An example, and
21 there are several examples, Category A is to
22 performance safety functions. Category B is used
23 to verify regulatory compliance. If you use an
24 algorithm in the computer to verify compliance
25 with tech spec, you have to do a software, you
26 have to control the software.

1 VOICE: [Inaudible.]
2 Aufdenkampe: It doesn't, it doesn't, and that was part of QAs
3 finding. If the surveillance tracking program
4 make sure that you comply with the 1.25 and the
5 3.25 limits and you do all your surveillances on
6 time, then you've got to control the software.
7 VOICE: What I'm saying is, if [inaudible] makes those
8 comments in there, why do I got to go fill out a
9 sheet to do that?
10 VOICE: [Inaudible.] One of 14 sheets you've got to fill
11 out.
12 Aufdenkampe: If it's a C, then if it's a C you have one sheet
13 to fill out, period.
14 Kitchens: You'll have to document that it wasn't an A or B.
15 Aufdenkampe: We can even make it so if you don't want to fill
16 out, you don't have to fill it out. But it really
17 kind of says that, I think. We can make that
18 clearer. But the bottom line is, you know, if
19 Mike doesn't fill one out on surveillance tracking
20 program, okay, then he's wrong.
21 VOICE: Right. You're right.
22 [Simultaneous conversation.]
23 VOICE: That's true.
24 VOICE: I'm not sure who's right, but you're wrong.
25 Aufdenkampe: Now, Mike would argue -- Mike would argue that the
26 surveillance tracking computer program system is a

1 C. [Inaudible] used to ensure compliance with
2 regulatory requirements.
3 [Inaudible conversation.]
4 Mosbaugh: What I ... what I hear people asking for is
5 basically the procedure would require an
6 evaluation of the software, and then require
7 sheets to be filled out if it was A or B.
8 Kitchens: A would be, like Jim said, the design change
9 procedure, and B would be like [inaudible].
10 Curtis would probably worry about it, somebody
11 like that. [Inaudible.]^m C is --
12 VOICE: Nobody worries about it.
13 VOICE: Yes. C is other.
14 Aufdenkampe: Well, it's something different. The procedure, if
15 it's an A, there are a lot of document
16 requirements.
17 Kitchens: And you [inaudible] change the ERF computer
18 program or [inaudible].
19 VOICE: There are a lot of document requirements.
20 VOICE: I had another comment on [inaudible].
21 Aufdenkampe: The proteus computer has both A and B software.
22 [Inaudible conversation.]
23 VOICE: When we did Unit 1 pre-ops, it was a problem.
24 Software error.
25 VOICE: It was a software error.
26 Aufdenkampe: But I told him, I told him [inaudible].

1 [Inaudible conversation.]
2 Mosbaugh: The PC program.
3 VOICE: The PC program.
4 VOICE: It's in there, isn't it?
5 VOICE: [Inaudible.]
6 VOICE: Yeah, but you can't turn in a PC program and say
7 that you [inaudible] because you got to send in
8 the data, and they evaluate the data, not the
9 program.
10 VOICE: [Inaudible.]
11 Kitchens: [Inaudible] programs at NRC and they've got
12 [inaudible] generic approval [inaudible] also. If
13 we made up our own and did it, it would be
14 different.
15 VOICE: That's a good point of the program. [Inaudible.]
16 VOICE: [Inaudible.]
17 Aufdenkampe: You don't have to validate -- you don't have to
18 validate DBase-2 or DBase or Lotus or anything
19 like that. The procedure doesn't require you to
20 verify that, but if you write a macro for Lotus,
21 and you do an IO, you have to verify that the IO
22 works.
23 VOICE: We still have the Marathon program [inaudible].
24 VOICE: [Inaudible.] You have to verify the application.
25 Aufdenkampe: The argument would be -- the argument would be
26 [inaudible] temp mods data base. The control room

1 calls and says are any temp mods are restraining
2 one from going to mode 5, the engineers go verify
3 that, and they verify that by going and polling
4 the database and seeing what temp mods are open,
5 okay.

6 Kitchens: [Inaudible] go look at the [inaudible], but
7 otherwise, they [inaudible].

8 VOICE: [Inaudible] all John. That's a hard one.
9 [Inaudible conversation.]

10 VOICE: It is.

11 Kitchens: You can make an argument that's a B, or you can
12 make an argument that that's a C.

13 Aufdenkampe: You know, I was probably figure that would be a C.
14 [Simultaneous inaudible discussion.]

15 Aufdenkampe: It would fall under the C if you went through the
16 checklist probably. I can't guarantee that
17 because it's not really the source document.

18 Mosbaugh: It's a backup.

19 VOICE: What if you don't use a source document?

20 Aufdenkampe: If you don't -- the question will be, do you have
21 a source document, okay? Let's take your
22 surveillance tracking computer. Do you manually
23 track when the surveillances are done to make sure
24 that they're done on time, or does the computer
25 calculate to the next [inaudible].

26 VOICE: [Inaudible.]

1 Aufdenkampe: I'm not asking if you have paperwork records.
2 There's a difference.
3 [Inaudible conversation.]
4 Mosbaugh: No, it's really different on the temp mod. You
5 should have an LCO --
6 VOICE: [Inaudible.]
7 Mosbaugh: The temp mod --
8 Swartzwelder: [Inaudible] for every temp mod, no.
9 Mosbaugh: You should.
10 Swartzwelder: Absolutely not. Absolutely not.
11 VOICE: First of all, [inaudible].
12 Mosbaugh: If the temp mod has affected a tech spec, I would
13 think you would be --
14 VOICE: It requires a tech spec change. [Inaudible.]
15 VOICE: I would think you would --
16 Swartzwelder: [Inaudible.] It would be an unreviewed safety
17 question.
18 Mosbaugh: You didn't understand.
19 VOICE: [Inaudible.]
20 VOICE: If a temp mod in-oped something, then you ought to
21 have an LCO on it.
22 Swartzwelder: Absolutely.
23 Mosbaugh: That's what I'm saying.
24 Swartzwelder: Absolutely.
25 VOICE: But if it doesn't take away anything, I don't have
26 an LCO. [Inaudible.]

1 Mosbaugh: I mean, that's why we do that review that you're
2 talking about. That's where we started out.
3 Okay? But that's a backup check because the
4 primary check should be the LCOs themselves.
5 That's all I'm saying.
6 [Inaudible conversation.]
7 VOICE: [Inaudible] checking to see if there's anything
8 else [inaudible].
9 VOICE: Right.
10 VOICE: [Inaudible.]
11 Mosbaugh: It's a backup to the LCOS. That's the way I'd use
12 it.
13 Aufdenkampe: You know, I know that the algorithms that we use
14 to [inaudible] calculate [inaudible] they verify
15 our compliance to the tech spec, I feel that
16 [inaudible] that the frequency [inaudible] it goes
17 in and takes the date input [inaudible]. That
18 part is C. Now, the report-generating portion of
19 the software? [Inaudible.] In general, I would
20 say that is a B.
21 VOICE: [Inaudible.]
22 Aufdenkampe: That may end up being a D. It's not easy. I'm not
23 arguing that it's easy.
24 VOICE: [Inaudible.]
25 VOICE: Well --
26 Kitchens: We get people all the time that make decisions

1 [inaudible] control room and maintenance job
2 [inaudible] necessary. This says that four amp
3 fuse, and they go and get that.
4 Aufdenkampe: But they don't go back to the design document in
5 the power run.
6 VOICE: [Inaudible.]
7 VOICE: How about commitment tracking?
8 [Inaudible conversation.]
9 VOICE: There's not one person that has all the input
10 [inaudible].
11 VOICE: It obviously verifies [inaudible].
12 [Inaudible conversation.]
13 Aufdenkampe: You know, if we pull a safety clamp on the NPMIS
14 screen for 61J or 212, something like that, that's
15 where we get that information?
16 VOICE: [Inaudible.]
17 VOICE: I know we verify commitments, in an outage, we get
18 a printout from the computer with all our
19 commitments for that outage.
20 Aufdenkampe: That's George's concern. That's George's concern.
21 And there's some legitimacy to that concern
22 [inaudible] but it is a major burden.
23 VOICE: [Inaudible.]
24 VOICE: The NRC's been on our back before.
25 [Simultaneous discussion.]
26 Mosbaugh: Have we gone and looked to see what the sister

1 plant is doing?

2 VOICE: Well, we need to [inaudible] QA.

3 VOICE: [Inaudible.]

4 VOICE: They like it.

5 VOICE: They're more difficult. [Inaudible.]

6 Mosbaugh: I mean, are they actually doing it?

7 VOICE: Yes, they're actually doing it.

8 Mosbaugh: They're actually doing it. And it's not a burden
9 for them, then.

10 VOICE: It is a burden. [Inaudible.]

11 [Inaudible conversation.]

12 VOICE: I doubt if they [inaudible].

13 Mosbaugh: Are they really doing it?

14 VOICE: Yeah, they are.

15 Aufdenkampe: That's what it originally said, and I said, "No,
16 we don't want to make [inaudible] the commitment."

17 Mosbaugh: I mean really, are they really doing that?

18 VOICE: [Inaudible.]

19 Mosbaugh: I find it hard to believe they're really doing it.

20 VOICE: [Inaudible.]

21 VOICE: I don't think they're doing it [inaudible].

22 Kitchens: [Inaudible] comment for not having [inaudible].
23 In other words, they just don't fall in a category
24 that has to be reviewed, either like a design
25 change because it operates equipment, or like the
26 other [inaudible]. See, you do that review, and

1 then you do [inaudible].

2 VOICE: [Inaudible.]

3 Kitchens: We've got to get some more details [inaudible].

4 Aufdenkampe: We do that if we -- we do that Skip [inaudible]

5 single sheet that you do that says this is an A,

6 B, or C, and it asks questions, and if the answer

7 comes up with a B, the department manager signs

8 it, and then it goes to vault, okay? Now, we

9 could have the -- we can do the review and say

10 it's a C and throw it away, but [inaudible] will

11 come back and --

12 VOICE: [Inaudible.]

13 [Simultaneous discussion.]

14 Kitchens: When we're talking about the mechanics of the

15 procedure, you can have a list of exactly what

16 computers or what categories, and then it will be

17 easy [inaudible] ask that question. [Inaudible.]

18 [Inaudible conversation.]

19 VOICE: Where the report comes from.

20 Kitchens: I don't think that can resolve [inaudible].

21 VOICE: Yes. Well, we used to do it [inaudible]. That's

22 where George gets his report.

23 Kitchens: We want to be able to say, no, that's really just

24 for payroll. When George looks at, he's going to

25 [inaudible].

26 [Laughter.]

1 VOICE: [Inaudible.]
2 Kitchens: Yes, they did. It is an indication that --
3 VOICE: [Inaudible.]
4 Kitchens: You've got to be careful when you go and look at
5 the payroll, look at what hours, because sometimes
6 [inaudible] funny things with the sheet that they
7 really wasn't there all the time, and [inaudible].
8 [Inaudible conversation.]
9 Kitchens: I don't know of any of the drawings around here
10 anymore, but I believe we're going to be forced to
11 do something more like this, even if it weren't
12 for the QA. [Inaudible.] It would probably be
13 better if we come out and draft the procedure
14 ourselves and what we want and what we can live
15 with.
16 VOICE: [Inaudible] pressurizing level [inaudible] leak
17 rate calculations, I guess [inaudible] pressurizer
18 temperature [inaudible]?
19 VOICE: He gave us a violation once already on computer
20 software control.
21 [Inaudible conversation.]
22 VOICE: We almost -- we thought we headed that one off,
23 but [inaudible]. I just really anticipate that
24 the next guy that comes down here and looks at our
25 computer software control unless we change our
26 program.

1 VOICE: You know, I would maintain we already have some
2 computer control over proteus and ERF. We have a
3 procedure we call --
4 [Simultaneous discussion.]
5 Kitchens: -- no muss, no fuss [inaudible]. Now, whether
6 that's adequate or not, it's a little different
7 from this. From what I can see, that's a
8 Category A.
9
10 ***END TAPE NO. 57, SIDE A***
11

1 BEGIN TAPE NO. 57, SIDE B***
2 [Marginalia: In JGA's office; Telecon with JGA &
3 Stringfellow on LER corrections.]
4 Aufdenkampe: No comments.
5 Stringfellow: Okay.
6 Aufdenkampe: Page 2.
7 Stringfellow: Yeah.
8 Aufdenkampe: No comments.
9 Stringfellow: Okay.
10 Aufdenkampe: Page 3. "According to the operator" - I'm on the
11 third paragraph.
12 Stringfellow: I'm with you.
13 Aufdenkampe: (Reading) "According to the operator several
14 annunciators were lit." Then it reads "in order
15 to restore emergency power --"
16 [Pause.]
17 Stringfellow: Power.
18 Aufdenkampe: "-- the operator reset the annunciators --"
19 [Pause.]
20 Stringfellow: Okay.
21 Aufdenkampe: "-- without fully evaluating the conditions."
22 [Pause.]
23 Stringfellow: Okay.
24 Aufdenkampe: And then it goes "during this time." Does that
25 take care of Hairston's comment?
26 Stringfellow: Well, only to the extent that - okay, it, yeah,

1 Aufdenkampe: He was in a hurry to get power back.
2 Mosbaugh: The machine was already tripped.
3 Aufdenkampe: He went in and started pressing buttons.
4 Stringfellow: His objective was to get the diesel started so
5 they probably thought, well, if I can clear these
6 annunciators and reset the thing, then I can try
7 to start it again. Right?
8 Aufdenkampe: We can speculate that that's what he thought. As
9 Allen pointed out, the diesel was already tripped
10 so there wasn't much to see on the gauges and
11 stuff.
12 Stringfellow: That's a point. Yeah. Okay. But that's a -- in
13 other words, that's -- in response to Hairston's
14 concern, that's all we think we can say.
15 Aufdenkampe: Yeah.
16 Stringfellow: All right.
17 Aufdenkampe: Going to page, uh, the next page.
18 Stringfellow: Yes.
19 Aufdenkampe: Site area emergency was declared at 8:40. Agencies
20 of the -- Government agencies notified of the
21 emergency at 8:48 central standard time.
22 Stringfellow: Uh, huh.
23 Aufdenkampe: Period.
24 Stringfellow: Okay.
25 Aufdenkampe: And delete the next ... to the end of the line.
26 [Pause.]

1 [Marginalia: This deletes 8:57 time.]
2 Stringfellow: Okay.
3 Aufdenkampe: There. Now it doesn't ask the question why it
4 took us 17 minutes.
5 [Laughter of Aufdenkampe and Stringfellow.]
6 Aufdenkampe: How's that?
7 Stringfellow: Well, all right. We can try that. In other
8 words, we can't say that part of that 17 minutes
9 was due to the problem with the ENN.
10 Aufdenkampe: Not specifically.
11 Stringfellow: Not specifically. Okay. Well I think that may be
12 okay because Hairston said, you know, that if we
13 can't say that, then he wanted to reword it to not
14 take it to, to not have the time in there. Okay?
15 Aufdenkampe: Well that takes care of that - it takes the time
16 out.
17 Stringfellow: All right.
18 Aufdenkampe: The next one was that sentence you gave me for
19 direct cause.
20 Stringfellow: Yeah.
21 Aufdenkampe: That went through fine [meaning through the PRB]
22 and his comments about an off-site source went
23 through fine. The next page, root cause.
24 Stringfellow: Uh, huh.
25 Aufdenkampe: No comment. The next page on the 20 starts?
26 Stringfellow: Yeah. Yeah, yeah.

1 Aufdenkampe: I'm struggling with that one.
2 Stringfellow: You struggle with that one?
3 Aufdenkampe: I'm struggling with that one. I'm trying to verify
4 that still.
5 Stringfellow: Oh, okay. All right.
6 Aufdenkampe: Okay. We think that's basically a material false
7 statement.
8 Stringfellow: Really?
9 Aufdenkampe: Yeah. Well, we know for a fact that the B diesel
10 tripped at least once after March 20th.
11 Mosbaugh: Actually, it tripped twice after March 20, or it
12 had at least two separate problems.
13 Stringfellow: Well, do we need to take this more 20 times each
14 out then?
15 Aufdenkampe: That's what we're thinking but I've got Tom Webb
16 reviewing the reactor operator's log and counting.
17 Stringfellow: Okay.
18 Aufdenkampe: I don't know where he's at. When is Hairston due
19 back in the office?
20 Stringfellow: He's supposed to be there now.
21 Aufdenkampe: Oh, so you've got to hurry and get this up there,
22 huh?
23 Stringfellow: Well, yeah. Yeah. Well, I -- see, I had given
24 him -- I've given Shipman, you know, the -- a
25 version -- typed version of what you guys have
26 been looking at. So now, as soon as we get off

1 the phone I'm going to run back in there and tell
2 him what you told me, you know?

3 Aufdenkampe: Okay. So anyway, I'm still looking for words for
4 you on that one, but that sentence is going to
5 have to change.

6 Stringfellow: Okay. What about, the thing about -- did you get
7 my message on your machine?

8 Aufdenkampe: Yes, I'm getting to that.

9 Stringfellow: Okay. I'm sorry.

10 Aufdenkampe: Next page on corrective actions. That went
11 through fine.

12 Stringfellow: Okay.

13 Aufdenkampe: Okay? Now, last page.

14 Stringfellow: Okay.

15 Aufdenkampe: It's 6. We've reworded that one substantially.

16 Stringfellow: Oh. All right.

17 Aufdenkampe: Okay, are you ready?

18 Stringfellow: Yeah.

19 Aufdenkampe: (Reading) "A back-up ENN system powered from the
20 AT&T system, which previously existed and was
21 operational for South Carolina agencies, has been
22 extended to include Georgia local and State
23 agencies."

24 Stringfellow: "Has been extended to include Georgia local and
25 State agencies."

26 Aufdenkampe: Yes, then cross out the entire last sentence and

1 write this.

2 Stringfellow: Oh, all right. Okay.

3 Aufdenkampe: (Reading) "Instructions have been given to
4 emergency directors and communicators concerning
5 use of the emergency communication systems."

6 Stringfellow: "Systems" plural?

7 Aufdenkampe: "Systems" plural.

8 Stringfellow: Okay.

9 Aufdenkampe: That's what they said.

10 Stringfellow: Let me read it back. "Instructions have been
11 given to emergency directors and communicators
12 concerning use of the emergency communication
13 systems."

14 Aufdenkampe: Is that right? Is it "systems?" That's on that
15 George letter. Do you have that? I think I've
16 got that. Allen has a hard time with using that
17 but he didn't vote. He abstained due to lack of
18 review time.

19 Mosbaugh: I happen to be an emergency director.

20 Aufdenkampe: Are you an emergency director?

21 Mosbaugh: Yeah. And I haven't -- don't feel that I've been
22 given very much.

23 Aufdenkampe: But, you have been given something, right?

24 Mosbaugh: I've been given one sheet that I got with my badge
25 one day.

26 [Pause.]

1 Aufdenkampe: I can't find it.

2 Stringfellow: Well, we had "systems" in there before, so I guess
3 that's okay.

4 Aufdenkampe: Okay.

5 Stringfellow: Okay. Oh, on number 5, they've identified --
6 instead of just saying a laboratory test program,
7 they said -- they identified Wyle Laboratories.

8 Aufdenkampe: Yes, that's what I've got - - "in addition a test
9 program will be conducted at Wyle Laboratories."

10 Stringfellow: Okay, okay, good. You got that. All right, okay,
11 you got that. I thought maybe Shipman might have
12 adjusted something after I called you but
13 apparently not. Okay, good. All right, John I
14 think we've -- let's see. We're down to -- now
15 we're down to the 20, 20 times each question.

16 Aufdenkampe: You want me to hold on and see if I can get a hold
17 of Tom Webb real quick?

18 Stringfellow: Yeah, I'll be glad to.

19 [Aufdenkampe puts Stringfellow on hold and calls
20 Odom.]

21 VOICE: This one's going to be a killer.
22 [Pause.] [Phone rings.]

23 Odom: Hey Jonn.

24 Aufdenkampe: Hey, do you know how Tom Webb's doing?

25 Odom: He was heading over to the control room, because
26 he didn't have two or three days here of the logs.

1 But he was headed over to the control room to fill
2 it in.

3 Aufdenkampe: Okay. Is he going to call back -- well. Who's he
4 going to call when he finds out?

5 Odom: He's just going to come back, I think. Is it
6 going in the LER?

7 Aufdenkampe: Yeah.

8 Odom: Oh. You know this is not going to be "valid"
9 information now. It is going to be control room,
10 which is -- and then you have to interpret whether
11 it's a valid start or you know, a valid attempt or
12 not.

13 Aufdenkampe: All -- we aren't looking for valid failures or
14 invalid failures. All we're looking for is starts
15 and trips. That's what he's looking at, right?

16 Odom: I told him valid failures -- valid starts and
17 valid -- yes, starts and failures is what I told
18 him.

19 Mosbaugh: The wording in the LER that came from Corporate
20 does not use the word valid.

21 Aufdenkampe: Yeah.

22 Odom: But he can't do that anyway. The logs don't say
23 whether its valid or not.

24 Aufdenkampe: Right. I understand. And that's because Ops does
25 not make that determination.

26 Odom: Yeah. Right.

1 Aufdenkampe: Okay.

2 Odom: I'll find out where he's at.

3 Aufdenkampe: Okay, you better. Jack's on the other line
4 waiting.

5 Odom: All right.

6 Aufdenkampe: Okay. Thanks.

7 [Aufdenkampe ends phone call with Odom and returns
8 to Stringfellow.]

9 Aufdenkampe: You there still?

10 Stringfellow: I'm here.

11 Aufdenkampe: We don't know yet.

12 Stringfellow: You don't know yet, but now, you know, I just --
13 it just dawned on me what Allen was saying a
14 minute ago. In other words, if we say, "and no
15 failures or problems have occurred in any of these
16 starts," you are saying that that's not true.

17 Aufdenkampe: Yes, I'm saying that's not true.

18 Stringfellow: Oh, wonderful. Okay.

19 Aufdenkampe: So, which is also telling you that -- it's telling
20 you something else, I imagine. Because you know
21 this has been written to the NRC once already.

22 Stringfellow: Yes, I know. That's exactly what I was thinking.

23 Aufdenkampe: So, I'm working on that.

24 Stringfellow: All right, John. Okay. Well, I'll be patiently
25 waiting or impatiently waiting or however you want
26 to look at it. [Laughing.]

1 Aufdenkampe: Okay. Well, I must be off.
2 Stringfellow: Thanks.
3 Aufdenkampe: Bye.
4 [Phone call with Stringfellow ends.] [Pause.]
5 Mosbaugh: Do you have that other letter?
6 Aufdenkampe: Huh?
7 Mosbaugh: Do you have Hairston's confirmation of action
8 response letter?
9 Aufdenkampe: Yeah.
10 Mosbaugh: Because that's the one where corporate --
11 Aufdenkampe: Where they lied -- I mean they --
12 Mosbaugh: -- made that statement previously.
13 Aufdenkampe: Mr. Jimmy, hey, what are you doing down here sir?
14 Voice: I just came by to say hello and see if I can talk
15 to you a little bit about this conoseal blowdown
16 question.
17 Aufdenkampe: You mean it's going to be done Friday?
18 Voice: It's going to be done tomorrow. It may be done
19 today.
20 Mosbaugh: That go out to you guys?
21 Aufdenkampe: Yeah.
22 Mosbaugh: Went to Cliff and then went to you?
23 Aufdenkampe: Yeah.
24 Mosbaugh: Let me see if I can't pull some diesel stuff from
25 Kochery.
26 Aufdenkampe: Okay. Ken Stokes is working on it.

1 [Pause.]
2 [Marginalia: Kochery's office.]
3 Mosbaugh: So what -- A, B okay. That's it. We're working on
4 the LER. It's got to go in today. From the --
5 okay. So from the inadvertent start.
6 Kochery: Yeah. It has to be from a sequencer.
7 Mosbaugh: You think it's from a sequencer, not from this?
8 Kochery: It's [inaudible] through the wire. It doesn't
9 matter which wire they pulled [inaudible].
10 Mosbaugh: Okay.
11 Kochery: The sequencer is out of service. If they did the
12 test, and, you know, energized the relay,
13 [inaudible,] if [inaudible,] the diesel starts
14 through that one. You [inaudible]. You should
15 have brought in a B train sequencer come on, the
16 diesel [inaudible] start at the time, you know.
17 It's not -- it has nothing to do with the ESFAS
18 test. There is an ESFAS test, and they continue
19 with the other tests also. That's the problem. I
20 mean, they go to the sequencer and then push the
21 sequencer buttons, you know. Like this one.
22 Mosbaugh: What if they didn't push the button? That would
23 cause it, wouldn't it?
24 Kochery: They say they got this light, you know.
25 Mosbaugh: They say they got a light. Let's say that's a
26 lie. Does everything get explained then? I mean,

1 could it have been, you know, a simple error, or
2 would some other things have happened?
3 Kochery: If -- okay. If they push the light in, they got
4 the light, and then they test SI. That's what
5 they said they did.
6 Mosbaugh: Uh-huh.
7 Kochery: And the diesel started.
8 Mosbaugh: What if they forgot? What if they forgot to push
9 that block?
10 Kochery: Then --
11 Mosbaugh: And indeed they didn't get the light?
12 Kochery: Okay. Then --
13 Mosbaugh: Then it would have started?
14 [Pause.]
15 Kochery: Yeah, yeah. You see when you push that --
16 Mosbaugh: So it could have been something as simple as --
17 you know, I understand that they're not saying
18 that.
19 Kochery: Okay. If the sequencer is in the sequence mode,
20 when you push this one --
21 Mosbaugh: Yes.
22 Kochery: (Pause) This ... that means [inaudible] and you
23 can get one, you know.
24 Mosbaugh: So it's either that or there's something wrong
25 with the sequencer, you're thinking.
26 Kochery: And then it's [inaudible]. You got the diesel

1 [inaudible]. Yeah. That's that block diesel
2 engine.
3 [Beeper noise.]
4 Mosbaugh: All right. Birmingham's calling.
5 Kochery: If test block diesel engine is not there. You
6 push the button, you can get it started, you know.
7 Mosbaugh: Yeah. Okay. I got to call, call the duty people.
8 [Pause.] [Walking sounds.]
9 Mosbaugh: Any new status on the torsional test?
10 Blount: Kavi and Bill haven't been back up yet, so I have
11 no new [inaudible].
12 VOICE: Okay.
13 [Telephone ringing.]
14 [Pause.] [Walking sounds; door closing sound;
15 telephone dialing sound.] [Mosbaugh calls Shipman,
16 phone dial tone.]
17 Shipman: Hello.
18 Mosbaugh: Yeah, this is Allen Mosbaugh.
19 Shipman: Hey Allen, this is Bill Shipman.
20 Mosbaugh: Say Bill.
21 Shipman: Do you think you can talk for a minute?
22 Mosbaugh: I am.
23 Shipman: Great -- Help!
24 Mosbaugh: Okay.
25 Shipman: Uh, the uh, LER, you know, we're, we're, we're
26 trying to get all these Hairston question

1 answered.

2 Mosbaugh: All right.

3 Shipman: There are two things, I guess, George (Hairston)

4 has asked us, you know, to find out and, and I

5 guess you were, you and, you were probably at the

6 time talking with Jack and Jack answered, I guess

7 one of the questions, and the question has to do

8 with, when the operators went into the diesel

9 panel the first time --

10 Mosbaugh: Right.

11 Shipman: -- it has to do with whether they observed any of

12 the instrumentation or whether they just went and

13 noticed the annunciators lit and reset the

14 annunciators. George has remembered hearing

15 somewhere that the operators looked at some

16 pressure gauges or something for some of the

17 diesel engine functions before they reset the

18 annunciators, and you know, I don't know what the

19 operator did, but he's so insistent in trying to

20 respond -- to get a response to that question.

21 I wondered if the operator or the operators who

22 was on shift or who went into the diesel room at

23 that time is on shift now and somebody could ask

24 him a direct question?

25 Mosbaugh: I'll find him and we will get him on the phone.

26 Shipman: That would be great.

1 Mosbaugh: You know, I mean, he may not be on shift, in which
2 case we can try to reach him at home. I can go do
3 all that.

4 Shipman: Do you understand, Allen that --

5 Mosbaugh: My understanding is that I don't think they looked
6 at much.

7 Shipman: I don't either.

8 Mosbaugh: Okay. I was in the critique. I don't -- I did --
9 I did -- uh, I was in the meeting with Al Chaffee
10 and the team when they interviewed the operators
11 that first responded to the panel, and I recall
12 them talking to Al Chaffee about that, but, you
13 know, they -- the gist of that conversation is
14 that they didn't (laughing) scrutinize things very
15 much and, you know, indeed the diesel had already
16 tripped. So when they got into the room, it was a
17 good number of -- well, it was minutes later and
18 the machine had already tripped. Nobody was in
19 the room when the machine tripped. And, uh, so
20 all they could have observed, you know, when they
21 got in, was what remained lit at that time and any
22 machine parameters that were still valid with the
23 machine tripped. That's all that was physically
24 available to observe.

25 [Pause]

26 Hello. Hello. [Shipman was disconnected.]

1 Mosbaugh calls him back.)
2 [Phone dial tone.] [Telephone ringing.]
3 Shipman: Hey, Allen.
4 Mosbaugh: Something happened.
5 Shipman: About the time you started telling me about
6 sitting with Chaffee.
7 Mosbaugh: Yeah.
8 Shipman: We just sort of lost you.
9 Mosbaugh: Okay. Anyway, I was in there like I said, they
10 didn't, you know, respond that they saw very much.
11 Indeed, nobody was in the room when it tripped.
12 Shipman: Right.
13 Mosbaugh: It tripped before they got to the room. All they
14 could have seen, all that would have been
15 available to see, would be whatever annunciators
16 remained lit and whatever engine parameters
17 remained valid with the machine stopped.
18 Shipman: Right.
19 Mosbaugh: So that doesn't leave a whole lot.
20 Shipman: Okay.
21 Mosbaugh: And I believe that, you know, they cleared the
22 annunciators, you know, without much assessment.
23 Shipman: Well, I put myself in their place and I would have
24 walked in the room and said, yeah, there is some
25 annunciators lit and reset them and all the things
26 that would have cleared would have cleared and

1 those that were still valid alarms would have
2 remained lit and I would have gone on and tried to
3 get the diesel started.

4 Mosbaugh: Yeah.

5 Shipman: So, you know, I don't have a problem with what
6 we've got written, but George does, and I just
7 need to get a --

8 Mosbaugh: Yeah, okay. Let me do my best. I'll try to find
9 -- to see if the operator is here. If he is here,
10 we'll try to get him. If he is at home, we will
11 try to call him and I'll see if I can set that up
12 so we can ask the questions.

13 Shipman: Okay and the other, of course, the other question
14 we have been trying to get an answer to is to
15 reassure George [Hairston] that we have had more
16 than 20 valid starts since, you know, March 20,
17 like we say in the LER.

18 Mosbaugh: Yeah, now you realize I think there is a problem
19 with the way that is stated, because, you know,
20 the machine -- we can -- you know, we got one of
21 the guys trying to find what the total number of
22 the valid starts is, but there were failures.

23 Shipman: The problem that we got, Allen, is that the data
24 that is in LER is what George wrote and took and
25 told to the, Ebnetter last Monday in Atlanta.

26 Mosbaugh: Well, you know, if anybody said that there weren't

1 any failures, you know, that's just not true.

2 Shipman: Well, if you look at George's [Bockhold] outline

3 that he made to take to Atlanta with him, he says,

4 at that time, it was like 18 and 19.

5 Mosbaugh: Yeah.

6 Shipman: And without a failure.

7 Mosbaugh: Umm.

8 Shipman: So, you know, somebody had given George that

9 information.

10 Mosbaugh: On the B?

11 Shipman: Have we had a failure since George went to --

12 Mosbaugh: No, on the B. Let me, let me tell you what I

13 know, okay. On the B machine, on the B machine on

14 3/22 at 12:43, the machine tripped on high lube

15 oil temperature.

16 Shipman: Caused by what?

17 Mosbaugh: Caused by the switch that gives you a high lube

18 oil temperature, probably [laugh].

19 Shipman: No. I understand that, but did we not have a --

20 Mosbaugh: I don't believe a high temperature physical

21 condition existed. I believe --

22 Shipman: Was that a valid -- considered a valid failure?

23 Mosbaugh: I haven't assessed these for being valid or not.

24 Shipman: See, because we, I could -- we could, we could

25 solve the problem that is created by that

26 information by saying no valid failures.

1
2 Mosbaugh: [Looking at a document.] Let me find -- I think
3 we've got one other one. Here it is. [Reading]
4 "On 3/23 at 17:31, the machine tripped on low" --
5 this is B machine again -- "on low jacket water
6 pressure/turbo lube oil pressure low."
7 Shipman: Okay. The first one was on what date, did you
8 say?
9 Mosbaugh: Three-twenty-two.
10 Shipman: Okay. How -- you know, with that data - uh, I
11 think this thing has already been through the PRB
12 a couple of times. How in the world did it get
13 through the PRB?
14 Mosbaugh: What's that?
15 Shipman: The statement --
16 Mosbaugh: The LER or --
17 Shipman: Yeah, the LER.
18 Mosbaugh: Well, I mean --
19 Shipman: Was that data not available in the PRB?
20 Mosbaugh: The previous times that this LER went through the
21 PRB, I'm not sure if those statements were in
22 there.
23 Shipman: Okay, Jack says "yeah, they were."
24 Mosbaugh: They were?
25 Shipman: Yeah.
26 Stringfellow: In fact, the last PRB added the parenthetical

1 phrase "more than 20 times each." I say the last
2 -- not today, but the previous PRB.

3 Mosbaugh: You know, this thing -- it came to the PRB, you
4 know, 15 pages long the first time, and then it
5 was basically tabled for a complete rewrite back
6 to eight pages, and --

7 Stringfellow: It went back to the PRB as eight pages.

8 Mosbaugh: It went back as eight and, uh, --

9 Shipman: Well, anyway --

10 Mosbaugh: -- anyway.

11 Shipman: Irregardless, the whole question is immaterial
12 and, you know it is just -- it's sort of a bother.
13 But what we need to do is find out what's correct
14 and make sure we only say what's correct.

15 Mosbaugh: Yeah. I -- you know, what I have here is there
16 was a tabulation made of diesel activities early
17 on by Kochery, and that's where I am getting this
18 information from. And, uh, I believe these -- I
19 believe this tabulation was provided to the
20 Chaffee team.

21 Shipman: Well, the uh, I think people have been reviewing
22 the diesel generator log, but that would only --
23 as we talked the other day, that only went through
24 the 13th of April.

25 Mosbaugh: Yeah. Yeah. This data picks up on the 13th.

26 Shipman: Somebody, gosh, somebody must have looked. Allen,

1 would you take that as a second thing and try to
2 get me the correct information for that? It
3 sounds like this whole statement needs to be just
4 stricken.

5 Mosbaugh: You know, I basically don't have any better
6 information than the two trips I told you about on
7 the 22nd and --

8 Stringfellow: Can you determine if those were valid tests or
9 valid failures?

10 Mosbaugh: Let me talk to Stokes and Kochery about them.

11 Shipman: I guess at the point where we're in now where this
12 thing -- its been to PRB several times and we have
13 several review cycles up here and everybody has
14 gotten accustomed to seeing that data. If we can
15 use the data we probably ought to. Certainly, if
16 its not a valid statement, we need to get it the
17 heck out of here regardless of what George told
18 Ebnetter. So, you know, if there is anything you
19 need to do to check to make sure the data you have
20 from Paul [Kochery] is correct and valid, we would
21 ask that you do that, or if you feel very
22 confident that it is correct now, I just need to
23 see what I need to do about striking this
24 statement.

25 Mosbaugh: Okay. I feel that this is the best data there is
26 and I believe it's accurate. I will verify with

1 Kochery though.

2 Shipman: Okay.

3 Mosbaugh: And I will pursue trying to get a conversation
4 with the operator.

5 Shipman: Okay. Jack and I are going to leave here and walk
6 down to Mr. Hairston's office to go over his
7 comments and what we have been able to do with
8 those and try to, you know, finish beating out
9 what he wants to do to this thing. And so if you
10 want, you know, if you find somebody and want to
11 call back you might just call down there.

12 Mosbaugh: What's the number?

13 Shipman: 5581.

14 Mosbaugh: Okay.

15 Shipman: Yeah. That's right. Okay

16 Mosbaugh: Will do. We are into the torsional test.

17 Shipman: Right. We are into it.

18 Mosbaugh: Yeah. We spun the machine up to 1800. Had a
19 little problem with a seal oil emergency pump
20 coming on, adjusted the set point, and, uh, we're
21 back down -- coasted back down and into the
22 torsional.

23 Shipman: Okay. Did we come all the way back down to 100
24 and start, or did we --

25 Mosbaugh: I think we did some at 100 on the way up.

26 Shipman: Okay.

1 Mosbaugh: So they're a little further into the procedure
2 than the first activities at 100.
3 Shipman: Okay. Great. I appreciate that information.
4 Thanks, Allen.
5 Mosbaugh: All right. Bye.
6 VOICE: See you later.
7 [Pause.] [Break in taping.]
8 Mosbaugh: Do we have any idea how many valid starts we've
9 had? You know, if we're going to speak in terms
10 of valid failures, then we need to speak in terms
11 of valid starts.
12 Kochery: Diesel Generator 1A until the incident. Sixty-six
13 are valid --
14 Mosbaugh: I'm talking about afterwards [inaudible]. Since
15 3-20. Do we have any idea, because you haven't
16 gotten any of the paperwork from Operations.
17 Stokes: We've got some of the paperwork, but not much. I
18 can look through that and see if there are any
19 valid failures. It's pointless at this time
20 [inaudible].
21 Kochery: I tell you, we didn't have any valid failures
22 after that.
23 Stokes: But they may be valid tests.
24 Kochery: Yeah.
25 Mosbaugh: The problem is if we speak in terms of valid
26 failures, then we may have to say, out of no valid

1 failures, out of blank valid tests, okay?

2 Kochery: Yeah.

3 Mosbaugh: Otherwise we're going to say no valid failures out
4 of X tests, and then we've got apples and oranges
5 kind of compared and somebody might think we're
6 misleading them.

7 Stokes: It's definitely a requirement, they say how many
8 valid failures do you have in the 100 last tests.

9 Kochery: Fine.

10 Stokes: The LER always report how many valid tests we've
11 had, and, you know, I told them they can make that
12 decision, whichever way they want to go. It
13 doesn't matter. I told them -- you know, I can
14 provide that as soon as I get the information out
15 of Ops. [Inaudible.]

16 Mosbaugh: Okay. The operators -- I'm getting a lot of
17 questions from SONOPCO now because we're getting
18 ready to submit the LER, okay? They want to talk
19 to the operators that responded to the panel.

20 Stokes: Okay.

21 Mosbaugh: Do you know who they are?

22 Stokes: Yeah, I know one name.

23 Mosbaugh: Can I get --

24 Kochery: I have the name of the guy.

25 Mosbaugh: Give me the name.

26 Stokes: Slim Whitman was one. I can remember that one.

1 Mosbaugh: Slim Whitman. Okay. Can't forget that one. See
2 if you can give me the names of the people, and
3 I'm going to call Schwartz.
4 Kochery: [Inaudible.]
5 Mosbaugh: Okay.
6 [Pause.]
7 Kochery: See, I got those information from the log.
8 Mosbaugh: This here you compiled from the Operations control
9 log or diesel log -- do they have a separate log,
10 a diesel log?
11 Kochery: Control room log, the regular log.
12 [Pause.]
13 Mosbaugh: All right. Here we go. S.L. Whitman. Okay. What
14 is this? Duane?
15 Kochery: Yeah. DeLoach.
16 Mosbaugh: Oh, I've been hearing him paged today.
17 VOICE: Yeah.
18 Mosbaugh: And what's this? Is that -- I can't read that.
19 Is that a Jackson? It almost looks like a Jackson.
20 Kochery: It looks like. Okay. This is -- let me see.
21 Mosbaugh: It almost looks like a J.C., J.C. Jackson, it
22 looks like.
23 Kochery: Duane DeLoach, okay, Joey Jackson.
24 Mosbaugh: Joey, yeah. Okay.
25 Kochery: [Inaudible.] Here's another one.
26 Mosbaugh: These are their statements?

1 Kochery: Yeah.

2 Mosbaugh: Let me -- okay. This goes with this.

3 Kochery: They go together.

4 Mosbaugh: Is this all of them?

5 Kochery: Yeah. That's the only --

6 Mosbaugh: Only two of them gave statements?

7 Kochery: Yeah.

8 Mosbaugh: Okay.

9 Kochery: I believe it's from this one, too, Allen, I think.

10 Mosbaugh: Okay. Let me go get Schwartz and see if can get

11 any of these people. How are we doing.

12 Kavi: We maintained at 1800 RPM and then they were

13 supposed to close the breaker. They close the

14 breaker, and what they do is apply the excitation.

15 Mosbaugh: Yeah.

16 Kavi: They did apply the excitation.

17 Mosbaugh: Yeah.

18 Kavi: And then we go up to five percent of negative

19 sequence current.

20 Mosbaugh: Okay.

21 Kavi: And I think at that plateau, they take some

22 readings and all that.

23 Mosbaugh: Okay.

24 Kavi: So we had gone up to about two-and-a-half percent

25 negative sequence current.

26 Mosbaugh: So far.

1 Kavi: So far. I don't see any problem.
2 Mosbaugh: Okay. That's proceeding.
3 Kavi: Yes.
4 Mosbaugh: Okay.
5 Kavi: And it looks like after that they go to about 1925
6 overspeed test.
7 Mosbaugh: Okay.
8 Kavi: And then they come back again to 100 RPM.
9 Mosbaugh: Okay.
10 Kavi: And -- see, at 1925, when they reached the
11 maximum, they take off the excitation and then
12 they bring it back to 100 RPM. They apply the
13 excitation again there and turn it up and then
14 that probably will take us out of that
15 [inaudible].
16 Mosbaugh: Okay. Good, good. It sounds like we're making
17 progress.
18 Kavi: Yeah. And they did not see any problem. On that
19 diesel, you know --
20 Mosbaugh: Thank you. Yes.
21 Kavi: Looking at the logic sequence test, evidently that
22 looked to be -- if you look at the sequencer
23 logic, drawings, you know, there appears to be a
24 signal generated when you push the buttons, you
25 know. Two milliseconds, you know. So the signal
26 does go. That's what the interpretation is now.

1 We don't know if it's right or wrong.

2 Mosbaugh: The signal, what do you mean goes?

3 Kavi: The diesel generator, the start signal.

4 Mosbaugh: Oh. Even with this in the block?

5 Kavi: That, it should not go, though. It should go, but

6 in the block it should not.

7 Mosbaugh: Right.

8 Kavi: If you're looking at the logic drawing, its not

9 getting very clear. Kenny was looking at this

10 morning.

11 Mosbaugh: Okay.

12 Kavi: And Ken Stokes was but trying to see [inaudible].

13 Mosbaugh: Okay. Thank you.

14 [Pause.] [Break in taping.]

15 [Noise and voices in the background.]

16 [Pause.]

17 Cash: But if the light came on, it should have stayed

18 on, and he did not know for sure it came on and

19 that it was out after he pushed it.

20 VOICE: [Inaudible.]

21 [Telephone ringing.]

22 Cash: Mr. Swartzwelder's office, this is Jimmy Cash.

23 Yes, sir. He's right here. Okay. [Inaudible.]

24 Dan, [inaudible].

25 VOICE: [Inaudible.]

26 VOICE: Hi, Jack. Right.

1 [Pause.]
2 [Jim Swartzwelder talking on the phone.]
3 Swartzwelder: Yeah. Anybody present wants to talk to him?
4 [Pause.]
5 VOICE: The Senior Vice President wants to talk to him.
6 Swartzwelder: Mr. Hairston wants -- is having some difficulty
7 with the way things are stated in the LER dealing
8 with the Site Area Emergency and would like to
9 hear firsthand from the operator at the diesel
10 exactly what was done so he can assess whether
11 what is stated in the LER is okay. You know, they
12 don't need to quake in their boots as they walk up
13 here. It's no, not, no big deal. And they're not
14 going to get yelled at by a Senior Vice President.
15 VOICE: [Inaudible.]
16 Swartzwelder: They're not going to be yelled at. If anybody
17 gets yelled at because of what they say, it'll be
18 me. They will not get yelled at. I promise you.
19 VOICE: [Inaudible.]
20 Swartzwelder: Okay. You pass that word around. Okay. Bye-bye.
21 Cash: They need to go get the IR transcripts
22 [inaudible].
23 Mosbaugh: I have them.
24 [Laughter.]
25 Mosbaugh: I have that, if you're interested. No. This is
26 not the transcript this is a statement. I'm not

1 sure I have -- let's see, who is this?
2 [Simultaneous discussion.]
3 VOICE: -- not from the NRC transcript anyway.
4 VOICE: The three PEOs.
5 VOICE: Thanks, Lee.
6 Cash: I just wanted to [inaudible].
7 Mosbaugh: That's okay.
8 Cash: And that we probably would not have an extra set
9 [inaudible].
10 [Pause.]
11 Cash: They were also going to call the [inaudible] once
12 they talked to I & C and find out from I & C
13 what's the matter. What we can do, if we run it,
14 this is what we discussed --
15 VOICE: Even if we lift the leads.
16 VOICE: No. [Inaudible.]
17 Swartzwelder: No. I mean can't we do that?
18 VOICE: We're going to relay [inaudible].
19 Cash: [Whistling.] That is your diesel start. If you
20 lift the lead there and you get an SI while you're
21 doing testing, the diesel ain't going to start.
22 Swartzwelder: There are several tests that we do on a diesel --
23 VOICE: Yeah.
24 Swartzwelder: I mean -- and we'd have to take an LCO to test it.
25 Cash: Well, not the -- what we talked about doing this.
26 Swartzwelder: This is a field lead they lift.

1 VOICE: [Inaudible.]
2 VOICE: From being on-shift. I'll say yes.
3 [Pause.]
4 VOICE: [Inaudible].
5 [Pause.] [Whistling, walking sounds.] [Break in
6 taping.]
7 Odom: That's not good. The LER is not the problem, that
8 letter sounds like the problem.
9 Aufdenkampe: Yeah. The LER is not a problem.
10 Mosbaugh: What?
11 Aufdenkampe: Allen just walked in.
12 Mosbaugh: Shipman just called me. He's got me getting the
13 operator so that Hairston can talk to the operator
14 on that issue of what they saw when they got
15 there. And then I gave Shipman the specifics. So
16 you want to see these trips?
17 Aufdenkampe: Well --
18 Mosbaugh: Here's the trips.
19 Aufdenkampe: Yeah, I got them. Rick just talked to me about
20 the trips.
21 Mosbaugh: Okay.
22 Aufdenkampe: There's two of them.
23 Mosbaugh: Yeah. There's two trips. One on the 22nd and one
24 on the 23rd.
25 Aufdenkampe: Atlanta -- what Birmingham is thinking now is that
26 they made a material false statement in the April

1 9th letter.

2 Mosbaugh: That would be a good thing for them to think
3 about.

4 Aufdenkampe: Who'd he say? McCoy, Hairston and McDonald are
5 reviewing this now?

6 Mosbaugh: I'm calling back into Hairston's office as soon as
7 we get the operator up here.

8 Aufdenkampe: Is he coming to my office?

9 Mosbaugh: No. He's coming down to Swartz' office. Anyway,
10 I believe that your two failures are not valid
11 failures. They are --

12 Aufdenkampe: That's correct.

13 Odom: That is correct.

14 Mosbaugh: Okay.

15 Aufdenkampe: There's no question about that.

16 Mosbaugh: So, however, if you're going to speak in terms of
17 valid -- of having "no valid failures," you also
18 need to probably speak in terms of, "out of X
19 valid tests." You know, otherwise it would appear
20 that you're trying to pick --

21 Odom: I'll tell you something. I got the 4/9 letter in
22 front of me, John.

23 Aufdenkampe: Yeah.

24 Odom: I don't think the letter is a material false
25 statement now.

26 Mosbaugh: I read it, and it was very marginal.

1 Odom: It says, [Reading] "Since March 20th, the A diesel
2 has been started 18 times and the B diesel has
3 been started 19 times. No failures or problems
4 have occurred during any of these starts." That's
5 not wrong.

6 Aufdenkampe: It's misleading. It is misleading.

7 Mosbaugh: Odom. Try that again.

8 Odom: It's not wrong. It says since March 20th.

9 Mosbaugh. Hold it. Read it again.

10 Odom: Okay. [Reading] "Since March 20th, the A diesel
11 has been started 18 times and the B diesel has
12 been started 19 times. No failures or problems
13 have occurred during any of these starts."

14 Mosbaugh: That is only true, that is only not materially
15 false if the total number of starts --

16 Odom: Is 18 and 19.

17 Mosbaugh: No. Is 20 or 20 -- what's the number on the B
18 diesel?

19 Aufdenkampe: 21.

20 Odom: The letter says 19.

21 Mosbaugh: That's only true if there have been 19 starts on
22 the B machine since 3-23 at 17:00 hours.

23 Odom: I agree. I see what you're saying. You're saying
24 --

25 Mosbaugh: Only if there have been 19 since 3-23 at 17:31 is
26 that statement not false.

1 Odom: Since March 20th though, is the meaning of that
2 sentence.
3 Mosbaugh: I have no problem with that, because what we're
4 doing -- it's still correct if you can dismiss the
5 period of time between 3-20 and 17:31 on 3-23.
6 It's merely since that date, and I'm -- and then
7 there have been no, you know, no failed starts or
8 no problems, resets you to 3-23.
9 Odom: Right.
10 Mosbaugh: At 17:30. But if there haven't been 19 starts
11 since 17:31 on 3-23, then it's still false.
12 Odom: Right.
13 Mosbaugh: Even under that subtle interpretation.
14 Odom: Okay.
15 Mosbaugh: So actually if somebody can verify that, that's
16 really critical to knowing if that statement is
17 true or false. How do we know that? Does anybody
18 have that data?
19 Odom: No.
20 Mosbaugh: You're getting it?
21 Odom: I'm not getting -- I haven't started getting that
22 data.
23 Mosbaugh: Hold it. Well, if Tom's getting the total starts
24 history, he should concentrate on the B machine
25 and get the start information.
26 Aufdenkampe: We don't have the logs.

1 Mosbaugh: You don't have the logs yet. You're just not far
2 enough along to have it.

3 Aufdenkampe: The -- well, the real key is that it's really got
4 to come from Kenny Stokes.

5 Odom: Right.

6 Mosbaugh: Well, it's got to come from Operations.
7 Operations has yet to send it to Kenny.

8 Aufdenkampe: Yeah. And it's got to come from Kenny Stokes
9 because Kenny Stokes -- you know, I'm just talking
10 about the -- telling the NRC people because Kenny
11 Stokes is the one who makes the calls of "valid"
12 or "invalid".

13 Mosbaugh: Yeah, but there's no -- the letter does not use
14 the word "valid," so that can be derived from log
15 data without engineering interpretation. Right?
16 They don't use the word "valid"?

17 Odom: No.

18 Mosbaugh: Okay. At what date was that letter written?

19 Odom: Ninth of April.

20 Mosbaugh: 4-9?

21 Odom: Yes.

22 Mosbaugh: Basically, if you had all the logs between 3-23
23 and 4-9 inclusive, you could have what you needed.
24 And all you'd need to do, I think, is get the B
25 machine.
26 [Pause.]

1 Mosbaugh: Do you have that?
2 [Pause.]
3 Aufdenkampe: Hello?
4 Odom: Yeah. We just started talking about. We just
5 said -- but the problem right now is not -- the
6 LER statement, I think, could come out. Do you
7 all agree with that?
8 Aufdenkampe: That's fine.
9 Mosbaugh: We need to know in the LER what we can say or can
10 say safely. We have to say -- we have to either
11 say -- you can use the word "valid" in the LER and
12 most probably be correct. But you may have to
13 change your numbers.
14 Webb: Allen?
15 Mosbaugh: Yeah.
16 Webb: This is Tom Webb. Do you feel like we should -- I
17 think we should do one of two things. Just tell
18 me what you think. We need to get rid of the
19 statement in the LER about how many failures or
20 how many tests you've got all together, or else
21 correct the misconception that we generated on
22 April 9th. I don't know if we should try to
23 continue the misconception that started nine days
24 ago.
25 Mosbaugh: Mr. Hairston will have to decide on that since he
26 signed it. And I think, however, we have to

1 quickly get the information I just mentioned.

2 Odom: We can't get it quickly is my problem. We don't

3 have that information available. That's got to

4 come from ...

5 Mosbaugh: Hold it. Hold it, hold it, hold it. For the B

6 machine, if you'll -- if you have the control logs

7 --

8 Odom: I don't have all the control logs is my problem

9 right now. I've got days missing. I can go and

10 look right now at what I got and we start on the

11 days missing.

12 Mosbaugh: If you got the control logs for the B machine from

13 3-23 to 4-9 inclusive, you can do the job.

14 Odom: We're going to go look for them.

15 Mosbaugh: Okay.

16 Williams: You're talking about the logs from Kenny Stokes?

17 Mosbaugh: Yeah.

18 Williams: They're not up-to-date. They're not current.

19 Mosbaugh: We know that. We're talking control room logs.

20 Williams: Those aren't up-to-date.

21 Mosbaugh: No, no. Control room logs have to be filled out

22 at the time they're generated. Right?

23 Williams: They do.

24 Mosbaugh: Well, they sure as hell better have them.

25 Williams: He's got all the control logs already.

26 Mosbaugh: Well, he said he had some days missing.

1 Williams: I've got all of them.
2 Mosbaugh: You have them all?
3 Williams: Yeah.
4 Mosbaugh: The logs --
5 Aufdenkampe: The reactor operators' logs?
6 Williams: I have the RO log and the SS log.
7 Mosbaugh: Okay. The log that would show diesel starts. Which
8 log do they log that in? The RO log?
9 Williams: Both usually. Both.
10 Mosbaugh: Whichever one is most complete.
11 Aufdenkampe: The RO log is the one that logs the starts.
12 Mosbaugh: Okay. The RO log from --
13 Sharon: Sharon speaking.
14 Mosbaugh: -- 3-20 to 4-9, inclusive.
15 Aufdenkampe: Sharon, I need Rick Odom.
16 Sharon: Hold on, please.
17 Mosbaugh: Okay. Do you have both of them?
18 Sharon: John?
19 Aufdenkampe: Yes?
20 Sharon: Do you want me to go in for him? [Inaudible.]
21 [Walking sounds; door closing sounds.] [Background
22 noise.]
23 ***END TAPE NO. 57, SIDE B***
24

BEGIN TAPE NO. 58, SIDE A

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Swartzwelder: [Inaudible] plant equipment operator.

Voice: Hold on.

Swartzwelder: Thank you.

Mosbaugh: [Inaudible.]

Voice: It's probably the best one he's got, the handwritten one?

Mosbaugh: Yeah. These aren't transcript type. This is what
[inaudible]

Swartzwelder: It has to be what he had doing his LER, I think. I believe that's what he had.

Mosbaugh: Yeah. This is because of the LER we're getting ready to submit.

Voice: Okay.

Swartzwelder: Mr. Hairston

Voice: Yeah.

Swartzwelder: This is Jim Swartzwelder.

Voice: Hey, Jim.

Swartzwelder: Allen came in my office. He's here with me. He says that you'd like to talk to Duane DeLoach or Slim Whitman.

Mosbaugh: Is Bill Shipman in with you?

Hairston: No. He's down on another phone downstairs.

Mosbaugh: Okay.

Hairston: We --

Swartzwelder: I have Duane here.

Hairston: Was Duane one of the operators that was in the --

Swartzwelder: That went to the diesel.

1 Hairston: Duane, let me tell you what -- why -- I've got to sign
2 out this LER on this event.

3 DeLoach: Yes.

4 Hairston: And we're talking the first time the diesel tripped and
5 you went to the diesel.

6 DeLoach: Yes.

7 Hairston: And I don't have it right in front of me, but it --
8 [pause] get the words, what it said, "after the trip,
9 operators were dispatched to the engine control panel to
10 investigate the cause of the trip." This was after the
11 first one.

12 Voice: Okay.

13 Hairston: "According to the operator, several annunciators were
14 lit. Without fully evaluating this condition, the
15 operator reset the annunciators, and then, during the
16 same shift supervisor [inaudible]."

17 Voice: . . . PRB and they changed it . . .

18 Hairston: Now, the reason they're saying it is this way is, where
19 they can explain it, when they talk about what we were
20 investigating as to why we weren't really sure what
21 tripped it on the first time, and I had had them reword
22 that, and I don't have the rewording, but it said
23 something like this: "In order to restore power" or
24 something to that bus, I forget exactly how I worded it,
25 "the operator reset the annunciators without fully
26 evaluating the condition." What I wanted to do is say,

1 hey, you know, it wasn't he just went down and blindly
2 pushed the damn button.

3 DeLoach: Yeah.

4 Hairston: You were trying to get the diesel going. Now, what all -
5 - and I think all that's correct and you need to tell me
6 if its not, but what I'm trying to do is come up with an
7 additional sentence to put right in front of that,
8 something to the effect of, "The operator briefly looked
9 at several instrument readouts and no problems were
10 noted." There are two key things in that: One, it was
11 briefly -- you only looked at two, like, like I'm sure
12 you read the panel.

13 DeLoach: Yes sir.

14 Hairston: And did you look at, say, jacket temperature or pressure?

15 DeLoach: I glanced at all of the parameters on the panel to make
16 sure they were okay. Also, looked at the engine
17 physically itself to make sure there were no parts flying
18 apart somewhere, and that's the reason it wasn't running.

19 Hairston: And you did that before you reset the annunciator panel,
20 right?

21 DeLoach: Yeah. I walked by the diesel, looking at it on the way
22 in. Even though its dark, if there was a part laying
23 anywhere you would know it.

24 Hairston: But you actually looked at the gauges and you didn't see
25 anything abnormal.

26 DeLoach: Right.

1 Hairston: See, I don't want to say that you did a thorough look,
2 but, you know, I've operated myself and I know that you
3 just don't go out here and push the dang button without
4 scanning something. Do you think it's a true statement
5 that you briefly observed or looked at several of the
6 instrument readouts and noted no problems? Now, I didn't
7 say that there was a problem, it just basically says you
8 looked at several of the instrument readouts briefly, and
9 you didn't note a problem. Is that a truthful statement?
10 DeLoach: Yes, sir.
11 Hairston: You see, it just don't look right -- the way this thing
12 - read to begin with, it looks like you just went down
13 there and closed your eyes and pushed the reset button.
14 DeLoach: Yeah, I read that when I read it once already myself.
15 Hairston: And that's not right, is it?
16 DeLoach: No.
17 Hairston: Okay. Well, I just -- you know, I think you all did a
18 good job without talking -- just going down there running
19 that diesel -- you know, if there had been a problem,
20 running it into the ground and tearing it up. That's one
21 of the strong things I'm trying to say about this thing,
22 is that you all knew you had a little time, and you took
23 the time to check the diesel out, especially after the
24 second trip.
25 DeLoach: Yes, sir.
26 Hairston: So I feel comfortable with that. Jim?
27 Swartzwelder: Yes, sir?

1 Hairston: Do you feel comfortable with what I said?

2 Swartzwelder: Yes, sir. It was never intended to be otherwise. It

3 wasn't intended to have people running in with their eyes

4 closed.

5 Hairston: I know that, and I know why you put the sentence in

6 there, is where you could explain. Well, we didn't

7 exactly remember what those annunciators were. It was

8 put in there really to lead into, you know, what was said

9 later.

10 Swartzwelder: That's correct.

11 Hairston: But to the casual reader, he's going to read something

12 - else into it. Do you see what I mean?

13 Swartzwelder: You're probably right, yes.

14 Hairston: Okay. And that's why I just wanted to add a little bit

15 in there and restructure the sentence. Well. Okay,

16 fellas. Are we doing torsional testing?

17 Swartzwelder: Yes, we're starting it now.

18 Hairston: Well, good luck.

19 Mosbaugh: We're more than starting.

20 Swartzwelder: And I'm thinking about going home a little early today.

21 Hairston: Ha, ha, ha. Who's that talking?

22 Mosbaugh: That was Swartzwelder.

23 Hairston: I'd feel bad if the rest of you all go home.

24 Swartzwelder: I don't really like this idea of torsional testing. But

25 I haven't successfully fought it, that's for sure.

1 Hairston: I understand that. Hey, thanks a lot. And I'm sorry to
2 disrupt you all, but I just wanted to make sure that, you
3 know, we had this as candid as we could.

4 Swartzwelder: Okay. Very good.

5 Hairston: Thank you much.

6 Swartzwelder: You bet. Bye now.

7 Hairston: Bye.

8 Voice: [Inaudible.] This is a new one on me.

9 Cash: I know about high ramp rates. Three percent until you
10 get your fuel conditioning out of -- never heard of a rod
11 withdrawal rate, three steps per hour.

12 Swartzwelder: What are you talking about?

13 Cash: That's what I'm asking him.

14 Swartzwelder: What are you talking about?

15 Mosbaugh: We had a rod withdrawal rate . . .

16 Cash: That's the first time I'd ever heard about it.

17 Mosbaugh: . . . for the initial restart.

18 Cash: Sam Bradley just gave Bill Burmaister a note that says,
19 "Hey, tell the control room, that greater than 20 percent
20 an hour, is three percent an hour." We knew that.

21 Carter: Yeah.

22 Cash: Greater than 50 percent an hour is three steps per hour.

23 Voice: Until rods, are all rods out.

24 Cash: I've never heard this one before.

25 Voice: [Inaudible.]

26 Cash: I just thought maybe you were familiar with it.

27 Swartzwelder: I've never heard it.

1 Mosbaugh: State that requirement again?
2 Cash: Greater than 50 percent an hour, maximum rod withdrawal
3 rate of three steps per hour.
4 Mosbaugh: I hadn't heard of that, either.
5 Cash: Bill's beeping --
6 Carter: Its in all the operators' boxes, too -- all the
7 supervisors' boxes -- [inaudible] sent a copy of the
8 letter, yes.
9 Cash: I've never heard about it.
10 Swartzwelder: The entire reason that we have rods [inaudible].
11 Mosbaugh: I can't help you.
12 -Swartzwelder: I'll tell you what we'll do. We'll go get the damn rods
13 out of the core below 50 percent.
14 [Pause.]
15 [Walking Sounds; Door Opening Sounds.]
16 Aufdenkampe: Well, the way -- Allen Mosbaugh just walked in, George,
17 so I'll put you on the speaker. The way my people came
18 up with the greater than 20 starts is they took the 18
19 and 19 starts and, based on the April 9th letter, and
20 they went and checked and found out how many starts we
21 had subsequent to April 9th. And that's why you can say
22 greater than 20.
23 Bockhold: I think you can say greater than 20. Ah, you know, we
24 even had more starts recently. We had a start last, the
25 other night.

1 McCoy: We need to be sure that we know the number of starts
2 after we've completed the comprehensive control test
3 program.

4 Aufdenkampe: I do have people right now going out through -- my people
5 going out through the RO's log.

6 Bockhold: From my numbers that I presented at the, at the
7 conference, they were verified correct by Jimmy Paul Cash
8 who went through the operators' logs.

9 McCoy: We ought to use those numbers.

10 Bockhold: Okay. So we'll say greater than those numbers that were
11 used in the conference.

12 McCoy: Right. And those, um, and those numbers you used in the
13 conference were after they had completed the
14 comprehensive test of the control system on each diesel?

15 Bockhold: That is correct. Those numbers were not before that
16 time.

17 Stringfellow: Are we going to say -- I just want to make sure I'm clear
18 -- are we going to say "Since 3/20/90, DG1A and DG1B have
19 been subjected to a comprehensive test program?" Or do
20 we want to say that kind of stuff, or do we want to just
21 say --

22 Bockhold: Yes, you can say that.

23 McCoy: That's pretty clear.

24 Voice: [Inaudible.]

25 Mosbaugh: [Side conversation with Aufdenkampe.] Gotta look at
26 those logs, friend. They ain't done it.

27 Voice: Right.

1 Voice: [Inaudible.]

2 Aufdenkampe: [Side conversation.] [Inaudible.] Is the operator
3 downstairs?

4 Mosbaugh: [Side conversation.] Yeah, he's done -- we're done with
5 Hairston on that.

6 Aufdenkampe: You guys talk to Hairston?

7 Mosbaugh: Hairston's happy with that one.

8 Aufdenkampe: But the wording was [inaudible]?

9 Mosbaugh: He's going to add something. There's a new sentence
10 going in front of -- the one --
11 [End of side conversation.]

12 Shipman: Eighteen and 19 -- what did you have in your presentation
13 George? Seventeen and 18 or 18 and 19?

14 Bockhold: Eighteen and 19.

15 Shipman: If we say greater than 18 --

16 Stringfellow: We mean more than 18 times.

17 Bockhold: Greater than 18 would be good.

18 Shipman: Fine.

19 McCoy: Wouldn't be more than 18 on one of them. It would be 18.

20 Stringfellow: Say 18 times.

21 Shipman: Okay, I understand, John and Al, if Al just walked in, I
22 understand that George [Hairston] just got off the phone
23 with Jim Swartzwelder and the operator and he is
24 satisfied now [phone ringing in background] with the --
25 what the operator did when he walked in the room.

26 Mosbaugh: Yeah, I was down there Bill. And I just ran up here.
.7 Yeah, we are done with that one.

1 Shipman: Apparently -- I don't know how George knows all this
2 stuff, but apparently he -- somehow he knew more about it
3 than you and I did.

4 McCoy: Well, he went down to the plant and talked [inaudible].

5 Mosbaugh: Well, no, I don't -- not really.

6 Shipman: It sounds like to me the operator, the operator said he
7 looked at something other than the annunciators.

8 Mosbaugh: He confirmed with the operator that the operator did a
9 cursory review of instruments. And the operator's
10 comfortable with, you know, some statement that's kind of
11 like that.

12 Shipman: He didn't lead the operator, did he?

13 Mosbaugh: I don't think so.

14 Aufdenkampe: Not very far [laughing].

15 Shipman: Well, he don't need to lead him at all. The guy might
16 get an opportunity to testify sometime about that. So,
17 you all don't let Mr. Hairston lead the operator.

18 Hairston: I didn't lead the operator.

19 Voice: Yeah, an hours worth.

20 Mosbaugh: [Laughs.]

21 Shipman: I'm making sure that we didn't put words in his mouth.

22 Hairston: No. He said he read that, because he had that same
23 statement, and that he read it.

24 Shipman: Okay.

25 Hairston: And Jim explained to him the reason it was put in there
26 was because it ties in later, and Jim said that's the
27 reason. It wasn't to make you think that the operator

1 just went down there and closed his eyes and hit the
2 button, but the operator said he didn't. Actually, the
3 operator said he did more. I said survey briefly. The
4 operator says he looked at all the gauges and he didn't
5 see any problem on them gauges. He said walking by and
6 he didn't see any mechanical problems. He said he didn't
7 look at it closely, it was dark, but, you know, he didn't
8 see any rods sitting out on the floor. But, you know,
9 what we put in there is less than what he verbalized to
10 me.

11 Shipman: Okay, I know how you are, and I'm just trying to make
12 - sure we --

13 Hairston: I wouldn't lead nobody, I just want to make sure we don't
14 make the operators look dumb.

15 Shipman: Okay. All right.

16 Hairston: Of course, they'd probably say "that's just what the
17 shift supervisor told me to do."

18 Shipman: Let's see. What other questions do we got? We got the
19 start thing straightened out.

20 Stringfellow: The other question we had Bill, was the --

21 Hairston: [Interrupting.] We got the starts --

22 [Disputed Portion of Tape]

23 GPC Version: [Note: A Secondary Conversation Takes Place Simultaneous
24 To The Primary Conversation.]
25

1	<u>Primary</u>	<u>Secondary</u>
2	Voice: So we didn't have no,	
3	didn't have no trips?	
4	Voice: No, not, not . . .	Voice: It seems possible
5		[inaudible].
6		
7		Voice: [Inaudible].
8	Shipman: What else do we have,	
9	Jack?	
10		Voice: Have a copy of the
11		comments?
12	-	Voice: Yes, and he's read
13		it.
14	Stringfellow: 08:57 CST.	
15	Shipman: Oh, yeah.	Voice: We'll have it
16	Okay. The other problem	[inaudible].
17	we got that we got to	
18	wrestle with is the time	
19	of the -- when the	Voice: [Inaudible.]
20	notification began. We say	Voice: [Inaudible.]
21	the emergency director	Voice: [Inaudible] that
22	signed the notification form	they [inaudible]
23	used to inform off-site	
24	government agencies of the	
25	emergency at 08:48 central	
26	standard time and notifica-	
27	tions began at 08:57,	Voice: So must have been

1 and Mr. Hairston's question
 2 is what happened between Voice: Yeah, [inaudible]
 3 8:48 and 8:57? What -- models [inaudible].
 4 does the word "began" mean?
 5 Is that where he picked up
 6 the KMW and found out it was
 7 disabled or is that --

8 Bockhold: That's the time that the South
 9 Carolina communicator logged
 10 the receipt of an incoming
 11 message from Plant Vogtle. Voice: [Inaudible.]

12 NRC Version

13 Hairston: So we didn't have no,
 14 didn't have no trips?
 15 Shipman: No, not, not . . .
 16 McCoy: [Inaudible] three. I'll testify to that.
 17 Shipman: [Inaudible] disavow. What else do we have, Jack?
 18 McCoy: [Inaudible.]
 19 Voice: Does he have a copy?
 20 Voice: Yes, he's read it.
 21 Stringfellow: [Inaudible] 08:57 CST.
 22 Shipman: Oh, yeah. Okay. The other problem we got that we got to
 23 wrestle with is the time of the -- when the notification
 24 began. We say the emergency director signed the
 25 notification form used to inform off-site government
 26 agencies of the emergency at 08:48 central standard time
 27 and notifications began at 08:57, and Mr. Hairston's

1 question is what happened between 8:48 and 8:57? What --
2 does the word "began" mean? Is that where he picked up
3 the ENW and found out it was disabled or is that --

4 Bockhold: That's the time that the South Carolina communicator
5 logged the receipt of an incoming message from Plant
6 Vogtle.

7 Intervenor Version

8 Hairston: So we didn't have no,
9 didn't have no trips?

10 Shipman: No, not, not . . .

11 McCoy: Let me explain. I'll testify to that.

12 Shipman: Disavow. What else do we have, Jack?

13 McCoy: I have Pat, ah, comments.

14 Hairston: Yes, he's read it.

15 Stringfellow: [Inaudible] 08:57 CST.

16 Shipman: Oh, yeah. Okay. The other problem we got that we got to
17 wrestle with is the time of the -- when the notification
18 began. We say the emergency director signed the
19 notification form used to inform off-site government
20 agencies of the emergency at 08:48 central standard time
21 and notifications began at 08:57, and Mr. Hairston's
22 question is what happened between 8:48 and 8:57? What --
23 does the word "began" mean? Is that where he picked up
24 the ENW and found out it was disabled or is that --

25 Bockhold: That's the time that the South Carolina communicator
26 logged the receipt of an incoming message from Plant
27 Vogtle.

1 [End Disputed Portion of Tape]

2 [Background Conversation Going On At Same Time Mr.
3 Hairston Is Speaking.]

4 Hairston: All right, let me tell you -- why I asked the question?
5 You know, what -- you have a picture in your mind of the
6 shift clerk trying to pick up the ENN, and its dead. Do
7 you know what I mean?

8 Bockhold: Yeah.

9 Hairston: And then she, or whoever made the decision to start with
10 the backup [inaudible]. Now, so, the way it looks, if we
11 can say that you signed the form and then a minute later
12 or for several minutes an attempt was made to make a
13 notification. That the ENN was noted to be without power
14 at 8:57, or whenever it was, South Carolina was notified
15 or initiated at 8:57 on the backup ENN, it just reads
16 better. You know what I mean? It looks like --

17 Bockhold: That's fine. That's what happened. Yeah, you know --

18 Hairston: Well, you and Bill draft up some words to that effect
19 right in there, because that fills in some blanks. It
20 looks good up to you signing the form, and then there's
21 like 15 minutes.

22 Bockhold: Actually, it's John Hopkins who signed the form because--

23 Hairston: Hopkins? But then it looks like just nothing went on,
24 and you know something went on.

25 Bockhold: Well, she tried to get people and then she couldn't get
26 people, so then went over to the backup ENN and started
27 a roll call, but the roll call really wasn't complete

1 Because the South Carolina people, the first time they
2 logged it on their log was, you know, 57, and a couple of
3 people logged that consistently as the time -- that,
4 that's the time that the critique team went ahead and
5 decided was probably the most reliable time that the
6 message was starting to come out.

7 Shipman: Okay. George, do you have a copy of -- John -- anybody,
8 a copy of the LER there?

9 Aufdenkampe: I have a copy of the LER here.

10 Shipman: [Noise.] Hello. Why don't you give it to George and
11 let's word engineer this phrase to take care of the
12 concern that Mr. Hairston had.

13 Bockhold: Let's do it right now and simply say that -- add a
14 sentence that says the, the shift clerk went to the
15 primary ENN, and it had lost power; had to go to the
16 back-up ENN, conduct a roll call before the initial
17 message was started at [inaudible] 9:57.

18 [Pause.]

19 Bockhold: Did you get that Bill?

20 Shipman: Yes. I'm trying to write so I can read it back.

21 [Pause.]

22 Aufdenkampe: How do we think we're doing on this critique? Did we do
23 a lot of things wrong?

24 Webb: Well, we really haven't said we've done anything.

25 Shipman: Okay. Now, let me -- I got everything but the last
26 phrase. I wanna read it to you. "The shift clerk went
27 into the primary ENN and found it had lost power. The

1 shift clerk then went to the backup ENN and initiated
2 notification," and I need the last phrase to that.

3 Bockhold: Initiated notification after roll call.

4 Shipman: After roll call . . .

5 Bockhold: At whatever time. You use an Eastern time in there, so
6 it would be 9:57.

7 Shipman: Okay.

8 Aufdenkampe: The LER had Central time in it.

9 Shipman: So we got 8:57 Central Standard Time. Okay. I think --
10 that may not be the exact phrasing that comes out, but
11 that's the data you think we need to put in there and
12 we'll get that data, that sense in there for sure. Okay.
13 Anything else, Jack? Anything else that I need to get
14 Mr. Bockhold --

15 Stringfellow: Okay. We got the thing about, we got the thing about
16 what the operator saw when he got in there.

17 Shipman: -- the diesel starts. We got the time . . .

18 Stringfellow: We got the 08:57, we got that straightened out. I can't
19 think of anything else.

20 Shipman: George, I don't think we have anything else at this red
21 hot minute.

22 Aufdenkampe: Hey, Bill.

23 Shipman: Yeah.

24 Aufdenkampe: This is John. Are these all the changes that we're going
25 to make, because I don't think there's anything
26 substantial that needs a PRB.

27 Shipman: I won't make that guarantee, John.

1 Aufdenkampe: Okay. So I need to keep somebody on standby to do that.

2 Shipman: Yes, sir. You sure do.

3 Aufdenkampe: Okay, I'll have whoever is going to be on standby give
4 Jack a call in case, you know, this drag on till 7:00 or
5 8:00 at night or something like that.

6 Shipman: But it's not going to drag on that long.

7 McCoy: We'll be done with it in about 30 minutes with the
8 changes, and we'll call you back and let you know and you
9 can make a judgment on whether you have to go back to the
10 PRB.

11 Aufdenkampe: Okay. That's fine.

12 Bockhold: Hey, Bill?

13 Shipman: Yes, sir.

14 Bockhold: You know my afternoon plans, so I need to run.

15 Shipman: All right. Well, John, Al, could one of you give us just
16 a 30 second update on where we are with the test?

17 Bockhold: I spoke to the control room, and they were about to close
18 the breaker, and so the test was proceeding.

19 Mosbaugh: I think that's been done at 1800 RPMs and they had gotten
20 the negative sequence. They were exciting, using the
21 temporary excitation equipment and they had gotten up to
22 like -- I think it was like two-and-a-half negative
23 sequence, and everything was going fine.

24 McCoy: Have we seen any --

25 Mosbaugh: No anomalies?

26 McCoy: No anomalies yet?

1 Mosbaugh: No anomalies, and they're going to do a little more
2 excitation, and then they take the machine up to a higher
3 RPM.
4 Shipman: Okay. Thanks, Allen.
5 Aufdenkampe: Okay. Jack, you're going to call me?
6 Shipman: Yeah. Okay. Bye, folks.
7 Voice: Bye.
8 Shipman: Goodbye, George.
9 [Pause]
10 [Marginalia: "Performance Report"]
11 Voice: It sounds like he's [inaudible].
12 Voice: [Inaudible.]
13 Minyard: [Inaudible], it will be lost forever.
14 Mosbaugh: Why?
15 Minyard: Stephanie will not go to the airport and pick it up. It
16 will sit there forever.
17 Voice: [Inaudible.]
18 Aufdenkampe: Why don't we just fax it up to her?
19 Minyard: If you'd like us to modem it and fax the cover sheet.
20 Voice: [Inaudible.]
21 Minyard: If I modem her just [inaudible] letter, sure.
22 Aufdenkampe: You know, we can -- she can start working on it.
23 Whatever she has to do with it, we can fax it up to her.
24 Voice: [Inaudible]
25 Williams: There's a cover letter on it.
26 Aufdenkampe: What day does she have to send it out?
27 Minyard: It's supposed to be at McCoy's tomorrow.

1 Williams: If we Delta Dash it out tomorrow morning after it's
2 signed, it will get there tomorrow afternoon. She can
3 put her letter on it and get it to [inaudible].

4 Minyard: Stephanie says she will not get it at the airport because
5 its our problem we can't get it out earlier.

6 Williams: [Inaudible] get all the information, and send it out
7 without all the information.

8 Aufdenkampe: Yes. What is this?

9 Williams: We can't get cents per kilowatt.

10 Minyard: They don't know how to calculate for kilowatt.

11 Williams: They don't know how to calculate for kilowatt for either
12 - one.

13 Aufdenkampe: Why, because its infinite?

14 Williams: Well, for the month of March.

15 Minyard: And they can't start -- they haven't decided how they're
16 going to account for the break in the cycles and where
17 the time in between cycles --

18 Aufdenkampe: Okay. Am I going to get in the [expletive] over this one
19 now, too?

20 Williams: Why?

21 Voice: I don't know. I just [inaudible.]

22 Voice: The more reason Stephanie won't go to the airport.

23 Voice: Hey.

24 Voice: Hey.

25 Aufdenkampe: Can you find a way home?

26 Burwinkle: Not thirteen minutes after everybody's left. I'll try.

27 Aufdenkampe: I'll be able to leave in a half-an-hour.

1 Burwinkle: Do you got some emergency going on?

2 Aufdenkampe: No. I just have to sit here for a half-an-hour as
3 punishment for crimes in a previous life, is really all
4 I can figure. Is that a good assessment, Allen?

5 Williams: Hey, he's getting off light. You're getting off light.

6 Mosbaugh: Where's the other control for the . . .

7 Aufdenkampe: How's that?

8 Burwinkle: Have you guys figured out how come the diesel starts when
9 it ain't supposed to?

10 Aufdenkampe: No. I'm trying to figure out how many times the diesel
11 started, but that's, that's irrelevant, too. It's just
12 that corporate's reviewing the LER on the Site Area
13 Emergency, and I got to tell them whether we need to take
14 it back through the PRB. And I've already determined,
15 regardless of what they change, it doesn't need to go
16 back to PRB, but I can't tell them that until after the
17 fact, and they're going to call me in a half-an-hour. I
18 told you its for crimes in a previous life. I would have
19 tried to call you, but I've been talking to some guy
20 named Bockhold and -- what's that guy's name? Hairston
21 and McCoy and Shipman for the last 35 minutes.

22 Burwinkle: All right.

23 Aufdenkampe: Sorry.

24 Burwinkle: I'll call you back, bye.

25 [Noise. Phone Rings.]

26 [Background Noise; Inaudible Voices.]

7 [JGA Listens To His Voice Mail.]

1 [Pause.]

2 Aufdenkampe: I'm trying to get through.

3 Williams: [Inaudible.]

4 [Aufdenkampe Calls His Home.]

5 Aufdenkampe: Hello. What are you guys doing? Is your Mom there?

6 I've not left yet. It will probably be a half-hour

7 before I can get out of here. Anything going on?

8 [Inaudible conversation. Mr Aufdenkampe speaks with his

9 daughter, Sarah.]

10 [Walking Sounds. Break in taping.]

11 Shipman: -- and that they should not be included because they were

12 part of the return to service of the diesel coming out of

13 the overhaul, and this count only included those starts

14 after we had calibrated all these sensors. John, you

15 heard George Bockhold's logic.

16 Mosbaugh: Yes, so, but what I'm is, let's say we had ten starts on

17 the machine between the 20th and the time we declared it

18 operable or completed our logic testing, you know, and

19 then interspersed in there on the -- maybe the third,

20 fifth and sixth starts --

21 Shipman: We would discount any failures.

22 Mosbaugh: -- were failures, you know, then I think what we're

23 saying is we would start counting at the ten point, if

24 that was an example.

25 Shipman: Right. We would discount those starts prior to when we

26 did that calibration.

1 Mosbaugh: So we want to start it after we completed the logic, the
2 logic test?

3 Shipman: The -- what I understood that George had done was started
4 after we completed the recalibration of all the
5 instrumentation. That's when we ought to have, you know,
6 as far as our instrumentation is concerned, that's when
7 we ought to have had valid set points and good
8 instruments. That's what we're trying to show, that the
9 unit starts -- when that's been done correctly, that the
10 unit starts reliably, starts and runs reliably. Does
11 that make sense, and can we get to that data?

12 Mosbaugh: We have the data. The question is, is what's that date
13 and time? [Laughing] What -- what, as soon as we get to
14 the point at which we want to start counting, we can get
15 the count pretty quick.

16 Aufdenkampe: Well, not pretty quick, but --

17 Shipman: How do we get to that point, Al?

18 Mosbaugh: Well, you know what? I can tell you that the thing we
19 did is we went in and, you know, we changed out a bunch
20 of switches, we went in and then did logic tests, we went
21 into the undervoltage tests, and then we finally ran the
22 surveillance on the machine, and at that point that we
23 completed the surveillance on the machine, we called the
24 machine operable. You know, . . . so the question again
25 comes back to at what point are we going to start
26 counting?

1 Shipman: Well, George said he started counting after we had
2 completed the instrumentation recalibration, okay? So
3 that's one point we can start counting, if we can define
4 that point. I can't define it. I don't, you know, I
5 don't know when that was. Somebody generated this set of
6 data that generated the numbers 18 and 19 to George on
7 that basis.

8 Aufdenkampe: That was Jimmy Paul Cash.

9 Mosbaugh: Jimmy Paul did. Let me go downstairs and talk to Jimmy
10 Paul and see --

11 Aufdenkampe: Okay. I'm trying to get Swartzwelder up here.

12 Mosbaugh: Swartzwelder? Okay.

13 Shipman: Okay. One other thing we could do, Al, you know, saying
14 we still continue to have problems with trying to define
15 this. We could back away from this completely, and
16 change this to say how many starts we've had since we
17 declared the diesel operable.

18 Mosbaugh: Yes, that --

19 Aufdenkampe: That would be more --

20 Mosbaugh: That's easy to define. We just go into OPS LCO's and
21 find out when they cleared the LCO and we'll know that
22 point real easy. That's an easy point to find. I think
23 the other point we'll have to find by talking to Jimmy
24 Paul Cash.

25 Shipman: The problem with that is that that number is going to be
26 significantly less, I think, than what George told
27 Mr. Ebnetter, and, you know, it's going to create a

1 selling job for me, I think, but -- if that's the only
2 way we can tell a valid story that, you know, we can
3 defend if somebody calls Allen Mosbaugh, Bill Shipman and
4 John Aufdenkampe to testify, that's the story I want to
5 tell.

6 Mosbaugh:

7 Well, I think -- you know, let me -- let me, let me try
8 some logic here. We have these two failures, and now
9 John says there are three failures. You know, we're kind
10 of saying, hey, those are not valid failures, you know,
11 because we were coming out of maintenance on the machine
12 and had yet to declare it operable. You know, that's how
13 and why we're discounting those failures.

14 Shipman:

15 So we had yet to, to, to determine that coming out of an
16 outage on the machine, we had to go and basically do a
17 complete set of recalibrations of the instruments. That
18 was the logic that George used, not that, not that we
19 were declaring it operable, because we obviously hadn't
20 declared it operable.

21 Mosbaugh:

22 Well, one of those failures was when we were doing the,
23 you know, an eight-hour loaded run. I would sure hope to
24 hell think that we had calibrated the instruments before
25 we did an eight-hour loaded run.

26 Shipman:

Well, not according to George. We hadn't recognized the
need to go back and redo all those things. Is that not
what he said John Aufdenkampe?

Aufdenkampe:

That's what I understood.

1 Mosbaugh: I'm just thinking from the standpoint of testing logic.
2 You know, you're going to do an eight-hour loaded run on
3 the machine, you know, obviously the component testing
4 ought to be done at that point.

5 Shipman: Well obv . . . , you know, on 1A obviously we thought we
6 had done everything we needed when we returned it to
7 service.

8 Aufdenkampe: It was operable.

9 Mosbaugh: Yeah. It was declared operable.

10 Shipman: We found out that we hadn't, and George is saying, oh,
11 oh, hey, gang, from the time we realized that 1A or 1B,
12 - we had to do a complete recalibration and make sure we
13 had our facts together on all the instruments, we had
14 many many starts. I'm trying to, I'm trying to defend
15 George and --

16 Aufdenkampe: Well, you know, the bottom line is on the B diesel, we
17 had done major maintenance on it. We were in the process
18 of testing to, making sure it was working right. During
19 that testing process, we had it fail apparently three
20 times. Once we got all the bugs worked out of it --
21 since the point we got all the bugs worked out of it that
22 we've had -- we had -- and I'm kind of guessing, but uh,
23 27 starts, because I don't know where the three failures
24 are in the sequence of 27 starts, but we had X number of
25 starts. And George's argument to that is, after we got
26 all the bugs worked out, we had 18 starts.

1 Shipman: What he's trying to do is he's trying to show by data
2 that once you get the bugs worked out, like you say,
3 John, the diesel works fine.

4 Aufdenkampe: That's right. And that's regardless of the point of
5 declaration of operability or not.

6 Shipman: Fine. Right.

7 Aufdenkampe: You know, I think what we discussed on how to handle
8 those, the number of actual diesel starts, how we
9 discussed that before, I think we ought to just leave it
10 at that.

11 Shipman: Just say at least 18 times each, huh?

12 Aufdenkampe: Yeah.

13 Shipman: Okay.

14 Aufdenkampe: I mean, that, that, that -- somebody has gone and
15 validated that data, and that's what George presented.
16 The data that's been offered to us does not bring into
17 question that data.

18 Shipman: Okay.

19 Aufdenkampe: It tends to support that data. Would you take exception
20 to that Allen?

21 Shipman: We're going to go with that. Jack Stringfellow's just
22 grinning from ear to ear.

23 Aufdenkampe: The only issue is, we can't let people be misled, to
24 think that there were not failures until we started doing
25 that count.

26 Shipman: And we say that -- we say "After the 3-20-90 event, that
27 the control system with both engines have been subjected

1 to the comprehensive test program. Subsequent to this
2 test program, diesel generator 1A and 1B have been
3 started at least 18 times each, and no failures or
4 problems have occurred during any of these starts."

5 Mosbaugh:

6 When you read it that way to me, Bill, when you talk
7 about the comprehensive test program, you know, I kind of
8 set the philosophy for that down here, is that we would
9 have a test program to, you know, determine root cause
10 and restore operability, and, uh, you know, that kind of
11 sounds like what I talked about down here on our diesel
12 test program, and it sounds like that is kind of
13 establishing the starting point, you know, at least at
14 the point in time after which we did the UV testing.

15 Shipman:

16 Let me add one more additional fact in here that I think
17 will help us as we struggle with this to make sure we're
18 not trying to mislead somebody, at least the people we
19 most want not to mislead, and that's the Region II folks
20 and IIT team. Since we started discussing this issue,
21 some half hour ago or hour ago, whenever it was. Pat,
22 since we had an issue with this, not Pat, but Ken [McCoy]
23 went and called Ken Brockman --

24 Voice:

25 Yeah.

26 Shipman:

-- and talked to him about, you know, the numbers and
what the basis of the number was as George Bockhold
described it, and asked Ken if he understood that, you
know, and if they had understood that in Atlanta on that

1 basis, and Ken said, "Yes, absolutely we did, and also
2 the IIT team understands that."
3 Aufdenkampe: There's no question, I think, that the IIT team
4 understands that.
5 Shipman: Which is the basis, as well. So from that sense, you
6 know, the people we're trying to tell understand the
7 basis for the number George presented, and we really
8 aren't changing George's number.
9 Aufdenkampe: Jim Swartzwelder just walked in, too. He's going to help
10 shed light on various things.
11 Shipman: Various things.
12 -Aufdenkampe: Because I'm not sure I can answer --
13 Swartzwelder: Other things he doesn't want to shed any light on.
14 Shipman: Things he doesn't want to be quoted on, right?
15 Aufdenkampe: Other things that I'm in the dark --
16 Swartzwelder: That's correct.
17 Aufdenkampe: That I'm in the dark on.
18 Voice: [Inaudible]
19 Voice: And I would never hear.
20 Shipman: Well, I don't know if --
21 Aufdenkampe: I want to go over Pat McDonald's comments with him.
22 Shipman: Okay.
23 Aufdenkampe: Well --
24 Shipman: You want to run back through them?
25 Aufdenkampe: Yeah. Let's just start at the beginning and -- because
26 you can go ahead and read him what you, how you rewrote
27 what the operator said.

1 Shipman: Okay. Well, let me start at the beginning with Pat's
2 comments --

3 Mosbaugh: Do you have it?

4 Shipman: -- and the first one on the abstract --

5 Voice: Not to look at.

6 Shipman: -- Jim, is very straightforward. Pat --

7 Voice: Try to look at my copy.

8 Shipman: -- picked up the fact that we called it the core instead
9 of the RCS. We got that corrected, John agreed that
10 we're really talking about the RCS.

11 Voice: Yes. That comment was discussed in there.

12 Swartzwelder: Well, we discussed it with respect to the analysis of the
13 event.

14 Voice: Yeah. We fixed it there.

15 Voice: Yes.

16 Voice: Well, we didn't fix it here.

17 Swartzwelder: Okay. That's good. Yeah, that's good.

18 Aufdenkampe: Tell him we'll give him an 'at-a-boy for that. Tell Pat
19 we'll give him an 'at-a-boy for that one.

20 Shipman: That's what I told George a while ago. That's what we
21 keep him around here for. The second place, Jim, that
22 Pat had a comment was on Description of Event, fourth
23 from the last paragraph, and I think this is one that we
24 didn't settle on a while ago, John, that we have to do
25 something with. The statement reads like this, and it's
26 really the last paragraph before this, and this one, too,
27 I think: "The only alarms noted by the control room

1 operator assigned to diesel generator operation were lube
2 oil pressure sensor malfunctioning, fuel oil level
3 high/low alarm." Pat's concern is we open an issue
4 there, and nowhere in the LER do we ever close it by
5 saying these were invalid alarms, they were sensor
6 failures, they were normal for the condition, you know.

7 Swartzwelder: Where is that from? Bill, what paragraph are you in?

8 Shipman: I'm in the fourth from the last, the bottom of the fourth
9 from the last paragraph under Description of Events.
10 There is also a question at the bottom of the third
11 paragraph from the last one, the third paragraph from the
12 last.

13 Swartzwelder: Wait a minute. I think I see where you are now. Hold
14 on.

15 [Pause.]

16 Swartzwelder: Okay. And the concern is we never closed that up
17 anywhere? Is that what the --

18 Shipman: Right. We just, we just, you know, opened up something
19 the guy saw, and we never say whether it was valid,
20 invalid, or important, not important, you know. It's
21 just left hanging.

22 Swartzwelder: You're right.

23 Shipman: No corrective actions dealing with it you know.

24 [Rustling Noise; Break In Taping.]

25 Shipman: . . . 20-90 event [Reading] "the control system to both
26 diesels have been subjected to a comprehensive test
7 program," period. "Subsequent to this test program,

1 Diesel Generator 1A and Diesel Generator 1B have been
2 started at least 18 times each, and no failures or
3 problems have occurred with any of these starts," period.
4 John can walk you through all of the discussion. I just
5 don't think I want to go through it all again.

6 Aufdenkampe: Well, why not, Bill?

7 Shipman: I've been around that tree so many times today.

8 Aufdenkampe: All right. It's getting soggy around there.

9 Shipman: It sure is.

10 Aufdenkampe: Okay.

11 Shipman: Okay, fellows. I appreciate you all's helping. Hang
12 with us on this. I think I said earlier that the thing
13 has such a political impact that Ken and Pat and George
14 all wanted to fine-tune it for technical as well as
15 political implications.

16 Swartzwelder: Yes. It reads somewhat like we might be sending a direct
17 copy to the Governor.

18 Shipman: Well, and probably to the Secretary of Energy and --

19 Swartzwelder: I understand.

20 Shipman: -- a few other people.

21 Aufdenkampe: Yeah. I got a call from some guy named Bush that lives
22 in the White House. He wanted me to fax him a copy.

23 Shipman: I never told you all this, but the day of the incident,
24 and five different times since then, I've gotten a call
25 from a fellow named Dick Olde, who works for a guy who
26 works for the Secretary of Energy Watkins.

27 Swartzwelder: Is that right?

1 Shipman: Yes, and he was just enraged by the press that we got.
2 I mean, he just was literally livid that they were
3 reporting it the way they were.

4 Aufdenkampe: Bill, unless you tell me different, I'm going to let my
5 PRB people go home.

6 Shipman: They are. You've heard all the changes we were going to
7 make, unless you feel like we need to review them, I
8 certainly don't.

9 Aufdenkampe: No. No.

10 Shipman: We will get this printed up and signed out of here and
11 we'll telex you a copy down.

12 Aufdenkampe: Okay. Thanks a lot.

13 Shipman: Thank you. Jim, let me just . . . why don't you just
14 hang on, and I'll let you talk to Ken.

15 Swartzwelder: I'll walk downstairs and call him.

16 Shipman: Okay.

17 Swartzwelder: All right. Bye-bye.

18 Voice: I get four. This is unclear.

19 Voice: [Inaudible]

20 Swartzwelder: I don't have the faintest idea.

21 Voice: This is a no smoking room.

22 Voice: Oh, good.

23 Voice: I'll agree to anything. Sure. Sure.

24 [Concurrent Laughter.]

25 Mosbaugh: Jim, Jim, Jim.

26 Voice: No. Don't tell me.

7 Swartzwelder: I tripped the diesel myself --

1 Voice: No. Don't tell me about the fact that the company policy
2 has now been changed.

3 Mosbaugh: No, I'm not talking about smoking at all. Jimmy Paul
4 supposedly counted these starts for George, and then he
5 provided the information that George took to the
6 presentation in Atlanta. Do you know how he counted them
7 or where he started?

8 Swartzwelder: No, but he's still here.

9 Mosbaugh: Okay.

10 Swartzwelder: Cathy was to . . . whenever I got here, he was still
11 here. [Inaudible.]

12 Mosbaugh: I'll try to get him.

13 Swartzwelder: 67 is his beeper.

14 Aufdenkampe: [Talking On The Phone.] I'm leaving now. Okay, bye.

15 Voice: [Inaudible.]

16 Mosbaugh: I can't find enough starts so far.

17 Aufdenkampe: Can you find 18?

18 Mosbaugh: No. Not even close . . .

19 Aufdenkampe: Odom got this.

20 Mosbaugh: I'm not sure when he started.

21 Aufdenkampe: He started March 20th.

22 Mosbaugh: Oh, sure, sure, if you start March 20th. But, their
23 words say it completed a comprehensive test program.

24 Aufdenkampe: George said the comprehensive test program ended after
25 the third trip.

26 Mosbaugh: Well, that's bull [expletive]. The undervoltage testing
27 and all that is all part of the comprehensive --

- 1 certainly the undervoltage testing is part of the
2 comprehensive test program, right?
- 3 Aufdenkampe: On Unit 2? On Unit B?
- 4 Mosbaugh: On the B unit, the undervoltage testing is certainly part
5 of the comprehensive test program.
- 6 Aufdenkampe: I don't know, Allen.
- 7 Mosbaugh: Well, [expletive], it was part of the test program that
8 we put in writing in the little schedule we gave to the
9 IIT.
- 10 Aufdenkampe: I personally don't think it matters whether we put in 18
11 or 40.
- 12 Mosbaugh: I think it personally matters a [expletive] of a lot
13 because you can't put false information in written
14 correspondence to the NRC.
- 15 Aufdenkampe: Well, in the -- well, I agree with that one. The reason
16 I don't think it matters is because, regardless of how we
17 put it in there, when they come and ask us questions
18 about it, we'll tell them this is what our basis for it
19 was. This is why we get 18. If they interpret it
20 differently, we're sorry. We'll send a rev out. You,
21 you don't agree with me on that.
- 22 Mosbaugh: I'm having trouble counting starts. I can't find very
23 many starts.
- 24 Aufdenkampe: And I'm not talking wrong or right, [inaudible] I'm just
25 talking practical. The practical side of it is that
26 that's what will happen.
- 27 Mosbaugh: I can't find enough starts.

1 Aufdenkampe: Its just like, you know.

2 Mosbaugh: I'm really having trouble finding starts, and maybe they
3 are not all logged here because --

4 [Marginalia: "Tom Webb & Odom was working on a list of starts."]

5 Aufdenkampe: They are all logged there.

6 Mosbaugh: They are all logged? There's Jimmy.

7 Cash: [Inaudible.] I went through the log book page by page.

8 Mosbaugh: When did you start? Where did you start at?

9 Cash: When did I start what?

10 Mosbaugh: You've got the information --

11 Aufdenkampe: You told George about the failures, right? You gave him
12 failures as well as valid starts.

13 Cash: I gave him every one that we -- every start that we have
14 done.

15 Aufdenkampe: You took one, it started, it failed. Two, it started and
16 passed. Three, it started and failed. Four, started and
17 passed. Is that how you gave it to him, or did you just
18 give him totals.

19 Cash: Totals.

20 Aufdenkampe: You told him there were 20 valid starts. Are there 20
21 starts, three failures?

22 Cash: I'm not sure if I found the failures or not.

23 Aufdenkampe: George was aware of the failures is what he told Shipman
24 on the phone.

25 Mosbaugh: The information George presented when he was in Atlanta--

26 Cash: Right.

27 Mosbaugh: -- okay, --

1 Cash: Right.

2 Mosbaugh: -- you got some information together for him.

3 Cash: Right.

4 Mosbaugh: When did you start counting and what did you count?

5 Cash: 3-20.

6 Mosbaugh: You started on 3-20?

7 Cash: Right. For 1A diesel, the total numbers included, the

8 three maintenance starts that we did the night of 3-20.

9 Mosbaugh: Okay.

10 Cash: Out of service, I can't count.

11 Mosbaugh: Okay. And for the B machine --

12 Cash: Everything -- well, it was out of service then.

13 Mosbaugh: Again, every start from the very beginning?

14 Cash: Right. [Inaudible]

15 Mosbaugh: Okay.

16 Aufdenkampe: So, you know.

17 Mosbaugh: And so as of that date and for that presentation, then,

18 those were the --

19 Cash: But not as of the date now.

20 Mosbaugh: Yeah. Those were the 18 and 19 as of the date that

21 George presented it.

22 Cash: Right.

23 Mosbaugh: Okay. Some of those starts resulted in a failure.

24 Aufdenkampe: You didn't count the failure, though.

25 Cash: Uh-uh.

26 Aufdenkampe: The bottom line, Allen, is what we wrote in this LER just

27 now, the comprehensive, the comprehensive test program is

1 not defined, but basically you have to assume that if
2 George, and George told Shipman that it started after the
3 third failure. Now, if you disagree with that --

4 Cash: The third failure?

5 Voice: The third failure?

6 Aufdenkampe: The third failure.

7 Mosbaugh: I'm not agreeing or disagreeing with anyone. I'm just
8 trying to find out what's been done. It's . . .

9 Aufdenkampe: Well, that's where the numbers, that's where the numbers
10 come from.

11 Cash: . . . failures . . .

12 Mosbaugh: It sounds like Jimmy counted everything starting from the
13 20th.

14 Aufdenkampe: That's what Odom did.

15 Mosbaugh: Okay.

16 Cash: You guys come up with different numbers or something?

17 Mosbaugh: No. Odom counted up to present, and you counted up to
18 the --

19 Aufdenkampe: [Inaudible] because you counted up to present at the time
20 you did it.

21 Mosbaugh: Up to the 9th, or so, at the time you did it. But you --

22 Cash: What did Rick come up with?

23 Aufdenkampe: Twenty-seven and 38, or something like that.

24 Cash: We've been running the hell out of those diesels.

25 Mosbaugh: Oh, yeah.

26 Voice: Okay.

1 Cash: We're going to run them into the dirt is what we're going
2 to do. [Laughing.]

3 Voice: [Inaudible.]

4 Aufdenkampe: Where do you want to go with this Allen?

5 Mosbaugh: There's no place to go with it. We have already --
6 Hairston has already submitted a letter stating the same
7 thing the LER states. Right?

8 Aufdenkampe: Yeah.

9 Mosbaugh: All we did is state the same thing in this LER that
10 Hairston already stated in the letter.

11 Aufdenkampe: And George has an argument on why that's correct.

12 Mosbaugh: And that's the same thing that George presented at the
13 meeting.

14 Aufdenkampe: George has an argument on why that is correct, and Ken
15 McCoy called and said, you know, called Brockman, and
16 Brockman understood what that meant.

17 Voice: Do you want them?

18 [Pause.]

19 Aufdenkampe: Do you need anything from me before I leave?

20 Voice: [Inaudible.]

21 Mosbaugh: No.

22 Aufdenkampe: Do you want to buy another bunch of bingo tickets?

23 Mosbaugh: I don't know how many I bought.
24 [Laughter.]

25 Mosbaugh: One? That's probably enough, isn't it? Enough to win,
26 right? Is that enough to win?

27 Aufdenkampe: I imagine that's really enough to win.

1 Mosbaugh: Okay.

2 [Break In Taping.]

3 Voice: [Inaudible] right now?

4 Voice: [Inaudible.]

5 Voice: Oh, okay.

6 Swartzwelder: Yeah. It is Saturday night and I'll even reconfirm that,
7 if they want me to.

8 Voice: No, that's okay.

9 Swartzwelder: All right.

10 Voice: Okay. Bye.

11 Swartzwelder: Bye-bye.

12 Mosbaugh: Not more INPO.

13 Swartzwelder: No. He just was wondering when [inaudible].

14 Voice: Same old . . .

15 Mosbaugh: How's the turbine test going? Have any idea?

16 Swartzwelder: Yes, they were -- when I came [inaudible], I was down in
17 [inaudible] and John's office. They were on their way to
18 100 RPM from 1800.

19 Mosbaugh: They did the 1800 test, and they excited, and they did a
20 couple percent of negative sequence, and had all of the
21 data is what I heard.

22 Swartzwelder: Yeah. I think the bulk of the testing actually -- the
23 testing -- I think they were just doing minor testing at
24 1800. The bulk of the testing is the ramp up with a max
25 negative.

1 Mosbaugh: Yeah. They had gone to like one -- two-and-a-half
2 percent negative sequence current, or something like
3 that, at 1800.

4 Swartzwelder: I thought they went to 5%.

5 Mosbaugh: Yeah. Well, when I talked to them last, they had done
6 two-and-a-half percent, and then I guess they were
7 ramping that up to like five percent, and then what do we
8 do? Then we come back to 100 and do five percent all the
9 way up, or something like that?

10 Swartzwelder: I'm not sure five percent is --

11 Mosbaugh: Or whatever the max is.

12 Swartzwelder: As specified by maximum, you know, excitation.

13 Voice: Okay.

14 Swartzwelder: And then you come up to like 1925.

15 Voice: [Inaudible.]

16 Mosbaugh: Then they go to 1950 or 1925 or something.

17 Swartzwelder: Right. And then they start the 1900 to 1700 to 1900 to
18 1700 to 1900, and then they give up. [Inaudible] look at
19 with that excitation.

20 Mosbaugh: Yeah. Okay.

21 Swartzwelder: And then we go [inaudible].

22 Mosbaugh: Good. Anything else?

23 Swartzwelder: It's really going to be 12 hours?

24 Mosbaugh: I don't know. Horton didn't think it would. Horton
25 thought they would --

26 Swartzwelder: I don't think they will, either.

1 Mosbaugh: Horton thought they'd get done quicker that way. If
2 they're into it, and now it looks like they're into it,
3 and, you know, most of the problems we had were just
4 problems with running this turbine. No, these weren't
5 really test problems; these were problems that we would
6 experience tomorrow when we tried to do the turbine if we
7 hadn't done the test.

8 Swartzwelder: Yeah. I think those [inaudible] minor incident is that
9 first [inaudible]. That was all --

10 Mosbaugh: The neutral over-current was what was, I think, a test
11 condition issue, but Kerstiens figured that out in a
12 heartbeat.

13 Swartzwelder: But, otherwise, I think the vast majority [inaudible].

14 Mosbaugh: Oh, yes. Obviously the pump problems and the valve
15 problems, and the, those types of things.

16 Swartzwelder: The other one, I think, is one of the load. I could not
17 see any progress on those. [Inaudible.] We are working
18 on [inaudible].

19 Mosbaugh: Those are the same. Same status. Have we done anything
20 more with the gag?

21 Voice: No.

22 Mosbaugh: Okay.

23 Swartzwelder: [Inaudible] I'm just going to leave it in until 70
24 percent.

25 Mosbaugh: That's about all I had. I'm going to call the boys in
26 Birmingham, and I'm going to leave.

27 Swartzwelder: Who do you call, Paul?

1 Mosbaugh: Yes. It's been Shipman, but now -- now its back to Paul.
2 The start. We don't know any more about the start?
3 Swartzwelder: Diesel start?
4 Mosbaugh: Yeah.
5 Voice: Well --
6 Mosbaugh: Oh, I have that.
7 Voice: You do?
8 Mosbaugh: I already have that.
9 Swartzwelder: You're not copied?
10 Mosbaugh: What?
11 Swartzwelder: You're not a copy?
12 Mosbaugh: Right there. Nobody is copied.
13 Swartzwelder: I know.
14 Mosbaugh: That's why we make thousands of them. [Laughter.]
15 Mosbaugh: It doesn't say anything [inaudible].
16 Swartzwelder: All we really have determined is that its a test circuit
17 problem that will not impact performance, which is the
18 only thing I asked him to do [inaudible].
19 [Pause.]
20 Mosbaugh: Great.
21 Voice: [Inaudible] the only thing that deals with it.
22 Voice: [Inaudible.]
23 Voice: Do you [inaudible].
24 Voice: [Inaudible] negative phases such as grounding, and what
25 they're attempting to [inaudible].
26 Mosbaugh: They're testing to determine any degree of resonance that
27 we might have in the turbine due to our machine's

1 configuration, and so they are exciting the system with
2 this negative sequence baloney, and then they're going to
3 diinnng the system with the out-of-phase
4 synchronization, okay? Basically what they're doing is
5 you got the big machine up there, and they're worried
6 about these last stage, end-bucket stress problems, okay?
7 What they're doing is they're essentially shaking the
8 machine electrically by negative phase sequence currents.
9 That's a steady-state test, okay? And then the out-of-
10 phase synchronization is a dynamic ringing type test
11 where, you know -- you think of something mechanical and
12 you're wondering if it's got some resonant vibration.
13 Well, you can put a shaker on it and shake it at
14 different frequencies, you know, and different magnitudes
15 and see if you have a response, or you can whack it with
16 a hammer and see what kind of ringing frequencies, you
17 know, you get out of it. That's basically what they're
18 doing. And then they're checking a series of frequency
19 range by varying the RPM of the machine, you know, over
20 certain ranges. So basically this is a vibrational test
21 using electrically-induced stimuli. Okay? They're
22 testing for mechanical vibrations by inducing the
23 vibration electrically, and that's all they're doing.
24 Then they determine what the resonant ranges are, and if
25 we have resonant ranges and if we do, then General
26 Electric has various recommendations for detuning.

1 Swartzwelder: Now, I would assume, my guess is if the resonant range we
2 find is sufficiently away from normal operating speed,
3 nothing will have to be done.

4 Mosbaugh: If it's more than two, plus or minus two hertz from 60,
5 then there's nothing, okay? If it's like greater than
6 one, plus or minus one, but less than two hertz, then
7 there's monitoring, and if it's less than one, then
8 there's physical changes, they'll recommend. That's kind
9 of the guideline.

10

11

****END TAPE NO. 58, SIDE A -- SIDE B NOT RECORDED****

12

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)
ALLEN MOSBAUGH,)
Complainant,) CASE NOS. 91-ERA-1
v.) and
GEORGIA POWER COMPANY,) 91-ERA-11
Respondent.)

AFFIDAVIT OF JAMES E. JOINER

Personally appeared before the undersigned officer, duly authorized to administer oaths, JAMES E. JOINER, who after having been duly sworn, states and deposes as follows:

1.

I am James E. Joiner, I am over the age of majority and fully competent to give this Affidavit. The facts set forth in this Affidavit are based on my personal knowledge, and I would be competent to testify to these matters in court.

2.

I am a partner in the law firm of Troutman Sanders LLP. At all relevant times, Troutman Sanders represented Georgia Power Company in the above-styled case.

3.

During the deposition of Mr. Allen Mosbaugh on September 11, 1990 in Case No. 90-ERA-58, Georgia Power learned for the first time that Mr. Mosbaugh had been surreptitiously tape recording conversations among Georgia Power employees. On that same day,

Georgia Power filed a Motion to Compel seeking production of the tapes.

4.

On September 12, 1990, Judge Gilday issued an Order compelling production of the tapes. On that same day, Mr. Mosbaugh offered the tapes to the Nuclear Regulatory Commission ("NRC"). In response, on September 13, 1990, the NRC filed a Motion to Stay Discovery and, as a result, Judge Gilday ordered Mr. Mosbaugh to (1) deliver all of the tapes to the NRC, and (2) upon return of the tapes, produce them to Georgia Power within forty-eight hours.

5.

Over the course of defending the causes of action filed by Mr. Mosbaugh against Georgia Power, Georgia Power attempted to conduct discovery and repeatedly requested production of critical information, including the tapes. Instead of producing the information, Mr. Mosbaugh turned the information over to the NRC, thus blocking Georgia Power's access to the information.

6.

On February 25, 1991, Deputy Administrative Judge John M. Vittone issued an Order of Consolidation which consolidated all of Mr. Mosbaugh's actions against Georgia Power. Following consolidation, Judge Robert Glennon informally stayed discovery pending motions for partial summary judgment. During this period, Georgia Power again requested discovery to obtain and review the tape recordings made by Mr. Mosbaugh, but Georgia Power's requests were denied.

7.

Subsequently, Georgia Power obtained 201 of the 277 tapes; the NRC withheld 76 tapes which they deemed most relevant. On January 13, 1992, Judge Glennon conducted a pretrial conference. At that pretrial conference, Georgia Power reminded Judge Glennon that 76 tapes were being withheld by the NRC and that production of the tapes was necessary to prepare Georgia Power's defenses.

8.

On January 29, 1992, Georgia Power wrote a letter to Judge Glennon again asking for production of the tapes. On January 31, 1992, Judge Glennon issued a notice stating that the trial would begin on March 10, 1992 despite the fact that Georgia Power did not have access to the 76 tapes being withheld by the NRC.

9.

At the beginning of the hearing, which was held from March 10, 1992 through March 13, 1992, Georgia Power renewed its objection to going forward without discovery of those tapes. Georgia Power's objection was denied.

10.

Tapes 42, 57, 58 and 253 were among the 76 tapes withheld by the NRC. These tapes contain detailed personal communications among Georgia Power employees concerning the events relating to LER 90-006. Without access to those tapes at the hearing, Georgia Power was not able to discern an adequate understanding of the events relating to LER 90-006.

11.

In its Post-Hearing Brief, Georgia Power restated its objections concerning the tapes and stated that proceeding without production of the 76 tapes withheld by the NRC prejudiced the right of Georgia Power to fully and fairly defend against Mr. Mosbaugh's actions.

12.

Prior to the DOL hearing, on July 22, 1991, Georgia Power submitted a Freedom of Information Act ("FOIA") request to the NRC requesting tapes recorded by Mr. Mosbaugh on April 19, 1990. On August 13, 1991, the NRC denied this request on the grounds of FOIA Exemption 7(A) which states: "Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of law enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators." See Exhibit 1.

13.

On October 21, 1991, Georgia Power submitted another FOIA request to the NRC requesting all records reflecting communications between the NRC and Mr. Mosbaugh or his attorney. On February 11, 1992, the NRC denied this request on the grounds of FOIA Exemption 7(A), except as to copies of memoranda and correspondence not relevant to this discussion. See Exhibit 2.

14.

On November 18, 1991, Georgia Power submitted another FOIA request to the NRC requesting a copy of the transcript of Mr. Mosbaugh's July 1990 interview with NRC-OI. On December 30, 1991, the NRC denied this request on the grounds of FOIA Exemption 7(A). On January 23, 1992, Georgia Power appealed that denial; the NRC denied the appeal on the grounds of FOIA Exemption 7(A), except as to the first 3 pages of the 255 page transcript. See Exhibit 3.

15.

Georgia Power submitted another FOIA request to the NRC on March 18, 1992 requesting all tapes provided to the NRC by Mr. Mosbaugh. On June 17, 1992, the NRC denied this request with respect to the 76 tapes referenced above on the grounds of FOIA Exemption 7(A). On July 15, 1992, Georgia Power appealed that denial; the NRC denied the appeal on September 10, 1992. See Exhibit 4.

16.

On May 3, 1993, during discovery in the Atomic Safety and Licensing Board ("ASLB") proceeding, Georgia Power sought production of the 76 tapes, as well as Mr. Mosbaugh's oral and written allegations provided to the NRC. The NRC objected to the discovery on several grounds, including that a number of the documents were the subject of an on-going investigation. However, the NRC did release about 30 tapes unrelated to the investigation. See NRC response attached as Exhibit 5.

17.

On August 9, 1993, Georgia Power moved to compel the NRC to produce the remaining 44 tapes and transcripts still being withheld, along with documents evidencing Mr. Mosbaugh's statements. On August 31, 1993, the ASLB denied Georgia Power's Motion to Compel for 75 days, ordering the NRC to produce the requested materials on November 8, 1993, unless it files a motion requesting a further extension of time. See ASLB Order attached as Exhibit 6.

18.

On October 27, 1993, the NRC filed a motion for further extension of time to March 15, 1994, to produce the requested documents. Georgia Power opposed this motion, and the ASLB ordered the NRC to produce the requested documents on December 18, 1993. See ASLB Order attached as Exhibit 7.

19.

Although Georgia Power was aware that Mr. Webb had prepared a list of diesel starts, Georgia Power did not locate the list until January 1995, when it was found among documents made available by the NRC for the first time in December 1994. See NRC December 2, 1994 supplemental discovery response attached as Exhibit 8.

20.

Even after Georgia Power obtained the Webb list, it could not fully appreciate Mr. Mosbaugh's activities in 1990, with respect to LER 90-006, unless it had an opportunity to cross-examine Mr. Mosbaugh. Therefore, on March 6, 1995, Georgia Power moved to

reopen Mr. Mosbaugh's deposition in order to question him about the Webb list. The ASLB denied this request on March 10, 1995. See ASLB Order attached as Exhibit 9.

21.

Georgia Power's first opportunity to question Mr. Mosbaugh about the Webb list was at the diesel generator hearing on May 22 and 23, 1995.

Further affiant sayeth not.

This 11th day of December, 1995.

James E. Joiner
James E. Joiner

Sworn and subscribed before me
this 11th day of December, 1995.

Jean D. Chandler
Notary Public

My commission expires:

February 18, 1997
(Notarial Seal)

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WRITER'S DIRECT DIAL NUMBER

404-658-8243

July 22, 1991

Mr. Donnie H. Grimsley
Director
Division of Freedom of Information
and Publication Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Freedom of Information Act Request

Dear Mr. Grimsley:

I hereby request, pursuant to the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and Nuclear Regulatory Commission ("NRC") regulations, 10 CFR Part 9, copies of all records (as that term is defined in 10 CFR § 9.13 including but not limited to magnetic tape, sound recordings, and transcriptions of such tapes and sound recordings) provided to the NRC and referred to in Part I (pages 4-7) of a July 8, 1991 Amendment to Petitioners Marvin Hobby's and Allen Mosbaugh's September 11, 1990 petition to the NRC (copy of first page attached). Such records pertain to April 19, 1990 telephone conversations between Georgia Power Company employees (including but not limited to Mr. W. George Hairston and Mr. Allen L. Mosbaugh). This request also includes any indexes prepared by or provided to the NRC which specifically relate to the July 8, 1991 Amendment referenced above and copies of any agreements or correspondence with, or other records respecting NRC's contact with, individuals providing such information.

The records referred to above may be in the care and custody, or may be located through, the following NRC personnel: Mr. Larry L. Robinson of the Office of Investigations Region II Field Office; Mr. Richard Hoefling of the NRC's Office of General Counsel - Enforcement; and Mr. David Matthews of the Office of Nuclear Reactor Regulation.

In the event that your response to this FOIA request denies any of the records requested, please identify each individual record denied in sufficient detail to permit me to appeal the

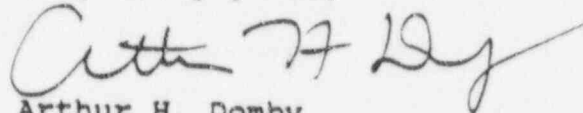
Mr. Donnie H. Grimsley
July 22, 1991
Page 2

denial with respect to any one or more individual records and, of course, provide the information required by 10 CFR § 9.27 with respect to each individual record denied. I note that the Amendment and Department of Labor filings in Case No. 91-ERA-11 disclose the identity of the petitioners as the source of the requested records and that disclosure of the requested records which consist of magnetic tapes, sound recordings, and transcripts of such records reflect historic statements whose disclosure cannot reasonably be expected to interfere with enforcement proceedings (e.g., capable of modification).

I am willing to pay the applicable charges for production of the requested records in accordance with 10 CFR Part 9 up to a maximum amount of \$1,000, and those charges in excess of \$1,000 of which I am notified, and which I approve in advance.

Thank you for your assistance in this matter. If you have any questions concerning this FOIA request, please feel free to contact me.

Very truly yours,



Arthur H. Domby

AHD:njf



re- July 1991 (140)

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER: **FOIA - 91-305**

RESPONSE TYPE: FINAL PARTIAL

DATE: **AUG 13 1991**

DOCKET NUMBER(S) (if applicable):

REQUESTER: **Arthur H. Dobby**

PART I.—AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

- No agency records subject to the request have been located.
 - No additional agency records subject to the request have been located.
 - Requested records are available through another public distribution program. See Comments section.
 - Agency records subject to the request that are identified in Appendix(es) _____ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
 - Agency records subject to the request that are identified in Appendix(es) _____ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
 - The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
 - Agency records subject to the request that are identified in Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.
 - Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
 - Agency records subject to the request are enclosed.
 - Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
- Fees
- You will be billed by the NRC for fees totaling \$ _____.
 - You will receive a refund from the NRC in the amount of \$ _____.
- In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No _____.

PART II. A—INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

You are not being assessed processing fees since the minimal fee limit has not been exceeded.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Donna H. Kennedy

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)

FOIA NUMBER(S):
FOIA — 91-305

DATE:
AUG 13 1991

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) A are being withheld in their entirety or in part under the Exemption No. (s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

- 1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
- 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
- 3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5) Applicable Privilege:
 - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
- 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
- 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
 - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
 - Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

PART II C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	G
Mr. Ben B. Hayes	Director, Office of Investigations	Appendix A	X		

PART II D — APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX A
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
		EXEMPTION 7 (A)
-----	Various	Office of Investigations, investigatory records - Entire File

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A BARRISTERS & SOLICITORS INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

27 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404-658-8000

CABLE MAESTRO

TELECOPIER 404-721-0488

JESSE P. SCHAUDIER, JR.

WRITER'S DIRECT DIAL NUMBER

404-658-8054

October 21, 1991

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-91-458

Rec'd 10-24-91

Mr. Donnie H. Grimsley, Director
Division of Freedom of Information
and Publications Services
Office of Administration
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Freedom Of Information Act Request

Dear Mr. Grimsley:

I hereby request, pursuant to the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and Nuclear Regulatory Commission ("NRC") regulations, 10 C.F.R. Part 9, copies of all "records" as defined in 10 C.F.R. § 9.13 which reflect communications related to the Vogtle Electric Generating Plant between the NRC and any one or more of the following:

- 1) Allen L. Mosbaugh, a former employee of Georgia Power Company ("GPC") at the Vogtle Electric Generating Plant;
- 2) Michael D. Kohn, Attorney for Mr. Mosbaugh;
- 3) The National Whistleblower Center; and
- 4) The law firm Kohn, Kohn & Colapinto or any partner or employee thereof.

I am only interested in those records which came into existence after January 1, 1990.

For your information, I understand that records subject to the foregoing request are or may be in the possession of Mr. Larry L. Robinson, NRC Office of Investigations ("OI"), Region II OI Field Office, Mr. Neil E. Jensen, NRC Office of the General Counsel ("OGC"), Mr. Charles E. Mullins, OGC, and Mr. Richard K. Hoefling, OGC. In particular, but without limiting the generality of the foregoing request, I request copies of those records (1) concerning potential testimony to be provided in

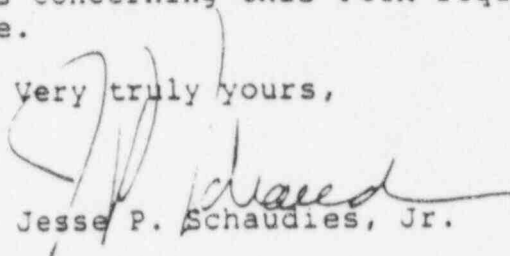
Mr. Donnie H. Grimsley
Page 2
October 21, 1991

Department of Labor cases Nos. 91-ERA-001 and 91-ERA-011, (2) made available to Michael Kohn of the National Whistleblower Center pursuant to FOIA-91-363 (requesting records pertaining to OI report 2-90-001 and records to or from GPC regarding tape recordings of, violations of, or potential violations of safeguards information); and (3) communications between NRC representatives and Mr. Kohn pertaining to June 3, 1991 correspondence between the NRC and the Georgia Power Company concerning operational activities on October 11-13, 1988.

I am willing to pay the applicable charges for production of the requested records in accordance with 10 C.F.R. Part 9 up to a maximum amount of \$1000.00 and those charges in excess of \$1000.00 of which I am notified, and which I approve, in advance.

If you have any questions concerning this FOIA request, please feel free to contact me.

Very truly yours,


Jesse P. Schaudies, Jr.

JPSJr./sm

**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S)

FOIA — 91-458

DATE

FEB 11 1992

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) F are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

- 1 The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
- 2 The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
- 3 The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- 4 The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
- 5 The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege
 - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work product privilege: Documents prepared by an attorney in contemplation of litigation.
 - Attorney-client privilege: (Confidential communications between an attorney and his/her client.)
- 6 The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
- X 7 The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
 - X Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
 - Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

PART II C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	G
Stewart D. Ebnetter	Regional Administrator, Reg. II	Appendix F	X		

PART II D — APPEAL RIGHTS

The denial by each denying official identified in Part II C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

Re: FOIA-91-458

APPENDIX D
DOCUMENTS ALREADY AVAILABLE IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	10/15/90	Note to Vogtle File from Dick Hoefling. (1 page) PDR Accession No. 9102280244
2.	12/12/90	Note to Vogtle File from Dick Hoefling. PDR Acc. No. 9102280237

Re: FOIA-91-458

APPENDIX E
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	7/10/91	Note to Vogtle File from Dick Hoefling. (1 page)
2.	8/29/91	Note to Vogtle File from Dick Hoefling, subject: Telecon with M. Kohn. (1 page)

Re: FOIA-91-458

APPENDIX F
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	Various	Records subject to the request maintained in the NRC Region II files relate to an ongoing investigation and are being withheld in their entirety pursuant to Exemption 7(A).

Note to Vogtle file (P 90-09)

July 10, 1991

I returned a phone call to Mike Kohn today at 1 p.m. He indicated that he had filed a supplement to the Hobby-Mosbaugh 2.206 Petition and had delivered copies to various people at the NRC. He called to alert the NRC that the supplement contains substantial new information regarding the allegation that Licensee personnel knowingly gave false testimony in a DOL proceeding (the Yunker/Fuchko proceeding). This issue was the subject of the Varga letter to DOL of December 21, 1990.

Mr. Kohn also indicated that a request made in the supplement was to the effect that the NRC initiate an investigation by OI into the discrimination allegations that were brought before DOL (apparently the Yunker/Fuchko proceeding). Mr. Kohn argued that a full investigation would determine that discrimination on the part of the Licensee took place. He further argued that his investigation and the litigation before DOL was necessarily incomplete due to his limited resources. He requested to be informed of the NRC's response to this request. I informed him that he would receive a letter acknowledging receipt of the supplement and indicating how the NRC will respond to it.

Richard Geertz
Richard Geertz

cc: J. Goldberg, OGC
D. Hood, NRR

E/1

August 29, 1991

Note to: Vogtle File (P 90-09)
From: Dick Hoefling
Subject: Telecon with M. Kohn

Completed a telecon with M. Kohn at 1:15 p.m. this day. He requested status of DOL issue. I informed him that the misrepresentation issue has been forwarded to DOL for their consideration. In the interim, the NRC will do no more. We will await DOL consideration of the matter but will ultimately address the issue in a 2.206 Decision.

Mr Kohn also inquired as to whether the upcoming enforcement conference re Vogtle dilution incident would be transcribed and whether Mr. Mossbaugh and his attorney could attend. I informed him that enforcement conferences are transcribed on a case-by-case basis and that neither Mr. Mossbaugh nor his attorney would be permitted to attend. He also inquired as to whether GPC had a copy of the OI Report. I informed him that the Reports are not normally provided to licensees at this stage. Usually, only the synopsis of the Report is provided.

I followed up with George Jenkins. He informed me that the enforcement conference would be transcribed and that the OI Report has not been released. I called back Mr. Kohn and informed him regarding these matters.

cc: J. Goldberg, OGC
H. McGurren, OGC
D. Hood, NRR
G. Jenkins, RII

E/2

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

404-658-8000

CABLE: MAESTRO

TELECOPIER: 404-221-0488

JOHN LAMBERSKI

WRITER'S DIRECT DIAL NUMBER

404-658-8442

November 18, 1991

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-91-576
Rec'd 11-21-91

Mr. Donnie H. Grimsley, Director
Division of Freedom of Information
and Publications Services
Office of Administration
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Freedom of Information Act Request

Dear Mr. Grimsley:

I hereby request, pursuant to the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and Nuclear Regulatory Commission ("NRC") regulations, 10 C.F.R. Part 9, a copy of the transcripts (totalling 255 pages) of the NRC's interview of Allen L. Mosbaugh at Augusta, Georgia on July 18 and 19, 1990.

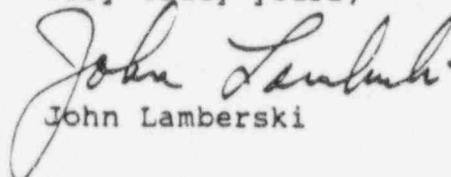
For your information, I understand that the subject transcripts are or may be in the possession of Mr. Larry L. Robinson, NRC Office of Investigations ("OI"), Region II OI Field Office, or the NRC Resident Inspectors at the Vogtle Electric Generating Plant.

In the event the NRC determines that portions of the subject transcripts are exempt from disclosure under FOIA, I specifically request redacted copies of the transcripts in which only the exempt information has been deleted.

I am willing to pay the applicable charges for production of the requested records.

If you have any questions concerning this FOIA request, please feel free to contact me.

Very truly yours,


John Lamberski

FOIA - 31-516

RESPONSE TYPE

FINAL PARTIAL

DATE DEC 30 1991

DOCKET NUMBER(S) (if applicable)



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

REQUESTER

John Lamberski

PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments section.

Agency records subject to the request that are identified in Appendix(es) _____ are already available for public inspection and copying at NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request that are identified in Appendix(es) _____ are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.

Agency records subject to the request that are identified in Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.

Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

Fees

You will be billed by the NRC for fees totaling \$ 13.80

You will receive a refund from the NRC in the amount of \$ _____

In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____

PART II. A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Thomas A. Chudley

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)**

FOIA NUMBER(S):

FOIA — 91-516

DATE:

DEC 30 1991

PART II. B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) A are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)

2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)

3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)

Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).

Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).

4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)

The information is considered to be confidential business (proprietary) information.

The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).

The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).

5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:

Deliberative Process. Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.

Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)

Attorney-client privilege. (Confidential communications between an attorney and his/her client.)

6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)

7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)

Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))

Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7(C))

The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))

OTHER

PART II. C — DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
Ben B. Hayes	Director, Office of Investigations	Appendix A	X		

PART II. D — APPEAL RIGHTS

The denial by each denying official identified in Part II. C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

Re: FOIA-91-516

APPENDIX A
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	Various	Records subject to the request maintained in the NRC Office of Investigations' files relate to ongoing investigations and are being withheld in their entirety pursuant to Exemption 7(A).

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

404-658-8000

CABLE: MAESTRO

TELECOPIER: 404-221-0488

JOHN LAMBERSKI

WRITER'S DIRECT DIAL NUMBER

404-658-8442

January 23, 1992

Mr. James M. Taylor
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington DC 20555

Re: Appeal from Initial FOIA Decision - FOIA 91-516

Dear Sir:

In accordance with 10 C.F.R. § 9.29, I hereby appeal the NRC's December 30, 1991 Response to FOIA Request No. 91-516. The December 30, 1992 Response (hereinafter the "Initial Decision"), a copy of which is enclosed as Attachment 1, denied FOIA 91-516, submitted on November 18, 1991 (copy also attached), in its entirety.

The Initial Decision stated that disclosure of the records requested in FOIA 91-516 was denied based on Exemption 7(A) for the reason that they relate "to ongoing investigations and are being withheld in their entirety pursuant to Exemption 7(A)." Initial Decision at p. 3, emphasis supplied. This stated reason cannot appropriately be applied to the records requested in FOIA 91-516, as legal requirements preclude such sweeping denial of disclosure.

The NRC is required to make available the non-exempt portions of the records requested in FOIA 91-516. See, 5 U.S.C.A. § 552(b) (Supp. 1991) ("Any reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.") In Mead Data Cent., Inc. v. United States Dept. Of Air Force, 566 F.2d 242 (D.C. Cir. 1977) the court stated: "It has long been a rule in this Circuit that non-exempt portions of a document must be disclosed unless they are inextricably intertwined with exempt portions." Id. at 260. Further the court said: "The burden which the FOIA specifically places on the Government to show that the information withheld is exempt from disclosure cannot be satisfied by the sweeping and conclusory citation of an exemption plus submission of disputed material for in camera inspection." Id. at 251.

Mr. James M. Taylor
January 23, 1992
Page 2

Finally, in finding a failure to adequately explain a similar claim of exemption (and provide an itemization and index of same) the Mead Data court stated:

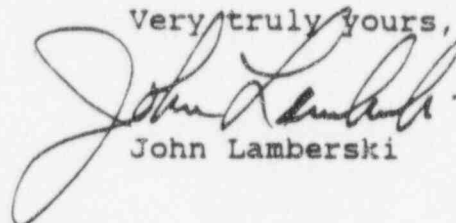
Certainly these procedures add significantly to the resource costs an agency must bear if it chooses not to disclosure [sic] material it has in good faith decided is exempt. Those burdens may be avoided at the option of the agency, however, by immediate disclosure. Congress has encouraged the agencies to disclose exempt material for which there is no compelling reason for withholding, and an agency's own balancing of the resource costs of justifying non-disclosure against the value of secrecy may provide a rough estimate of how compelling is its reason for withholding.

566 F.2d at 261 (footnote omitted).

Mr. Larry L. Robinson of the NRC executed an affidavit on February 13, 1991, which identified the requested documents as consisting of 255 pages and associated with an interview over the course of two days in July, 1990 (Attachment 2). Given the size and duration of the transcript, as well as the diverse issues investigated by the NRC and Office of Investigations subsequent to the interview (see Inspection Report Nos. 50-424, 425/90-19, Supplement 1, dated November 1, 1991), I have reasonable basis for asserting that many portions are not exempt based on Exemption 7(A).

It appears that NRC has failed to follow the requirements recited above in responding to FOIA 91-516. I respectfully request that the Initial Decision be set aside and that non-exempt portions of the records requested in FOIA 91-516 be provided in accordance with the authorities cited above.

Very truly yours,



John Lamberski

Enclosures

JL:jf



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Appeal

MAR 11 1992

John Lamberski, Esquire
Troutman, Sanders, Lockerman & Ashmore
Candler Building, Suite 1400
127 Peachtree Street, N.E.
Atlanta, Georgia 30303-1810

IN RESPONSE REFER
TO FOIA-92-A-3
(FOIA-91-516)

Dear Mr. Lamberski:

I am writing in response to your letter dated January 23, 1992, in which you appealed Mr. Donnie H. Grimsley's response dated December 30, 1991. Mr. Grimsley's response denied records subject to your Freedom of Information Act (FOIA) request for copies of transcripts of the NRC's interview of Allen Mosbaugh on July 18 and 19, 1990. Mr. Grimsley's response denied the records maintained in the Office of Investigations' files.

Acting on your appeal, I have carefully and personally reviewed the 255-page transcript referenced in your January 23, 1992, letter and have determined that it will continue to be withheld from public disclosure pursuant to 5 U.S.C. 552(b)(7)(A), Freedom of Information Act. See also 10 CFR 9.17(a)(7)(i) of the Commission's regulations. Therefore, your appeal is denied. The release of this information could reasonably be expected to interfere with ongoing investigative and enforcement proceedings because it could reveal the scope, direction, and focus of investigative efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. There are no reasonably segregable portions of the transcript with the exception of pages 1, 2 and portions of 3, which consist merely of identification of the investigators and Mr. Mosbaugh, plus the stated credentials of Mr. Mosbaugh. Enclosed are pages 1, 2 and portions of page 3 of the transcript.

This is a final agency decision on this appeal. As set forth at 5 U.S.C. 552(a)(4)(B), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business or in the District of Columbia.

Sincerely,

James H. Sniezek
Deputy Executive Director
for Nuclear Reactor Regulation,
Regional Operations and Research

Enclosures:
Pages 1, 2, and 3

BEFORE THE
U. S. NUCLEAR REGULATORY COMMISSION

In the Matter of:)
INVESTIGATIVE INTERVIEW OF:)
ALLEN MOSBAUGH)
(CLOSED))

Shoney's Inn
Washington Road
Augusta, Georgia

Wednesday, July 18, 1990

The above-entitled matter convened for
INVESTIGATIVE INTERVIEW pursuant to notice at 7:30 p.m.

APPEARANCES:

On behalf of the Nuclear Regulatory Commission:

LARRY ROBINSON, Investigator
CRAIG T. TATE, Investigator
Office of Investigations
U. S. Nuclear Regulatory Commission
Suite 2900, 101 Marietta Tower
Atlanta, Georgia 30303
-and-
RONALD F. AIELLO, NRC Resident Inspector

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Portions deleted. See page 17
FOIA-92-A-3

P R O C E E D I N G S :

1
2 MR. ROBINSON: Let's go on the record. For the
3 record, it is now 7:30 p.m., Wednesday, July 18, 1990.
4 This is an interview of Mr. Allen Mosbaugh, employee of
5 Georgia Power Company, regarding concerns he has regarding
6 the health and safety of the operation of the nuclear
7 power plant at Waynesboro, Georgia, the Vogtle Electric
8 Generating Station.

9 Mr. Mosbaugh, do you have any objections to being
10 sworn to your testimony?

11 MR. MOSBAUGH: No.

12 MR. ROBINSON: Would you please stand, raise your
13 right hand?

14 MR. MOSBAUGH: (Complying.)
15 Whereupon,

16 ALLEN MOSBAUGH
17 was called as a witness by and on behalf of the Commission,
18 and having first been duly sworn, was examined and
19 testified as follows:

EXAMINATION

20
21 BY MR. ROBINSON:

22 Q Mr. Mosbaugh, what is your current job title at
23 Vogtle Electric Generating Station?

24 A I don't know. I am working in a staff capacity
25 reporting to the general manager.

1 Q Okay. And what was your position prior to being
2 transferred to your current position?

3 A Prior to that, my pay title had been -- I guess my
4 pay title still is the assistant plant support manager.
5 My functional capacity had been the acting general manager
6 of plant support.

7 Q And how long have you been working at Plant
8 Vogtle?

9 A It's approaching -- it will be six years on August
10 1st of this year.

11 Q And prior to that, about how many years experience
12 do you have in the nuclear industry?

13 A I started working in the nuclear industry in 1974,
14 having come out of graduate school where I worked in the
15 nuclear industry at the college that I was at.

16 Q And that was the University of Cincinnati?

17 A University of Cincinnati.

TROUTMAN, SANDERS, LOCKERMAN & ASHMORE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

CANDLER BUILDING, SUITE 1400

187 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30303-1810

404/558-8000

CABLE: MAESTRO

TELECOPIER: 404-521-0488

JOHN LAMBERSKI

WRITER'S DIRECT DIAL NUMBER

404-558-8442

March 18, 1992

Mr. Donnie H. Grimsley, Director
Division of Freedom of Information
and Publications Services
Office of Administration
U. S. Nuclear Regulatory Commission
Washington, DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-92-150
Rec'd 3-23-92

Re: Freedom Of Information Act Request

Dear Mr. Grimsley:

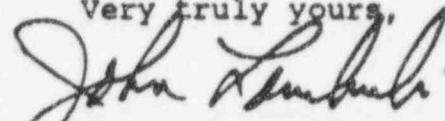
I hereby request, pursuant to the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and Nuclear Regulatory Commission ("NRC") regulations, 10 C.F.R. Part 9, copies of all "records" as defined in 10 C.F.R. § 9.13 constituting or relating to all tape recordings provided to the NRC by Mr. Allen L. Mosbaugh, a former Georgia Power Company employee, or his legal counsel, Michael Kohn of Kohn, Kohn & Colapinto.

For your information, I understand that records subject to the foregoing request are or may be in the possession of Mr. Larry Robinson of the NRC Office of Investigations, Region II Field Office.

I am willing to pay the applicable charges for production of the requested records in accordance with 10 C.F.R. Part 9 up to a maximum amount of \$1000.00 and those charges in excess of \$1000.00 of which I am notified, and which I approve, in advance.

If you have any questions concerning this FOIA request, please feel free to contact me.

Very truly yours,


John Lamberski



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA -- 92-150

RESPONSE TYPE: FINAL PARTIAL

DATE: JUN 17 1992

DOCKET NUMBER(S) (if applicable)

REQUESTER: Mr. John Lamberski

PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

- No agency records subject to the request have been located.
No additional agency records subject to the request have been located.
Requested records are available through another public distribution program. See Comments section.
Agency records subject to the request that are identified in Appendix(es) are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
Agency records subject to the request that are identified in Appendix(es) are being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number.
Agency records subject to the request that are identified in Appendix(es) may be inspected and copied at the NRC Local Public Document Room identified in the Comments section.
Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
Agency records subject to the request are enclosed.
Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
Fees
You will be billed by the NRC for fees totaling \$
You will receive a refund from the NRC in the amount of \$
In view of NRC's response to this request, no further action is being taken on appeal letter dated , No.

PART II. A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

X Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number.

COMMENTS

In a telephone conversation with Ms. Carol Ann Reed on April 21, 1992, you agreed to narrow the scope of your request to 1) transcripts of the 3 tape recordings containing Unclassified Safeguards Information, and 2) tapes, transcripts, notes of the 76 tapes. This response addresses item 2.

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Yonnie H. Brindley

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST
(CONTINUATION)

FOIA NUMBER(S):
FOIA 92-150

DATE
JUN 17 1992

PART B. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix (as) A are being withheld in their entirety or in part under the Exemption No. (s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

1	The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
2	The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
3	The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
	Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
	Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
4	The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
	The information is considered to be confidential business (proprietary) information.
	The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
	The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
5	The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege
	Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
	Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)
	Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
6	The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
X	7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
X	Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
	Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C))
	The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources. (Exemption 7 (D))
	OTHER

PART B. C - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
Ben Hayes	Director, Office of Investigations	A/1	X		
Stewart Ebnetter	Administrator, Region II	A/2	X		

PART B. D - APPEAL RIGHTS

The denial by each denying official identified in Part B. C may be appealed to the Appellate Official identified there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX A

RECORDS TOTALLY WITHHELD

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION & EXEMPTION</u>
1.	Various	The Office of Investigation files on the 76 tapes. EX. 7A
2.	Various	The Region II files on the 76 tapes. EX. 7A

TROUTMAN SANDERS
ATTORNEYS AT LAW
A PARTNERSHIP A LIMITED LIABILITY PROFESSIONAL CORPORATION

NATIONSBANK PLAZA
600 PEACHTREE STREET N.E. SUITE 5200
ATLANTA GEORGIA 30308 2216
TELEPHONE 404 885 3000
FACSIMILE 404 885 3900

JOHN LAMBERSKI

DIRECT 404 885 3360

July 15, 1992

APPEAL OF INITIAL FOIA DECISION
92 A9 E (92-150)
Rec'd 7-22-92

Mr. James M. Taylor
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington DC 20555

Re: Appeal from Initial FOIA Decision - FOIA 92-150

Dear Sir:

In accordance with 10 C.F.R. § 9.29, I hereby appeal the NRC's June 17, 1992 Response to FOIA Request No. 92-150. The June 17, 1992 Response (hereinafter the "Initial Decision"), a copy of which is enclosed, denied, in part, FOIA 92-150, submitted on March 18, 1992 (copy also attached). The records denied constitute or relate to 76 tape recordings in the possession of NRC which were made at Plant Vogtle (the "76 Tapes").

The Initial Decision stated that disclosure of the records relating to the 76 Tapes was denied based on Exemption 7(A). Two categories of records were denied as follows:

- 1) Office of Investigation files on the 76 tapes with various dates, and
- 2) Region II files on the 76 tapes with various dates.

No other information was provided in the Initial Decision concerning the denied records. However, it is inconceivable to believe that there are absolutely no records falling within the FOIA No. 92-150 request which are not subject to Exemption 7A or which if partially subject to Exemption 7A cannot reasonably be redacted to delete the exempt information. Furthermore, the Initial Decision fails to provide any index or listing of the "various" records being denied. A review of the law applicable to FOIA No. 92-150 demonstrates that the Initial Decision's sweeping denial fails to comply with legal requirements.

The NRC is required to make available the non-exempt portions of the records requested in FOIA 92-150. See, 5 U.S.C.A. § 552(b) (Supp. 1991) ("Any reasonable segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under

Mr. James M. Taylor
July 15, 1992
Page 2

this subsection.") In Mead Data Cent., Inc. v. United States Dept. Of Air Force, 566 F.2d 242 (D.C. Cir. 1977) the court stated: "It has long been a rule in this Circuit that non-exempt portions of a document must be disclosed unless they are inextricably intertwined with exempt portions." Id. at 260. Further the court said: "The burden which the FOIA specifically places on the Government to show that the information withheld is exempt from disclosure cannot be satisfied by the sweeping and conclusory citation of an exemption" Id. at 251.

Finally, in finding a failure to adequately explain a similar claim of exemption and to provide an itemization and index of the records denied, the Mead Data court stated:

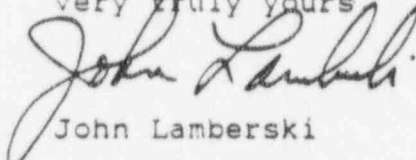
Certainly these procedures add significantly to the resource costs an agency must bear if it chooses not to disclosure [sic] material it has in good faith decided is exempt. Those burdens may be avoided at the option of the agency, however, by immediate disclosure. Congress has encouraged the agencies to disclose exempt material for which there is no compelling reason for withholding, and an agency's own balancing of the resource costs of justifying non-disclosure against the value of secrecy may provide a rough estimate of how compelling is its reason for withholding.

566 F.2d at 261 (footnote omitted).

Based on tape recordings similar to the 76 Tapes which are available to me, it is obvious that at least some portions of the 76 tapes must contain information that is not subject to Exemption 7A. It is obvious that the NRC has failed to follow the requirements recited above in responding to FOIA 92-150. I respectfully request that the Initial Decision be set aside and that non-exempt records, or portions thereof, requested in FOIA 92-150 be provided without delay.

If you have any questions concerning this appeal you may contact me by mail or by phone at the address and phone number listed above.

Very truly yours


John Lamberski

Enclosures

JL:jf



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

SEP 10 1992

John Lamberski, Esquire
Troutman Sanders
NationsBank Plaza
600 Peachtree Street, NE
Suite 5200
Atlanta, GA 30308-2216

IN RESPONSE REFER
TO FOIA-92-A-9
(FOIA-92-150)

Dear Mr. Lamberski:

I am responding to your letter dated July 15, 1992, in which you appealed Mr. Donnie Grimsley's response dated June 17, 1992. Mr. Grimsley's response denied records, identified on the enclosed appendix, subject to your Freedom of Information Act (FOIA) request for records constituting or relating to tape recordings provided to the NRC by Mr. Allen L. Mosbaugh, a former Georgia Power Company employee.

Acting on your appeal, I have carefully reviewed the records in this case and have determined that the previously withheld information will continue to be withheld from public disclosure pursuant to Exemption 7(A) of the FOIA (5 U.S.C. 552(b)(7)(A)) and 10 CFR 9.17(a)(7)(i) of the Commission's regulations. Your appeal is, therefore, denied.

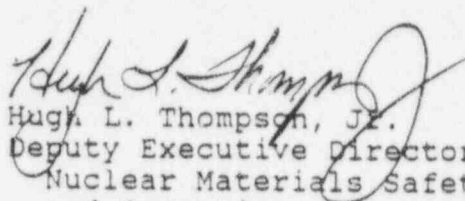
To deny records under Exemption 7(A), it is sufficient for the government to make a generalized showing that release of the records would generally interfere with enforcement proceedings. (Gould, Inc. v. GSA, 688 F. Supp. 689 (D.D.C. 1988)). The subject records, which are now under review by the NRC Office of Investigations and the U.S. Department of Justice, were compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with an ongoing enforcement action. Premature release of any information in the records could reveal the issues under investigation and thus could impair the ability of the government to gather information pertaining to the ongoing investigation.

John Lamberski, Esquire

-2-

This is a final agency action. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States, in the district in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,



Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards
and Operations Support

Enclosure:
Appendix

RE: FOIA-92-A-9
(FOIA-92-150)

APPENDIX

<u>DATE</u>	<u>DESCRIPTION AND EXEMPTION</u>
1. VARIOUS	The Office of Investigation files on the 76 tapes. Exemption 7(A)
2. VARIOUS	Region II files on the 76 tapes. Exemption 7(A)

June 18, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
	)	Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY	)	50-425-OLA-3
<i>et al.</i>)	
	)	Re: License Amendment
(Vogtle Electric Generating Plant,	)	(Transfer to Southern
Units 1 and 2)	)	Nuclear)
)	
	)	ASLBP No. 96-671-01-OLA-3

NRC STAFF RESPONSE TO GEORGIA
POWER COMPANY'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS BY THE NRC STAFF

On May 3, 1993 Georgia Power Company ("GPC") served a request for NRC to produce documents. At the present time NRC's Office of Investigation has an ongoing investigation into the circumstances surrounding the GPC reporting of the testing of the Vogtle facility diesel generators immediately following the site area emergency on March 20, 1990. Therefore, discovery from the Staff is controlled by the Statement of Policy: Investigations, Inspections, and Adjudicatory Proceedings, 49 Fed. Reg. 36032, September 13, 1994, as well as by 10 C.F.R. §§ 2.744 and 2.790. To accommodate GPC's request, NRC personnel have searched for documents which may relate to Mr. Mosbaugh's allegation that Georgia Power Company *sub rosa* and illegally transferred operating control of the Vogtle facility to Southern Nuclear Operating Company, Inc. (SONOPCO) in 1988, and that Georgia Power Company employees submitted material false statements to the NRC regarding the Vogtle diesel generators

after March 20, 1990. These are the issues the Licensee considers at bar in this proceeding, see GPC's Response To Intervenor's First Request For Production of Documents dated June 2, 1993, at 2 and 3 and Mr. Lamberski's letter dated May 7, 1993 to the Licensing Board. If any question arose regarding whether a document was relevant to those issues, it was resolved in favor of identifying the document.

The scope of the Staff's search did not extend to documents available IN THE Commissioner's Public Document Rooms. See 10 C.F.R. § 2.744(a) and (b). Mr. Mosbaugh was a party to a petition under 10 C.F.R. § 2.206 dated September 11, 1990, requesting NRC action. One of his allegations was that GPC improperly transferred control of the Vogtle facility to SONOPCO. The Acting Director in his Partial Director's Decision Pursuant to 10 C.F.R. § 2.206, DD-93-08, April 23, 1993 found no illegal transfer. The Staff has not searched the extensive public record that exists upon that issue. We have identified some documentation regarding the alleged illegal transfer which is not in the public domain. It will be made available.

The Staff, at this time, will withhold information which might jeopardize the ongoing investigation by OI into the GPC reporting of diesel testing following the March 20, 1990 site emergency. Our response consists of a list of material which we will not release at this time, the principle basis for withholding being the Policy Statement and 10 C.F.R. § 2.790(a) footnote (prohibits release of handwritten notes and drafts), 2.790(a)(5), (a)(5). 2.790(a)(7) and 2.744 and also is a list of material which is now releasable. We are providing copies to GPC and, without request, to the Intervenor of the releasable material.

Mr. Mosbaugh provided the NRC with tape recordings he made relating to the Vogtle facility. Each document in the following lists is assigned a number for identification purposes. Duplicates of items are not listed. All tapes, except tape 224, retained by NRC have been transcribed. Each tape recording and its associated transcription is assigned one number. Forty three tapes relate to the diesel generator starts issue and are being withheld. Four tapes relate to the alleged SONOPCO takeover and are releasable. We will arrange for GPC representatives to listen to these four tapes. We have enclosed transcriptions of those four tapes. The remaining tapes possessed by NRC do not relate to the alleged illegal takeover or to the reporting of diesel generator testing following the March 20, 1990 site emergency. If other information comes to our notice, or if OI protected documents become releasable, we shall supplement our response.

If Georgia Power Company or its attorneys have questions regarding the Staff's Response they should be directed to Mr. Reis or Mr. Barth who will attempt to respond. For these items not releasable at this time, the reason for their not being released is identified.

This listing is not complete. The Staff will file a supplement within two weeks.

Documents Which Will Not Be Released At The Present Time

Reasons For Withholding:

- A Statement of Policy: Investigations, Inspections, and Adjudicatory Proceedings, 49 Fed. Reg. 36032 (September 13, 1984).
- B 10 C.F.R. § 2.790(a)-Footnote: Notes and Drafts Not Obtainable.

- C 10 C.F.R. § 2.790(5)-Intraagency Memoranda.
- D 10 C.F.R. § 2.790(7)(i)-May Interfere With Enforcement Proceedings.
- E 10 C.F.R. § 2.790(7)(v)-May Jeopardize OI's Investigation.
- F 10 C.F.R. § 2.744(b)(2) Reasonably Obtainable Elsewhere, i.e., The Public Domain, The NRC Public Document Rooms.

Further, in the case of each tape recording, NRC interview or transcripts, GPC has not established that disclosure is necessary for a proper decision in the proceeding, as the substance of the material in the tape recordings is available from other sources, *i.e.* recollections of its own employees and officers and depositions of Mr. Mosbaugh. In this connection, it is emphasized that GPC has not yet established that there is any dispute as to what was stated at any tape recorded meeting or interview which would require a review of a tape recording, notes or memoranda of an interview or meeting to resolve a dispute concerning a relevant matter.

Mosbaugh made tapes which are being withheld for reasons A, D, E.

Item No.	Date	Tape No.
1	undated	T9
2	3/23-24/90	T10
3	4/11/90 #1	T41
4	4/11/90 #2 and 4/12/90	T42
5	4/19/90 #3	T57
6	4/19/90 #4	T58

Item No.	Date	Tape No.
7	4/30/90 #1	T75
8	4/30/90 #2	T76
9	undated	T83
10	5/4/90 #2	T95
11	5/8/90 #1	T98
12	5/8/90 #2	T99
13	5/8/90 #4	T101
14	6/8/90 #1	T155
15	6/11/90 #1	T158
16	6/11/90 #2	T159
17	6/12/90	T160
18	6/15/90 #2	T167
19	6/18/90 #1	T168
20	undated	T183
21	undated	T184
22	6/29/90 #1	T186
23	6/29/90 #2	T187
24	7/11/90 #1	T199
25	7/11/90 #2	T200
27	7/13/90 #1	T204
28	7/13/90 #2	T205

Item No.	Date	Tape No.
29	7/24/90 #1	T216
30	7/24/90 #2	T217
31	7/26/90 #1	T220
32	7/27/90 #1	T221
33	undated (not transcribed)	T224
36	8/3/90	T234
37	8/13/90 #2	T246
38	8/14/90 #1	T248
39	8/14/90 #3	T249
40	8/15/90 #3	T253
41	8/17/90 #1	T258
42	8/17/90 #3	T260
43	8/28/90 #1	T264
44	8/29/90 #1	T266
45	8/29/90 #2	T267
46	8/30/90 #2	T269
49	Excerpts of the tape prepared by Mosbaugh. T222	
50	Undated computer printed allegation which begins; "*****PLEASE NOTE***** The level of detail contained in this concern" Withheld for reasons A, D, E.	
51	Handwritten entry, dated 6/12/90 in Case Chronology. Withheld for reasons A, B, D, E.	

- 52 Six page fax dated 6/13/90 from Kohn to Larry Robinson. Withheld for reasons A, C, D, E.
- 53 Transcript of interview of Mosbaugh, 7/18 and 19/90. Withheld for reasons A, D, E.
- 54 Numerous OI notes, telephone memos, calendar entries, and other documents relating to interviews, meetings, and conversations between Mosbaugh and representatives of OI. All of these documents pertain entirely, or in part, to: (1) the ongoing OI investigation regarding alleged false statements re Vogtle diesel generator testing, or (2) other allegations/issues that do not pertain directly to the *sub rosa* takeover of GPC's nuclear operations by SONOPCO. Withheld for reasons A, B, C, D, and E.
- 55 Six-page document, untitled, undated, first line of the body of the document reads, "The Georgia Power Company has made two material false" Withheld for reasons A, B, C, D, and E.
- 57 Six-page document, undated, untitled. First line reads, "Georgia Power has made an additional Material false" Withheld for reasons A, B, C, D, and E.
- 58 Memo from P. Skinner to J. Johnson dated July 23, 1992. Subject: Assessment of Vogtle Tape Review, 1 page, with attachment "Vogtle Special Inspections Tape Matrix," dated July 23, 1992, 11 pages. Withheld for reasons A, B, C, E.
- 59 Memo from P. Skinner to E. Merschoff dated December 4, 1992. Subject: Assessment of Vogtle Tape Review (Allegation RII-92-A-0152), 2 pages; with attachment "Vogtle Special Inspections Tape Matrix," dated December 3, 1992, 12 pages. Withheld for reasons A, B, C, E.
- 60 Coversheet captioned "Allegation Review Panel -RII 91-A-0109" dated May 28, 1991, Subject: 2.206 Lic Response Contains Inaccurate," with 73-page attachment. Withheld for reasons A, B, C, E.
- 61 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated July 30, 1991, Subject: Vogtle 2.206 Coordinating Group. 2 pages. Labeled SENSITIVE - PRE-DECISIONAL INFORMATION - INTERNAL DISTRIBUTION ONLY. 3 enclosures; 27 pages. Withheld for reasons A, B, C, E.

- 62 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated August 13, 1991, Subject: Meeting of the Vogtle 2.206 Coordinating Group. 2 pages. 5 enclosures; 48 pages, Enclosures 1, 2, and 4 are labeled PREDECISIONAL INFORMATION. Withheld for reasons A, B, C, E.
- 63 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated September 4, 1991, Subject: Third Meeting Of The Vogtle 2.206 Coordinating Group. 3 pages. 2 enclosures; 12 pages, Withheld for reasons A, B, C, E.
- 64 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated September 25, 1991, Subject: Fourth Meeting of the Vogtle 2.206 Coordinating Group. 3 pages. 3 enclosures; 29 pages. Withheld for reasons A, B, C, E.
- 65 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated April 6, 1992, Subject: Fifth Meeting of the Vogtle 2.206 Coordinating Group. 3 pages. 3 enclosures; 24 pages. Withheld for reasons A, B, C, E.
- 66 Note from D. Matthews to B. Hayes, J. Lieberman, S. Ebnetter, and L. Chandler dated July 1, 1992, Subject: Summary of Telephone Conference by the Vogtle 2.206 Coordinating Group. 3 pages. 2 enclosures; 20 pages. Withheld for reasons A, B, C, E.
- 67 Fax cover sheet (1 page) dated August 10, 1992, from J. Bailey to D. Hood with attached document captioned "NBC Nightly News SUNDAY FOCUS (WXIA-TV, Channel 11) August 9, 1992, 6:45 p.m.," 4 pages. Not produced for reason F.
- 68 Document with letterhead "Radio TV Reports, Inc." describing for Nuclear Regulatory Commission a NBC Sunday Night News Program of August 9, 1992, 6:30 PM. Subject: Nuclear Power Plant Whistle-blower. 3 pages. Not produced for reason F.
- 69 Newspaper article from The Atlanta Journal, September 18, 1990, captioned "Georgia Power Accused of Hiding Vogtle Problems - Former Manager Says Utility Lied to NRC." 3 pages. Not produced for reason F.
- 70 Newspaper clipping from The Atlanta Constitution, September 18, 1990, captioned "Ga. Power Accused Of Lying To NRC - Fired Manager Says

- Problems At Plant Vogtle Were Concealed." 2 pages. Not produced for reason F.
- 71 Newspaper clipping from The Atlanta Journal and Constitution, September 18, 1990, captioned "Ga. Power Accused of Lying to NRC." 2 pages. Not produced for reason F.
- 72 Fax cover sheet (1 page) from L. Reyes transmitted September 21, 1990, with attached article from The Atlanta Journal and Constitution dated September 21, 1990, captioned "Utility Won't Get Secret Tapes - Georgia Power Bars Manager From Plant," 2 pages. Not produced for reason F. The attachment is reasonably obtainable elsewhere.
- 73 Newspaper article from The Augusta Chronicle, October 30, 1990, captioned "Georgia Power Misled Agency On Generators, Documents Show." 3 pages. Not produced for reason F.
- 74 Newspaper clipping from The Atlanta Journal and Constitution, November 20, 1990, captioned "Federal Probe Tells Ga. Power To Rehire Vogtle Whistleblower - Labor Department: Employee Fired Illegally." 2 pages. Not produced for reason F.
- 75 Newspaper article from The Atlanta Journal and Constitution, November 25, 1990, captioned "Nuclear Plant Whistleblower Awaiting Verdict - NRC Weighs Engineer's Claims." 3 pages. Not produced for reason F.
- 76 Newspaper clipping from The Augusta Chronicle (date not shown) captioned "Vogtle Must Rehire Whistle-blower." 2 pages. Not produced for reason F.
- 77 Newspaper clipping (believed to be from The Augusta Chronicle) with telecopy date June 7, 1991, captioned "Commission Considers Action Against Vogtle." 2 pages. Not produced for reason F.
- 78 Newspaper clipping from The Augusta Chronicle dated July 10, 1991, captioned "Whistleblower's Lawyer Says Official Lied," and "Utility Exec Accused of Lying Under Oath," and "Vogtle: Utility Says Latest Charges False." 3 pages. Not produced for reason F.
- 79 Newspaper article from The Augusta Chronicle, November 8, 1991, captioned "NRC Inspectors Find Vogtle in Violation." 1 page. Not produced for reason F.

- 80 Newspaper article from The Atlanta Journal/The Atlanta Constitution, November 12, 1992, captioned "Utility Backed In Firing Over Tapings - Appeals Judge Says Ga. Power Within Its Rights." 1 page. Not produced for reason F.
- 81 Newspaper article from The Atlanta Journal/The Atlanta Constitution, January 21, 1993, captioned "Ga. Power Probed By Feds - Alleged Lie About Safety Of Vogtle Is Focus Of Criminal Investigation." 1 page. Not produced for reason F.
- 82 Newspaper article from The Augusta Chronicle, January 22, 1993, captioned "Georgia Power Denies It Lied To NRC About Plant Vogtle." 1 page. Not produced for reason F.
- 83 Fax coversheet (1 page) from J. Bailey to D. Hood transmitted February 24, 1993, with attached article from The Augusta Chronicle captioned "NRC Board Agrees To Hear Whistle-blower's Petition," 1 page. Attachment is in the public domain.
- 84 Memo from R. Brady to G. Messenger dated February 13, 1991. Subject: Marking of Audio Tapes from a Meeting Conducted at the Vogtle Electric Generating Plant. 1 page. Not produced for reason C.
- 85 Memo from D. Matthews to E. Leins dated (not shown but signed November 19, 1991). Subject: Transcribing of a Microcassette Recording. 1 page. Not produced for reason C.
- 86 Memo from D. Matthews to E. Leins dated January 15, 1992. Subject: Transcribing of A Microcassette Recording. 1 page. Not produced for reason C.
- 87 Memo to file by P. Skinner dated March 17, 1992, Subject: Discussion with C. K. McCoy, Vice President GPC. 1 page. Not produced for reason C.

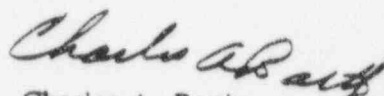
- 88 Memo from D. Matthews to S. Donovan dated March 26, 1992. Subject: Transcribing Of A Microcassette Recording. 1 page. Not produced for reason C.
- 89 Memo from Patricia Norry to L. Reyes dated 2/11/91 Subject: Request for Transcription Services. Not produced for reason C.
- 90 Memo from K. Brockman to S. Ebnetter dated 12/14/90 Subject: Vogtle Tape Recordings Recommended Prioritization. Not produced for reason C.
- 91 Memo from L. Reyes to P. Norry dated 1/15/91 Subject: Request for Transcription Services. Not produced for reason C.
- 92 Memo from J. Vorse to K. Brockman dated 12/14/90 Subject: Transcription of Tapes. Not produced for reason C.
- 93 Receipt from G. Jenkins to L. Robinson dated 10/11/90 Subject: Acknowledgement of receipt of 5 copies of a transcript. Not produced for reason C.
- 94 Memos(13) from K. Brockman to D. McGuire concerning safeguards classifications of tapes (# 10, 57, 58, 85, 155, 168, 169, 214, 216, 246, 248, 255, 264). Not produced for reason C.
- 95 Memo to A. Gibson from L. Reyes undated Subject: Tape review assistance. Not produced for reason C.
- 96 Memo to S. Ebnetter from K. Brockman undated Subject: Action plan for the disposition of Vogtle tape recordings. Not produced for reason C.
- 97 Letter to A. Mosbaugh from S. Ebnetter dated 11/26/91 Subject: Request that he (Mosbaugh) turn in to the NRC a tape of the RER exit on 4/13/90. Not produced for reason F.
- 98 Memo to file from P. Skinner dated 8/22/91 Subject: Documentation of a meeting to review specific transcripts for tapes 41, 57, 58, 95,99,184, 187, & 253. Not produced for reason C.

DOCUMENTS DISCLOSABLE

Items 8, 26, 34, 35, And 56 Relate To SONOPCO

Item No.		Date	Tape No.
8	Mosbaugh Tape	4/30/90 #2	T74
26	Mosbaugh Tape	7/11/90	T201
34	Mosbaugh Tape	7/30/90 #2	T226
35	Mosbaugh Tape	7/30/90 #3	T227

Respectfully submitted,



Charles A. Barth
Counsel for NRC Staff

Dated at Rockville, Maryland
this 18th day of June, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
GEORGIA POWER COMPANY, *et al.*) Docket Nos. 50-424-OLA-3
) 50-425-OLA-3
)
(Vogtle Electric Generating Plant) Re: License Amendment
Units 1 and 2) (Transfer to Southern Nuclear)
)
)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO GEORGIA POWER COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS BY THE NRC STAFF" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system this 18th day of June 1993.

Peter B. Bloch, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555
(301) 492-7285

James H. Carpenter*
Administrative Judge
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Thomas D. Murphy*
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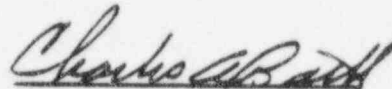
Michael D. Kohn, Esq.
Stephen M. Kohn, Esq.
Kohn, Kohn and Calapinto, P.C.
517 Florida Avenue, N. W.
Washington, D. C. 20001
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Office of Commission Appellate
Adjudication*
Mail Stop: OWFN-16/G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Adjudicatory File* (2)
Atomic Safety and Licensing Board
Panel
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Board
Panel*
Mail Stop: EW-439
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Office of the Secretary* (2)
Attn: Docketing and Service
Mail Stop: OWFN-16/G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555



Charles A. Barth
Counsel for NRC Staff

EXCERPTED
NRC

93 07 - 1 19 14

August 31, 1993

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

RECEIVED SEP - 1 1993

Before Administrative Judges:
Peter S. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the Matter of

GEORGIA POWER COMPANY,
et al.

(Vogtle Electric Generating
Plant, Units 1 and 2)

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(Transfer to Southern
Nuclear)

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

MEMORANDUM AND ORDER
(Motion to Compel Production of Documents by the Staff)

This Memorandum and Order determines that we will not now order the production of documents that Georgia Power Company seeks from the Staff of the Nuclear Regulatory Commission (Staff). The Staff wishes to withhold specific documents from discovery because of its claim that release of the documents would interfere with an ongoing enforcement investigation. On the other hand, these materials are essential to the adjudication of this case. Mr. Mosbaugh's (Intervenor's) petition was filed in October 1992; and we are sympathetic to Georgia Power Company's (GPC's) desire to get this case tried in a timely manner. We are highly

sensitive to this need, even though GPC has not presented specific factual arguments about the extent to which it is being injured by delay.¹

I. Introduction² and Position of the Parties

Pursuant to 10 C.F.R. § 2.744 (c), GPC moves the Atomic Safety and Licensing Board for an order compelling the NRC Staff to produce the certain documents identified more specifically below, including:

- 1) Forty-four tapes provided by Intervenor to the NRC;

¹In Piping Specialists Inc., unpublished opinion of March 18, 1993 (Staff Reply Concerning Stay), the presiding officer considered whether or not to stay a civil proceeding concerning possible reinstatement of a license to use special nuclear materials. The stay was sought by the staff because of a pending criminal prosecution. The effect of the stay would have been to keep the respondent in the case out of business indefinitely. The presiding officer applied the following test to whether or not to grant the stay:

The test is a weighing of four factors: (1) the length of the delay, (2) the reason for delay, (3) the defendant's assertion of the right to a prompt proceeding, and (4) the prejudice to the defendant of a delay in the civil proceeding. (Barker v. Wingo, 407 U.S. 514, 562-65 (1972) and United States v. Eight Thousand Eight Hundred and Fifty Dollars (\$8,850) in United States Currency, 461 U.S. 555, 564-565 (1983). See also Advanced Medical Systems, 25 NRC 865, 869-871 (1987).)

Although a stay is not being sought in the instant case, the question may be considered to be analogous: when to require the disclosure of documents alleged to be relevant to an enforcement purpose.

²In this section of our opinion, we borrow extensively from the accurate discussion in Georgia Power Company's Motion to Compel NRC Staff Production of Documents, August 9, 1993.

- 2) Transcripts of these tape recordings; and
- 3) Certain documents evidencing statements made by Intervenor to the NRC.

GPC asks that these documents be produced immediately. They are necessary both for hearing preparation and for a proper decision in this proceeding, and they are not available from another source.

The documents listed above were sought by Georgia Power Company's First Request for Production of Documents by the NRC Staff (May 3, 1993) [GPC's Document Request]. Other than four relevant audio tapes, transcripts of which were appended to the Staff Response, the NRC Staff has objected to the release of any relevant documents. NRC Staff Response to Georgia Power Company's First Request for Production of Documents by the NRC Staff (June 18, 1993) (Staff Response); NRC Staff First Supplemental Response to Georgia Power Company's First Request for the Production of Documents by the NRC Staff (June 24, 1993) (Staff Supplemental Response).

A. Georgia Power's Position

We are fully aware of Georgia Power Company's characterization of the importance of the sought documents:

The documents being sought are extremely important to GPC's defense and preparation for this case. This proceeding involves very serious allegations made by Intervenor against GPC—allegations that GPC vigorously disputes. Intervenor maintains that his allegations are supported by

the tape recordings which he transferred to the NRC, and has produced excerpts of his recordings. Intervenor's excerpts, however, are not complete and appear to omit important exculpatory material. Portions of the full tapes have been played in the presence of GPC counsel during OI (Office of Investigations) interviews and reveal that there are additional statements and discussions showing the importance that GPC places on accurate reporting and the efforts that were undertaken to resolve comments on the April 19, 1990 LER. Accordingly, to demonstrate that Intervenor's claims of willful misconduct are baseless, it is critical that GPC have access to the complete tapes. Indeed, the tapes have already been recognized by the Licensing Board as being "essential evidence" in this proceeding. Memorandum and Order (April 21, 1993), LBP-93-3, 37 NRC _____, slip op. at 13.

Intervenor has also provided other statements to the NRC, and has been interviewed by the NRC on a number of occasions. Access to these documents and statements is similarly essential to determine any other bases (or lack thereof) for Intervenor's allegations and to identify documents that might be introduced as evidence in this proceeding. Needless to say, prior statements by Intervenor may reveal inaccuracies and inconsistencies in his accounts, affecting Intervenor's credibility. Such prior statements may also include remarks exculpating GPC, which may be introduced as admissions. Where a proceeding such as this involves serious allegations and assertions by a single individual, unfettered access to the individual's prior statements is required for a fair and complete hearing.

B. Staff's Position

The Staff states that:

On August 9, 1993, Licensee timely filed "Georgia Power Company's Motion To Compel NRC Staff Production of Documents" (GPC Motion). The Staff opposes granting the GPC Motion at this time because (a) release of the documents could compromise ongoing investigation and enforcement activities and (b) Licensee fails to demonstrate that it will be prejudiced if the documents are not now released. For the reasons set forth

below, the Staff requests that the Board, upon a balancing of factors discussed below, defer ruling on the motion for 75 days, during which time it is anticipated that the OI investigation can be completed and the Staff can determine whether to recommend enforcement action to the Commission. Release of the documents at this time could prejudice the possible enforcement action. If the Board denies this request, the Staff requests that it be permitted to make an in camera presentation of the withheld information prior to the Board issuing an order compelling production of such documents.

The Staff relies on Oncology Services Corp., CLI-93-17, 18 NRC ____ (slip op. at 3, 10, August 19, 1993), citing Randall G. Crem, D.O., CLI-93-14, 18 NRC ____ (slip op. at 6-7):

The agency has a strong interest in ensuring the truth and accuracy of information provided to the Commission by a licensee. Allegations of this type may form the basis for further enforcement action. . . . Therefore, during the course of such an investigation, the government has a strong interest in preventing premature release of information which could jeopardize the integrity of interviews yet to be conducted, and which could allow witnesses to tailor their testimony or statements in order to avoid culpability or to conform testimony with the testimony of others who have been interviewed.

The Staff also cites NLRB v. Robbins Tire and Rubber Co., 437 U.S. 214, 239-43, holding that it is error to release information pursuant to the Freedom of Information Act, 5 U.S.C. § 552(b)(7)(4) (Exemption 7(A)), if the release of that material might interfere with an ongoing investigation.

Staff also has submitted the affidavits of Ben B. Hayes, Director of the Office of Investigation (OI) of the Nuclear Regulatory Commission (NRC) and of James Lieberman,

Director of the NRC's Office of Enforcement (OE). The Hayes Affidavit states that OE is writing a report, which also is being reviewed by OE, and that the result of this writing and review process might be the need to do additional field work before the investigation is completed. Hayes Affidavit §§ 3-4.

The Lieberman Affidavit states that, "Some of the information and evidence presented by OE . . . suggests that enforcement action should be initiated." He states that OE is cooperating with the NRC's Office of General Counsel and its Office of Nuclear Reactor Regulation in a careful review of the evidence. Mr. Lieberman states that further investigation or field work may be necessary as a result of this review. Lieberman Affidavit §§ 3-5.

II. Conclusion

Under the circumstances, we consider the documents that are sought by Georgia Power to be exempt from disclosure for 75 days because they are related to an ongoing enforcement investigation.¹ However, we caution the Staff that prior to

¹Statement of Policy: Investigations, Inspections, and Adjudicatory Proceedings," 49 Fed. Reg. 16,012-33 (September 13, 1984) ("Release of investigative material to the subject of an investigation before the completion of the investigation could adversely affect the NRC's ability to complete that investigation fully and adequately. . . . However, the need to protect information developed in investigations or inspections usually ends once the investigation or inspection is completed and evaluated for possible enforcement action.")

the 75th day, it should, if necessary, make a fresh showing concerning why documents should not be released. The parties to this adjudication are entitled to a swift resolution of their differences.

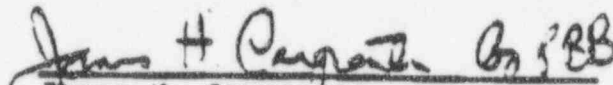
III. ORDER

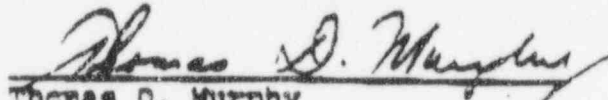
For all the foregoing reasons and upon consideration of the entire record in this matter, it is this 31st day of August, 1993, ORDERED, that:


1. Georgia Power Company's Motion to Compel NRC Staff Production of Documents, August 9, 1993 (Motion), is denied for 75 days commencing on August 24, 1993, the date of the Affidavit filed by Ben B. Hayes.

2. On Monday November 8, 1993, the first working day after the 75th day, the Motion shall be granted, unless the Staff has earlier filed a show-cause motion. Such a motion should be filed by the Staff promptly upon learning that it will need a further extension of time. Georgia Power may then have ten days in which to respond, or they may voluntarily waive their right to respond.

FOR THE ATOMIC SAFETY AND LICENSING BOARD


James H. Carpenter
Administrative Judge


Thomas D. Murphy
Administrative Judge


Peter B. Bloch
Chair

Bethesda, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

GEORGIA POWER COMPANY, ET AL.

(Vogtle Electric Generating Plant,
Units 1 and 2)

Docket No.(s) 50-424/425-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (MOTION TO COMPEL...) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter B. Bloch, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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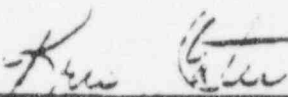
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Washington, DC 20001

Docket No.(s)50-424/425-OLA-3
LB M&O (MOTION TO COMPEL...)

C. K. McCoy
V. President Nuclear, Vogtle Project
Georgia Power Company
Post Office Box 1295
Birmingham, AL 35201

Dated at Rockville, Md. this
1 day of September 1993


Office of the Secretary of the Commission

93 NOV 18 11 46

LBP-93-22

November 17, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RECEIVED NOV 18 1993

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the matter of

GEORGIA POWER COMPANY,
et al.

(Vogtle Electric Generating
Plant, Units 1 and 2)

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(Transfer to Southern
Nuclear)

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

MEMORANDUM AND ORDER

(Renewed Motion to Compel Staff Production of Documents)

On August 31, 1993, we issued an unpublished Memorandum and Order that determined that we would not order the production of documents that Georgia Power Company (GPC) sought from the Staff of the Nuclear Regulatory Commission (Staff). The Staff wished to withhold specific documents from discovery because of its claim that release of the documents would interfere with an ongoing enforcement investigation. On the other hand, we considered these materials essential to the adjudication of this case. Mr. Mosbaugh's [Intervenor's] petition was filed in October 1992; and we were sympathetic to GPC's desire to get this case tried in a timely manner. We stated, on August 31, 1993, that we were highly sensitive

to this need, even though GPC had not presented specific factual arguments about the extent to which it is being injured by delay.¹

I. Introduction² and Position of the Parties

On May 3, 1993, GPC filed its First Request for Production of Documents by the NRC Staff. Following unsuccessful attempts to reach an agreement with the Staff concerning document production, GPC's Motion to Compel was filed requesting that the Staff produce a limited set of documents:

¹In Piping Specialists Inc., unpublished opinion of March 18, 1992 (Staff Reply Concerning Stay), the presiding officer considered whether or not to stay a civil proceeding concerning possible reinstatement of a license to use special nuclear materials. The stay was sought by the Staff because of a pending criminal prosecution. The effect of the stay would have been to keep the respondent in the case out of business indefinitely. The presiding officer applied the following test to whether or not to grant the stay:

The test is a weighing of four factors: (1) the length of the delay, (2) the reason for delay, (3) the defendant's assertion of the right to a prompt proceeding, and (4) the prejudice to the defendant of a delay in the civil proceeding. [Barker v. Wingo, 407 U.S. 514, 530 (1972) and United States v. Eight Thousand Eight Hundred and Fifty Dollars (\$8,850) in United States Currency, 461 U.S. 555, 564-565 (1983). See also Advanced Medical Systems, 25 NRC 865, 869-871 (1987).]

Although a stay is not being sought in the instant case, the question may be considered to be analogous: when to require the disclosure of documents alleged to be relevant to an enforcement purpose.

²In this section of our opinion, we borrow practically verbatim the accurate discussion in GPC's Motion to Compel NRC Staff Production of Documents, November 8, 1993.

(1) 44 tapes provided by Intervenor to NRC, (2) transcripts of such tapes, and (3) certain documents evidencing statements made by Intervenor to NRC. The NRC Staff's response requested the Board to defer ruling on GPC's Motion to Compel, representing that a period of 75 days should be sufficient for completion of the Staff's investigation and enforcement review.

The Board's Memorandum and Order (Motion to Compel Production of Documents by the NRC Staff), dated August 31, 1993 (the "Board's Order"), deferred for 75 days GPC's Motion to Compel NRC Staff Production of Documents, dated August 9, 1993 ("GPC's Motion to Compel"). The Board ordered that "[o]n Monday November 8, 1993, the first working day after the 75th day, the [GPC] Motion shall be granted, unless the Staff has earlier filed a show-cause motion. Such a motion should be filed by the Staff promptly upon learning that it will need a further extension of time." Board's Order at 7.

Now, shortly before the running of the 75-day period, the Staff asserts that an additional 128-day delay, until March 15, 1994, in the production of the requested documents is necessary. The Staff's Motion further leaves the door open to the possibility that there will be additional Staff requests for delay.

The Staff asserts that its requested delay is necessary due to the need for additional efforts by the Office of

Investigations ("OI"), including additional interviews, which are expected to be completed by December 17, 1993. Staff's Motion, Affidavit of James Lieberman at 2. The Staff's requested delay also includes the time necessary for the NRC's Office of Enforcement, Office of General Counsel and Office of Nuclear Reactor Regulation "to evaluate and analyze the material gathered by OI, and to determine whether enforcement action is warranted." Staff's Motion at 3. "[B]arring unforeseen circumstances, the Executive Director for Operations would forward his decision regarding possible enforcement action to the Commission by February 18, 1994, for Commission action." Lieberman Affidavit at 2.

Mr. Lieberman also states that the "OI Office retains the responsibility to again refer this matter to [the Department of Justice] if, after completion, the investigation reveals evidence of a willful violation of certain NRC regulations. The possibility of further review by the Department of Justice may further delay review [by the Office of Enforcement]." Id. at 3.

The Staff takes the position that "[t]he requested documents should not be released until the Commission completes its review and a determination is made whether to initiate an enforcement action." Staff's Motion at 3. The Staff's new schedule is a "present best estimate schedule based on the review and planning efforts of the Staff which are proceeding with all deliberate speed." Id.

The history of the changes to the Staff's schedule for the investigation and enforcement activities is worth recounting:

1. In mid-1990, following the receipt of allegations from Mr. Mosbaugh that GPC officials had made material false statements to the NRC Staff, an OI investigation was initiated.
2. In October, 1991, the NRC informed a Department of Labor Administrative Law Judge, who was hearing a complaint filed by Mr. Mosbaugh, that the NRC "was making every effort to conclude" its investigation "as quickly as possible."
3. In late 1991 or early 1992, OI referred the case to the Department of Justice ("DOJ"), which, in March, 1993, referred the matter back to NRC to be "pursued administratively." During the DOJ review, OI investigators were assigned as special agents to the U.S. Attorney's Office in Atlanta.
4. On March 8, 1993, the Staff filed with the Board an affidavit of Mr. Ben Hayes, Director of OI, which stated: "I believe these [DOJ and OI] investigations and review of the allegations can be completed within four to six months." NRC Staff's Response to Licensing Board Memorandum and Order (Admitting a Party), Hayes Affidavit at 3.

5. In April, 1993, the Staff informed the Licensing Board that the investigation was expected to be completed within the next several months, but stated that "the date of completion of the investigation cannot be predicted, as it is unknown where matters uncovered in the investigation will lead." NRC Staff Response to the Licensing Board Questions Regarding Schedule and Discovery, dated April 13, 1993, at 5.
6. On August 26, 1993, the Staff filed another affidavit signed by Mr. Hayes which stated: "Based on the current status, I believe this [OI] review can be completed within two months."
7. On October 21, 1993, counsel for the Staff contacted counsel for GPC to solicit GPC's reaction to an NRC request to delay the production of documents until December 17, 1993. This date was said to include sufficient time for NRC Staff review, EDO approval and, if necessary, Commission approval.
8. On October 25, 1993, counsel for the Staff advised counsel for GPC that the Staff would be requesting a delay until January 12, 1994.
9. On October 27, 1993, the Staff's Motion was filed requesting a delay until March 15, 1994.

II. The Legal Standard

The four-factor test cited in the Board's last Memorandum and Order is still applicable:

The test is a weighing of four factors: (1) the length of the delay, (2) the reason for delay, (3) the defendant's assertion of the right to a prompt proceeding, and (4) the prejudice to the defendant of a delay in the civil proceeding. Board's Order at 2, n.1 (quoting Piping Specialists Inc., unpublished opinion of March 18, 1992).

Since our Memorandum, the Commission has held that "'none of these factors is a necessary or sufficient condition for finding unreasonable delay. Rather, these elements are guides in balancing the interests of the claimant and the Government to assess whether the basic due process requirement of fairness has been satisfied in a particular case.'" Oncology Services Corporation, CLI-93-17, 38 N.R.C. 44, 51³ (August 19, 1993) quoting United States v. Eight Thousand Eight Hundred and Fifty Dollars in United States Currency, 461 U.S. 555, 565 (1983).

We also note that the Commission considers it to be relevant that "the Licensing Board is closely monitoring the status of the NRC investigations to ensure that due diligence is being exercised to bring the investigations to a close. Oncology Services, 38 NRC at 60.

³The Commission also considers, at p. 57, the "risk of erroneous deprivation," which appears to apply primarily in cases of the immediately effective suspension of a license. In this case there is no suspension, so we deal with the harm to GPC entirely under the factor covering "prejudice" to it.

III. Balancing the Factors

A. The Length of the Delay

The delay of discovery in this case began in May 1993. If we were to grant the Staff's current request, we would delay discovery until March 1993 -- a ten month delay in discovery. However, the Staff's request may realistically be viewed as open-ended, since it anticipates further review, which may lead to further investigation and to possible enforcement or criminal actions.

On May 3, 1993, GPC filed Georgia Power Company's First Request for Production of Documents by the NRC Staff. GPC's Motion to Compel was filed August 9, 1993, requesting that the Staff produce a limited set of documents: (1) 44 tapes provided by Intervenor to NRC, (2) transcripts of such tapes, and (3) certain documents evidencing statements made by Intervenor to NRC.⁴ The NRC Staff's response requested the Board to defer ruling on GPC's Motion to Compel, representing that a period of 75 days should be sufficient to complete the Staff's investigation and enforcement review.

We note that the delay in our case also affects the Staff's ability to resolve pending 10 C.F.R. § 2.206 petitions that date back to September 1990 and that are being held in abeyance pending the outcome of this proceeding. Georgia Power Company et al. (Hatch Nuclear

⁴ There are 12 documents which GPC has requested in the category of Mr. Mosbaugh's statements. They are identified at pp. 25-26 of GPC's Motion to Compel.

Plant, Units 1 & 2; Vogtle Electric Generating Plant, Units 1 & 2), CLI-93-15, 38 NRC 1 at 3 (1993).

B. The Reason for the Delay

We consider the allegations against GPC to be highly important. Some of its key officials, who are also key officials of the Southern Nuclear Operating Company (SONOPCO), are accused of intentionally withholding safety information from the Nuclear Regulatory Commission following a site emergency in March 1990. The allegations are serious enough that, if sustained, they raise questions about the character and competence of SONOPCO to operate a nuclear power plant with adequate safety.

The long history of this case is peppered with assurances of Staff that the investigation was soon to be completed. (See pp. 5-7, above.) In mid-1990, following the receipt of allegations from Mr. Mosbaugh that GPC officials had made material false statements to the NRC Staff, an OI investigation was initiated. Then, in October, 1991, the NRC informed a Department of Labor Administrative Law Judge, who was hearing a complaint filed by Mr. Mosbaugh, that the NRC "was making every effort to conclude" its investigation "as quickly as possible." This is the first assurance that the end was in sight.

It is time to determine these charges. While a large investigative record has been compiled, the events happened

over three years ago. The question is whether people improperly withheld information from the Nuclear Regulatory Commission. The longer the delay, the more likely that key witnesses will be lost and recollections will fade. Hence, live testimony becomes less and less reliable.

The Staff has attempted to explain the reason for this delay. In the NRC Staff Motion for a Further Extension of Time to Defeat Discovery Documents to the Licensee (Staff Motion), October 27, 1993, we find the following explanations of the slowness of the investigation:

1. The original documentation gathered by OI "is more voluminous than realized at first" (p. 3).
2. The joint review of the Office of Enforcement, the Office of Nuclear Reactor Regulation, Region II and the Office of the General Counsel "is taking longer than initially anticipated" (p. 3).
3. Further interviews, to be completed by December 17, 1993, have been necessitated. (P. 3; attached affidavit of James Lieberman at ¶ 3.)
4. Analysis and an additional decision process that must occur after the further interviews are completed (p. 3).

Of these explanations, the least persuasive is that the documents assembled were "more voluminous than believed at first." This is inexplicable. While we understand some failure to estimate the time for analyzing data and inter-

viewing and re-interviewing witnesses, we see no logical explanation of how a diligent investigation could reasonably fail to know the volume of the documentation it collected. Additionally, when estimates of completion of the investigation have been so poor, we expect a more complete explanation than we have been given. We are not satisfied that the Staff has adequately addressed its reasons for delay, helping us to understand its point of view without compromising its investigation. The size of the record and the need to re-interview witnesses are not, without more, an explanation for the slowness of completing this important investigation. Hence, we are unpersuaded that the Staff has exercised due diligence to promptly bring this matter to a close and present live evidence to a hearing or in the context of a criminal charge. All this time, there is uncertainty affecting both the public's interest in safe operation of a nuclear power plant and GPC's reputation.

Nevertheless, we will also consider Staff's argument that the release of documents will seriously interfere with an important investigation. In this regard, Staff argues that disclosure of the requested information:

1. Would reveal the possible subjects of the ongoing investigation. (Lieberman Affidavit at 3, ¶ 4.)
2. Would reveal "possible inspections and the scope of the evidence." (Id at 3, ¶ 4.)

3. Could compromise investigation activities. (Id at 3, ¶ 4.)
4. Could affect the outcome of a further criminal referral to the Department of Justice (which returned one referral to the NRC previously).

We have reviewed these considerations and are unpersuaded that they justify further delay after the current phase of the investigation is completed on December 17, 1993. With Staff's approval, GPC has completed its discovery of documents possessed by Allen Mosbaugh. It also knows which of its own employees have been interviewed, and undoubtedly has obtained information from them. In light of all this completed discovery, we do not accept the Staff's vague assertions of how its investigation will be prejudiced. Nor do we see how any of the arguments can justify a March 15, 1994 current request for an extension, with substantial likelihood that further developments would prolong that delay.

By December 17, 1993, Staff says that all anticipated follow-up interviews should be completed.⁵ Although another Staff and Commission review could, of course, uncover still further reasons for interviews, we lack confidence that the continuing need for follow-up on follow-up continues to be productive.

⁵Staff Motion: Affidavit of James Lieberman at 2, ¶ 3 (October 2, 1993); Affidavit of Roger Fortuna at 2, ¶ 3 (October 27, 1993).

We also are persuaded by GPC's argument that:⁶

None of the documents requested by GPC (44 tape recordings made by Mr. Mosbaugh, associated transcripts, and statements made by Mr. Mosbaugh) would disclose the identity of any person interviewed except Mr. Mosbaugh. None of the documents would disclose persons yet to be interviewed. As to the scope and subjects of OI's investigation, that information is already known.

We are willing to accommodate the Staff's current plans for investigation, although the balance in favor of permitting this is tenuous. In light of the entire record (including arguments discussed below), we are not willing to delay the requested discovery beyond December 17, 1993.

C. The Applicant's Request for a Prompt Proceeding

GPC has consistently and repeatedly sought a prompt proceeding on its amendment request. It is being denied a prompt proceeding and it deserves to have an evaluation of the prolonged investigation of it.

D. The Prejudice to GPC

We agree with GPC's characterization of the importance of the sought documents:⁷

public perception and employee morale are adversely affected by NRC's continued withholding of the

⁶GPC's Response to NRC Staff Motion for a Further Extension of Time to Defer Discovery Documents to the Licensee (November 3, 1993) at 8.

⁷Id at 13-15, as detailed in the attached affidavit of Mr. W. George Hairston, III, GPC's Executive Vice President — Nuclear Operations.

license amendments on the basis of contrived allegations regarding the character and integrity of the companies' management. The longer it takes to remove the stigma created by such concerns, the greater the chance that the companies' standings in their respective communities and in the industry will be adversely affected. Of course, it is difficult to maintain good employee morale in the face of lingering NRC concerns which are based on such serious allegations lodged by a former employee. Although it cannot be quantified, the importance of good employee morale cannot be overstated. Also, until the license amendments are granted, substantial management attention is required to maintain the appropriate separation of the two companies (GPC and Southern Nuclear) who are responsible for operating the Southern system's nuclear plants (Hatch, Vogtle and Farley). Additional administrative costs are also being incurred to maintain duplicate staffs to perform certain administrative services.

Furthermore, GPC's ability to mount an effective defense will be further prejudiced by the passage of another four months. The recollection of GPC employees as well as NRC witnesses is already diminished due to the significant passage of time since the event under investigation occurred. Even though there are tape recordings of conversations which occurred in 1990, in some cases, it may be difficult for GPC personnel to recollect the circumstances of those conversations. Further delays in this case will exacerbate the difficulty the Company will experience in defending itself in 1994 against allegations that false statements were made to NRC in April, 1990.

Moreover, further delay in the issuance of the license amendments will delay the realization of the benefits of the consolidation, including, for example:

- (a) a single-purpose organization dedicated solely to excellence in nuclear power plant operations, undistracted by the demands of other electric utility operations;
- (b) consistency in personnel policies resulting in cost savings and efficiencies;
- (c) the ability to attract and retain nuclear professionals by offering them an opportunity to

build a career within an operating organization responsible for the operation and maintenance of multiple nuclear plants; and

- (d) an increase in Southern Nuclear's effectiveness through recognition by the nuclear community of its responsibility as the exclusive operator of three nuclear power plants.

The documents being sought are extremely important to GPC's defense and preparation for this case. This proceeding involves very serious allegations made by Intervenor against GPC — allegations that GPC vigorously disputes. Intervenor maintains that his allegations are supported by the tape recordings which he transferred to the NRC, and has produced excerpts of his recordings. Intervenor's excerpts, however, are not complete and appear to omit important exculpatory material. Portions of the full tapes have been played in the presence of GPC counsel during OI [Office of Investigations] interviews and reveal that there are additional statements and discussions showing the importance that GPC places on accurate reporting and the efforts that were undertaken to resolve comments on the April 19, 1990 LER. Accordingly, to demonstrate that Intervenor's claims of willful misconduct are baseless, it is critical that GPC have access to the complete tapes. Indeed, the tapes have already been recognized by the Licensing Board as being "essential evidence" in this proceeding. Memorandum and Order (April 21, 1993), LBP-93-8, 37 NRC ____, slip op. at 13.

Intervenor has also provided other statements to the NRC, and has been interviewed by the NRC on a number of occasions. Access to these documents and statements is similarly essential to determine any other bases (or lack thereof) for Intervenor's allegations and to identify documents that might be introduced as evidence in this proceeding. Needless to say, prior statements by Intervenor may reveal inaccuracies and inconsistencies in his accounts, affecting Intervenor's credibility. Such prior statements may also include remarks exculpating GPC, which may be introduced as admissions. Where a proceeding such as this involves serious allegations and assertions by a single individual, unfettered access to the individual's prior statements is required for a fair and complete hearing.

E. Conclusion

We have weighed all the evidence and arguments in our record. Our prior decision protected Staff's right to continue its investigation. Our current decision also protects that right until the current round of interviews is completed. But it is time to limit further delay in this proceeding by giving GPC its day before us. Its right to that day is substantial. There is a limit to delay justified by continued and re-continued investigation and "analysis."

IV. Provision for Reconsideration

We acknowledge that at an earlier point in this proceeding, the Staff offered to make an in camera presentation that would permit us to understand the reason for the continuing delay. Hence, it is possible that there are factors present in the investigation that could not be disclosed to us. If, in light of this decision, the Staff concludes that an in camera presentation would tip the balance of the four factors, they may make a showing as part of a motion for reconsideration filed on or before December 3, 1993. The first showing should be in writing, containing portions for which in camera status is sought. The Staff may also, for good cause shown, request permission to make an oral in camera presentation.

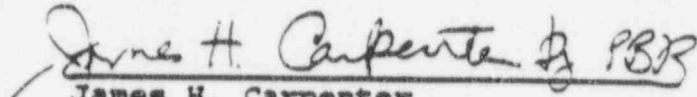
V. ORDER

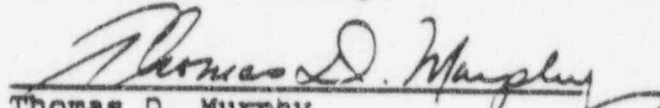
For all the foregoing reasons and upon consideration of the entire record in this matter, it is this 17th day of November, 1993, ORDERED, that:

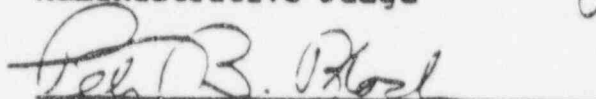
1. Georgia Power Company's Motion to Compel NRC Staff Production of Documents, August 9, 1993 (Motion), is denied until December 17, 1993. As of December 18, 1993, the Motion is granted and the Staff of the Nuclear Regulatory Commission shall produce the documents mentioned in the Motion on that day.

2. Motions for reconsideration of this Memorandum and Order must be filed and received by us on or before December 3, 1993. A Staff Motion may contain materials for which in camera status is claimed, as discussed above.

FOR THE ATOMIC SAFETY AND LICENSING BOARD


James H. Carpenter
Administrative Judge


Thomas D. Murphy
Administrative Judge


Peter B. Bloch
Chair

Bethesda, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
GEORGIA POWER COMPANY, ET AL.
(Vogtle Electric Generating Plant,
Units 1 and 2)

Docket No.(s) 50-424/425-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&D (LBP-93-22) -- 11/17/93 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Washington, DC 20555

Administrative Judge
Peter B. Bloch, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
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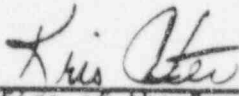
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Docket No.(s)50-424/425-OLA-3
LB M&O (LBP-93-22) -- 11/17/93

C. K. McCoy
V. President Nuclear, Vogtle Project
Georgia Power Company
Post Office Box 1295
Birmingham, AL 35201

Dated at Rockville, Md. this
18 day of November 1993



Office of the Secretary of the Commission

December 2, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
	)	Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY, <i>et al.</i>	)	50-425-OLA-3
)	
(Vogtle Electric Generating Plant	)	Re: Licensee Amendment
Units 1 and 2)	)	(Transfer to Southern Nuclear)
)	

NRC STAFF SECOND SUPPLEMENTAL AMENDED
RESPONSE TO INTERVENOR'S SECOND INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

INTRODUCTION AND OBJECTIONS

Pursuant to LBP-94-26, 40 NRC 93 (1994) and LBP-94-31, 40 NRC 137 (1994), the Staff is filing this second supplemental amended response to "Intervenor's Second Set of Interrogatories and Request for Documents to the Staff of the Nuclear Regulatory Commission," dated May 17, 1994 (Second Interrogatories).¹ As indicated in the "NRC Staff First Supplemental Amended Response To Intervenor's Second Interrogatories And Request For Production Of Documents," dated October 14, 1994, at 4, other documents

¹ The Staff incorporates by reference the objections it stated previously in the "NRC Staff First Supplemental Amended Response To Intervenor's Second Interrogatories And Request For Production Of Documents," dated October 14, 1994, at 1-3. See generally 10 C.F.R. § 2.720(h)(2)(ii) and 10 C.F.R. § 2.744(c) and (d).

responsive to Interrogatories 2 and 5 of the Second Interrogatories² were located, and are itemized below.³

These additional documents will be made available for inspection and copying at NRC Headquarters in Rockville, Maryland. Counsel should contact Staff Counsel to arrange for a specific time for document inspection. Pursuant to 10 C.F.R. § 9.35 (b)(1), charges for copies of documents will be assessed at the rate of 20 cents per page.

CORRECTIONS

The following corrections should be made to the "NRC Staff First Supplemental Amended Response To Intervenor's Second Interrogatories And Request For Production Of Documents" dated October 14, 1994 ("First Supplemental Amended Response"):

- (a) On page 5, the references to "item 2" in paragraphs 9 and 10 should be to "item 5";
- (b) On page 5, the reference to Slide "7A" in paragraph 11 should be deleted;
- (c) On page 6, the reference to "item 6" in paragraph 15 should be to "item 5";
- (d) On page 9, the reference to "items 1-49" in the introductory paragraph of the response should be to "items 1-56"; and
- (e) On page 13, the reference to "item 5" in paragraph 36 should be to "item 35".

² These discovery requests were modified by LBP-94-26, 40 NRC at 98-99, and LBP-94-31, 40 NRC at 142-43.

³ In describing the draft versions of documents found on computer disks, the term "electronic file date" is used. This date indicates when the draft document was last modified and/or saved electronically, but this date does not automatically appear on the hard (paper) copies of the draft documents.

ANSWERS TO INTERROGATORIES

Interrogatory 2:

Answer in detail the following pertaining to the Vogtle Coordinating Group:

- e. produce the following documents and all documents directly or indirectly related to them:
 - i) all documents pertaining to the January 4, 1994 Vogtle Coordinating Group presentation to the NRC management;

SUPPLEMENTAL RESPONSE: (David Matthews)

In addition to documents identified in the First Supplemental Amended Response, the document described below (item 19) is responsive to this request. The document contains no factual information segregable from predecisional opinions and/or work-process material, and will not be made available for inspection and copying.

19. One-page document, untitled, regarding November 22, 1993 management briefing, dated 11/9/93, electronic file date 11/9/93.

- v) all drafts of the February 9, 1994 Vogtle Coordinating Group Analysis;

SUPPLEMENTAL RESPONSE: (David Matthews)

In addition to documents identified in the First Supplemental Amended Response, documents described in numbered items 20 - 69 below are responsive to this request.

Documents described in numbered items 20 - 28 will be made available for inspection and copying.

20. Copy of the 2-page document titled "SYNOPSIS" of Case No. 2-90-020R, previously identified in paragraph 4 b. 5 of the "NRC Staff Amended Response To Intervenor's Second Interrogatories and Request For Production of Documents", filed September 22, 1994, with handwritten notes of Darl Hood, NRC.

21. Two-page draft of GPC's April 9, 1990 letter to NRC (OI Report Exhibit 27), faxed by Ken McCoy to Dave Matthews, with fax cover sheet reflecting two different transmittal dates --April 5, 1990, and April 6, 1990.⁴
22. Draft of LER 1-90-006 Revision 1, and PRB minutes of meeting No. 90-67, with cover sheets containing handwritten entries of Intervenor (total of 14 pages).
23. Intervenor's draft PRB comment review sheet of meeting No. 90-60, dated 5/8/90 (one page, unsigned), and page 6 of draft of LER 1-90-006 Revision 1, containing handwritten entries of Intervenor.
24. Handwritten note from Mark Ajluni to "Ken" dated 12/19/90 (1 page) with attached one-page GPC control log dated 3/23/90.
25. Forty-two pages of GPC documents regarding performance of diesel generator operability tests, some with handwritten entries of unknown origin.
26. Two GPC maintenance work orders dated 3/28/90 and 3/29/90 (five pages total).
27. Minutes of the following Vogtle Plant Review Board (PRB) meetings:
 - A. No. 90-57, dated 4/12/90 (four pages);
 - B. No. 90-60, dated 4/19/90 (three pages);
 - C. No. 90-66, dated 5/8/90 (two pages);
 - D. No. 90-67, dated 5/10/90 (three pages);
 - E. No. 90-68, dated 5/11/90 (two pages);
 - F. No. 90-76, dated 5/31/90 (four pages);
 - G. No. 90-81, dated 6/8/90 (five pages);
 - H. No. 90-82, dated 6/12/90 (four pages);
 - I. No. 90-84, dated 6/21/90 (four pages);
 - J. No. 90-90, dated 6/28/90 (four pages); and

⁴ Attachments 1 and 2 are pages 95 and 97 of OI Report Exhibit 13, and will not be made available for copying.

K. No. 90-96, dated 7/12/90 (page nos. 1 and 4), with attached one-page note (all bearing a 2/2/94 fax date stamp) from GPC's Open Item Tracking System (control number 19094), signed by George Bochohd on "5/24", with handwritten "Question/Action" statement regarding possible need to further clarify diesel starts, and a note that the item was closed at the 7/12/90 meeting.

28. Data printout (79 pages) dated 1/28/92 of Mosbaugh tape transcript excerpts titled "VOGTLE ELECTRIC GENERATING PLANT EVIDENTIARY STATEMENTS BY ISSUE/SPEAKER/CHRON."

The following documents (items 29 - 51) contain factual material which is segregable from predecisional opinion material or material which would otherwise reveal the decision-making process, and will be made available for inspection and copying in redacted form.

29. Three-page document regarding GPC's 4-9-90 letter and 4-19-90 LER, dated 12-11-93, electronic file date 12-13-93.

30. Three-page document titled, "REVIEW OF DIESEL TESTING -- SLIDE 10," electronic file date 12-22-93.

31. Five-page document regarding the 6/29/90 LER cover letter, electronic file date 12/13/93.

32. One-page document titled "INTRODUCTION," electronic file date 1/7/94.

33. Four-page document headed "COORDINATING GROUP CONCLUSION NO. 6," electronic file date 1/7/94.

34. Fifty-page document titled "COORDINATING GROUP ANALYSIS OF EVIDENCE AND CONCLUSIONS," electronic file date 1/18/94.

35. Nine-page document headed "Allegation No. 5," electronic file date 1/10/94.

36. Twelve-page document titled "COORDINATING GROUP ANALYSIS OF EVIDENCE AND CONCLUSIONS," dated January 6, 1994, electronic file date 1/10/94.

37. Four-page document headed "COORDINATING GROUP CONCLUSION NO. 7," electronic file date 1/10/94.

38. Twenty-two-page document titled "COORDINATING GROUP ANALYSIS OF EVIDENCE AND CONCLUSIONS," electronic file date 1/7/94.
39. Twenty-one-page document titled "COORDINATING GROUP ANALYSIS OF EVIDENCE AND CONCLUSIONS," dated 1/7/94, electronic file date 1/7/94.
40. Eight-page document headed "Allegation No. 5," electronic file date 1/10/94.
41. Two-page document headed "COMPARISON OF OI AND COORDINATING GROUP CONCLUSIONS ON OVERALL GPC PERFORMANCE," electronic file date 2/09/94.
42. Two-page document headed "Allegation No. 5," electronic file date 1/06/94.
43. Seven-page draft document titled "COORDINATING GROUP TAPE ANALYSIS," undated.
44. One-page document titled "VOGTLE ENFORCEMENT AND HEARING STATUS," electronic file date 1/28/94.
45. One-page document titled "VOGTLE INVESTIGATION, ENFORCEMENT, AND HEARING," electronic file date 2/02/94.
46. Four-page document titled "DRAFT ANALYSIS," dated 11/30/93.
47. Copies of pages 3, 7, 10, and 11 of the 12-page document titled "ROAD MAP" of Case No. 2-90-020 (previously identified on page 7, paragraph 4 b. 13, of the "NRC Staff Amended Response To Intervenor's Second Interrogatories and Request For Production of Documents," filed September 22, 1994), containing handwritten notes of Darl Hood, NRR.
48. Undated draft, with fax date stamp 11/19/93, of the 2-page document titled "SYNOPSIS" of Case No. 2-90-020R (previously identified on page 6, paragraph 4 b. 5 of the "NRC Staff Amended Response To Intervenor's Second Interrogatories and Request For Production of Documents," filed September 22, 1994), with handwritten notes of Darl Hood, NRR.
49. Copy of pages 105-11 of OI's 12/17/93 report, with handwritten entries of Duke Wheeler cross-referencing initial and final OI exhibit numbers (some handwritten entries on page 111 redacted).
50. Memo from P. Skinner to S. Ebnetter dated 10/6/92 (5 pages), with 5 enclosures (13 pages), regarding NRC Region II's analysis of EDG information provided by GPC.

51. GPC slides from April 9, 1990 presentation with handwritten notes believed to be those of Gus Lainas.

The following documents (items 52 - 54) contain no factual information segregable from predecisional opinions and/or work-process material, and will not be made available for inspection and copying.

52. Draft summary (undated, 6 pages) of NRC special team inspection findings, with handwritten comments of unknown origin.

53. One-page document regarding actions of GPC personnel, electronic file date 2/9/94.

54. Four-page document regarding VCG deliberations, electronic file date 12/14/93.

Documents described in numbered items 55 - 65 are known to already have been made available to, or are already in the possession of, GPC and Intervenor, and will not be made available for inspection and copying.

55. Draft of LER 1-90-006, with cover sheet signed by John Aufdenkampe on 4/11/90 (16 pages) (pages 225-240 of OI Report Exhibit 38).

56. Six-page typed submittal, undated, from Intervenor (part of OI Report Exhibit 3).

57. Eighteen-page typed submittal, undated, from Intervenor (part of OI Report Exhibit 2).

58. Eight-page typed submittal, undated, from Intervenor, titled "THE DEFINITION OF THE 'COMPREHENSIVE TEST PROGRAM' (CTP) IN RELATION TO SOUTHERN NUCLEAR'S MATERIAL FALSE STATEMENTS" (previously produced in discovery).

59. Twelve-page typed submittal dated 3/18/94, from Intervenor, titled "HAIRSTON WAS ON THE LATE AFTERNOON CONFERENCE CALL 4-19-90" (enclosure to Board Notification 94-07, dated March 24, 1994).

60. Memo from Pierce Skinner (1 page) to J. Johnson dated 7/23/92 regarding Region II's assessment of tapes, with attached 11-page "Tape Matrix" (identified in item 1 Y of "NRC Staff Second Supplemental Response To Georgia Power Company's First Request for Production of Documents," dated 11/15/94).

61. Minutes of the following PRB meetings:
 - A. No. 90-91, dated 6/29/90 (two pages);
 - B. No. 90-109, dated 8/28/90 (two pages),
 - C. No. 90-110, dated 8/29/90 (two pages); and
 - D. No. 90-111, dated 8/30/90 (two pages)(copies of items A-D were enclosed with letter dated 7/28/94 to Board and parties from Staff counsel).
 62. Three-page typed note, undated, from John Rogge to Ken Brockman regarding an NRC meeting with Alan Mosbaugh and George Bochohd on 6/19/90 (previously produced in discovery).
 63. GPC Unit 1 Diesel Generator Testing logs dated 3/24/90 (2 pages), and one-page handwritten note beginning "IMPORTANT EXTREME CAUTION..." (previously produced in discovery).
 64. Three pages of minutes of the PRB meeting held on 4/18/90 (OI Report Exhibit 112).
 65. One-page GPC letter, with four-page attachment, from R. McDonald to Chairman Carr, dated 9/28/90 (cc to Intervenor's counsel).
- Documents described in numbered items 66 - 69 are available in the Public Document Room, and are available for inspection and copying there.
66. One-page NRC memo from Jimmy Blanton to Cherie Siegel dated 2/13/92, regarding documentation for NUREG-1410, with attached 39-page bibliography, accession number 9202190236.
 67. One-page GPC letter, with one-page attachment, from W. Hairston to NRC, dated 6/22/90.
 68. Vogtle Unit 1 First Refueling Outage Target vs. Actual Critical Path chart (one enlarged page), accession number 9202200432-02.
 69. Vogtle Unit 1 Second Refueling Outage Target vs. Actual Critical Path chart (two enlarged pages), accession number 9202200432-04/01.

5. Answer in detail the following pertaining to the Notice of Violation:

b. produce all documents used in its creation [and issuance].⁵

SUPPLEMENTAL RESPONSE: (Renée Pedersen)

In addition to documents identified in the First Supplemental Amended Response, documents described in numbered items 57 - 63 below are responsive to this request. These documents contain factual material which is segregable from predecisional opinion material or material which would otherwise reveal the decision-making process, and will be made available for inspection and copying in redacted form.

57. Eleven-page draft cover letter to NOTICE OF VIOLATION, electronic file date 11/24/93.

58. Eleven-page draft cover letter to NOTICE OF VIOLATION, electronic file date 12/17/93.

59. Seven-page draft NOTICE OF VIOLATION, electronic file date 2/10/94.

60. Seven-page draft NOTICE OF VIOLATION, electronic file date 12/17/93.

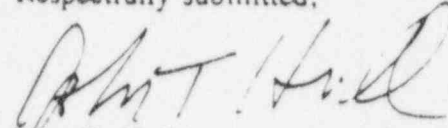
61. Two-page draft memo from Luis Reyes to James Lieberman regarding "PROPOSED ENFORCEMENT ACTION - VOGTLE," electronic file date 2/24/94.

62. Copy of page 5 of OI Report, Case No. 2-90-020R, dated December 17, 1993, containing handwritten notes of Joe Gray, Office of Enforcement.

⁵ See note 2, *supra*.

63. Copies of pages 1, 14, and 54 of OI Report, Case No. 2-90-020R, dated December 17, 1993, containing handwritten notes of Renée Pedersen.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John T. Hull".

John T. Hull
Counsel for NRC Staff

Dated at Rockville, Maryland
this 2nd day of December 1994

December 2, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
GEORGIA POWER COMPANY) Docket Nos. 50-424-OLA-3
et al.) 50-425-OLA-3
)
) Re: License Amendment
(Vogtle Electric Generating Plant,) (Transfer to Southern Nuclear)
Units 1 and 2))

AFFIDAVIT

I, David B. Matthews, being duly sworn, state as follows:

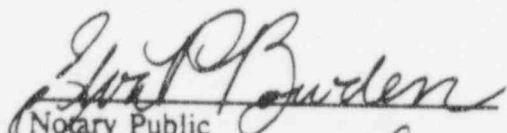
1. I am employed by the U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation. I chaired the group known as the Vogtle Coordinating Group.

2. I responded to Interrogatories 2. e (i) and 2. e (v) contained in the "NRC Staff Second Supplemental Amended Response To Intervenor's Second Interrogatories And Request For Production Of Documents," dated December 2, 1994.

3. The responses provided to the above-listed Interrogatories are true and correct to the best of my knowledge and belief.


David B. Matthews

Sworn and subscribed to before me
this 2nd day of December 1994


Notary Public
My commission expires: December 1, 1995

December 2, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

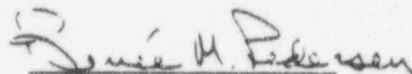
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
) Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY)
) 50-425-OLA-3
 et al.)
) Re: License Amendment
(Vogtle Electric Generating Plant,)
) (Transfer to Southern Nuclear)
 Units 1 and 2))

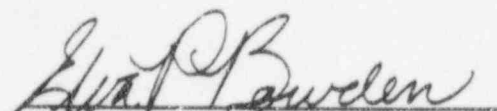
AFFIDAVIT

I, Renée M. Pedersen, being duly sworn, state as follows:

1. I am employed by the U.S. Nuclear Regulatory Commission, Office of Enforcement.
2. I responded to Interrogatory 5. b contained in the "NRC Staff Second Supplemental Amended Response To Intervenor's Second Interrogatories And Request For Production Of Documents," dated December 2, 1994.
3. The responses provided to the above-listed Interrogatory are true and correct to the best of my knowledge and belief.


Renée M. Pedersen

Sworn and subscribed to before me
this 2nd day of December, 1994


Notary Public

My commission expires: December 1, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
GEORGIA POWER COMPANY, *et al.*) Docket Nos. 50-424-OLA-3
) 50-425-OLA-3
)
(Vogtle Electric Generating Plant) Re: License Amendment
Units 1 and 2) (Transfer to Southern Nuclear)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF SECOND SUPPLEMENTAL AMENDED RESPONSE TO INTERVENOR'S SECOND INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system this 2nd day of December 1994.

Peter B. Bloch, Chairman*
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555
Fax: 301-415-5599

Judge James H. Carpenter
933 Green Point Drive
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Sunset Beach, North Carolina 28468
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Thomas D. Murphy*
Administrative Judge
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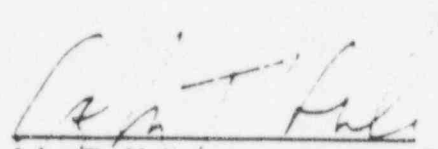
Michael D. Kohn, Esq.
Stephen M. Kohn, Esq.
Kohn, Kohn and Colapinto, P.C.
517 Florida Avenue, N. W.
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Office of Commission Appellate
Adjudication*
Mail Stop: OWFN-16/G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Adjudicatory File* (2)
Atomic Safety and Licensing Board
Panel
Mail Stop: T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Board
Panel*
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U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Office of the Secretary* (16)
Attn: Docketing and Service
Mail Stop: OWFN-16/G15
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555



John T. Hull
Counsel for NRC Staff

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March 10, 1995

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

SERVED MAR 10 1995

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the matter of

GEORGIA POWER COMPANY,
et al.

(Vogtle Electric Generating
Plant, Units 1 and 2)

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(Transfer to Southern
Nuclear)

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

MEMORANDUM AND ORDER
(Schedule for Phase II)

On March 7, 1995, we issued a Memorandum and Order
Reopening of Mosbaugh Deposition), in which we stated:

Because the support for this motion is filed in
camera, Intervenor is unable to file a meaningful
response at this time. Accordingly, we have reviewed
this motion without receiving a response from
Intervenor.

Since we issued that order, we received Mr. Allen Mosbaugh's
"Response to Georgia Power Company's Motion to Reconvene the
Deposition of Allen Mosbaugh," March 8, 1995 and the NRC
Staff's "Response to Georgia Power Company's Motion to
Reconvene Deposition of Allen Mosbaugh," March 8, 1995.

The Staff opposes the reopening of the Mosbaugh deposition "absent a very clear and strong case of good cause, including such criteria as whether the discovery is necessary to a proper resolution of the issues." Intervenor argues that the reopening of the deposition is not needed because "whatever element of surprise would exist in a deposition setting will certainly exist when Mr. Mosbaugh is cross-examined during the Phase II hearing." It also argues that Intervenor is pressed to conduct discovery on the Staff/Georgia Power resolution of the Notice of Violation that is directly related to this case and that, "There is simply no room in the current hearing schedule to accommodate Licensee's request and still allow Intervenor to adequately prepare for the upcoming hearing."

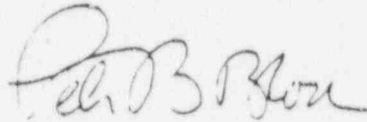
In light of these arguments, we are convinced that both Intervenor and the Staff were able to file meaningful responses to the Motion, even though a portion was filed in camera. Indeed, these responses are persuasive; and we have decided to reverse our prior decision and to conclude that the Mosbaugh deposition should not be reopened.

ORDER

For all the foregoing reasons and upon consideration of the entire record in this matter, it is this 10th day of March, 1995, ORDERED, that:

The deposition of Allen Mosbaugh shall not be reopened.

FOR THE ATOMIC SAFETY AND LICENSING BOARD



Peter B. Bloch
Chair

Rockville, Maryland

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

GEORGIA POWER COMPANY, ET AL.

(Vogtle Electric Generating Plant,
Units 1 and 2)

Docket No.(s) 50-424/425-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MAO (SCHEDULE FOR PHASE II) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter B. Bloch, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
James H. Carpenter
933 Green Point Drive, Oyster Point
Sunset Beach, NC 28468

Mitzi A. Young, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

John Lamberski, Esq.
Counsel for Georgia Power Company
Troutman Sanders
Suite 5200, 600 Peachtree Street, N.E.
Atlanta, GA 30308

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Shaw, Pittman, Potts & Trowbridge
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Stephen M. Kohn, Esq.
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517 Florida Avenue, N.W.
Washington, DC 20001

Docket No.(s)50-424/425-OLA-3
LB M&O (SCHEDULE FOR PHASE II)

C. K. McCoy
V. President Nuclear, Vogtle Project
Georgia Power Company
Post Office Box 1295
Birmingham, AL 35201

Dated at Rockville, Md. this
10 day of March 1995


Office of the Secretary of the Commission

1 INT. EXH. 48
2 TAPE NO. 253
3 DATE: 8-15-90

4
5
6 MCCOY: (inaudible) the meeting. We're trying
7 to go through what our positions are. We need to do this by five
8 o'clock, because we're going to give these positions to the NRC,
9 so they can have their team meeting in the meeting, and go over
10 all these divisions and be sure they're consistent with what they
11 think the concerns are. And then, tomorrow morning, George and I
12 are going to meet with the team leader from the NRC to see if we
13 can resolve any misunderstandings -- that might exist or where we
14 are at fault, the purposes on not hitting the targets. So with
15 that kind of background, George why don't you take over.

16 BOCKHOLD: Before I go to the specifics, I do have
17 one general thing for everybody. There's still some concern from
18 some members of the team that if we are speculating about
19 something, just say we're speculating. I think we all have to be
20 careful about that. If we're not speculating, we should say it
21 more as a positive fact, (inaudible) I'd like to pass that on to
22 help your goal. You know, they know when we're speculating, and
23 they know when we're sure about our fact, okay? The next thing I
24 would like to do is just start through the list. We have a
25 package put together, and it's crossed out with diesel record
26 start failures, it's Pete Taylor, George Frederick. George
27 Frederick has provided a new page report. Does everybody have
28 copies?

29 (no response)

BOCKHOLD: Okay.

1 MCCOY: One thing I noticed on this is that you
did not put a revision number or anything on these and you can't
3 tell, you know, each time it got revised. And I would suggest
4 that we all go through right now and just mark the current
5 package we have as Rev. 1.

6 BOCKHOLD: Well, I put time and date.

7 MCCOY: You have time and date?

8 BOCKHOLD: Right here.

9 McCoy: Let's all go through and put it on every
10 one of these. The time and date is 1500 (inaudible).

11 BOCKHOLD: Okay, so we're going to read --
12 everybody's going to George Frederick's item. We're going to go
13 ahead and comment if we've got any questions or issues. Why
14 don't we ask Teresa to come down, and get a new package, that
corporate doesn't have, and fax it to them right away?

16 MCCOY: Bill, we're not sure you have the latest
17 package up there, but we're going to fax you a complete copy.
18 It's the latest.

19 SHIPMAN: We're sure we don't, Ken.

20 MCCOY: Okay, so we'll do it. We can't wait
21 until you get that, but we'll just send it over to you.

22 SHIPMAN: Understand.

23 BOCKHOLD: On the second page, of George's item.
24 I'm not sure what the word "immediate" means. I want to say
25 after notification of the residents and NRC Region II, the
26 revised LER was prepared.

1 VOICE: (inaudible).
2 VOICE: (inaudible).
3 BAILEY: Don't you remember we wrote that letter
4 on the way back?
5 MCCOY: Yeah, that's right. It has the same
6 date.
7 BAILEY: Yes.
8 BOCKHOLD: Mike Horton. Your item two, is there a
9 reason for why we have not always reported.
10 HORTON: I'm sure there is. Uh, I don't what
11 that reason is. Uh, this goes back to the late 87-88
12 (inaudible).
13 BOCKHOLD: Why don't you add a sentence that
14 summarizes (inaudible).
15 MULTIPLE VOICES: (inaudible).
16 BOCKHOLD: Well, maybe you need to see the
17 documentation Mike. And Mike and Rick (inaudible) very clear
18 (inaudible) screwed up.
19 VOICE: (inaudible).
20 BOCKHOLD: Well, that's right. We screwed up and
21 we got a fairly massive effort to figure out what was all those
22 failures.
23 VOICE: (inaudible).
24 VOICE: (inaudible) originally we denied the
25 violation.
26 MULTIPLE VOICES: (inaudible)

1 BOCKHOLD: You can read the document, basically, if
2 something new comes out. You can read the documentation
3 (inaudible), and if something new comes out, then you can
4 (inaudible) to say we're guilty and you can prepare a special
5 report -- This is violation number 1 (inaudible). Do we want to
6 add Stew Ebnetter in here? You notified Brockman right, Ken.

7 MCCOY: Bill Shipman.

8 BOCKHOLD: Okay, Bill Shipman notified Brockman.
9 You want to add Stew Ebnetter - you have never interviewed?

10 MCCOY: Bill?

11 SHIPMAN: Yes, sir.

12 MCCOY: What we're talking about is that there's
13 a statement in here that says, "Therefore, when Vogtle Management
14 was aware of the problem in the LER 9006 rev zero, NRC Region II
15 was notified including the Chief of Reactor Projects, Ken
16 Brockman. (Inaudible) Well, anyway, I think we should put in
17 here that Stew Ebnetter was notified also.

18 SHIPMAN: George Hairston called Stew according to
19 George.

20 MCCOY: Yeah.

21 BOCKHOLD: So why don't, want to put the names and
22 not the, the titles? Including Ken Brockman and Stew Ebnetter.

23 VOICE: And George, you all talked to the
24 resident.

25 BOCKHOLD: I talked to the resident. I talked to
26 the resident.

1 MCCOY: That's the next paragraph. It's after
2 "notification of the resident and Region II" -- The revised LER
3 was prepared.

4 BOCKHOLD: Why don't you say, George Frederick, why
5 don't you say including the residents, Ken Brockman and Stew
6 Ebneter?" I think I notified Ron Aiello, but I can't remember at
7 this point. It was one of the residents.

8 VOICE: (inaudible).

9 BOCKHOLD: "Including the NRC residents, Ken
10 Brockman." Why don't you say including the NRC residents, and
11 NRC Region II, Ken Brockman and Stew Ebneter. Why don't you just
12 move the sentence up. After notification of the NRC the revised
13 LER was prepared.

14 MCCOY: The only thing that I would think on
15 that is that I'm not sure that the revised LER wasn't in some
16 form of preparation-revision. I think what brought it to our
17 attention was the fact that the LER had numbers on it that were
18 different than the original version.

19 VOICE: (inaudible).

20 BOCKHOLD: We struggled through about four or five
21 different revs. The LER's were different.

22 MCCOY: We might want to say instead of "the
23 revised LER was prepared", "The revised LER was submitted."
24 (inaudible). On this paragraph two, we're going to have to make
25 that (inaudible). One thing on these papers is we're going to
26 have to be clear (inaudible).

1 BOCKHOLD: Well, item (inaudible).
VOICE: (inaudible).
3 BOCKHOLD: (inaudible) Company's position on the
4 NRC issue -- "After thorough review --"
5 MCCOY: (inaudible) The issue about the diesels
6 and the letters and all that, that's not in here at all.
7 FREDERICK: That's what worries me, (inaudible). I
8 started work on some of this, for instance, there's an open
9 question on, who prepared the slides for the 4/9 presentation;
10 who prepared them and who approved them?
11 BOCKHOLD: The slides, I did.
12 FREDERICK: Both?
13 BOCKHOLD: I worked with Jimmy Paul Cash and Ken
14 Burr. The three of us worked on it. I might have put the
bullets down and then got Ken Burr to make sure that the, uh,
16 organized sequence was correct.
17 FREDERICK: Uh, the second question was who prepared
18 and who approved the confirmatory action letter?
19 MCCOY: Jim Bailey, did you hear that question?
20 BAILEY: We prepared it here and it was approved
21 by Hairston.
22 MCCOY: I guess we would say that I prepared
23 that. I worked with you on the preparation, right?
24 BAILEY: Correct.

1 MCCOY: So why don't we say that Ken McCoy and
Jim Bailey prepared the letter which was signed by George
3 Hairston in Birmingham.

4 FREDERICK: On the initial LER 90-06, Rev 0, who
5 prepared that? Who approved it, and who reviewed it on the PRB?
6 I can get the PRB membership from various meetings. There's
7 gonna be quite a few. I can also get who prepared it from the
8 NSAC staff. I think who approved it is obvious it goes out under
9 Mr. Hairston's signature.

10 MCCOY: That's right. We have a blue sheet with
11 every LER. It has the review up there. We can look at that and
12 see who reviewed that one. I know, well I'm not sure about that
13 one.

14 FREDERICK: Jim, is Jim Bailey there?

 BAILEY: Yes.

16 FREDERICK: Jim, I'll call you after the meeting and
17 get the particulars on that blue sheet to answer that question.

18 FREDERICK: The next question that I have that
19 involves corporate is: Who prepared the cover letter for LER
20 9006 rev one? That's the transmittal letter that Mr. Hairston
21 signed. He wants to know what the attempt of that paragraph was
22 meant to do in clarifying the LER 9006 rev 0. We's not sure it
23 actually did anything to clarify the diesel start that was
24 described in the original LER.

1 FREDERICK: So, I need to talk to, and I think it's
Harry Majors, but -- and he may be out of town, and I may have to
3 talk to Jack Stringfellow.

4 MCCOY: Why don't you all go ahead and pull that
5 piece of correspondence? Do you have a copy of it down here?

6 VOICE: (inaudible).

7 MCCOY: Okay, so after the meeting, George will
8 give you a call. You all see if you can figure out what the
9 question is and what the answer is.

10 FREDERICK: Here's the last one for you, Jim. Our
11 records show that the LER 9006 rev 0, that went before the Plant
12 Review Board on the 18th of April, did not say anything about
13 subsequent to a test program. After George's approval between
14 the 18th and the 19th when it was transmitted, there was a change
made, and the words, "subsequent to the test program," were
16 included. The number of diesel starts was changed to coincide
17 with the number of starts in the April 9th letter. He wants to
18 know who put the words "subsequent to the test program" in here.
19 Initially I've been told it happened in the telephone
20 conversation between two groups. One in corporate and one on the
21 plant site.

22 BOCKHOLD: Ken McCoy if you remember I believe it
23 happened between a group in your office and me. And we had some
24 discussions about it, and given the fact that I thought the
25 slides that I made the presentation with were correct, uh, and I
26 guess thinking more about it, because we talked to Pete Taylor

1 about it some. I thought that, you know -- I thought our
discussion that these were clarifying words and my initial
3 thought was they were no material change to the facts and they
4 were basically correct and that's why I agreed with it -- the
5 change that was initiated in corporate --

6 VOICE: (inaudible).

7 MCCOY: Bill does that sound like your
8 recollections.

9 SHIPMAN: Yes, sir.

10 MCCOY: All right, let's get that down in
11 writing here for George. That's my recollection too. In general
12 terms, I don't remember the specific words but I do remember the
13 discussion.

14 SHIPMAN: There was a lot of word engineering that
went into that response.

16 MCCOY: Okay, now that response was prepared
17 after we did the QA audit and had all that information?

18 BOCKHOLD: No, No, No. Let me bring you up to the
19 sequence of events.

20 MCCOY: Okay.

21 BOCKHOLD: Let me bring everybody up to the
22 sequence of events because it now involves corporate. Bill, can
23 you hear me?

24 SHIPMAN: Yes.

25 BOCKHOLD: Okay, the sequence of events: On the
26 weekend, me, Jimmy Paul, and Ken Burr and George Frederick, and

1 some others worked on transparencies that we were going to use in
2 our conference that occurred on Monday. Okay. Basically, Jimmy
3 Paul came up with the number of starts and Ken Burr and I came up
4 with the sequence. We put it together into general terms, so we
5 could discuss that. From that point on, then we went to the
6 conference with the NRC. We presented the slide. We really
7 didn't talk about the number of starts in the conference at all
8 because we got sidetracked with a bunch of other issues. On the
9 airplane ride back, you, being corporate, and Ken McCoy, and
10 George Hairston and whoever revised the letter and sent it out
11 that evening. It was dated the 9th. It was Monday evening.
12 Something like 10 days later, the 19th, okay, on the 18th, the
13 PRB came to me with a minor revision, took the numbers up from 18
14 and 19, respectively to a total of 20. I okayed that, and that
15 went to corporate. On the 20th, because of the number going up,
16 I think we felt that it would be better to keep the LER
17 consistent with the presentation. We lowered the number to 18
18 because of again, word engineering. We didn't want to have 18
19 and 19 and break the diesels a part. And then there was some
20 discussion about the preceding sentence, about the comprehensive
21 testing of the engine logic, and ...

22 MCCOY: One thing that I would like to add to
23 that. As I recall, the words were at least 18 --

24 BOCKHOLD: At least, the words say --

25 MCCOY: When the thing was brought up, to 20, it
26 didn't change the accuracy of what was in there...

1 BOCKHOLD: That's correct.

2 MCCOY: Was the reasoning.

3 BOCKHOLD: Any why I think we came up with 20, and
4 I'm only guessing at this point, and George is supposed to find
5 out. But why I think it was 20 was that we probably had within
6 that week, we had another diesel start. In one case we probably
7 had two, and one engine we had another diesel start. But I don't
8 remember why the PRB had 20; do you remember, John?

9 AUFDENKAMPE: Yeah, it was Tom, Tom Webb wrote the LER
10 and what he did was take the numbers from the April 9 letter and
11 worked from April 9th forward and added the rest of them on to
12 that.

13 BOCKHOLD: Well, that corresponds with why I would
14 guess 20 would be okay, because, you know, we had another engine
15 start --

16 AUFDENKAMPE: But then there were some questions in
17 the PRB about whether 20 was an accurate number or not, if that's
18 where it came from. Then the question was whether 18 and 19 was
19 accurate. That's when we had a phone call Friday night with you
20 and Alan and me and Bill Shipman and, I think, Paul Rushton and
21 Jim Bailey. We talked on Friday night trying to iron out the
22 LER. The discussion was what was meant by, where we got the
23 numbers in the April 9th letter.

24 BOCKHOLD: Okay, so you were -- I don't remember,
25 you know, that all those people were in on it.

26 MCCOY: Yeah.

1 BOCKHOLD: So everybody then agreed on at least 18?

3 VOICE: Nope.

4 BOCKHOLD: Given the facts, if the transparency had
5 been correct.

6 AUFDENKAMPE: Everybody agreed that based on what you
7 identified as the starting point for counting that the 18 and 19
8 were correct.

9 BOCKHOLD: Okay, George, did you hear that?

10 FREDERICK: Part of it.

11 BOCKHOLD: What John just said.

12 AUFDENKAMPE: You told everybody, well everybody
13 there, that the 18 and 19 were based on completion of the
14 comprehensive test program.

 BOCKHOLD: Associated with the logic.

16 AUFDENKAMPE: I don't recall that.

17 BOCKHOLD: Yeah well, that's basically what the
18 transparency said.

19 AUFDENKAMPE: Based on that issue, or based on that
20 statement everybody agreed that 18 and 19 (inaudible).

21 FREDERICK: Okay.

22 BOCKHOLD: Friday evening phone call with John, and
23 Alan, and who else and Bill Shipman.

24 AUFDENKAMPE: Bill Shipman, Jim Bailey, Bailey was
25 (inaudible).

1 BOCKHOLD: That was the phone call. Okay, so the
trail of fact is that I believed the transparency to be correct.
3 And then Tom Webb added some numbers on, but that appeared, in my
4 mind, appeared to be confusing. And there was some discussion,
5 that John went on about it, okay, that then we got at least 18
6 because the transparency's correct. And the other words got in
7 here on what the completion of the test program was, in my mind,
8 that was associated with the logic and the control testing which
9 really didn't involve diesel starts at all. It involved the air
10 system.

11 MCCOY: (inaudible).

12 MCCOY: (inaudible).

13 SHIPMAN: Yeah, the way this thing originally came
14 up was when the LER came up with I think, it was 21 and 22, or
something like that. George Hairston asked a question, "Well, we
16 went to Atlanta, and we told them 18 and 19, and now the number's
17 21 and 22. Are we sure that the number's right? You know, we
18 had this conference call that John's talking about to try to make
19 sure the number was right. Coming out of that phone call, as I
20 recall it, the decision was that we would be completely safe if
21 we said, "greater than 18."

22 AUFDENKAMPE: Given what we identified as the starting
23 point for that count.

24 BOCKHOLD: Right.

25 FREDERICK: What -- where the confusion factors,
26 Bill, was when we threw in the starting point. That's what has

1 kind of thrown a monkey in the wrench, or the wrench in the
2 monkey, whatever you want to call it.

3 SHIPMAN: How about a monkey wrench in the works?

4 FREDERICK: Yeah. What happened was when we decided
5 to define the starting point, we fuzzed the whole picture up.

6 BOCKHOLD: Yeah, I think, you know, hindsight is
7 20/20. It would have been best to leave the first little part of
8 that phrase out completely.

9 DOMBY: Let me ask a question.

10 FREDERICK: That's what he's asking. Where did that
11 come from?

12 DOMBY: That Friday night meeting, does anybody
13 disagree with John's recollection about who were the participants
14 on that phone call?

AUFDENKAMPE: I know it was definitely me and Alan,
16 and George, and Bill Shipman.

17 VOICE: (inaudible).

18 AUFDENKAMPE: Bill, do you remember who else was there
19 with you on that Friday phone call?

20 SHIPMAN: No, I don't remember, but I know there
21 were several of us. Louis just said he was involved, and Paul,
22 and Jim, and Jack were involved. This was one of those, "We've
23 got to get this thing right so George will sign it out," last
24 minute exercises.

25 VOICE: (inaudible).

1 SHIPMAN: We had practically everybody up here and
practically everybody down there that was available on the phone
3 call.

4 FREDERICK: Well, I think I can describe that one.

5 BOCKHOLD: Okay.

6 FREDERICK: I can talk to Jim Bailey after the
7 meeting on the other one.

8 MCCOY: Okay.

9 MCCOY: Is there anything else that we need on
10 this?

11 BOCKHOLD: (inaudible) We'll talk about that after
12 the meeting.

13 MCCOY: Okay. Let's go on to the next one.

14 BOCKHOLD: One comment that Jim had. He's not
going to make it by 5:00.

16 MCCOY: Well, we're going to have to give him
17 what we got.

18 BOCKHOLD: Okay, we'll just give them what we got
19 at 5:00.

20 SWARTZWELDER: What we've reviewed by 5:00?

21 MCCOY: We're going to give them what we got.

22 SWARTZWELDER: We're going to have a lot of comments
23 (inaudible).

24 MCCOY: The problem is they're going to have an
25 exit on Friday and they have got to decide and we got to decide
26 whether we understand their issues and they understand our

1 positions, and get that all resolved tomorrow. Now, the NRC is
meeting at 5:00. We won't have another team meeting probably
3 until tomorrow afternoon and so we've got to be sure we
4 understand the team members' concern and what we've written down
5 as the NRC issue, fully expresses their concern, uh, for one
6 thing, and they need, each of their people need to know what
7 facts we have and what information we have at this point. We can
8 continue to work after that. I guess the exposure on this
9 (inaudible) is that (inaudible conversation).

10 BOCKHOLD: This LER, about (inaudible) -- so it's
11 not (inaudible). It doesn't coordinate with anything, so we're
12 not going to give him that one.

13

14 [pendlant1] H:\wpdocs\tlp\license.pro\tapes.int\original.512\253-ex48

Question #1

1. Who prepared the slide for the 4/9/90 presentation?
Answer: G. Bockhold, Jr., J. P. Cash, and K. Burr working as a group.
2. Who approved use of the slide?
Answer: G. Bockhold, Jr.

Question #2

1. Who prepared the confirmatory letter of April 9, 1990?
Answer: C. K. McCoy, J. A. Bailey, W. G. Hairston, III as a group.
2. Who approved the letter?
Answer: W. G. Hairston, III

Question #3 (with regard to LER 90-06, revision 0, dated 4/19/90)

1. Who prepared the LER?
Answer: Several draft revisions of the LER were prepared by Tom Webb and others of the NSAC group of the Vogtle Site Technical Support. These drafts were reviewed and commented on by the Plant Review Board. The final revision of LER 90-06, revision 0 was prepared by a phonecon between site management and corporate management. Those participating are believed to be G. Bockhold, Jr., A. L. Mosbaugh, J. G. Aufdenkampe, W. Shipman.
2. Who reviewed the LER?
Answer: All revisions of the LER were reviewed by the PRB and the General Manager-Plant Vogtle.
3. Who approved the LER?
Answer: The LER was approved by W. G. Hairston, III

Question #4

1. Who prepared the cover letter for LER 90-06, revision 1?
Answer: The cover letter was prepared by H. W. Majors of the corporate staff. This letter was prepared under the guidance of W. G. Hairston.
2. What was the purpose (intent) in the wording of the cover letter with regard to the number of diesel starts?
Answer: The cover letter was intended to document discussions with NRC Region II to clarify the starts documented in LER 90-06, revision 0. By picking a well defined point to specify "subsequent to the test program" it was possible to identify a substantial number of successful diesel starts. This was intended to remove any additional ambiguity.

Question #5

1. Who in corporate added the words "subsequent to the test program" in LER 90-06, revision 0?
Answer: Corporate Licensing personnel in conjunction with the phone conversation described above made editorial changes as directed. Those present during the phone conversation are thought to be W. Shipman, G. Bockhold, Jr., A. L. Mosbaugh, J. G. Aufdenkampe, and J. Stringfellow.

MEMORANDUM TO CASE FILE

TYPE ACTION <input checked="" type="checkbox"/> RECORD OF CONVERSATION <input type="checkbox"/> CASE REVIEW / STATUS <input type="checkbox"/> OTHER	PARTICIPANTS	FILE NO.
	VORSE MILHOAN	2-90-020
	CONFIDENTIALITY REQUESTED YES NO	DATE 11-19-91
TIME		

SUMMARY

I spoke with Tim Milhoan, DCA, asking if he had effective contact with SA Power regarding action to prevent possible compromise of facility due to information on tape. He said he had spoken to SA Power officials and that compensatory measures had been taken.

PAGE 1 OF 1

PREPARED BY VORSE	DATE 11-19-91
----------------------	------------------

ACTION REQUIRED

REVIEWED BY	DATE
-------------	------

OFFICIAL USE ONLY — DO NOT DISCLOSE

SUMMARY REPORT

TAPE # 44

SUMMARY:

A PORTION OF THE RER EXIT DISCUSSED SECURITY VULNERABILITIES WHICH UNTIL CORRECTED WERE SAFEGUARDS:

A DISCUSSION BETWEEN MOSBAUGH AND (WE BELIEVE) BULLHOLTZ WAS A DIRECT CONVERSATION CONCERNING A COMPUTER VULNERABILITY

SPECIFIC ITEMS OF INTEREST:

- RER EXIT
- LICENSEE CONVERSATION AFTER EXIT
-
-
-
-

SIGNIFICANCE:

Safeguards information discussed AND MATERIALS NOT SECURED AS SAFEGUARDS.

SECURITY IMPLICATIONS:

VIOLATION OF 73.21(4)(3)(1)

DT 11/15/91
11/15/91

MEMORANDUM TO CASE FILE

TYPE ACTION

- RECORD OF CONVERSATION
- CASE REVIEW / STATUS
- OTHER

PARTICIPANTS

VORSE, MILLHORN, JENKINS, MEECHOTA

FILE NO.

2-90-020

DATE

11-18-91

TIME

1530

CONFIDENTIALITY REQUESTED YES NO

SUMMARY

Had discussion re Tapes with above individuals. Agreement WAS to present to Elster in AN that a request for investigation shall be made re security info on Tapes and that to pick up Tapes from Mosbays should be in conference in case it could be done as early as Wed Nov 20th but I had to discuss strategy with my management.

PAGE 1 OF 1

PREPARED BY

VORSE

DATE

Nov 18, 1991

ACTION REQUIRED

REVIEWED BY

DATE

OFFICIAL USE ONLY

DO NOT DISCLOSE

11/18 8:35 BRIEF OF NY, CT, LK

BY

DAVE THOMPSON
REC
SEC.

TRACES 11/14

4:20 PM

PHONE

DOUG HOYT
BILL SHIPMAN
KITCHENS

CALLS SECURITY

LOGGABLE EVENT

TSLA SENT VEMP 3 TRACES
51 PROBAB SFGS
HUYCT REVIEWS
PER 3
PER
REG. EFFECT REVIEW
EXIT

4/13/90 EXIT (WHILE EXIT ON TRAC)

VULNERABILITIES NOTED IN EXIT
ALL CORP EXCEPT 1

NEW EXISTING VULNER ONLY SFG MATTER



COMPUTER GOVERNING PROCESS ON SHUL
ALARMS (OVER 2) 3RD NOT
RECOGNIZED

FIXED - CCTV

116HT/106

GLARE

LAMBERSKI

17 CFR
73.21 (

HEROT NOT IN (SKINNER
HAS NOTES)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS FIELD OFFICE REGION II
101 MARIETTA STREET NW SUITE 2800
ATLANTA GEORGIA 30323

August 17, 1992

MEMORANDUM FOR: Stewart D. Ebneter, Regional Administrator
Region II

FROM: James Y. Vorse, Field Office Director *JYV*
Office of Investigations, Region II

SUBJECT: REQUEST FOR INVESTIGATION
NO. RII-91-10

Subject request for investigation, dated November 21, 1991, was based upon an allegation from D. HUUCT, Security Manager of Georgia Power Company's (GPC) Vogtle Electric Generating Plant (VEGP), that former GPC employee Allan MOSBAUGE was currently in possession of VEGP safeguards material (Enclosed). This material was identified as audio tape recording #44 (as identified by NRC). Subsequently, GPC identified another tape in the possession of MOSBAUGE, #153, as also containing safeguards information.

The facts already developed in this matter are as follows:

1. On September 11, 1990, while being deposed during a Department of Labor (DOL) hearing, MOSBAUGE revealed to GPC that he was in possession of numerous audio tape recordings which he surreptitiously recorded while employed at VEGP.
2. On September 13, 1990, MOSBAUGE's DOL attorney notified NRC of the existence of the tapes and that these tapes contained conversations pertinent to allegations previously presented to NRC by MOSBAUGE. Concurrently, GPC advised NRC Region II (RII) and the NRC Resident Inspector at VEGP of the existence of these tapes. The DOL Administrative Law Judge (ALJ) ordered these tapes to be produced to GPC as part of the discovery process in the DOL matter.
3. Also on September 13, 1990, NRC intervened in the DOL matter, and the DOL ALJ ordered the tapes to be produced to NRC. On the same day, the Office of Investigations (OI) NRC received 277 tapes as evidence from MOSBAUGE. Two full sets of duplicates of these tapes were produced by OI by October 10, 1990. One set was delivered to NRC RII staff, and the other to NRE. The NRC was put on notice, in September 1990, by C. K. MCCOY, Vice President, Vogtle Project, GPC, that these tapes may contain safeguards material. MOSBAUGE told OI that he did not think any of these tapes contained safeguards material.

August 17, 1992

4. On September 15, 1990, GPC placed MOSBAUGE on administrative leave for conducting this taping. On October 11, 1990, MOSBAUGE's employment with GPC was terminated by GPC.
5. Of the 277 tapes he provided to NRC, MOSBAUGE identified 76 that potentially contained the most significant conversations that pertained to the ongoing OI investigations of MOSBAUGE's allegations. Initially, transcripts of 13 of these 76 were produced and reviewed by both OI, for evidence of wrongdoing, and NRC staff, for safeguards material and health and safety issues.
6. In January 1991, a prioritized schedule for staff review of all 277 tapes for safeguards and health and safety issues was prepared. Transcripts of the remainder of the 76 higher priority tapes as identified by MOSBAUGE were prepared, and OI continued its review for wrongdoing and identification of speakers on these 76 tape transcripts. OI's data base of these 76 tapes was completed by August 1991. The NRC staff review of the remainder of the 76 tapes was completed in July 1992. The remaining 201 of the original 277 tapes were not reviewed by OI for wrongdoing, or by the staff for safeguards.
7. The original tape recordings of the 76 high priority tapes have been retained as evidence by OI. However, on February 14, 1991, at the direction of NRC Office of General Counsel and staff, the unreviewed 201 original tapes were attempted to be returned to MOSBAUGE. MOSBAUGE refused to accept these tapes without an NRC assurance that they did not contain safeguards material. Since this assurance could not be made, NRC retained possession of the 201 tapes.
8. On February 21, 1991, with no NRC safeguards review, these 201 tapes were returned to MOSBAUGE. At his DOL hearing in March 1992, MOSBAUGE testified that NRC had assured him that the tapes did not contain safeguards. OI NRC did not give any such assurance to MOSBAUGE.
9. MOSBAUGE, through correspondence to NRC from his DOL attorney, has again denied that the tapes alleged by HUYCT, supra, or any other tapes MOSBAUGE recorded while employed by GPC, contain safeguards material.
10. On November 14, 1991, GPC notified the NRC that tape #44, which was released to them by the attorneys representing GPC, contained safeguards information. They subsequently informed the NRC that Tape #153 may also contain safeguards material. On November 21, 1991, the NRC Regional Administrator, RII, requested that OI initiate an

August 17, 1992

investigation to determine if MOSBAUGH knew that he was recording safeguards information and was in unauthorized possession of safeguards material.

11. Tapes #44 and #153 were reviewed by NRC Safeguards personnel from NRC RII and NER who concluded that the tapes contained safeguards material. This review was forwarded to OGC for legal analysis. OGC concluded that although not all of the material identified by RII and NER as safeguards materials was, in fact, safeguards material, both tapes did contain some safeguards information. The OGC analysis listed a number of potential NRC violations. However, OGC indicated that whether or not a violation occurred would depend on the information developed during an OI investigation.

December 13, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)	
)	
ALLEN MOSBAUGH,	)	CASE NOS. 91-ERA-1
	)	and
Complainant,	)	91-ERA-11
v.)	
)	
GEORGIA POWER COMPANY,)	
)	
Respondent.)	

AFFIDAVIT OF THOMAS L. PENLAND, JR.

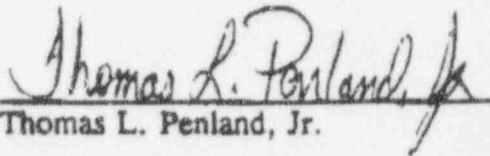
I, Thomas L. Penland, Jr., being duly sworn, state as follows:

1. I am currently employed by Troutman Sanders, LLP in Atlanta, Georgia as an attorney.
2. I have reviewed copies of certain audio tapes and corresponding tape transcripts, which were first provided to the Georgia Power Company by the Nuclear Regulatory Commission's Office of Investigations in 1993, reflecting auditory information recorded by Mr. Mosbaugh while he was employed by Georgia Power in 1990.
3. Based on my review of these audio tapes and transcripts, I believe Mr. Mosbaugh taped conversations that were either personal and unrelated to work activities or were discussions with NRC investigators. I do not believe these conversations were contiguous with any discussions between Mr. Mosbaugh and Georgia Power personnel regarding potential safety concerns or job-related discrimination.

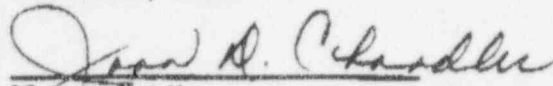
4. The conversations to which I refer are identified and described below:
- a. Tape 41 (4-11-90) -- Mr. Mosbaugh taped himself receiving a gift from Georgia Power, presented by an unidentified female employee. Mr. Mosbaugh then taped himself walking and apparently entering into and availing himself of the restroom facilities, while the plant public address system is tested in the background. (Tr. 70-71.)
 - b. Tape 83 (undated) -- Mr. Mosbaugh engaged in general, non-work-related conversation with a group of plant staff engineers, primarily related to golfing (Tr. 17-19).
 - c. Tape 98 (5-8-90) -- Mr. Mosbaugh taped a personal conversation with Mr. Paul Burwinkle regarding Mr. Burwinkle's recent trip to Cincinnati, Ohio and other family matters (Tr. 21-25).
 - d. Tape 219 (7-25-90) -- Mr. Mosbaugh taped general "crowded room" conversations during a luncheon sponsored by Westinghouse. (The conversations are not transcribed but occur near the end of the tape on Side A. The event is described by Mr. Mosbaugh later, on the same tape.)
 - e. Tape 224 (undated) -- Mr. Mosbaugh taped a meeting with NRC OI investigator, Mr. Larry Robinson, regarding some of Mr. Mosbaugh's allegations (no transcript).
 - f. Tape 248 (8-14-90) -- Mr. Mosbaugh taped a conversation with Messrs. Paul Kochery and Robert Moye regarding the frequency with

which U.S. business operations were moving outside the United States (Tr. 11-12) .

- g. Tape 251 (8-15-90) -- Mr. Mosbaugh taped an interview with NRC resident inspector, Mr. Ron Aiello, and NRC OI investigator, Mr. Craig Tate (which was transcribed by a court reporter), regarding FAVA (Tr. 25-54).
 - h. Tape 252 (8-15-90) -- Mr. Mosbaugh taped a discussion with someone regarding raising children (Tr. 4-6).
4. Further, affiant sayeth not.


Thomas L. Penland, Jr.

Sworn to and subscribed
before me this 31st day of
December, 1995.


Notary Public

My commission expires:
February 18, 1997

December 6, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)	
ALLEN MOSBAUGH,	)	CASE NOS. 91-ERA-1
Complainant,	)	and
v.	)	91-ERA-11
GEORGIA POWER COMPANY,)	
Respondent.)	

AFFIDAVIT OF MARK J. AJLUNI

I, Mark J. Ajluni, being duly sworn, state as follows:

1. I am currently employed by Southern Nuclear Operating Company in Birmingham, Alabama as the Manager, Licensing Services for the Farley Nuclear Project.
2. In 1990, I was employed by the Georgia Power Company as the Manager of Safety, Audit, and Engineering Review ("SAER") for the Vogtle Nuclear Project in Birmingham, Alabama.
3. As the Manager - SAER, I functioned as the Secretary for and a voting member on the Vogtle Safety Review Board ("SRB"). The SRB provides an independent review and audit of certain plant activities including nuclear power plant operations and quality assurance practices.
4. I have reviewed a portion of an audio tape, Tape No. 168, secretly recorded by Mr. Allen Mosbaugh on June 18, 1990.

5. I recall the conversation recorded on Tape No. 168. I called Ms. Carolyn Tynan, a Georgia Power employee at Plant Vogtle, in my capacity as SRB Secretary to discuss written comments recorded in Plant Review Board ("PRB") meeting minutes regarding a deficiency card reviewed by the PRB. The PRB serves as a review and advisory group to the Vogtle General Manager, reviewing plant administration, maintenance, and operations activities related to nuclear safety to ensure those activities are consistent with company policy, approved procedures, and operating license provisions. As SRB Secretary, I reviewed all PRB meeting minutes to ensure items of potential safety significance were properly addressed by the PRB and to familiarize myself with issues to be discussed by the SRB. Ms. Tynan was the PRB secretary at the time and it was appropriate for me to discuss issues arising in PRB meetings with her.

6. The tape reflects that Ms. Tynan received my call and participated in our conversation using a speakerphone while Mr. Mosbaugh was in her office. Neither Mr. Mosbaugh nor Ms. Tynan announced Mr. Mosbaugh's presence, and I did not know he was already in Ms. Tynan's office when I called. I believe it was the standard practice at Plant Vogtle, and it was certainly my expectation, that anyone present during this conversation would have been identified. Thus, absent such identification, I naturally assumed Ms. Tynan to be the only party present for the conversation. The tape demonstrates that Mr. Mosbaugh listened to and recorded our entire conversation without my knowledge.

7. Mr. Mosbaugh and Ms. Tynan had numerous opportunities to announce Mr. Mosbaugh's presence during the course of the conversation since my primary purpose for

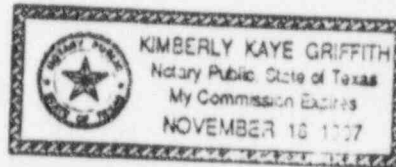
placing the telephone call was to discuss certain comments provided by Mr. Mosbaugh, and recorded in PRB meeting minutes, regarding a Vogtle event documented in a deficiency card.

8. I find it personally upsetting and lacking in professional courtesy that Mr. Mosbaugh listened to and recorded my entire conversation without announcing his presence. I find Mr. Mosbaugh's clandestine behavior especially offensive in that my telephone call was intended to address Mr. Mosbaugh's comments and, knowing this, he purposely concealed his presence from me.

Mark J. Ajluni
Mark J. Ajluni

Sworn to and subscribed
before me this 6th day of
December, 1995.

Kimberly Kaye Griffith
Notary Public
My commission expires:
11-18-97



December 5, 1995

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)	
ALLEN MOSBAUGH,)	
Complainant,	)	CASE NOS. 91-ERA-1
v.	)	and
	)	91-ERA-11
GEORGIA POWER COMPANY,)	
Respondent.)	

AFFIDAVIT OF GEORGE BOCKHOLD, JR.

I, George Bockhold, Jr., being duly sworn, state as follows:

1. I am currently employed by Southern Nuclear Operating Company in Birmingham, Alabama as General Manager, Nuclear Technical Support. I was employed by the Georgia Power Company ("Georgia Power") near Waynesboro, Georgia as the General Manager-Vogtle Electric Generating Plant ("Plant Vogtle") in 1990.

2. I have reviewed two audio tapes secretly recorded by Mr. Allen Mosbaugh on June 11, 1990 and July 27, 1990 at Plant Vogtle. Two tape recorded segments (one on each tape) reflect instances where Mr. Mosbaugh tape recorded conversations in which he was not a participant and was not known by other participants to be eavesdropping and recording the conversation.

3. The first instance of Mr. Mosbaugh's eavesdropping is reflected on Mosbaugh Tape No. 159, recorded on July 11, 1990. I was in my office at Plant Vogtle discussing

over my telephone, using the speakerphone feature, a revision to a report Georgia Power planned to submit to the Nuclear Regulatory Commission, namely Licensee Event Report 90-006, Revision 1. Mr. Paul Rushton, a Georgia Power corporate office manager, was also a participant on this phone call. I do not recall if other participants were conferenced in on the phone call, but I was the only participant on the call in my office.

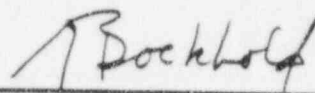
4. The Tape No. 159 segment, recorded on Side A of the audio tape, indicates that Mr. Mosbaugh, unknown to me, quietly eavesdropped on the conversation from outside my office. I considered all conversations within my office to be private and expected that others would not covertly listen in on and record such private conversations.

5. The second instance of Mr. Mosbaugh's eavesdropping is reflected on Mosbaugh Tape No. 222, recorded on July 27, 1990. I participated along with Messrs. Paul Rushton and Cliff Miller, Georgia Power corporate office managers in Birmingham, Alabama, Messrs. J. B. Beasley and Harvey Handfinger, Georgia Power managers at Plant Vogtle, and Mr. Lee Mansfield, a Georgia Power engineering supervisor at Plant Vogtle, on a telephone conference call using a telephone feature referred to as a bridge-line. A bridge-line allows parties to call one telephone number from different locations and be conferenced together.

6. At the time of this conference call, Mr. Mosbaugh worked directly for me on special projects. He had no responsibility for any of the issues addressed during this conference call and was neither invited nor expected to participate in the call. Unknown to me and I believe the other participants except Mr. Mansfield, Mr. Mosbaugh was silently

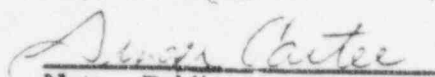
listening in on and recording this telephone conversation from the same location where Mr. Mansfield was connected to the conference call.

7. Georgia Power's practice at the time was for such telephone conference calls be limited to those invited to participate and for participants to announce their presence upon entering into the conference. Mr. Mosbaugh never identified himself as a participant in this conference call.



George Bockhold, Jr.

Sworn to and subscribed
before me this 10 day of
~~July, 1994~~ December, 1995


Notary Public

My commission expires:

MY COMMISSION EXPIRES JANUARY 12, 1997

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

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In the Matter of)	Docket Nos. 50-424-OLA-3
)	50-425-OLA-3
GEORGIA POWER COMPANY)	
et al.,)	
	)	Re: License Amendment
(Vogtle Electric Generating)	
Plant, Unit 1 and Unit 2))	
	)	ASLBP No. 93-671-01-OLA3

DEPOSITION OF
ALLEN MOSBAUGH

April 7, 1994
2:07 p.m.

5200 Nationsbank Plaza
600 Peachtree Street, N.E.
Atlanta, Georgia

Alexander J. Gallo, CCR-B-1332

BROWN REPORTING, INC.
1100 SPRING STREET, SUITE 750
ATLANTA, GEORGIA 30309
(404) 876-8979

1 illegal license transfer allegations -- I should say
2 that touch on the illegal license transfer
3 allegations -- at the time that you made those
4 tapes, who knew that you were taping?

5 A. At the time that I made which tapes in
6 which time frame?

7 Q. The tapes which touch on illegal license
8 transfer issues.

9 A. The question can be answered with respect
10 to all taping of any issue because there, perhaps,
11 may be tapes to touch on the illegal license
12 transfer that I'm not aware of, but at the time that
13 I stopped taping, the only people that knew about my
14 taping are my counsel and my wife.

15 Q. I think you said at the time that you
16 stopped taping. When was that?

17 A. Approximately September 6th, 1990, within
18 a day or so.

19 Q. And were any of the tapes that were made
20 by you at Plant Vogtle erased or taped over or
21 destroyed or discarded?

22 A. No.

23 Q. And have you produced to Georgia Power
24 Company every tape that you made containing
25 conversations of Georgia Power Company employees?

UNITED STATES OF AMERICA
BEFORE THE UNITED STATES DEPARTMENT OF LABOR

IN THE MATTER)
)
ALLEN MOSBAUGH,) CASE NOS. 91-ERA-1
) 91-ERA-11
 Complainant,)
)
v.)
)
GEORGIA POWER COMPANY,)
)
 Respondent.)

APPENDIX

1. ASLB Transcript Pages
2. Excerpts from Mr. Mosbaugh's July 18-19, 1990 OI Interview
3. Intervenor's Response to the Second Set of Interrogatories of Georgia Power Company, dated August 11, 1993
4. ASLB Filed Testimony
5. Georgia Power Company ASLB Exhibits
6. Intervenor ASLB Exhibits

ASLB TRANSCRIPT PAGES

BOARD EXAMINATION

1
2 CHAIRMAN BLOCH: So at that time, was there any
3 list of starts available for you to look at?

4 THE WITNESS: No, there was not in the
5 corporate office where I was located. I think some lists
6 of starts had been assembled at the site. That's what I
7 know today. But I depended upon the people that were at
8 the site that had prepared that information, and I asked
9 some questions to be sure that they were comfortable with
10 it. And the answers I got was yes, that they had verified
11 the --

12 CHAIRMAN BLOCH: Do you remember the nature of
13 the questions you asked?

14 THE WITNESS: I'm speaking now primarily from
15 having reviewed some of the tape things. And my
16 recollection of what's in those tapes is that I asked some
17 questions like have these numbers been checked or something
18 like that. And the answer I got was yes, these numbers
19 have been verified.

20 And I also recall something about a statement
21 being made by the tech support manager, I believe, that
22 they were in the process of checking these numbers. So I
23 had gotten some assurances, I felt, at that time that this
24 issue had been resolved and that we had defined the time
25 frame and what was being written there was accurate.

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1 CHAIRMAN BLOCH: Eight. Exhibit 2, eight.

2 THE WITNESS: I have that page eight now.

3 MR. STEPHEN KOHN: Okay. And calling your
4 attention to page eight, lines four through nine, isn't it
5 a fact that when you said we ought to use those numbers,
6 you were aware that Aufdenkampe's people had not completed
7 going through the RO logs?

8 THE WITNESS: Yes. The way I would read this
9 is that when George Bockhold said that they had been
10 verified correct and the way I understood that statement
11 was that we had gone back a second time and verified that
12 the information was correct. And that was sufficient to
13 satisfy me that this thing had been resolved.

14 MR. STEPHEN KOHN: Do you know at that point in
15 time if Mr. Bockhold had been fully -- was aware of the
16 concern that Mr. Mosbaugh had raised about the accuracy of
17 that count?

18 THE WITNESS: I don't know that I knew that,
19 but I would have assumed that since Bill Shipman had
20 brought it to my attention. I would assume that George
21 Bockhold was aware of it also.

22 MR. STEPHEN KOHN: Well, Shipman --

23 BOARD EXAMINATION

24 CHAIRMAN BLOCH: We'd like to know if you heard
25 the conversation at the bottom of page eight from lines 25

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1 to 27?

2 THE WITNESS: I have no idea today. All I can
3 go by is what's on this transcript. I have no independent
4 recollection of this conversation other than in broad
5 terms. You know, I know I was involved in a conversation
6 that afternoon.

7 CHAIRMAN BLOCH: If you had heard that
8 conversation, would you still have gone ahead with the LER?

9 THE WITNESS: I really don't know. I could
10 have taken that several ways. I guess the way I would take
11 it right now is that, you know, Mr. Aufdenkampe worked for
12 Mr. Mosbaugh. And so I would take that as direction from
13 Mr. Mosbaugh to Mr. Aufdenkampe that he better get on with
14 verifying those records because you know this thing -- the
15 decision's been made to go ahead and get this out.

16 CHAIRMAN BLOCH: What about the phrase "they
17 ain't done it?" What does that mean to you?

18 THE WITNESS: I could speculate, but I don't
19 really know.

20 CHAIRMAN BLOCH: I can't imagine what it could
21 mean. Could you speculate for me?

22 THE WITNESS: I would guess he's saying they're
23 not done with it yet. I think that's what Aufdenkampe had
24 said up in the beginning. I do have people right now going
25 through -- my people going through the RO's logs.

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1 CHAIRMAN BLOCH: And maybe you can interpret it
2 some other way. It looks like he's saying they haven't
3 checked the numbers yet. So we better do it now.

4 THE WITNESS: I think that's right. Well, I
5 think he's saying that to Aufdenkampe. But you see, that's
6 not really the basis for my going ahead. My basis was on
7 the assurance from George Bockhold that these numbers had
8 been verified. Verified to me means that you check
9 something a second time.

10 And so, you know, I got assurance from the
11 General Manager that these numbers had been checked. That
12 was my mind set. Now this other is an independent check
13 that was going on, and that would certainly be good
14 information, and I think they should have done it. In
15 fact, they should have done it before this afternoon as
16 I've said.

17 CHAIRMAN BLOCH: I take it your habit is to
18 listen to the General Manager more clearly than the people
19 who are beneath him?

20 THE WITNESS: Well, my habit is to follow line
21 accountability. And from the standpoint the general
22 manager is responsible for all of these people working for
23 him at the site, then generally I would expect him, yes, to
24 say. And unless I had some reason to suspect otherwise, if
25 he calls me that he has verified this and all these people

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1 comprehensive test program or subsequent to the test
2 program?

3 THE WITNESS: What page is this?

4 MS. YOUNG: I believe it is page six of eight.

5 THE WITNESS: Again, I believed at the time --

6 MS. YOUNG: I didn't ask you a question. I'm
7 sorry.

8 THE WITNESS: I have that paragraph.

9 MS. YOUNG: Okay. Thank you. The phrase,
10 subsequent to the comprehensive test program. Does that
11 describe the same period for the start count as the April
12 9 letter did?

13 THE WITNESS: I believed at the time that it
14 did.

15 MS. YOUNG: What do you believe today?

16 THE WITNESS: I do not believe that that is
17 accurate, number one. Number two, I think that there was
18 confusion about this subsequent to the test program. In
19 fact, I know there was from --

20 MS. YOUNG: But I am asking you, do these two
21 documents describe the same time period for the count?

22 THE WITNESS: I don't know how to answer that,
23 except to say that at the time that I thought they did
24 describe the same time period. At the time this was
25 signed out.

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1 MS. YOUNG: Do you believe --

2 THE WITNESS: Today, I don't know. If anybody
3 had different intentions, I am not aware of it.

4 MS. YOUNG: Do you believe that on 4-9,
5 Georgia Power was trying to give a number of consecutive
6 successful starts as of April ninth?

7 THE WITNESS: That is what I believed at that
8 time.

9 MS. YOUNG: Do you believe on 4-19, that
10 Georgia Power was trying to give a count of consecutive
11 successful starts as of April ninth?

12 THE WITNESS: Yes. That is what I believed at
13 that time.

14 MS. YOUNG: Do you realize today that the
15 counts provided by Georgia Power in the LER described a
16 different time period?

17 THE WITNESS: Yes. I do.

18 MS. YOUNG: You didn't let me finish my
19 question.

20 THE WITNESS: I thought that you were through.

21 MS. YOUNG: You probably know the rest of the
22 question, but did it describe a different time period than
23 the period described in the April ninth letter?

24 THE WITNESS: Yes.

25 MS. YOUNG: And what was the reason for that

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1 the NRC with a term that hasn't been defined?

2 THE WITNESS: I think the language should be
3 as clear as it can be so the NRC understands what you're
4 trying to tell them. I think there are a lot of terms
5 that are not defined in the sense that a dictionary would
6 define them.

7 CHAIRMAN BLOCH: But you want the NRC to know
8 what it is that you're communicating?

9 THE WITNESS: Yes, sir.

10 CHAIRMAN BLOCH: So when you don't know what
11 comprehensive test program means, how were they know what
12 you're communicating?

13 THE WITNESS: At that particular point, since
14 I had given them a presentation, at that point I thought
15 it was clear in my mind. In hindsight now, it was not
16 clear in those people's mind.

17 CHAIRMAN BLOCH: As I understand, it wasn't
18 clear in your mind, that you didn't know what it meant. I
19 just read testimony that says you didn't know what
20 comprehensive test program meant.

21 THE WITNESS: The process of going back over
22 the records and all the testimony given at various times,
23 basically when I went and answered one particular
24 questions about starts and I personally counted starts,
25 the work associated with comprehensive test program and

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1 really the term, the control system as added in, why was
2 that added in? That's when I understood -- that's when I
3 remembered what I was trying to refer to.

4 CHAIRMAN BLOCH: So do you know what the
5 definition of comprehensive test program is now?

6 THE WITNESS: Comprehensive test program of
7 the control systems in my mind is the completion of logic
8 testing and sensor calibration.

9 CHAIRMAN BLOCH: And did you know that at the
10 time that this LER was sent in?

11 THE WITNESS: I believe I did.

12 CHAIRMAN BLOCH: Did you know whether any of
13 the other people who were sending it in have the same
14 understanding?

15 THE WITNESS: At this point, I believe that
16 they did not except for there was a conversation, and I
17 believe it involved Mr. Shipman, that he went -- he had a
18 similar line of logic of why he accepted my set of terms
19 for that wording as part of his review at corporate.

20 CHAIRMAN BLOCH: When you were sending things
21 to the NRC, was it your objective to disclose any
22 questions or problems that you might have?

23 THE WITNESS: It was to summarize the facts
24 and disclose problems that we thought was relevant to the
25 situation and --

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1 THE WITNESS: Explained it was. Yes, sir.
2 Meaning to say, for example, diesel operable and six month
3 run surveillance is a fairly significant procedure that
4 you run on diesels and those are just very short bullet-
5 type words to describe that we ran through that sort of
6 test and so this was a very high level summary slide to
7 say that we thought the diesels were ready to go and would
8 perform their intended function.

9 CHAIRMAN BLOCH: And they'd carry a load.

10 THE WITNESS: And carry a load.

11 CHAIRMAN BLOCH: And do you know how many of
12 these tests lasted for more than two minutes?

13 THE WITNESS: I can look at Exhibit -- I can
14 look at the June --

15 CHAIRMAN BLOCH: Rather than looking at it, is
16 that relevant to whether or not the diesels could carry a
17 load, whether the test lasted for more than two minutes?

18 THE WITNESS: The diesel in the first
19 approximately 10 seconds, something less than that, comes
20 up to speed and voltage and within a very short period of
21 time after that, if power is not on, that bus will
22 sequence on. The testing that you run is combination of
23 loading the machine and that's some specific test, and
24 then there's other tests that are very short in nature
25 that if when a diesel starts you assume that it can be

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1 MR. BLAKE: Judge Bloch, I want to alert you
2 that I think Mr. Ward when he appears will be more
3 familiar with 1410 and the history of the diesels, etc.
4 and the quirks of reportability and reporting which may
5 lead to the statistics and to your characterization which
6 may or may not be right.

7 CHAIRMAN BLOCH: I think the characterization
8 was the characterization of NUREG 1410 --

9 MR. BLAKE: Which also may or may not be
10 right.

11 CHAIRMAN BLOCH: That's correct.

12 MR. BLAKE: At least agreed to by us, whether
13 right or wrong.

14 CROSS EXAMINATION (continued)

15 BY MR. MICHAEL KOHN:

16 Q Mr. Bockhold, at some point, did you just come
17 up with a time, a date, where the Comprehensive Test
18 Program could have begun and just choose that as a date
19 along the way after April 19th?

20 A After April 19th, when -- I never came up with
21 an actual date. I did a count in one of my OI interviews
22 associated with when would I have said what were the
23 number of successful starts -- what I would have come up
24 with. I didn't know the actual date associated with when
25 the control systems were complete.

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1 Q All right. Did you know -- well, what did you
2 really know about the end of the Comprehensive Test
3 Program? Can you tell me your scope of knowledge going
4 into April 19th in preparing for the --

5 A April 9th or April --

6 Q April 19th, when the language is being
7 inserted in the LER. Can you tell me the scope of your
8 knowledge, what documents you had which told you where the
9 test --

10 A What I believed at that time was that the --
11 coming out of overhaul, after overhaul, okay -- and we did
12 logic testing and sensor calibration. And what I believe
13 that we didn't have any failures from that point on. And
14 we did have failures in the overhaul period -- towards the
15 end of the overhaul period.

16 So therefore, I believed that, you know, the -
17 - at the point that I used the language Comprehensive Test
18 Program of the control systems, we had no more failures.

19 Q Well, isn't it true that the calibration of
20 the Calcon sensors were continuing after the date that you
21 identified as the Comprehensive Test Program ending -- the
22 ending of the Comprehensive Test Program?

23 A I didn't have that knowledge at that time.

24 Q Well, --

25

BOARD EXAMINATION

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1 CHAIRMAN BLOCH: What knowledge didn't you
2 have at that time? That there was going to be further
3 testing?

4 THE WITNESS: That there was continuing
5 calibration. There was a characterization in the question
6 that there was continuous calibration of the sensors.
7 That was not my knowledge.

8 BY MR. MICHAEL KOHN:

9 Q Well, if you were defining it as the end of
10 the calibration, then wouldn't you have to have knowledge
11 of when that calibration process ended?

12 A As I say, I believe that the calibration
13 process ended with that line item on my transparency
14 associated with sensor calibration and logic testing.

15 Q All right. I'm going to ask you to again look
16 at Intervenor's Exhibit 57, the Georgia Power's response
17 interrogatories. I'm going to call your attention to page
18 two. Do you see with respect to question 1(a) and (b)
19 your providing the response -- your name appearing there?

20 A Yes.

21 Q Okay. And if you look at page three, --

22 A That means that me and Mr. Cash would look at
23 this part, and Mr. Cash remembered the part that I would
24 remember.

25 Q And if you would look at the first full

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1 paragraph on page three, beginning the testing program.
2 And if you read into that paragraph, you'll see you come
3 up with a specific date, March 30, 1990, as the end of the
4 CTP. Is that correct?

5 A Yes, that's correct.

6 Q And that's because that's the date where the
7 calibration of the Calcon sensors ended, is that correct?

8 A That's the date that this work order and --
9 relates to what I believe is the element on my slide.

10 Q Well, is this the date that the calibration of
11 the Calcon sensors ended or is this just one particular
12 date that the Calcon sensors were calibrated?

13 A This is the date that I believe was related to
14 the language in the LER. And when asked a specific
15 question by the NRC, could we come up with that date
16 looking at the records, this is the date that I believe
17 those records would apply.

18 BOARD EXAMINATION

19 CHAIRMAN BLOCH: And what was the basis for
20 that belief?

21 THE WITNESS: The basis of that belief was the
22 -- you know, I intended in the language in the LER to
23 relate to sensor calibration and logic testing. I hadn't
24 personally done the counts. By looking at this additional
25 documentation, if I had done the counts, this was the time

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1 frame that I would have picked.

2 CHAIRMAN BLOCH: No, that wasn't the question
3 I asked. I asked you what was the basis for your belief
4 that the Comprehensive Test Program had ended on March
5 30th? Where did you get the information and what was the
6 information?

7 THE WITNESS: I got the information from this
8 work order and the Plant Vogtle target versus actual
9 schedule.

10 CROSS EXAMINATION (continued)

11 BY MR. MICHAEL KOHN:

12 Q And did you rely on that on April 19th?

13 A No, I didn't rely on that on April 19th.

14 Q So this is an after the fact date that you're
15 coming up with?

16 A Yes.

17 Q Okay.

18 BOARD EXAMINATION

19 CHAIRMAN BLOCH: So as of April 19th, what was
20 your belief about the end of the Comprehensive Test
21 Program?

22 THE WITNESS: On that date, I believed that
23 basically after the overhaul period on the 1B engine and
24 sensor calibration and logic testing did not require
25 diesel starts. I believe that we had a failure towards

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1 Test Program something you'd heard around the plant at all
2 before you used it in this context?

3 THE WITNESS: I don't particularly remember
4 where I heard it from. You know, I had used it -- I had
5 used that term in probably a number of presentations. I
6 mean, it depends what the scope is, big or small, of the
7 Comprehensive Test Program. Depends how that is modified.
8 And I know that's confusing after the fact. I mean, --

9 CHAIRMAN BLOCH: But when you had used it
10 before, what did you mean by it, either when it was big or
11 small? What were the meanings you had used it for before?

12 THE WITNESS: Simply the term Comprehensive
13 Test Program means a thorough testing of X or Y
14 components. You know, it depends what you're talking
15 about.

16 CHAIRMAN BLOCH: Was that defined somewhere
17 what this testing program was?

18 THE WITNESS: It was not clearly defined, no.

19 CHAIRMAN BLOCH: Was it defined in the
20 document that we've requested today?

21 THE WITNESS: No, it wasn't really defined in
22 that document. It shows a sequence of tests.

23 CHAIRMAN BLOCH: Would I expect to find the
24 phrase Comprehensive Test Program in that document?

25 THE WITNESS: Probably not, sir, no. Not from

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1 before I answer that question.

2 CHAIRMAN BLOCH: What would that be?

3 THE WITNESS: And that's the August 30 letter
4 to the NRC.

5 MR. MICHAEL KOHN: That, I believe, would be
6 Intervenor's Exhibit number 67.

7 (Whereupon, the above-referenced
8 document was marked as Intervenor's
9 Exhibit II-67 for identification.)

10 THE WITNESS: 67?

11 MR. MICHAEL KOHN: I may be able to get it to
12 you quickly with assistance.

13 CHAIRMAN BLOCH: Is it also McCoy M?

14 MR. BLAKE: P, I think.

15 CHAIRMAN BLOCH: P.

16 THE WITNESS: The answer to your question is
17 yes.

18 BY MR. MICHAEL KOHN:

19 Q So if I understand it then -- if I understand
20 your answer to my question, a Calcon sensor was brought
21 onto the site, and it was installed and calibration
22 testing was finished by about 5:00 p.m. on March 31, 1990?

23 A Based on this documentation, I believe that
24 that's correct today.

25 Q And I'm going to call your attention back to

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1 your interrogatory response -- Intervenor's Exhibit 57
2 where you say March 30, 1990.

3 CHAIRMAN BLOCH: He can't find 57.

4 ADMINISTRATIVE JUDGE MURPHY: What page?

5 MR. MICHAEL KOHN: It would be on page three.

6 THE WITNESS: Yes, what's your question?

7 BY MR. MICHAEL KOHN:

8 Q And if I understand the response on page
9 three, the first full paragraph, the portion we were
10 looking at earlier, the calibration of the Calcon sensors
11 -- that subset, I thought you told me ended on March 30,
12 1990, is that correct?

13 A Yes, that's what I told you.

14 Q But we now just found out there was another
15 failure of the Calcon -- or let me -- I don't know if it
16 was a failure, there was another --

17 CHAIRMAN BLOCH: Could you find another way of
18 impeaching March 30th other than March 31st?

19 THE WITNESS: We had a sensor vent -- today,
20 reading these logs, indicate to me that we had a sensor
21 that vented during one of the tests, and this circuit was
22 a two out of three sensor circuit. So that previously,
23 the sensors had been calibrated and they weren't leaking
24 or venting.

25 In this case, we had one start to vent and by

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1 -- our process at that point, if you had any sensor that
2 vents at all, we were going to replace it. And the Calcon
3 vendor thought that was not necessary, but we were being
4 overly conservative in our replacement of sensors at that
5 particular point.

6 BOARD EXAMINATION

7 CHAIRMAN BLOCH: So was this part of the test
8 program or not?

9 THE WITNESS: This was an indication of a
10 potential failure or a potential problem, although the
11 Calcon vendor would say you could run the engine fine with
12 that on it. And we took a very conservative position that
13 if any sensors vented while we were doing any testing, we
14 were going to replace them with a new calibrated one that
15 would not vent.

16 CHAIRMAN BLOCH: So is it your position that
17 this was or was not part of the test program?

18 THE WITNESS: My position on the test program,
19 it was a point in time associated with the initial
20 calibration -- the comprehensive initial calibration of
21 all the sensors and then the subsequent logic testing
22 which didn't require starts that basically in my response
23 to --

24 CHAIRMAN BLOCH: Okay, the question I'm asking
25 is very simple. Was the March 31 replacement of Calcon

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1 sensors and recalibration part of the Comprehensive Test
2 Program?

3 THE WITNESS: No, it was not.

4 MR. MICHAEL KOHN: Mr. Bockhold, I'm going to
5 ask you to look at Intervenor's Exhibit number --

6 CHAIRMAN BLOCH: Mr. Kohn, we'd like you to
7 regroup a bit while Judge Carpenter asks a few questions.

8 MR. MICHAEL KOHN: Thank you, Your Honor.

9 CHAIRMAN BLOCH: You could think ahead while
10 Judge Carpenter is asking as well as --

11 BOARD EXAMINATION

12 ADMINISTRATIVE JUDGE CARPENTER: Mr. Bockhold,
13 I guess one of the first questions in my mind is who was
14 responsible for judging the diesel generator operability
15 for Georgia Power Company?

16 THE WITNESS: We had a test team that was
17 composed of our site engineers and Ken Burr who was -- had
18 recently left the site. And they design the test program
19 and brought the engine to its operable condition. They
20 were the prime people architecting the test program and
21 that kind of stuff.

22 ADMINISTRATIVE JUDGE CARPENTER: I don't think
23 I expressed myself very clearly. I asked who was
24 responsible for judging the operability?

25 THE WITNESS: The operability --

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1 me rephrase it. The actual question is, to your
2 knowledge, to this day, Mr. Bockhold, has anyone defined
3 the point when the Comprehensive Control Test Program
4 ended? And you respond no.

5 CHAIRMAN BLOCH: What is the page and line of
6 that?

7 MR. MICHAEL KOHN: That's page 48, lines 18
8 through 22. My question is -- I mean, that answer seems
9 to me to indicate that you yourself hadn't defined it on
10 that date.

11 THE WITNESS: I said in the testimony -- and
12 let me read it. It's a set of words you know that is
13 describing a perception of what is going on is a plant.
14 It is not, as you know, it is not a defined set of terms.
15 It is not like a tech spec term. It's an LER.

16 MR. MICHAEL KOHN: Okay. And in an LER --

17 BOARD EXAMINATION

18 CHAIRMAN BLOCH: What does that mean?

19 THE WITNESS: In my mind, it was associated
20 with the -- back to this transparency, the overall -- in
21 overhaul, in the problems and failures then and the sensor
22 calibration and the logic testing, it was a point in time
23 that I didn't know the specific date or the specific start
24 number and Mr. Robinson was trying to find out the
25 specific date of the specific start number.

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1 And successful starts to me and the end of the
2 Comprehensive Test Program when it triggered it off was --
3 because I knew we had failures in overhaul -- towards the
4 end of the overhaul program. And sensor calibration and
5 logic testing did not require engine starts -- that the
6 successful starts were all starts after that.

7 So it was a point in time, but I didn't know
8 the exact date and I didn't know the start number.

9 CHAIRMAN BLOCH: Well did you know the
10 definition? I still am not sure what the definition is.
11 Could you say it now? Do know the definition?

12 THE WITNESS: The definition is when we
13 completed the first complete set of sensor calibration and
14 logic testing. And as --

15 CHAIRMAN BLOCH: First complete set was the
16 end of the Comprehensive Test Program?

17 THE WITNESS: Yes, sir. That was what was in
18 my mind.

19 CHAIRMAN BLOCH: And why would you exclude
20 subsequent sets of calibration?

21 THE WITNESS: Well, the subsequent test or
22 calibration was when a particular sensor would vent -- as
23 one sensor would start to vent or one sensor would have a
24 problem, people would fix that. That wasn't -- you know,
25 we're going to do them all. So that's what the difference

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1 was in my mind.

2 CHAIRMAN BLOCH: Thank you.

3 CROSS EXAMINATION (continued)

4 BY MR. MICHAEL KOHN:

5 Q And what do you mean by "it's an LER" on the
6 top of page 49?

7 A I don't remember what I meant by it's an LER.

8 Q Does that mean it didn't have to be defined
9 because it's going in an LER?

10 A I mean, reading the words now, it's not like a
11 tech spec term. A tech spec term has a bold set of
12 definition -- there is a definition page. An LER is a set
13 of words that people put together to -- in a summary
14 fashion describe what happened in the plant.

15 So that was the -- I believe that's what I was
16 referring to at that time.

17 Q Okay. And now, when during the course of
18 April 19th did you get brought into the loop about the
19 fact that the numbers in the April 9th letter were
20 suspect?

21 A I don't believe I was brought in the loop
22 associated with the numbers being suspect on April 19th.

23 Q So you're telling me that when you were
24 participating in the April 19th conference call, no one at
25 that point had told you that the April 9th numbers had

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BOARD EXAMINATION

1
2 CHAIRMAN BLOCH: Mr. Stringfellow, what
3 was your personal responsibility for the truthfulness
4 of this LER?

5 THE WITNESS: Well, your Honor, I -- my
6 personal responsibility was that if I -- if there was
7 information in the LER that I knew to be incorrect, it
8 would have been my responsibility to stand up and say
9 so and try to get it corrected.

10 CHAIRMAN BLOCH: Would you ever have sent
11 it in yourself if you thought there was something
12 incorrect about it?

13 THE WITNESS: No, sir. I would not.

14 CHAIRMAN BLOCH: That was your legal
15 obligation?

16 THE WITNESS: Yes, sir.

17 CHAIRMAN BLOCH: Could you satisfy
18 yourself about the truthfulness of something based on
19 what a lot of other people said?

20 THE WITNESS: Well, I -- with regard to
21 the comprehensive test program and the number of
22 diesel starts, I don't recall ever having the
23 information at hand, myself, that I could use to do an
24 independent verification of that language.

25 And, so, as a result, I felt that I was

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1 dependent on the site.

2 CHAIRMAN BLOCH: Did you know if anyone
3 else had the comprehensive information in hand?

4 THE WITNESS: No, sir. I don't know.
5 Well, in terms of -- excuse me. Let me clarify.
6 Would you clarify the question?

7 Are you talking about in the corporate
8 office or at the site?

9 CHAIRMAN BLOCH: Anywhere.

10 THE WITNESS: Anywhere. I believe they
11 had the information at the site.

12 CHAIRMAN BLOCH: Who did? Who had
13 assembled it?

14 THE WITNESS: Well, Mr. Aufdenkampe had
15 told me that he had two individuals off trying to
16 verify the information.

17 CHAIRMAN BLOCH: Was he finished at the
18 time you sent the NRC this document?

19 THE WITNESS: At the time that we sent it,
20 there's a transcript where Mr. Aufdenkampe says that
21 they've got information that confirms that and that
22 -- I don't remember exactly what the language was but
23 --

24 CHAIRMAN BLOCH: Okay. Perhaps counsel
25 can go into this on redirect. I would like to know

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1 how you were assured, personally, that this was not a
2 transmission that was disregarding of the truth.

3 That is, one made without knowing whether
4 it was true or false. Because there was still studies
5 necessary to be done before you'd know that.

6 I'd like to say that Judge Carpenter has
7 credit for some of this cross examination which I've
8 just done.

9 ADMINISTRATIVE JUDGE CARPENTER: --
10 attempt to look at things with common sense. Since
11 we've interrupted you, I want to ask a question which
12 I'd like to know if you know, and/or if you have an
13 opinion. If you feel you're not qualified to have an
14 opinion, I accept that answer.

15 How long would it take the appropriate
16 Vogtle person to update the diesel start log in April,
17 1990? One person were assigned to address the fact
18 that the log wasn't up to date, and you were trying to
19 write an LER which depended on that log for its
20 veracity. How long would it have taken? Do you have
21 an opinion? Hours? Days? Just approximately.

22 THE WITNESS: No, sir. I really don't.
23 I'm sorry. I have no earthly idea how long it would
24 have taken them to --

25 ADMINISTRATIVE JUDGE CARPENTER: Did you

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1 ever ask?

2 THE WITNESS: I don't recall asking.

3 ADMINISTRATIVE JUDGE CARPENTER: Wasn't
4 that the problem? You didn't have in front of you the
5 facts for you to judge the accuracy of the LER?

6 THE WITNESS: When you say it was -- well,
7 no, sir. I didn't have the facts myself, that I could
8 do an independent verification myself. No, sir.

9 ADMINISTRATIVE JUDGE CARPENTER: Do you
10 normally look for that? Or do you just process it?

11 THE WITNESS: No, sir. No, sir. I do.

12 ADMINISTRATIVE JUDGE CARPENTER: Okay.

13 THE WITNESS: When I -- well, I'd like to
14 amplify that a little bit, if I may. Normally, when
15 I get an LER, a draft LER, it's customary that we got
16 draft copies of the LER before they went to the PRB.
17 And we would -- I would -- the first thing I would do
18 is read the thing to see if it made sense to me, and
19 it told a coherent story.

20 And I would look for key things. For
21 example, do the corrective actions address the causes
22 of the event? Do the -- is there an appropriate
23 completion date specified for the corrective actions?
24 We normally did not like to have any open ended type
25 stuff in these corrective actions. So, that was the

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1 first thing I looked for. You've got a corrective
2 action, is there a completion date for the corrective
3 action?

4 And then if -- if the LER made statements,
5 for example Procedure 12,006 requires certain steps to
6 be taken. I could go to the file, and pull Procedure
7 12,006 out, and look to see. It did require certain
8 steps to be taken. If it says the FSAR -- the FSAR
9 makes certain statements, I could go, and I would go
10 to the FSAR to see that it indeed made those
11 statements.

12 So, to the extent that I had the
13 information in hand, it was my practice to try to
14 verify that that was, indeed, correct. In this case,
15 with respect to the start data, I simply didn't have
16 the information in hand. I felt like I was totally
17 relying on the site for that information.

18 ADMINISTRATIVE JUDGE CARPENTER: Why were
19 you not reluctant to go forward with the LER until you
20 had the information?

21 THE WITNESS: Well, sir, I didn't consider
22 it to be essential that I personally verify that. I
23 felt that the word of George Bockhold and Ken McCoy
24 was -- that that information was correct, number one.
25 I felt that Mr. Bockhold was in a better position to

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1 know, since he was the plant manager. And I felt that
2 the conference call, where a number of the concerned
3 parties were involved, and had an opportunity to speak
4 up, and say, no, that is not correct, since that did
5 not happen, that that information was correct.

6 And I guess, you know, that's the only way
7 that I can answer your question, is I -- is I don't
8 recall, you know, after -- after I was told that that
9 information had been verified, and that we should go
10 with that, that there was any reason for me -- that it
11 was -- that it was necessary that I personally verify
12 that. I guess I felt like we had been --

13 ADMINISTRATIVE JUDGE CARPENTER: One more
14 question. Even though there was no documentation of
15 the correctness?

16 THE WITNESS: Well, sir. I didn't have --

17 ADMINISTRATIVE JUDGE CARPENTER: It was
18 only verbal statements?

19 THE WITNESS: I didn't have the
20 documentation, but I believe that the documentation
21 existed at the site.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: Is it unusual in your job
24 to rely on someone's word that documentation exists,
25 when you send somebody to the NRC?

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1 THE WITNESS: No, sir. It's not unusual.
2 There is some documentation that is -- that is -- that
3 is at the site, and that I don't have ready access to.
4 And so, you know, it's -- I guess there was really no
5 reason for me to -- to believe in that -- in that time
6 frame that that information was incorrect.

7 CHAIRMAN BLOCH: Would it be unusual for
8 you to send information to the NRC that did not
9 document where the information was located when it was
10 sent in, so that it would refer to a particular log,
11 or a particular study, or something like that, so you
12 at least know it existed?

13 THE WITNESS: Well, sir, I thought the
14 information existed in the various logs that were at
15 the site at the time.

16 CHAIRMAN BLOCH: Well, that wouldn't
17 enable anyone to know whether the information was
18 correct, though, would it, if it was in the logs?

19 THE WITNESS: (Pause.) I'm sorry. I
20 didn't quite understand.

21 CHAIRMAN BLOCH: Being in the logs doesn't
22 get you anywhere, does it? It has to be analyzed and
23 tabulated somehow, doesn't it?

24 THE WITNESS: Well, yes, sir. It was --
25 yes, sir. Normally, I would say that would be the

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1 case. But under this -- I guess under these
2 circumstances, it was -- it was my understanding that
3 they were going out, and looking at the logs, and --

4 CHAIRMAN BLOCH: Afterwards?

5 THE WITNESS: No, sir. At the time that
6 we were trying to get the LER correct --

7 CHAIRMAN BLOCH: So, whose list were you
8 depending on? Who had done it?

9 THE WITNESS: Well, Mr. Aufdenkampe had
10 obviously told me from the transcript that he had sent
11 two of his people out -- attached two of his people
12 out to do it.

13 CHAIRMAN BLOCH: Had they finished?

14 THE WITNESS: Well, sir. When he told me
15 that they had verified that data, I had assumed that
16 that meant that they finished.

17 CHAIRMAN BLOCH: Okay. Now, you learned
18 that they had verified that data from Mr. Aufdenkampe
19 before the LER was sent in?

20 THE WITNESS: Mr. Aufdenkampe says, I'm
21 going on what Mr. Aufdenkampe says --

22 CHAIRMAN BLOCH: Let me see where.

23 THE WITNESS: (Pause.) Well, hold on a
24 minute.

25 MR. BLAKE: Can I be helpful here?

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1 CHAIRMAN BLOCH: Sure. Please do.

2 MR. BLAKE: If you'll look, in his
3 testimony, he talks about the level of comfort on page
4 nine in his pre-filed testimony. And the pages in the
5 transcript which he refers to I think are focused on
6 on pages 26 and 27 of tape number 58, which we all
7 have. That's really what -- I think we ought to focus
8 on.

9 CHAIRMAN BLOCH: That's GPC-2?

10 MR. BLAKE: Yes. It is.

11 THE WITNESS: Well, I want to --

12 CHAIRMAN BLOCH: Hold on a second. I want
13 to look at the section.

14 UNIDENTIFIED: Pages 28 -- ?

15 MR. BLAKE: Page -- page nine in his pre-
16 filed is where he talks about it. And what he's
17 citing there.

18 CHAIRMAN BLOCH: Pages 26 and 27.

19 MR. BLAKE: Yes. Twenty-six and 27 out of
20 58.

21 THE WITNESS: Yes, sir. Specifically --

22 MR. BLAKE: Wait a minute, Mr. -- let's
23 let everybody have an opportunity to read these
24 things.

25 THE WITNESS: I'm sorry. I'm sorry.

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1 CHAIRMAN BLOCH: Thank you. I want to
2 hear from you, but I want to look first.

3 THE WITNESS: Okay.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: So, if you would, what
6 words of Mr. Aufdenkampe on these pages were you
7 relying on to know that the information was accurate?

8 THE WITNESS: Well, sir, I believe page
9 27, line 14, where Mr. Aufdenkampe says, "I mean that
10 -- that -- that somebody has gone and validated
11 that data, and that's what George presented. The data
12 that has been offered to us does not bring into
13 question that data. That's -- "

14 CHAIRMAN BLOCH: What did you make of what
15 he said on the previous page? He's talking about
16 lines 20 through 26. "I'm kind of guessing, but 27
17 starts, because I don't know where the three failures
18 are in the sequence of 27 starts. But we had X number
19 of starts."

20 Now, how do you compare that to what he
21 said on page 27?

22 THE WITNESS: Well, sir, right or wrong,
23 that's what I relied on. If Mr. Aufdenkampe had told
24 me that he used that language, then to -- that
25 somebody had verified it, and -- the data -- does not

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1 bring any question of that data, that I had no reason
2 not to accept his statement.

3 I think he understood, and it would seem
4 to me that he would have understood, then later on
5 when Mr. Shipman says, "We're going to go with that,"
6 that we all understood what was going into the LER.
7 And nobody at that point raised any objections. And
8 therefore, I had no reason to believe that at that
9 point there was any problem with the information that
10 was presented. And that I did not personally need to
11 go and verify that.

12 CHAIRMAN BLOCH: What do you make of the
13 information on page 27, lines 23 through 25?

14 THE WITNESS: (Pause.) All I can say is -
15 - is that I -- I didn't believe that we were
16 misleading anybody at that point.

17 CHAIRMAN BLOCH: Now, when you say you
18 relied on this statement by Mr. Aufdenkampe, do you
19 remember that that's what you relied on? Or is it in
20 reading the tape that refreshed your -- that you
21 decided that was what you relied on?

22 THE WITNESS: Well, sir, what I
23 specifically remember was all of the activity that
24 afternoon to try to verify that statement. And what
25 I -- what I actually remember in coming away from the

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1 evening was, the statement had been verified, and what
2 was in the LER was correct.

3 Now, the actual interchange here, I -- it
4 has become muddled as to what I actually remember, and
5 regarding the actual interchange. But what I do
6 clearly remember is that on the afternoon of the 19th,
7 I believe that we had correct information in the LER.

8 CHAIRMAN BLOCH: Okay. And when you sent
9 the LER in, did you at that time have a belief as to
10 who had the list that would verify it?

11 THE WITNESS: Only to the extent that it
12 was at the site. I didn't know particularly who at
13 the site had the list.

14 BOARD EXAMINATION

15 ADMINISTRATIVE JUDGE CARPENTER: This
16 afternoon, you just referred to -- that you felt the
17 LER was correct. Did you have any sense of pressure
18 that this LER should be processed immediately? In the
19 very, very near future?

20 THE WITNESS: I believe the LER was due
21 that day, in accordance with 5073. And we had kind of
22 -- it was our policy to try to -- to try to get things
23 out on the due date. So, yes, sir. There was a
24 certain extent -- a certain amount of pressure to get
25 the thing out in accordance with the 30 day -- the 30

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1 correspondence that I was working on at the time.

2 And if I was aware of that resource and
3 was able to go and check it, then it was my practice
4 to do that. It's still my practice to do that.

5 Q And how about factual information that was
6 emanated really at the site? Did you simply rely upon
7 these people to provide you accurate numbers? Now
8 we're not talking about diesel starts here, we're
9 talking about your job.

10 A Yes, sir, I understand. To a certain
11 extent, there are some things I have to rely on the
12 site for information, that I simply cannot -- I could
13 not verify myself without actually traveling to the
14 site and looking at it myself.

15 Q I see that you have a Master's degree in
16 Mechanical Engineering. Do you have any experience
17 working in a control room of Vogtle or another nuclear
18 power plant?

19 A No, sir, I do not.

20 Q You have been in a control room?

21 A I have been in a control room. I have
22 been in the simulator, and I did spend approximately
23 six weeks on a simulator back in 1983. I spent
24 approximately six months at the site in 1983 going
25 through an operations training course.

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1 A Yes, sir?

2 Q As I understand your answer starting at
3 the bottom of page nine, you say the transcript of
4 tape 58, pages 28 and 29, indicates it was Mr.
5 Shipman's understanding at the time that Mr. McCoy had
6 spoken with NRC's Mr. Brockman about the diesel starts
7 and that the -- my understanding -- the NRC understood
8 what was meant by the reference to Comprehensive Test
9 Program.

10 A Yes, sir.

11 Q Let's spend a little time -- could you
12 point out for the judges and for me and -- tape 58,
13 Exhibit 2, where the words Comprehensive Test Program
14 are written and where the parameters of that test
15 program are set forth, please?

16 A Well, sir, I believe if you refer to page
17 22 -- I think it's really pages 22 through 27, for
18 example -- when the question what was my understanding
19 of the completion of the Comprehensive Test Program,
20 my testimony beginning on page eight. I believe if
21 you refer to pages 22 through 27 of this transcript,
22 that's what I was referring to there.

23 That's all I can really point you to, I
24 think, in terms of --

25 Q I think the question was poorly asked. If

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1 you would take a look at page 28, Mr. Mosbaugh has a
2 statement. And the second line of Mosbaugh's
3 statement refers to the Comprehensive Test Program.
4 Do you know of any other reference in these pages to
5 the Comprehensive Test Program?

6 A The only thing that comes to mind is the
7 transcript of the April 19 conversation where we put
8 the words Comprehensive Test Program in the LER.

9 Q Will you point out in accord with your
10 testimony at the bottom of page nine, transcript of
11 page -- of tape 58 at pages 28, 29 --

12 A Okay.

13 Q -- it discusses understanding of
14 Comprehensive Test Program. Now referring to these
15 two pages, could you set forth for me what are the
16 parameters of that Comprehensive Test Program to which
17 you're referring? And I don't wish to say -- the only
18 reference I see is Mr. Mosbaugh's comment that someone
19 else had talked about it.

20 A Well, what I was referring to in my
21 testimony here, I believe, was in pages 28 and 29 --
22 was where Mr. Shipman states that Ken went and called
23 Ken Brockman. I'm reading from line 20 and 21 on page
24 28 -- and talked to him about, you know, the numbers
25 and what the basis of the number was as George

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1 Bockhold described it, and asked Ken if he understood
2 that.

3 You know, and if they hadn't understood
4 that in Atlanta on that base, and Ken said yes,
5 absolutely we did. And also the ITT team understands
6 that. What I was referring to in that question right
7 there is Mr. Shipman's statement that Mr. McCoy -- it
8 was his understanding that Mr. McCoy had explained to
9 Mr. Brockman what the basis for the numbers was and
10 that Mr. Brockman had indicated that he understood it.

11 And I don't think I was referring to
12 actual basis for the -- a definition of the
13 Comprehensive Test Program at that point. Maybe I'm
14 confused as to your question, Mr. Barth.

15 Q You're doing well. We're doing well.

16 A Okay.

17 CHAIRMAN BLOCH: When you leave this
18 subject, I want to ask a couple of questions.

19 BY MR. BARTH:

20 Q You're going to find, Mr. Stringfellow,
21 you've got to be more patient with me than I am
22 patient with you because it takes me a while to go
23 through this.

24 A I understand.

25 Q As I look at this -- and I'll take your

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1 April 19th.

2 Q I'm focusing on --

3 BOARD EXAMINATION

4 CHAIRMAN BLOCH: Could we stop for a second.

5 This may be in the testimony already, but I'd like to hear
6 it again. Did you explain why you thought there was a
7 material false statement?

8 THE WITNESS: Well, we knew at the time that
9 we had had two trips on the B diesel and the way the --

10 CHAIRMAN BLOCH: No. I don't want the facts.
11 I want to know whether you explained why to Mr.
12 Stringfellow. And if you don't remember, we'll just have
13 to settle for that, but I want to know if you remember or
14 have had your mind refreshed by any of the tapes
15 explaining why you thought it was false?

16 THE WITNESS: My recollection is we told Jack
17 that we had two trips on the B diesel.

18 CHAIRMAN BLOCH: And the implication that you
19 thought you were communicating was?

20 THE WITNESS: That the -- in this particular
21 time frame, that brought into question the April 9th
22 statement in the letter that said that there had been no
23 problems.

24 CHAIRMAN BLOCH: And when you communicated
25 that, did Mr. Stringfellow have any questions of you about

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1 A PRB comment review sheet?

2 Q Yes. And this is a PRB comment review sheet
3 and this particular one talking about, "should state the
4 number of starts rather than several." As I understand
5 it, you're talking about the number of starts contained in
6 the April 19th LER and they wanted to take out the word
7 several and use the actual number in there and you got
8 that as an action item from the PRB. Correct?

9 A That's correct.

10 Q And when you get these type of action items,
11 this PRB comment sheet is drafted up. Correct?

12 A That's correct.

13 Q And then there's a resolution on the right
14 hand side. Do you see? It says "incorporated" and I
15 guess that's Mr. Webb's initials next to that.

16 A That's correct.

17 Q Now if you would turn to Exhibit C and there
18 is no accompanying action item. There's no PRB comment
19 review sheet, correct, associated with the April 19th PRB
20 meeting?

21 A That is correct.

22 CHAIRMAN BLOCH: I'm sorry. I did not
23 understand the question. It may be every clear but --
24 There were action items in the previous meeting.

25 MR. MICHAEL KOHN: Right. I see what you're

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1 THE WITNESS: Can I go through the whole
2 sequence?

3 CHAIRMAN BLOCH: Yes. Whatever you need to
4 say.

5 THE WITNESS: You know, we felt that the LER
6 was correct because George Rockhold had stated that there
7 was 18 starts after the comprehensive test program. In
8 addition, I have recollection that we had data from Tom
9 Webb who we'd sent out to go again review the operator's
10 logs that indicated that there were in the neighborhood of
11 27 and I think in that time frame I thought it was 38 --
12 I've since been refreshed that it's 32 starts on the
13 diesel since the May 20th event. So --

14 CHAIRMAN BLOCH: March 20th?

15 THE WITNESS: Or March 20th event. I'm sorry.
16 So what I knew is we had many more than 18 starts on both
17 of the diesels at that period of time and I was
18 comfortable that with what George had said, I didn't know
19 George's basis for everything that he said but George was
20 very definitive that it was more than -- that there were
21 18 consecutive starts after completion of the
22 comprehensive test program. I had data that said it was
23 27 and 32, so I was comfortable in the LER that there were
24 at least 18, so that's what I told corporate.

25 CHAIRMAN BLOCH: Mr. Kohn, you can continue

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1 with this. Are you going to continue with this subject, I
2 hope?

3 MR. MICHAEL KOHN: I was going to pick it up
4 later on, so if the Board has more questions, please --

5 CHAIRMAN BLOCH: Are you going to go back to
6 this later on?

7 MR. MICHAEL KOHN: Yes.

8 CHAIRMAN BLOCH: All right. Your order is
9 okay.

10 BOARD EXAMINATION

11 CHAIRMAN BLOCH: Do we have Mr. Webb's list
12 that shows 27 or 30 starts? Have you ever seen that, Mr.
13 Aufdenkampe?

14 THE WITNESS: I'm pretty sure I have.

15 CHAIRMAN BLOCH: And do we have a copy of it
16 for our record somewhere?

17 MR. MICHAEL KOHN: No, and Intervenor has
18 never been provided a copy.

19 MR. BLAKE: The Intervenor does not have a
20 copy? Is that the Intervenor's position? That's a fair
21 question.

22 CHAIRMAN BLOCH: That's what he said.

23 MR. MICHAEL KOHN: Yes.

24 MR. BLAKE: The Intervenor does not. Mr.
25 Mosbaugh does not have a copy of the Webb list. This is

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1 not a small item and it's a serious question. And the
2 answer is? I need to approach the bench on this topic.

3 CHAIRMAN BLOCH: Intervenor asserted that they
4 do not have the Webb list. If that's not correct, they
5 should correct me.

6 MR. BLAKE: I need to --

7 MR. MICHAEL KOHN: We've discussed this and
8 we've asked Georgia Power for the list. They know we do
9 not have the list. There's no --

10 MR. BLAKE: We've stepped into a very delicate
11 area, Judge Bloch, which have been the subject of in-
12 camera filings with the Board.

13 CHAIRMAN BLOCH: Can you take this up on Mr.
14 Mosbaugh's testimony? I take it your assertion is that he
15 has it. Is that right?

16 MR. BLAKE: Yes. I believe he has it.

17 CHAIRMAN BLOCH: So then you should take it up
18 as a matter of cross with him.

19 MR. BLAKE: I will.

20 BY MR. MICHAEL KOHN:

21 Q Mr. Aufdenkampe, let's flush out the Webb list
22 a little further since it's sparked some discussion. Can
23 you tell me when you first saw the Webb list?

24 A My recollection is it was some time late on
25 the afternoon of the 19th.

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1 9th issuance of the corrective action response letter
2 because your organization was going to be responsible for
3 submitting the LER, is that correct?

4 A That's correct.

5 Q Okay. And in the process of your organization
6 starting to exercise its responsibilities with respect to
7 the start count, you determined that the 18 and 19 numbers
8 were not reliable, isn't that correct?

9 A We began to question the validity of the 18
10 and 19 number. That is correct.

11 Q You determined that they were so unreliable
12 that you removed them from a draft of the April 19th LER,
13 is that correct?

14 A We were not able to substantiate them, and so
15 the best -- the easiest way to address that in the LER
16 since they weren't significant to the LER presentation,
17 was to remove them; yes.

18 Q And you had them removed or -- by April 13,
19 1990. Is that correct?

20 A I don't remember the specific day. I think
21 that's covered in my pre-filed testimony.

22 CHAIRMAN BLOCH: You can consult the pre-filed
23 testimony.

24 BY MR. MICHAEL KOHN:

25 Q You might look at page two, lines 15 and 16.

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1 go on.

2 BY MR. MICHAEL KOHN:

3 Q Then from that point, the numbers were then
4 reasserted by your organization, is that correct?

5 A That is correct.

6 Q And --

7 A Well, no, really they were requested to be
8 added back by the PRE -- in the April 18th PRB.

9 Q Okay. And that came from the operations side
10 of the plant, that request?

11 A It came from Mike Lackey who was in outages
12 and planning at the time, is my recollection. He was a
13 non-voting member of the PRB.

14 BOARD EXAMINATION

15 CHAIRMAN BLOCH: Non-voting member of the PRB?

16 THE WITNESS: Yes.

17 BY MR. MICHAEL KOHN:

18 Q Okay. And is he on the operations side of the
19 plant at that time?

20 A That's what I'm trying -- I'm trying to
21 remember the organization at that time. Yes, I'm pretty
22 sure he was. That's only a pretty sure.

23 Q And if I understand it, numerous people were
24 concerned in the April 13th time frame that the numbers
25 were wrong, is that correct?

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1 lines 10 through 14 --

2 A I have that reference.

3 Q All right. You indicate that on April --
4 well, it starts, actually, on page 2. You indicate on
5 April 18, 1990, that the "20 times each" language is being
6 inserted based on the April 9th information, is that
7 correct?

8 A That is correct.

9 Q All right. And did you assign someone to do
10 that task?

11 A The task to insert it into the LER?

12 Q Yes, on April 18th.

13 A That was a PRB action item in my recollection.

14 Q But the PRB action item was also to verify the
15 number, correct? The PRB didn't say --

16 MR. BLAKE: Can he just answer one question at
17 a time? Just give him time.

18 THE WITNESS: The PRB action item from the
19 April 18th meeting only stated that, "Should state the
20 number of starts rather than several."

21 BY MR. MICHAEL KOHN:

22 Q And it didn't say use the April 9th letter and
23 numbers, did it?

24 A No, it did not.

25 Q And by that time, you had already questioned

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1 THE WITNESS: I think that there is -- there
2 is either some place where I told Allen or Rick on the
3 phone that I -- that I -- that I say that -- or I say, "My
4 people are out there verifying this now." That might be
5 in tape 58 also.

6 MR. MICHAEL KOHN: I think if Your Honor would
7 look at the end of the tape transcript you're looking at,
8 there is discussions about, on page 78, talking about the
9 -- that information is not up to date, and I -- things
10 were still going out and -- that helps you, Your Honor.

11 THE WITNESS: Yeah, there is -- there is -- I
12 think it gets into more detail on -- on the next tape, but
13 it -- you can see on line 16 of page 78 where Gus Williams
14 comes in and -- and Odom is saying -- well, let's start on
15 line 8. Odom says, "I don't have all of the logs is my
16 problem right now. We've got days missing. I can go out
17 and look right" -- it says, "Know what I've got, and we
18 start on the -- on the days missing," and it goes on to
19 talk about where Gus Williams comes in and says, "I have
20 those logs." So he is providing those logs to Rick Odom,
21 apparently. Gus Williams --

22 CHAIRMAN BLOCH: That would be updated -- what
23 logs?

24 THE WITNESS: The shift supervisor's log and
25 the control log.

1 CHAIRMAN BLOCH: Okay. The engineer's log is
2 still not up to date, right?

3 THE WITNESS: The engineer's log is still not
4 up to date.

5 CHAIRMAN BLOCH: So the source for the Webb
6 list is going to be those two logs?

7 THE WITNESS: That's correct.

8 ADMINISTRATIVE JUDGE CARPENTER: Can I ask a
9 couple of questions?

10 While the Intervenor is looking at his notes,
11 can you satisfy my curiosity? These people down at one of
12 the diesel generators who are observing the starting and
13 running of the diesel fill out certain forms. There are
14 some notes taken in the control room, and so on. And with
15 these ones that are the primary document, then leave that
16 area with some kind of routing sheet. Have you ever seen
17 that routing sheet? Where do they go? All of this
18 fumbling around, if the log wasn't up to date, where were
19 they?

20 THE WITNESS: I don't remember the specific
21 routing. But once they come in --

22 ADMINISTRATIVE JUDGE MURPHY: I'm listening.
23 Go ahead.

24 (Laughter.)

25 CHAIRMAN BLOCH: I was telling Judge Carpenter

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1 the Comprehensive Test Program?

2 A It was -- as I recall, it was after the sensor
3 calibration.

4 Q And was that told to you on April 19th by
5 Mr. Bockhold?

6 BOARD EXAMINATION

7 ADMINISTRATIVE JUDGE CARPENTER: Excuse me, if
8 I could break in. Was it the beginning of the program or
9 the end of the program when you said "after the sensor
10 calibration"? Is that when the program began?

11 THE WITNESS: That was the end of the
12 Comprehensive Test Program, as I understood it, on
13 April 19th.

14 ADMINISTRATIVE JUDGE CARPENTER: Thank you.

15 CHAIRMAN BLOCH: Is this information about
16 Mr. Bockhold telling him something on the tape?

17 THE WITNESS: Yes, it is, Your Honor.

18 CHAIRMAN BLOCH: If it is, what are we gaining
19 from asking him about whether that's how he learned? Do
20 you want to ask him whether he ever learned about it
21 before then, or do you already know that? Let's just ask
22 something if we think we're going to learn something from
23 the answer.

24 CROSS EXAMINATION (Continued)

25 BY MR. MICHAEL KOHN:

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1 BY MR. MICHAEL KOHN:

2 Q In fact, I think it's -- really, you start
3 from line 15. On line 16, you say, "I don't think it
4 matters." Did you really think it didn't matter whether
5 -- where the Comprehensive Test Program started? Excuse
6 me. Let me withdraw that.

7 Mr. Mosbaugh says on line 12 that he -- that
8 you can't put false information in written correspondence
9 to the NRC. And then you say, "The reason I don't think
10 it matters is because" --

11 A I think, Michael, you need to include all of
12 what I said.

13 Q Okay. Well, in the -- well, I agree with that
14 one. "The reason I don't think it matters is because
15 regardless of how we put it in there, when they come and
16 ask us questions about it, we'll tell them, 'That is what
17 our basis for it was.' That is why we get 18. If they
18 interpret it differently, well, sorry. We'll send a Rev.
19 out."

20 CHAIRMAN BLOCH: "We're sorry."

21 BY MR. MICHAEL KOHN:

22 Q "We're sorry. We'll send a Rev. out. You
23 don't agree with me on that." What did you mean by,
24 "We're sorry. We'll get back to you"?

25 A You know, I think it's fairly straightforward

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1 there. I thought that we had basis for information in the
2 LER. We couldn't -- we weren't to send out incorrect
3 information if we knew it was wrong. I always recognize
4 that people make mistakes and could have erred, and that's
5 why the LER process allows for revisions. If you identify
6 something later on that you weren't aware of at the time,
7 then you can send a Rev.

8 BOARD EXAMINATION

9 CHAIRMAN BLOCH: Mr. Aufdenkampe, I'm not as
10 familiar with this tape as you and Mr. Kohn are. What
11 does "This is what our basis for it was" -- what does that
12 refer to? What was the basis?

13 THE WITNESS: Again, I think that's talking
14 about the statement that we got from George that we had
15 had the 18 and 19 starts or consecutive starts after the
16 Comprehensive Test Program, plus the information that we
17 had gotten from Tom Webb.

18 CHAIRMAN BLOCH: All right. And could you
19 help me find -- is there a way to know from this tape that
20 that's what that refers to?

21 THE WITNESS: They -- bear with me for just a
22 second. I'm starting to accumulate papers over here.

23 CHAIRMAN BLOCH: I see you're going around in
24 circles as we sometimes do. It's not easy to find it.

25 If counsel knows a clear place to direct us to

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1 so the witness can examine it, that would be fine.

2 THE WITNESS: Let's see -- 28 and 29. Okay.

3 If you start on page 27 -- maybe even back further.

4 Starting on page 26, line 16, I say, "Well, you know, the
5 bottom line is on the B diesel, we had done major
6 maintenance on it. We were in the process of testing to
7 make sure it was working right.

8 Then, at testing process, we had it fail
9 apparently three times. Once we got all of the bugs
10 worked out of it, since the point we got all of the bugs
11 worked out of it that we've had, we had -- and I'm kind of
12 guessing -- but we had 27 starts, because I don't know
13 where the three failures are in the sequence of 27 starts,
14 but we had X number of starts, and George's argument is
15 that -- is after we got all of the bugs worked out we had
16 18 starts."

17 CHAIRMAN BLOCH: So where did the 27 come
18 from?

19 THE WITNESS: That's the number on the Webb
20 list.

21 CHAIRMAN BLOCH: But is this conversation
22 before or after the Webb list was --

23 THE WITNESS: I think we had the Webb list at
24 this time.

25 CHAIRMAN BLOCH: Okay. So the last

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1 through 17. You say, "I mean, that -- that -- that
2 somebody has gone and validated that data." If I
3 understand your testimony, you're telling me that you had
4 gotten the validation from your people -- Webb or Odom or
5 somebody?

6 A That's correct.

7 Q So what -- you're saying somebody. You're
8 acting like you don't know who it is.

9 A There's two different things being said here,
10 Michael. One is that somebody has gone and validated that
11 data, and that's what George presented, so that's George's
12 part of it. I think if you look at the tapes he says,
13 "Jimmy Paul has verified that data as being correct." And
14 then, I go on to say, "The data that has been offered to
15 us does not bring into question that data." So that's a
16 different set of data.

17 Q Well, in fact, the data that was brought to
18 you, if it listed all of the starts and had the failures
19 listed in it as well, would have brought into question
20 that data, wouldn't it, have?

21 A In that timeframe, I think the answer is no.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: Mr. Aufdenkampe, to put it
24 another way, did you ever look at the question of whether
25 the data that you received from Mr. Webb contradicted the

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1 A Again, my focus, as I stated before, was on
2 now many successful starts that we had. The definition of
3 the Comprehensive Test Program had been stated to Mr.
4 Brockman by Mr. McCoy. I didn't feel it was critical at
5 that juncture that I know the exact definition of the
6 Comprehensive Test Program. I maybe should have, but I
7 didn't.

8 Q So was Mr. Brockman's knowledge part of the
9 verification of these numbers?

10 A Well, Mr. Brockman's knowledge was part of
11 ensuring that we had open communications with the NRC and
12 were telling them everything that we should.

13 Q But by this time, a list of the starts making
14 up the April 9th presentation hadn't been sent to the NRC
15 as far as you knew, had it?

16 A I don't have much knowledge of what was sent
17 to the NRC with respect to the April 9th presentation,
18 other than the April 9th letter.

19 CHAIRMAN BLOCH: You're going to get a chance
20 to argue that kind of thing. I don't know why this
21 witness has to be asked that.

22 We should take a 10-minute break now. And
23 we're going to finish at 5:00, so during the 10-minute
24 break, get organized, and let's get a real great last 50
25 minutes. It's 4:05. We'll be back at 4:15.

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1 plant and round up Mr. X, Y, or Z, or whoever -- whoever
2 these three PEOs were. And one of them was -- I recall the
3 name Deloach. But I didn't know these people.

4 So eventually they showed up. And so some
5 people in operations must have somehow rounded them up, and
6 they showed up in -- in Swartzwelder's office. The call to
7 Hairston was placed, Mr. Hairston talked to them about what
8 they had done in responding to the diesel room the first
9 time. I basically listened to the conversation.

10 It seems like after that conversation wrapped
11 up I went up to John Aufdenkampe's office. And the -- the,
12 quote, "big conference call" was ongoing at that point.
13 And I walked in. Aufdenkampe had his speaker phone on. Or
14 maybe he didn't have it on. I believe when I walked in --
15 or he may have just put it on. I think he may have put it
16 on when I walked in. I think he -- I can tell from the
17 tape he announced that I had walked into the room.

18 And there was this discussion going on about
19 the LER. And I think at -- at that time I think it was
20 very quickly that it was talking about the start count.
21 And Mr. McCoy and Mr. Bachhold and Mr. Shipman and
22 Mr. Stringfellow were discussing the rewording of the
23 diesel start statement that had been in the draft. And of
24 course I -- some of the -- some of the things that stand
25 out, you know, about that rewording is that they wanted to

1 out of it at that point once it had gone two levels above
2 me.

3 So that conversation seems like, after
4 reviewing the tape, there's some more on there about
5 reviewing Pat McDonald's comments. This thing had gone all
6 the way up to the Pat McDonald level. And John and Shipman
7 discussed Pat McDonald's comments on the LER. And I think
8 in that section there's this discretion about fine tuning
9 it for technical as well as political implications.

10 And -- and so then the conversation ends and
11 after that conversation with Mr. Shipman ends, then...and
12 I've been able to determine this from a review of the tape
13 recently... it does appear to me that at that point we may
14 well have had -- or John may have had a additional (sic)
15 list that had -- had come in from the effort that Mr. Webb
16 and Mr. Odom had embarked upon. And -- and the reason I
17 say that is that I don't remember being given a list. I
18 don't remember being given a list from Mr. Webb or
19 Mr. Odom, but it does appear that I must -- based on what
20 I'm saying, that I must be working -- I must have some kind
21 of a list or something that I'm talking about because,
22 reviewing that tape, I make a statement about -- something
23 about not being able to find enough starts. I make some
24 statement about that. And so I obviously have -- I have
25 something that I'm talking about. I can only relate to

1 those words by based on that I must have been looking at
2 something. And my best reconstruction would be that I was
3 probably looking at a list and -- and I think there's a
4 decent chance that it may have been a list that had come
5 back to John and he had given it to me or it was on his
6 desk or something. And I guess, you know, that's what
7 we're referring to now as the Webb-Odom list.

8 CHAIRMAN BLOCH: Who are you referring to as
9 John at this point?

10 THE WITNESS: John Aufdenkampe. Yeah, I -- at
11 this point the setting -- I'm -- I'm in John Aufdenkampe's
12 office. And that's where this -- the call-back
13 conversation from Mr. Shipman to John is to John in his
14 office, and I'm in John's office with him. Seems like
15 there's a couple -- I make some comments, there's some
16 comments on the tape about, you know, not -- can't make
17 false statements to the NRC, and -- and I guess it would be
18 best if I had the tape to -- to get all the little details
19 about it. There where we have -- we have a little bit of a
20 continuing discussion, John and I do, about what's --
21 what's transpired. And again, from looking at the tape, it
22 appears that John's kind of -- he's being bugged I think to
23 -- to get out of there and get home. I think he has a ride
24 or a car pool ride or... I remember -- I remember a final
25 comment that -- that John makes, something about, "Well,

1 day would normally be nine -- eight working hours, but a
2 normal work day, half hour, hour for lunch, and it would be
3 not uncommon for me to work an hour or two overtime. So,
4 just to help you.

5 CHAIRMAN BLOCH: I need to apologize, but I
6 need a ten minute break. You're just about to start, and
7 I'm sorry that that's timed that way. So it's 2:01. We'll
8 come back at 2:11.

9 (A short recess was taken.)

10 CHAIRMAN BLOCH: The hearing will please come
11 to order. Mr. Blake.

12 BY MR. BLAKE:

13 Q Mr. Mosbaugh, are you able to hear me all
14 right?

15 A Yeah.

16 Q So, based on your recollection now and your
17 reconstruction of April 19, the number of diesel starts on
18 the 1-A and 1-B diesels were important to you there on
19 April 19, 1990, correct?

20 A The number was, yes.

21 Q And you recalled as well Mr. Shipman and Mr.
22 Kitchens requesting you or Mr. Aufdenkampe to get the
23 correct information about diesel starts -- Mr. Aufdenkampe
24 in the course of the PRB meeting, Mr. Shipman separately.
25 You recounted both of those in your recitation of what

1 occurred.

2 A Well, Mr. Shipman asked me to look into that
3 and I had brought up the issue with John at the PRB about,
4 you know, verifying that. And I testified that he was
5 given an action item to verify that, yes.

6 Q Do you recall that Jimmy Paul Cash generated a
7 list of diesel starts in early April, prior to the April 9
8 meeting?

9 A I recall that that was what was going around
10 the plant; you know, that that was what -- it seems like we
11 had a conversation with Jimmy Paul and he indicated that he
12 had generated the list, yes.

13 Q You had a conversation with him on April 19?

14 A Yeah, I think John and I -- I think he came
15 into the room and we -- it's on tape 58, we talked to Cash
16 briefly about the list, yes.

17 Q But you didn't include that in your discussion
18 earlier about what occurred on the 19th?

19 A That's correct, Mr. Blake. If I were to go
20 over tape 57 and 58 line by line, I think I would have
21 included a number of things that I didn't recount from
22 memory, that are on those tapes.

23 Q And that's the reason that your recollection --

24 A I suspect you will find more than one thing, if
25 you do a line-by-line review of the various conversations

1 A No, I didn't ask him, when I went to validate
2 my list, because I had my list, which was derived -- by
3 April 30th, I had put together a list from four different
4 logs -- from the data from four different logs, which was
5 all the data, all the source data as I knew it. So I
6 brought that to him, and I think we were supposed to work
7 together and validate it and I didn't specifically ask him,
8 but he didn't ever volunteer that he had a list or didn't
9 say anything about how my list may have compared to his
10 list.

11 But at that point needing another list was kind
12 of unnecessary for me because I had used all four lists at
13 that point, all source data that I knew of.

14 Q On April 19, you knew that Jimmy Paul Cash had
15 generated a list?

16 A Conversation on the tape indicates that Mr.
17 Cash -- we talked about a list that Mr. Cash had generated,
18 yes.

19 Q And did you ask Mr. Cash on April 19 for his
20 list?

21 A No, I don't believe we did.

22 Q Do you have any understanding of why you didn't
23 ever ask him for his list?

24 A Well, I didn't have any first-hand knowledge,
25 you know, about his generating it, you know, the

1 communication with Mr. Bockhold, and so he was telling me
2 he had a list and it seemed like it was some kind of common
3 knowledge, we must have known to ask him about -- there
4 were some questions, we asked him about where he started
5 and such, and so we must have somehow known that he had
6 generated something. But as to why we didn't say to Mr.
7 Cash on the 19th, go get your list, Jimmy -- I don't know
8 why we didn't do that, why I didn't do that or John didn't
9 do that.

10 CHAIRMAN BLOCH: My problem in thinking about
11 it is I can't imagine why you weren't more curious about
12 why the list that had been the basis for the communication
13 to the NRC that you now thought was false -- that you never
14 inquired into that, what the basis for that list was.

15 THE WITNESS: I guess at that point, Judge
16 Bloch, what I was hearing about what the basis of the
17 communication to the NRC had done was what I was hearing,
18 you know, was what Mr. Cash might have said, and I'm not
19 sure what he did say about his list being the basis for the
20 communication of what Mr. Bockhold.

21 I guess because I wasn't involved up front is
22 partially why I don't think I asked later. You're hearing
23 this things as an explanation. I think if I was involved,
24 you know, up front, and knew source and that these things
25 had actually happened, then I might have been more curious,

1 as the Kochery list.

2 Q Oh, thank you. Mr. Kochery had given you the
3 list?

4 A Sometime between the 9th and the 19th -- I'm
5 going to have to explain the whole thing to you.

6 Q I will delay asking that question until Mr.
7 Blake is finished.

8 A Okay. I believe I was given the list or a copy
9 of the list by Mr. Kochery, the one I'm referring to as the
10 Kochery list.

11 CROSS EXAMINATION (continued)

12 BY MR. BLAKE:

13 Q So there's no confusion about these lists, I
14 want to provide you a copy of Cash Exhibit B, and let's
15 determine that that's the Cash list that we're talking
16 about.

17 (A document was proffered to the witness.)

18 Q You have before you a copy of Cash Exhibit B?

19 A Yes.

20 Q And do you now understand that that's the list
21 that Mr. Cash generated on or about April 9? There were
22 some questions, I understand, about whether or not there
23 was editing, whether or not there were changes, but is that
24 what you understand to be the Cash list?

25 A Based on what I've heard in this proceeding --

1 what I referred to as the Kochery list.

2 Now by the time of the call on the 19th, that
3 Kochery list is the list from which I knew of the two
4 specific trip information that I gave Mr. Shipman. And so
5 when I gave him a time and date of the trip and what Calcon
6 sensor it had occurred on, the source of my information had
7 been that Kochery listing, but that listing was a partial
8 listing and it was handwritten. I don't believe it was a
9 complete listing. My recollection is that it contained
10 starts in March and my recollection is that it contained
11 some starts up into early April. That's as much as I
12 remember about the list. And that it was handwritten and
13 that it was very limited. It was like start, stop, date,
14 time and then if there had been a problem, it was what the
15 problem had been -- trip, you know -- but that's about all
16 that I remember in the entries, was that kind of
17 information. And I think it's clear that that's the
18 information that I conveyed to Mr. Shipman on the 19th,
19 when I gave him the two specific trips -- that had been my
20 basis.

21 Q Do you know why Mr. Kochery generated that
22 list?

23 A No, I don't.

24 Q Do you know when he generated that list?

25 A No, I don't.

1 A If you mean all of them -- no.

2 Q Any of them?

3 A A few excerpts of transcripts that have been in
4 various filings.

5 Q Are you aware that among the IIT documents is a
6 list of starts which starts at the beginning of the outage
7 and ends on March 23rd and is referred to as the Kochery
8 list?

9 A I have seen -- and I'm not sure if it's from
10 the IIT -- I believe Mr. Robinson, in my interview, asked
11 me about a list captioned as a Kochery list, but it was a
12 typed list and it had more information on it than I recall,
13 and more detail. And I didn't recognize it as the -- it
14 was typed, mine was handwritten -- and I didn't recognize
15 it as being my list or a typed version of the list that I
16 remember.

17 Q I'm going to show you a copy of McCoy Exhibit
18 F. Is this the document you think Mr. Robinson might have
19 shown you during your interview?

20 A This is a typed list. I can't be sure if this
21 is the one he showed me or not. I'm not even absolutely
22 sure if he showed it to me or if we just talked about it.
23 I can't say for sure if it's the same one he showed me.

24 Q Do you observe that this list runs from about
25 the beginning of the outage -- that is, about March 12 --

1 inaccurate?

2 A At that point, it was impossible for me to
3 state with certainty that that final statement was
4 inaccurate. But knowing what I had heard on the phone and
5 knowing what I know now, the basis and the motive behind
6 that statement, to the authors, I believe that statement
7 meant the same as the statement that had been in the COA.
8 And to the authors, I believe they knew that statement was
9 an incorrect statement and they put it in anyway. To me, I
10 was looking -- and I didn't know what was in their mind,
11 and I didn't know, as I know now from some of their
12 testimony, that that was their intent. To me, it was a new
13 sentence, with a new starting point and an end date of the
14 19th, which was defined. But no defined starting point.
15 And now I had a new quantity, a new quantity that would
16 have to be defined and evaluated. And I didn't know how to
17 define it. And so what I immediately did was to seek how
18 to define it. How can you make the statement that
19 subsequent to the comprehensive test program, there has
20 been this many starts if you don't know the point in time
21 that you started counting. So my effort was to seek a
22 definition, and that's exactly what I did with Mr. Shipman
23 on that later call that I sometimes refer to as call B,
24 that I've already talked about.

25 Q This was the call that Mr. Shipman placed to

1 you?

2 A No, he placed it to Mr. Aufdenkampe and I was
3 in Mr. Aufdenkampe's office.

4 Q But not one that you initiated with Mr.
5 Shipman.

6 A That's correct.

7 Q And did you, therefore -- is your bottom line
8 that you felt it was inaccurate when it went out with its
9 final language?

10 A I couldn't tell. I couldn't tell with
11 certainty enough to say, you know, this too is a false
12 statement, because I had to define the quantities, I had to
13 define the comprehensive test program.

14 Q And what about Messrs. Shipman and Stringfellow
15 and Aufdenkampe, who you said had earlier agreed that the
16 draft language was inaccurate? What is your understanding
17 of their views on its accuracy in its final form?

18 A The people that intended that final statement
19 to be the same as what had been in the COA knew it was
20 inaccurate, and I don't know which all people those were.
21 Mr. McCoy was one that I think intended it to be the same,
22 I've heard that testimony in this proceeding. I didn't
23 know what was in all those people's minds on the 19th.
24 That's come out in this proceeding. And so I can't answer
25 what was in -- what their intent was.

1 subsequent to the test program, okay, I did not know if
2 that statement was a false statement or not. I did not
3 know whether or not there was a way to get 18 after the
4 program, no problems or failures consecutive, or not. I
5 didn't know.

6 CROSS EXAMINATION (continued)

7 BY MR. BLAKE;

8 Q You've testified earlier today that you now
9 recall, from a recent review of the tape, that maybe you
10 did see the Webb-Odom list on April 19, but it was after
11 the last call with Shipman. Was that your testimony?

12 A That is my testimony.

13 Q And what is this recent review you're referring
14 to?

15 A I was reviewing tape 58 and the section I think
16 I referred to in my previous testimony was where I make a
17 statement that I can't find enough starts.

18 Q And when was this review done?

19 A When I looked at that tape?

20 Q Yes.

21 A Within the last day or so.

22 Q Since there was a discussion last week about
23 the Webb-Odom list, on the record?

24 A Yes.

25 Q Do you recall now what you might have done with

1 Q Turn two more pages to page 58. In the middle
2 of the page, Mr. Shipman is saying, "Okay. And of course
3 the other question we've been trying to get an answer to is
4 to reassure George Hairston -- George, but we've indicated
5 Hairston by agreement of the parties -- that we've had more
6 than 20 valid starts since, you know, March 20, like we say
7 in the LER." And you respond, "Yeah. Now you realize I
8 think there's a problem with the way that's stated because,
9 you know, the machine -- we can, you know -- we've got one
10 of the guys trying to find what the total number of valid
11 starts is, but there were failures." Is that Mr. Webb?

12 A I believe I'm referring to -- yes, Mr. Webb's
13 effort through Mr. Aufdenkampe, right.

14 Q Now on page 59, the middle of the page, Shipman
15 says, "Have we had a failure since George went to.... No,
16 on the B. Let me tell you what I know, okay? On the B
17 machine -- on the B machine -- on 3/22 at 12:43 the machine
18 tripped on high new boil temperature." Where do you think
19 you got that information?

20 A Where do I think I got that information?

21 Q Yes.

22 A I will assume that I got that information from
23 the list, the handwritten list that I got from Mr. Kochery.
24 And I'd like to clarify one thing about when I say the list
25 I got from Mr. Kochery. I don't know if Mr. Kochery wrote

1 completed the comprehensive test program of the control
2 system of each diesel at the time you had the emergency.

3 Q But were you able to piece that together at the
4 time? Because I don't see you saying that.

5 A No, not at the time. No.

6 Q So how do you know Mr. McCoy could have?

7 A I don't know. But, I mean, I hadn't been at
8 the presentation and, you know, as much -- hadn't had as
9 much exposure to, you know, what was actually went on (sic)
10 at the presentation as Mr. Bockhold and others had.

11 CROSS-EXAMINATION (Continued)

12 BY MR. BLAKE:

13 Q Mr. Mosbaugh, at this point in time weren't
14 Odom -- hadn't you just talked with -- with Odom and with
15 Webb about verifying the numbers, and hadn't you given them
16 instructions to determine -- focus on the "B" and -- and
17 try to determine whether or not there were 18 or 19 after
18 the one or two problems with 1-B diesel which you had
19 identified from the Kochery list? Isn't that your state of
20 mind at this point?

21 A At this point, Mr. Blake, whatever effort
22 Mr. Odom and Mr. Webb were putting forth was of nought,
23 because at this point in time what they were verifying is
24 now gone. The previous statement is now out of here.
25 We've -- we've reworded the statement to add a new

1 statement about "after the comprehensive test of the
2 control system of each diesel," instead of a statement,
3 "since the event." Whatever effort they are putting forth
4 is -- is no longer of any value because at this point, in
5 order to do anything with this new wording, I must know the
6 definition of the end of the -- of the test program, the
7 comprehensive test program.

8 Q Did you say that to anybody on April 19th? Did
9 you say to anybody, "Gee, you might as well pull back Webb
10 and Odom. That's -- that's a useless exercise at this
11 juncture."

12 A Well, not too long after this is when I pursue
13 that very issue with Mr. Shipman. And what my focus is, is
14 on exactly what I told you: Now what's the definition?

15 Q Try to answer my question, and then if you want
16 to add to it...

17 A No, I didn't pull anybody back.

18 Q Did you -- did you indicate to anybody in here,
19 "There's no sense having Webb and Odom do this?"

20 A Anybody in where? In this conversation?

21 Q Anybody that you were talking with that day?
22 Mr. Aufdenkampe, Mr. Webb, Mr. Odom, Mr. Shipman,
23 Mr. Kochery, Mr. Stringfellow, anybody?

24 A I didn't -- I didn't do anything to stop their
25 effort at that point. I proceeded to focus on what was

1 important to me and that was the definition of the
2 comprehensive test program.

3 Q And at the bottom of this very Page 8, Line 25,
4 when you say, "Got to look at those logs, friend. They
5 ain't done it." What did you mean by that to
6 Mr. Aufdenkampe?

7 A I mean that the people in corporate are -- are
8 engineering a new statement into this -- into this LER
9 without looking at -- at the base -- the base source data.

10 Q Let me just assume for the moment your view of
11 the world as you've just articulated at this point in time.
12 Wouldn't it have been...?

13 A I'm sorry, I...

14 Q Let me just assume...

15 A I didn't...

16 Q ...assume for the moment your view of the world
17 as you've just articulated it at this point.

18 A As of the 19th?

19 Q Wouldn't it have been more important to get
20 Webb and Odom's effort before these people in order to show
21 that they were wrong?

22 A No, the most important thing would be to know
23 what the definition of the new statement was. There's no
24 way you can -- I mean, how can you approach a new statement
25 and verify the accuracy of the new statement if you don't

1 know the turning point for it?

2 Q How did you know there weren't 18 or 19 starts
3 after that last failure that you had identified from the
4 Kochery list? Did you have any list available to you that
5 followed up through the 9th?

6 A The statement that Mr. Bockhold's saying, he's
7 talking about a basis that ended on the 9th, not on the
8 19th.

9 Q Did you have a list available to you at that
10 point in time that showed starts through April the 9th;
11 that showed less than 18 or 19 starts through April the
12 9th?

13 A No.

14 Q Then how could you say it was wrong at that
15 point?

16 A Say what was wrong, the new statement?

17 Q Yeah.

18 A There's no way I could assess the new statement
19 without knowing the definition.

20 Q Why -- why didn't you just ask what the
21 definition was if it was so all-powerful important to you
22 at that point? Did you ask anybody what it meant at that
23 point?

24 A I asked Mr. Shipman on the next call what the
25 definition was. I believe I asked Mr. Aufdenkampe what the

1 pretty angry and may not have been an objective witness of
2 what was happening.

3 A No. No. No, no, that's -- that's not what I'm
4 -- what I'm saying. What I'm saying is...

5 Q I'm hearing -- I'm hearing what the
6 implications are on what you would or would not have heard
7 in an objective way on that date.

8 A No, what I'm -- what I'm saying is I was being
9 criticized for not conforming and accepting. I was being
10 criticized for not supporting the directed resolution.

11 Q And that may have been wrong. We're not
12 talking about that here. The question is whether at that
13 date that affected your perception of what's happening and
14 how?

15 A That affected why I would be reluctant to speak
16 up in this forum and directly challenge people at the -- at
17 the highest level without having every one of my facts
18 absolute, you know; source data that I had verified,
19 myself, you know. I wouldn't -- I wouldn't think of
20 challenging something unless I had all my information down
21 in spades.

22 Q So then what you were asked before by Mr. Blake
23 must be true, that you really needed to get that data that
24 you were being asked to get?

25 A No, I needed the definition, is what I needed.

1 Q Well, once the data was available you could see
2 whether a definition might work or might not work, couldn't
3 you?

4 A I don't see how I could do anything without the
5 definition.

6 Q Once you had the list you could do what you'd
7 done before, which is to see where any definition would
8 work?

9 A I guess I could have done that, but I would
10 really need to know what the definition was, rather than
11 any definition. I mean, I'd need to know the right
12 definition.

13 CROSS-EXAMINATION (Continued)

14 BY MR. BLAKE:

15 Q Mr. Mosbaugh, don't you -- don't you say just
16 exactly what the judge is -- is saying on Page 23? Let's
17 go to there. At the top of the page, "...after we
18 completed the logic -- the logic test."

19 And Shipman says, "Well, I understand George's
20 then was started after we completed the recalibration of
21 all the instrumentation. But we ought to have -- you know,
22 as far as instrumentation is concerned, that's when we
23 ought to have had at that point some good instruments.
24 That's what we're trying to show, that the unit starts --
25 that when that's been done correctly, that the unit starts,

1 anything, and I didn't really think about doing anything
2 about that. I was focused on getting a definition.

3 Q And isn't the reason that you're still trying
4 to determine whether or not it's accurate or not, and not
5 that in fact you've given up on anything?

6 A Well, I haven't given up. I -- I was reluctant
7 to raise it in the executive forum.

8 Q Okay, did you raise it with Mr. ...?

9 A And I'd like to -- you made a statement before
10 about we have the data here, okay, and -- and you didn't
11 ask me what that meant. Okay?

12 Q Okay, what'd that mean?

13 A When I...

14 CHAIRMAN BLOCH: Would you mind repeating --
15 spot the page again, page and line.

16 THE WITNESS: Yeah, I -- I think we're talking
17 about the section that was on Page 23 and Line 12. My
18 reading of the transcript here is about adding the data up.
19 I don't think I'm referring to the fact that I have or do
20 not have data in the form of a list with me at this point,
21 okay? I'm referring to the fact that, you know, we have
22 the data. I mean, we all know that all this stuff is
23 logged in the control log, so the data exists. The issue
24 is the point at which we're going to start counting, which
25 is the definition.

1 BY MR. BLAKE:

2 Q Let's -- let's take a look at 25, Mr. Mosbaugh.
3 There it is you talking. Line 6. "Well, I think, you know
4 -- let me -- let me -- let me try some logic here. We have
5 these two failures, and now John says there are three
6 failures." Do you today have some explanation for that
7 statement?

8 A No, I never could figure out how John would
9 think there were -- were three failures. That there were
10 -- I mean, there were two trips and there were a number --
11 and I didn't know all this at this point in time, but there
12 were a number of failures to start, and there were some
13 problems. So there was a mix of things. So I don't know.
14 I -- I don't think I understood what... I think later on I
15 asked John what's the third failure, too, 'cause it doesn't
16 make any sense to me.

17 Q And if I told you that the Webb list available
18 to Mr. Aufdenkampe at that point in time on April 19th
19 would have indicated three failures, would you have any
20 reason to quarrel with that?

21 A I guess I'd want to review the list before I'd
22 agree that that was a correct statement.

23 Q The next page, on Page 26, at the bottom
24 Mr. Aufdenkampe saying, "The bottom lines on the 'B'
25 diesel, we've done major maintenance on it. We're in the

1 process of testing to make sure it was working right.
2 During the testing process we had it fail apparently three
3 times. Once we got all the work -- bugs worked out of it,
4 since the point we got all the bugs worked out of it that
5 we had, we had... and I'm kind of guessing...but 27 starts.
6 'Cause I don't know where the three failures are in the
7 sequence of 27 starts, but we had 'X' number of starts.
8 And George's argument is that after we got all the bugs
9 worked out we had 18 starts." Did you take issue with
10 that?

11 A Well, I -- I guess at that point I was hearing
12 John talk about yet another basis. I had heard -- if you
13 look through these conversations I had heard statements
14 from Mr. Shipman attributed to George, and from John
15 attributed to George. And one that's, "Well, we started
16 after we got the sensors calibrated," and another one is,
17 "We started after we got the bugs worked out," and another
18 one, "We started after we had the third trip," and another
19 one was -- was, "After we had done some control logic."
20 You know, four or more different definitions had been
21 presented to me attributed to Mr. Bockhold by Mr. Shipman
22 and by Mr. Aufdenkampe at that point. So how do you -- how
23 do you know what any of this means?

24 Q Have you seen the -- the Webb-Odom list yet?

25 A Yes. Well, what I believe is being attributed

1 to being the Webb-Odom list, yes.

2 Q And -- and since reviewing it, have you gone
3 back and looked at this transcript and tried to make sense
4 of statements that are made in here?

5 A Not extensively, no. I...

6 CHAIRMAN BLOCH: To what extent did you do
7 that?

8 THE WITNESS: I think I remembered in this
9 transcript there being a 27, just from my memory. In fact,
10 John says something about 27, so I -- I looked at the Webb
11 -- what may be this Webb-Odom list and -- to see if I could
12 find 27 starts on -- on that list. I did look at that.

13 BY MR. BLAKE:

14 Q Let's set this tape aside, this transcript just
15 -- let's set it aside just for the moment, Mr. Mosbaugh,
16 and come back to it.

17 On April 30th you provided Mr. Bockhold with a
18 memorandum and a list of diesel starts for the 1-A and 1-B
19 diesels, correct?

20 A No, I don't think that's correct. I believe I
21 provided Mr. Bockhold a memorandum and a list of the 1-B
22 diesel starts.

23 Q All right. You generated this list by yourself
24 from a review of logs and -- and the engineering documents,
25 as well? Control room logs and engineering documents?

1 A I recall using four different basis, four
2 different source documents which were all the source
3 documents that I was aware of.

4 Q And did it take you very long to -- to do it?

5 A Well, I did it -- I did it mainly at home, so
6 it -- it did take a little time because I was doing it on
7 my own time. And of course I had to gather the four -- the
8 logs from the four different documents. And I'm referring
9 to the control log, shift supervisor's log, the engineer's
10 logbook, and then the diesel start sheets that are sent
11 from operations to the engineer. And I remember collecting
12 those, and then I remember over a weekend finally cross-
13 comparing them all and coming up with a -- a list.

14 Q And to the best of your knowledge did you do
15 all this effort yourself, or did you have a starting point?
16 That is, did you start with any list? Mr. Kochery's list
17 or Webb-Odom list or any other document?

18 A No, I -- I did it all with a separate list. It
19 was a -- it's the handwritten list that was attached to the
20 memorandum.

21 Q Going to provide you with -- with a couple of
22 documents, Mr. Mosbaugh. One is what I believe to be the
23 -- the Webb-Odom list. Second is your memorandum and a
24 list attached to it from April 30th, 1990.

25 MS. YOUNG: Mr. Blake, for the record could you

1 a different mismatch. If you wanted to know what those
2 actually say, if you would look in the typed allegation
3 that I eventually gave to Larry Robinson about this list
4 there are some asterisks, and they correspond to these
5 mismatches.

6 CHAIRMAN BLOCH: Okay. Mr. Blake?

7 MR. BLAKE: I -- I think, Judge Bloch, the
8 things that Mr. Mosbaugh correctly pointed out were -- were
9 probably not on his exhibit were the numbers 136 and 137.

10 CHAIRMAN BLOCH: I was also trying to clarify
11 because of the staff's question of what the other things
12 meant.

13 BY MR. BLAKE:

14 Q I want to -- to pause here just -- just for a
15 moment, Mr. Mosbaugh, because I don't know whether you've
16 seen the original as appears in OI's files of the Webb-Odom
17 product, have you? Have you seen the document that exists
18 in the OI files?

19 A The -- the Webb -- the supposing Webb-Odom list
20 that I looked at recently is a list that six, eight months
21 ago when I looked through the discovery the NRC produced, I
22 pulled out every diesel kind of list I could find,
23 everything that was in there that was a list of diesel
24 information. And when I looked through my papers over this
25 past weekend I -- I found a handwritten list which seems to

1 look like this handwritten list. So I guess the
2 handwritten list that I looked at is a list that must have
3 originated or did originate with the OIA or whatever
4 documents NRC produced. So I'm not sure if that's the OIA
5 -- when I asked if I had seen the OI list, I guess that's a
6 "maybe," unless there's different ones.

7 Q And what -- and you made a copy of it at that
8 point in time?

9 A No, I -- I didn't. I pulled out -- what I did
10 is, I went through those boxes and I turned up on end every
11 document that I thought was a diesel list. And then I
12 believe Mr. -- Ms. Carolyn Evans of the NRC had me grab all
13 those things that I had turned up on end in the boxes and
14 pulled them all out, and she went and made -- went and made
15 a batch of copies. And we put them in a big -- big, blue
16 -- a big, blue folder.

17 MR. BLAKE: I think, Judge Bloch, that -- that
18 this document, as well, is going to be the subject of a
19 good deal of questioning now and should probably be bound
20 in the record. I can offer to you that if necessary we
21 will and are prepared to call Mr. Webb to -- to identify
22 this. For my purposes in questioning, just simply having
23 it identified and not necessarily in evidence is
24 sufficient, and I would like to get the Board's
25 indulgence...

1 Q And there's no pencil on sheet BG1B?

2 A I don't think so.

3 Q Now looking at just this document, do you
4 recognize any of the handwriting on this document?

5 A On the B sheet, it looks like the wording
6 marked in red and in black -- it looks like mine.

7 Q And looking at the A sheet, the upper right
8 hand entry, OSP 14980, does that look like yours as well?

9 A On the A sheet, the writing -- the UV test is
10 in black and the OSP14980 is in red. I would say it's
11 probably mine, too.

12 Q Having now looked at this document, recalling
13 your generation of the April 30 list of 1B starts, do you
14 still believe that you did not use this list to assist
15 yourself in making this collection of starts on the 1B
16 diesel?

17 A I don't remember how I used this list and when
18 I put these markings on it. But if I were to -- if I were
19 to speculate about the point in time and why there are
20 markings on this, I think it is possible that in the period
21 of time between 4-19 and 4-30 in which I was putting
22 together and gathering information from the four different
23 sources, I may have tried to cross-check this list against
24 some of that source information.

25 Q So, in fact, this may have played a list in

1 your -- this may have played a role in your generation of
2 the list that you attached, is that true?

3 A I remember making my list of the source data.
4 And if I were to -- like I said, if I were to speculate how
5 I used this, it wouldn't be as -- this is not source data.
6 And I recall making my list from source data. I might have
7 crossed -- I might have cross-checked against this, but my
8 list -- I mean, I would have used source data.

9 Q You said earlier that you believe that you
10 probably provided these two documents to OI, along with
11 other -- a large number of other documents you provided
12 them, is that correct?

13 A Well since they were in OI -- since this copy
14 apparently came out of that OI file, I'm not sure who all
15 provided the input to that OI file, but I suspect that I
16 did provide some of the input to it because I know I gave
17 Mr. Robinson various stacks of documents over a course of
18 many, many months, even years.

19 Q What was the time frame that you were providing
20 these many documents to Mr. Robinson? Would it have been
21 through June -- through August 1990?

22 A And beyond, yeah.

23 Q Pardon?

24 A And beyond, yes. I mean, the first time I ever
25 met Mr. Robinson was on June 13th, so that is a starting

1 point and beyond.

2 Q Do you recall during that same period you were
3 subject to discovery in a Department of Labor proceeding?

4 A I don't even know.

5 Q Do you know whether or not you received any
6 request for documentation in the fall of 1990 that would
7 have required you to provide this list if you had had it?

8 A Well, I know that -- I know that in about the
9 September time frame I gave the Georgia Power Company every
10 document -- every document that I -- I mean, golly, there
11 were like 20 boxes of documents that I gave. And I
12 remember -- I remember another group of documents that I
13 mailed from work, and then I remember taking a group of 20-
14 some documents to Atlanta to give to Georgia Power for
15 Department of Labor.

16 Q And were these two pages, this document,
17 included in all those materials that you gave Georgia Power
18 in the fall of 1990?

19 A I wouldn't have the slightest idea.

20 Q Do you have any reason to believe that this
21 document was provided to Georgia Power in the fall of 1990?

22 A Well since this document is apparently the
23 original from OI, it almost appears that I gave OI the
24 original.

25 Q And do you remember saying anything to OI when

1 you gave them the original of this document?

2 A No, I don't remember -- I don't remember
3 specific giving -- specifically giving it to them. I
4 remember giving them packages of documents.

5 Q And this document, you don't recall ever
6 calling out to Mr. Robinson's attention or anybody else at
7 OI?

8 A I don't remember.

9 CHAIRMAN BLOCH: We're going to take a brief
10 deliberation break.

11 (A short recess was taken.)

12 CHAIRMAN BLOCH: We'll go back on the record.

13 BY MR. BLAKE:

14 Q Mr. Mosbaugh, do you recall any discussions
15 with Mr. Robinson about the Webb-Odom list?

16 A I remember some testimony where -- I think it
17 was my OI interview where Mr. Robinson was asking me about
18 the Kochery list, and I think we touched on whatever my
19 memory was of the Webb-Odom list. I said I had this vague
20 recollection that Mr. Odom or Webb may have at some point
21 late on the 19th completed their data gathering efforts.
22 That's about as much as I remember about that and that's
23 mainly from reviewing the transcript.

24 Q Did Mr. Robinson ever present to you this
25 document as the Webb-Odom list or this document in any

1 other fashion and ask you questions about it?

2 A I couldn't hear you.

3 Q Did Mr. Robinson ever present these two pages -
4 - this document to you and ask you questions about it?

5 A I know we got into some discussion about the
6 Kochery list and what was the Kochery list. There was some
7 discussion in the '93 OI interview about the list, but I --
8 I don't remember him presenting this specific list to me in
9 that interview. I don't know.

10 Q Do you remember seeing this list in the course
11 of OI's investigation at all? Do you remember seeing these
12 pages?

13 A Seeing it in the course of the OI
14 investigation; I don't have much memory about this list
15 other than what I can reconstruct. If it ended up in the
16 OI file and if this is an original that has my handwriting
17 on it, I guess I would assume that I had at some point
18 given it to Mr. Robinson. I remember discussion on -- in
19 my OI interview about a Webb list, Kochery list, Odom list.
20 Other than that, I don't have much memory about this list.

21 Q You said in December when you went through
22 NRC's files you were thumbing through looking for lists.

23 A Right.

24 Q And was that -- I guess you said actually six
25 or eight months ago. Was it actually in December that you

1 did this?

2 A Whenever NRC made their documents production
3 available. It seems like it was -- it seems like it was
4 the end of last year.

5 Q How many other lists did you find other than
6 this list?

7 A The reason why -- well, a good number of them.
8 Some of the things that I did retrieve at that time -- I
9 had given Mr. Robinson my originals of a bunch of things,
10 like the diesel generator log and the start sheet logs.
11 And I was trying to compile a comprehensive list of all the
12 diesel starts because I was working on this statistical
13 thing that we won't talk about in this proceeding, I guess.
14 But I was trying to put together that statistical data, so
15 I was pulling every diesel piece of information that I
16 could because I wanted to get a full 18 months of data.

17 Q And how many was a good number, as you put it?

18 A The number of lists? I don't understand that
19 question.

20 Q Maybe I --

21 A How many different lists did I pull?

22 Q Yeah.

23 A Maybe -- it may have been six to ten different,
24 you know, packages that had lists of diesel information or
25 that kind of thing.

1 wasn't in there. And then I had about seven other boxes
2 where there is just loose documents and I ended up going
3 through several thousand documents. And the copy that I
4 looked at over the weekend was found in there with the rest
5 of the documents.

6 Q So at some point in time since December you
7 must have pulled it out of the stack of documents that
8 Carolyn Evans --

9 A I pulled it out; it came out; it fell out.

10 Q Okay. These two pages might have fallen out
11 did you say?

12 A I may have taken other things out of there. I
13 mean, I was -- I pulled -- I was trying -- I used that file
14 that I got from the NRC to tabulate starts for statistical
15 stuff. I don't know why it wasn't with the file -- with
16 the blue folder, but it wasn't, and I found it with other
17 stuff.

18 Q Do you remember that it was in the blue file?

19 A Originally, no. I remember pulling documents
20 out of -- pulling every diesel kind of start thing out of
21 there. Carolyn Evans came in and I gave her the stack. I
22 said, here, this what I want copied. She came back, I paid
23 her 15 or \$20 and she handed it all back to me in a blue
24 folder and I took it and I left.

25 Q What did you think this list was?

1 A When I was going through the OI file and
2 finding -- I wasn't sure.

3 Q Does it look like any other list, the Kochery
4 list, the Hatch list?

5 A You know, that -- I guess that was a thought
6 that might have crossed my mind, you know, the handwritten
7 list. There's another list that I can't -- that I don't
8 have an original of. I mean, I know that Kochery list was
9 a handwritten -- was a handwritten list, not a typed list.
10 You know, I would like to have -- see what the
11 handwritten -- see the handwritten Kochery list too. So, I
12 mean, that's speculation, but having looked at this now,
13 that's probably not a good speculation.

14 Q You have devoted the better part of the last
15 four or five years to this topic, is that not true, in one
16 way or another? It has been a very big drain on you and
17 your resources and your time.

18 MR. STEPHEN KOHN: Your Honor, I'm going to
19 object to that question. I think the way Mr. Mosbaugh uses
20 his time is completely personal and immaterial.

21 CHAIRMAN BLOCH: Overruled.

22 THE WITNESS: At times this is a big drain.
23 The way this proceeding is, I have to do -- I have to do a
24 lot of work, a tremendous amount of work at times. There's
25 other times when there's nothing. There are long intervals

1 report. I had my own list in there which was better than
2 other list and better than this list. It had the results
3 of these starts, what had occurred, not just an entry at a
4 time. You look at this and -- I mean, is that the -- I
5 guess I'm assuming that's the time the diesel was started,
6 but you can't even be sure at this time started versus
7 stop. And there's not much indication about what happened,
8 how long it was run. Were the runs significant? You know,
9 was it a one-minute run? You know, all those kinds of
10 things aren't here. I made my own list from source data
11 and I used that list from source data to show OI that the
12 statement that Georgia Power made was false. That's what
13 was important to me.

14 Q And do you not think that this Webb-Odom effort
15 which was discussed -- we've gone through a number of
16 references by you and others to this effort ongoing on the
17 19th -- would have been important in the OI investigation?

18 A I think I have had some importance in the OI
19 investigation, but ultimately what OI decided was that the
20 definition of a comprehensive test program was what was of
21 significance and that was specifically what I was pursuing.
22 In fact, that's the violation that was ultimately derived.

23 Q When do you think you put your red and black
24 marks on these two lists, Mr. Mosbaugh?

25 A I don't know if I used it to cross compare or

1 to check backwards from a source record against this. I
2 could only assume that that happened between the 19th and
3 30th, probably at the end of that period, because that was
4 when I had all the information. But I really don't know,
5 that's just an assumption.

6 Q Do you think you could have put these marks on
7 this on April 19, 1990?

8 A No, I doubt that. The reason being is that
9 this information is detailed and specific information that
10 I just wouldn't have had in my head at that time. I gave
11 the two pieces of detailed information that I knew about to
12 Mr. Shipman. But this stuff here like on 4/3 there had
13 been -- at 0515, there had been a maintenance lockout alarm
14 due to load control air pressure of 41 pounds. I just
15 don't think I had any of that information at that point.
16 And I guess I'd add, the main basis of the problems and the
17 failures that I had on the 19th, as I said before, you
18 know, was from some information from Kochery. And I just
19 don't remember this other kind of stuff. I remember like
20 trips and failures kind of stuff, not -- especially about
21 this thing here about a load control air pressure of 41
22 pounds.

23 Q Let me return to tape 58, GPC Exhibit 2. You
24 may recall that we stopped on those couple of references
25 Mr. Aufdenkampe to three failures, where you weren't able

1 A No, he didn't know. But his statement is, "I
2 don't know where the three failures are in the sequence of
3 27." And on the list, there's 27 and only 27, and the
4 three failures are listed. And if he had that list, I
5 don't see how he would make that statement.

6 Q Let's go to page 34, Mr. Mosbaugh, if that's
7 what you believe -- 34.

8 Look at about line 16 where you say "I can't
9 find enough starts so far."

10 Aufdenkampe says "Can you find 18?"

11 And you say, "No, not even close."

12 Aufdenkampe says, "Odom got this."

13 Mosbaugh: "I'm not sure when he started."

14 "Aufdenkampe: "He started March 20."

15 Do you believe you're looking at the Webb-Odom
16 data at that point?

17 A I think I mentioned this earlier, when I looked
18 over this transcript, I guess it looks to me like we may
19 have had lists.

20 CHAIRMAN BLOCH: By this point at least.

21 THE WITNESS: At this point.

22 BY MR. BLAKE:

23 Q Look at page 27, earlier. This is during the
24 conversation with Shipman, Aufdenkampe and you, correct?

25 A Yes.

1 and in proper context.

2 CHAIRMAN BLOCH: That was a comment, that there
3 was no response at that point.

4 THE WITNESS: Yes.

5 CHAIRMAN BLOCH: There's nothing in the
6 transcript, is that right? Did you think you said
7 something that wasn't reported in the transcript?

8 THE WITNESS: No, I think I was interrupted.

9 CHAIRMAN BLOCH: Explain.

10 BY MR. BLAKE:

11 Q When you heard this tape, you heard yourself
12 start to say something and you were interrupted?

13 A When Mr. Aufdenkampe says, "Would you take
14 exception" on line 19, okay? "Would you take exception" --
15 are you with me? Before Mr. Aufdenkampe finished his
16 sentence and posed the question to me, Mr. Shipman very
17 rapidly overspeaks him and says "Would you take" -- "We're
18 going to go with that." You know, it's the kind of thing
19 that is said on the tape. Before the question is even
20 posed to me, Mr. Shipman overspeaks him.

21 CHAIRMAN BLOCH: There's just no time to
22 respond.

23 THE WITNESS: Mr. Shipman makes the decision.
24 John says, "It tends to support that data. Would you..."
25 and right at the time he says "Would you" Mr. Shipman says

1 "We're going to go with that. Jack Stringfellow is
2 grinning from ear to ear." And the conversation then
3 continues. And then Mr. Shipman reads me what they're
4 going to put in there and that's my opportunity to respond,
5 and I continue talking about the definition of the
6 comprehensive test program. And that's on page 28 from
7 line 5 to line 13. I've got to define the comprehensive
8 test program.

9 BY MR. BLAKE:

10 Q Mr. Shipman then said two short sentences. Did
11 you then think that you shouldn't offer an answer to Mr.
12 Aufdenkampe?

13 A Well, the way Mr. Shipman overspoke him, you
14 know -- one, is I'd probably like to be polite in this
15 conversation, and, you know, I'm not sure to what extent I
16 heard the rest of the -- even heard the rest of the
17 question. If I did, I can't be sure. But you know,
18 listening to the tape, there's a definite overspeaking. So
19 I just wanted to add that about your statement that I
20 didn't respond.

21 Q Let's go back up and answer the question that I
22 asked about the -- at lines 15, 16, 17 where Mr.
23 Aufdenkampe refers to "Data that's been offered to us does
24 not bring into question that data." What data do you think
25 he's referring to there?

1 transcripts that the NRC had made, and have me identify
2 speakers and fill in inaudibles and just, you know, get a
3 better quality transcript than what the transcription
4 service had done for them.

5 And so I worked for many, many days, probably
6 hundreds of hours with Mr. Robinson, going over a fairly
7 large number of tapes. And in the course of that, I would
8 do some explanation to Mr. Robinson about what's going on
9 here. Okay? And, you know, there would be some
10 interchange about what was going on and what was meant in
11 the transcript, as we tried to complete the transcript.
12 And I would say some things and he would say -- eventually
13 said, well, I can't remember all that, would you write some
14 notes here actually in the transcript as we're going over
15 this.

16 And so what happened then is at the time that I
17 was going over these with OI and this occurred in like --
18 I'd say the winter of '90 and maybe the spring of '91. I
19 made some action -- I wrote in those OI transcripts some
20 notes based on what we had discussed. And I suspect that
21 what has been typed in here then as margin alia is the
22 typing in of a note I may have made on those pages or a
23 page.

24 MR. MICHAEL KOHN: For the record, I believe
25 the notes are written on the bottom of the pages, although

1 Board and to the parties a one page document. In the upper
2 right-hand corner, it says 34. It's a typed transcript of
3 a document and it includes at the bottom handwritten
4 comments "Tom Webb and Odom was working on a list of
5 starts." And elsewhere in the document, although it's
6 typed, there are some handwritten indications of changes or
7 apparent modifications to it.

8 And I would ask --

9 BY MR. BLAKE;

10 Q Ms. Mosbaugh, do you recognize this document,
11 this one page?

12 A Yes, this looks like an OI transcript.

13 MR. BLAKE: I would ask that this be identified
14 as GPC Exhibit II-72.

15 CHAIRMAN BLOCH: It may be so marked.

16 (The document referred to was marked
17 for identification as GPC Exhibit
18 Number II-72.)

19 CHAIRMAN BLOCH: I take it from the statement
20 of counsel for Mr. Mosbaugh that this originally was a
21 legal sized page, is that correct?

22 MR. BLAKE: I don't know the answer to that.

23 CHAIRMAN BLOCH: It may not matter.

24 THE WITNESS: It was.

25 MR. BLAKE: It may very well have been, with an

1 THE WITNESS: I noticed that there's a
2 similarity between line 10 and line 11 on the stipulated
3 version on page 35 and line 7 and line 8 on the OI page 34.

4 MR. BLAKE: I agree with that.

5 THE WITNESS: Those seem to match.

6 MR. BLAKE: I agree with that, Judge Block,
7 that's a way of corresponding too.

8 BY MR. BLAKE:

9 Q Now at the bottom of page 35, Mr. Mosbaugh, and
10 the top of page 36 where you're saying, "I'm having trouble
11 counting starts, I can't find very many starts." At the
12 bottom, "I can't find enough starts." At the top of 36,
13 "I'm really having trouble finding starts and maybe they're
14 not all logged here because..." and then the margin alia
15 "Tom Webb and Odom."

16 Didn't we agree yesterday that what you were
17 looking at at that point was the Webb-Odom product?

18 A Yeah, that's correct.

19 Q And what you wrote in margin alia for Mr.
20 Robinson was "Tom Webb and Odom was working on a list of
21 starts."

22 A This margin --

23 Q Excuse me. Did you write "Tom Webb and Odom
24 was working on a list of starts."

25 CHAIRMAN BLOCH: That's asked and answered, he

1 said he did.

2 BY MR. BLAKE:

3 Q Go ahead. Did you want to add something?

4 A I wrote it at the bottom of this OI transcript.
5 Okay, I'd like to clarify that because you're trying to
6 indicate that it somehow relates to something immediately
7 following the transcript.

8 CHAIRMAN BLOCH: He stated that yes.

9 A And the reason why is it was written in the
10 bottom and it doesn't apply to any specific line in the
11 transcript. It's a description of Mr. Robinson of what had
12 been -- what was going on -- from my independent
13 recollection of what was going on at the time.

14 Q Did you tell Mr. Robinson that you had before
15 you at that point in time a copy of the Webb-Odom product -
16 - a copy of the list that they had developed?

17 A I don't know if I told him that at the time or
18 not. I don't know if we got into that.

19 Q Is there anything reflected in that 1993 OI
20 interview that would indicate that you did?

21 A I'm talking about my discussion with Mr.
22 Robinson at the time I wrote these notes and at the time we
23 were going over these transcripts -- not the '93 interview.

24 Q And do you have any recollection now of telling
25 Mr. Robinson that you had that list before you at this

1 kind of thing.

2 Q So is the answer to my question again, "yes?"

3 A I think I answered that before. These are
4 allegations I gave to Mr. Robinson, yes.

5 Q No, this question was did you review a lot of
6 documentation, use your tape recordings, in order to ensure
7 that your recollection was exactly true so you could write
8 a factual allegation that would be perfectly accurate and
9 true?

10 A I reviewed a lot of documentation. I remember
11 reviewing maybe a little bit of a tape of something, I
12 don't remember exactly what I reviewed. I was making more
13 than one allegation to Mr. Robinson in this time frame.

14 BOARD EXAMINATION

15 BY CHAIRMAN BLOCH:

16 Q Do you believe that these allegations are
17 correct and true?

18 A Yes, I do.

19 CROSS EXAMINATION (continued)

20 BY MR. BLAKE:

21 Q Did you say anything at all in these pages of
22 detailed allegations that you provided to OI -- anything at
23 all about the Webb-Odom effort or the Webb-Odom data?

24 A No, these allegations focus on an attempt to
25 prove or -- prove one way or the other were these

1 statements false. And the information that I used to prove
2 whether these statements were or were not false was the
3 statement against the source record.

4 Q At the top of Page 2 of Exhibit 73A, does the
5 first complete sentence there say in your allegations --
6 detailed allegations to OI that, "SONOPCO was pressured for
7 time and issued the LER without adequate verification and
8 in the face of concerns for the accuracy information raised
9 by the site"?

10 A That's what it says.

11 Q And were you, on April 19th, charged with doing
12 the verification of the accuracy of the information?

13 A Not of the final statement that was put in
14 there, the statement that actually got signed out.

15 Q But it didn't occur to you to alert OI to the
16 fact that Odom and Webb had gone out to try to do a
17 detailed, accurate verification of data? You didn't think
18 that was important to OI?

19 A I don't know what I may have discussed with
20 Mr. Robinson in the course of many hours of discussion in
21 trying to answer his questions and fill in the blanks. I
22 know that later we discussed that with him. I discussed
23 that with him.

24 Q You believe that you might have alerted
25 Mr. Robinson, in the course of discussions in the summer of

1 1990, to the Odom-Webb list, that data?

2 A I don't know.

3 Q You think you might have?

4 A I just don't know. I don't remember the extent
5 of my verbal conversations with Mr. Robinson.

6 Q Let's go to your OI on-the-record interview in
7 July of 1990.

8 MR. BLAKE: For the parties and the Board, this
9 is OI Exhibit 5.

10 MR. STEPHEN KOHN: Are you going to show just a
11 copy of that?

12 MR. ELAKE: Can you share your copy?

13 MR. STEPHEN KOHN: Pardon?

14 MR. BLAKE: Can you share your ccopy with him?

15 BY MR. BLAKE:

16 Q Mr. Mosbaugh, do you recognize this document?

17 (The witness reviews certain material.)

18 A This appears to be a transcript of an interview
19 with me and Mr. Robinson and some other NRC folks that
20 occurred before the OSI inspection in August. This is
21 dated Wednesday, July 18th. I think -- I think there's
22 actually two days of testimony here. I remember that there
23 were two days of testimony.

24 Q So it may have taken place on July 18th and
25 19th, 1990?

1 A It would appear that I didn't even think about
2 Mr. -- Mr. Odom at this point. But I didn't indicate
3 anything in this sections to OI that Webb had completed a
4 list, no.

5 Q And in fact, on Page 17, isn't your statement
6 on Line 13 and 14 that you referred to but left out the
7 word "later," isn't it in fact, "Later Tom Webb and -- from
8 NSAC put together some tabulations of starts"? Isn't that
9 the way the language reads?

10 A No, because in context you'll see that it says
11 Paul Kochery had put together some information, okay? And
12 he put that information together, well, at least as early
13 as around the 13th, somewhere between the 9th and -- and I
14 know around the 13th or 14th, in that time frame. I had
15 gotten that handwritten list from him. So later than that,
16 the 13th or the 14th, Tom Webb put together some
17 tabulation. I think that's the proper context of the
18 "later."

19 Q Is there anything in your mind, Mr. Mosbaugh,
20 by reviewing these, that would have alerted Mr. Robinson or
21 other gentlemen from OI that sat in on the interview that
22 Mr. Webb and Mr. Odom or either of them had completed data
23 on the 19th and provided it to you and Mr. Aufdenkampe that
24 afternoon?

25 A No, clearly Mr. Robinson was told about

1 CHAIRMAN BLOCH: Okay, after you got off the
2 phone...

3 THE WITNESS: After we got off the phone on --
4 on Conference Call A, then another -- then another call
5 came back from Mr. Shipman.

6 CHAIRMAN BLOCH: Okay, the question is: In any
7 of the subsequent calls did you also talk about the Webb
8 list?

9 THE WITNESS: We went over that yesterday. I
10 think Aufdenkampe makes some comments like Webb and Odom
11 are out and counting on -- on that call, and based on what
12 we reviewed yesterday, at the end of the call, after that
13 call ends, then is the point in time that there's a
14 statement that I make that -- something about not being
15 able to find enough starts. And it's my best
16 reconstruction that at that point I would assume that a
17 list had come back and that list would be the Webb-Odom
18 list.

19 BY MR. BLAKE:

20 Q And my -- and did you subsequently, in your OI
21 1990 interview, mention that -- those discussions in
22 reference to the Odom-Webb product?

23 A '93 OI?

24 Q '90. '90. Same one.

25 A In this? Well, I just went over in here what I

1 had mentioned. The three times I mentioned the effort by
2 Webb.

3 CHAIRMAN BLOCH: So the question is fairly
4 simple. It's: Did you discuss any of those subsequent
5 discussions with OI?

6 MR. BLAKE: Thank you, Judge.

7 THE WITNESS: No.

8 MR. BLAKE: Now let's -- let's go to the next
9 reference to Odom and Webb. I'm going to provide you,
10 Mr. Mosbaugh, with a copy of interrogatories that Georgia
11 Power provided to you in the summer of 1993, and a copy --
12 excerpted copy of your response. This document, for the
13 record, that we're providing to the witness is comprised of
14 two parts. The first is -- is three pages. Just the first
15 page, and then Pages 11 and 12 out of Georgia Power
16 Company's second set of interrogatories and request for
17 documents of Allen L. Mosbaugh. The second...

18 CHAIRMAN BLOCH: Would you tell us in each case
19 what the date of these documents is, 'cause that's how our
20 files are kept.

21 MR. BLAKE: Yes, I can. I believe it's July
22 26th and August 11, but I will double-check.

23 CHAIRMAN BLOCH: July 20, '94?

24 MR. BLAKE: '93. I've confirmed that those
25 were the dates. July 26 for the interrogatory, and August

1 11 the response, both in 1993.

2 CHAIRMAN BLOCH: Continue.

3 MR. BLAKE: Now, referring you to -- and I
4 guess I should have this marked, Judge Bloch, as II-74A and
5 B.

6 CHAIRMAN BLOCH: "A" being the prior document,
7 and "B" being the response.

8 (The document referred to was marked
9 for identification as GPC Exhibit II-
10 74A & 74B.)

11 MR. BLAKE: For purposes of the record, the
12 response, too, is -- is just an excerpt from the response,
13 and it includes the first page of that response, to
14 identify it as intervenor's response to the second set of
15 interrogatories of Georgia Power Company, and then Pages 5
16 and then attached affidavit of Allen L. Mosbaugh.

17 BY MR. BLAKE:

18 Q Now, Mr. Mosbaugh, do you recognize these two
19 documents?

20 A I assume they are what they appear to be. I
21 remember there were interrogatories and responses to
22 interrogatories.

23 Q Now, take a look at Page 12 from -- from
24 Georgia Power's request to you, their interrogatory. And
25 look at lower case "e." See where it reads, "Has

1 Mr. Mosbaugh ever seen a list of diesel starts prepared by
2 either Mr. Tom Webb or Mr. Rick Odom? Did Mr. Mosbaugh
3 ever have such a list in his possession, custody, or
4 control? If the answer is 'yes' to either, describe the
5 list in detail, and state in detail Mr. Mosbaugh's
6 knowledge of the location and disposition of the list since
7 its creation."

8 Mr. Mosbaugh, what -- what role did you play in
9 responding to this interrogatory?

10 A I would have worked with counsel to prepare the
11 answers.

12 Q And is your answer reflected on page numbered
13 5, the second page of roman numeral -- of GPC Exhibit II-
14 74B?

15 A I see it on Page 5 of that second document you
16 gave me, Item e.

17 Q And does your answer state, "Mr. Mosbaugh saw a
18 list of diesel starts but does not know who prepared this
19 list. Intervenor does not recall ever possessing a final
20 list prepared by Webb and/or Odom, and does not have in his
21 custody or control any list he believes were prepared by
22 Webb or Odom."

23 Is that your complete answer?

24 A That's the answer under Item e, yes.

25 Q Is there any other answer that you're aware of

1 that you provided to that interrogatory, or is this it?

2 A No, I'm not aware of any. You know, these
3 things got supplemented from time to time. I don't know if
4 this one was supplemented. But, you know, this looks like
5 our answer.

6 Q "Mr. Mosbaugh saw a list of diesel starts but
7 does not know who prepared this list." What list were you
8 referring to?

9 A Well, I think we're trying to answer the
10 question about a Webb or Odom list, which was the question.

11 Q And what list did you recall when you provided
12 the answer to this interrogatory?

13 A I think I was stating my knowledge or
14 recollection of a list that Odom or Webb prepared.

15 Q So you recall, in -- in the summer of 1993,
16 that you saw a list of -- of diesel starts prepared by Webb
17 and Odom, but you didn't recall for sure that it had been
18 prepared by them?

19 A I didn't know who had actually written the list
20 or prepared the list, whether it was Tom or Rick, or seems
21 like now Mr. Aufdenkampe's indicated that Mr. Beecher
22 worked on it, too, so...

23 Q Have you ever -- did you recall in November --
24 in the summer of 1993 when you responded to this, what that
25 list looked like?

1 MR. BLAKE: It's the investigative interview of
2 Allen Mosbaugh conducted on November 4th, 1993, by the
3 Office of Investigations.

4 BY MR. BLAKE:

5 Q Have you located Page 116, 117, Mr. Mosbaugh?

6 A Yes.

7 Q On Page 116, at about Line 15, the questioner
8 -- and who's that?

9 (The witness reviews certain material.)

10 A I assume the question at Line 15 is
11 Mr. Robinson.

12 Q Okay, Mr. Robinson says, "Look at -- look at
13 Page 91, Line 13. The question is: What type of
14 verification did Tom Webb provide at the -- I'll let you
15 answer that two ways. What type of verification did Tom
16 Webb provide before the LER went out?"

17 And what was your answer?

18 A "Before the LER went out I'm not aware that Tom
19 Webb completed and verified anything as far as the counts
20 he was sent out to do, you know. I got Tom Webb out
21 reviewing their reactor operator to be -- logs and counting
22 that -- Odom's statement." I think I'm referring to
23 something in the text of the transcript. "It never -- no
24 knowledge came back to me that he had ever completed his
25 task and that he had verified anything."

1 Q Mr. Robinson continues at the top of Page 17.
2 "And to your knowledge did Tom Webb ever complete his
3 verification and produce a document, a verification type
4 document?"

5 And what was your answer?

6 A "He never produced the document that verified
7 that what was in the LER was correct, because what was in
8 the LER was false."

9 Q And Mr. Robinson says, "Did he ever produce a
10 list of starts from the operator's logs, to your
11 knowledge?"

12 And your answer?

13 A "I recall there being a Tom Webb list at one
14 time. I can't recall if that was something that he had
15 done preliminarily before the LER went out or -- or it was
16 something that he finished after the LER went out. Do not
17 recall -- I do recall -- I do recall there being a Tom Webb
18 list, okay? But I -- just for the life of me I can't -- I
19 can't remember if it was a preliminary list before or list
20 afterwards. But in either case he never produced a list
21 that verified these statements that were made were
22 correct."

23 Q Mr. Robinson said, "Did you ever have in your
24 possession a Tom Webb list?"

25 And your answer was?

1 A "I may have, but I don't know. I just..."

2 Q And then he finally says, "Do you remember what
3 you did with it?"

4 And your answer?

5 A "No."

6 Q Are you aware of any...?

7 MR. STEPHEN KOHN: Hold on a second.

8 Q Are you aware of any other portions of this OI
9 interview which deal with -- with the Webb data and your
10 providing OI information about the Webb data? Your counsel
11 is urging you to look a couple of pages ahead.

12 A I don't think I could answer your question
13 without...

14 CHAIRMAN BLOCH: Note for the record counsel is
15 sitting right next to the witness right now, so it is
16 possible for him to do that by gesture.

17 MR. STEPHEN KOHN: Yes. And, Your Honor, the
18 only reason for that is because the licensee doesn't have a
19 copy of this and he said I could sit here and just share.

20 CHAIRMAN BLOCH: I wasn't saying there was
21 anything wrong about it, but the record will look a little
22 strange.

23 THE WITNESS: I would have to review this
24 interview just to make that -- to answer your question.

25 MR. BLAKE: I didn't hear you.

1 THE WITNESS: I would have to review this
2 interview to answer your question. You asked me if there
3 was anything else in here where we discussed it.

4 BY MR. BLAKE:

5 Q Since last week when we divulged the Webb-Odom
6 data and effort and you knew you were going to be
7 questioned about it today, have you reviewed any of these
8 documents?

9 A I haven't reviewed either of this OSI one or
10 this OI one in any degree of completeness. I may have
11 paged through it trying to refresh memory a little bit.

12 MR. BLAKE: I would like, Judge Bloch, in order
13 to speed things up, to move on and offer the witness an
14 opportunity to review the over lunch and we'll come back to
15 it if he finds other references and wants to supplement his
16 testimony.

17 CHAIRMAN BLOCH: I would like to ask one
18 question before we move on.

19 BOARD EXAMINATION

20 BY CHAIRMAN BLOCH:

21 Q On Page 117, beginning at about Line 15 you
22 say, "In either case he never produced a list that verified
23 the statements that were made were correct." Is that part
24 of what you said correct or incorrect, based on what you
25 now know?

1 Q Let's back up one more page, on 34, Line 16,
2 Mosbaugh, "I can't find enough starts so far." 27,
3 Aufdenkampe, "Can you find 18?" 18 -- Line 18, Mosbaugh,
4 "No, not even close." 19, Aufdenkampe says, "Odom got
5 this." 20, Mosbaugh, "I'm not sure when he started." Are
6 you referring there to the Odom-Webb data, you think?

7 A I think so.

8 Q Okay, now, let's take a look at the preceding
9 page, Page 33. At Line 16 on Page 33, is that Mr. Shipman
10 talking?

11 A Line 16 it says Shipman. Okay.

12 Q And is this a -- is this one of the
13 conversations you were having with corporate in -- in
14 Birmingham?

15 A Earlier than that we were having a conversation
16 with Mr. Shipman and Mr. Swartzwelder.

17 Q Earlier than this? This is not a conversation
18 over the telephone with corporate in Birmingham?

19 A Well, seems like we say "'Bye," on Line 17.

20 Q That's right. Mr. Swartzwelder says, "All
21 right, 'bye, 'bye." I'm asking you whether or not
22 Shipman's voice appearing on this transcript at Line 16 on
23 Page 33 is in the course of a telephone conversation
24 between you at the site and corporate in Birmingham?

25 A I think so.

1 A Mr. Shipman read final language which was in
2 there. I think it said after the test program 18 --
3 there's been 18 -- at least 18 each, and then, "No problems
4 or failures occurred on any of these starts." That's --
5 that's the final language that they had put in and they
6 were, I assume, intending to put in at that point 'cause
7 they signed it out that way.

8 Q Your view was -- your understanding was at that
9 point that they intended that to be the same 18, greater
10 than 18 starts which they had discussed in the response to
11 the COA letter on April 9th, is that correct?

12 A Yeah, that's what -- that's the conversation
13 that occurred between Mr. Bockhold and Mr. McCoy, and --
14 and they said they wanted to use those numbers and they
15 wanted to use the 18, 19 that had come from the
16 presentation which was made on the 9th, and Judge Bloch
17 pointed out there hadn't been any starts between the 7th
18 and the 9th, so that really is the date up through the 7th.

19 Q So you understood at this point in time that
20 Georgia Power, SONOPCO intended to send to the NRC in an
21 LER a statement that said there were greater than 18 starts
22 in both the 1-A and 1-B diesels following the completion of
23 a -- of a comprehensive test program, and you understood
24 that 18 starts to have referred by corporate, intended by
25 corporate to have been completed by April 9th, is that

1 correct?

2 A That -- that's what Mr. McCoy and Mr. Bockhold
3 said in the conversation earlier that we had on the
4 transcript. And that's -- that's where I know what their
5 -- what I'm basing what I think their intent was. We've
6 heard that repeated in this proceeding.

7 Q And when you look at this document which you
8 had before you less than -- at least, if not during the
9 call, within a minute or two after the last call with
10 Mr. Shipman, when you had this document in front of you
11 which you'd been asked to pull together that day by your
12 management, did you know, by looking at that -- this
13 document right here that what they were about to say was
14 incorrect? Let's look at it.

15 A My focus...and the -- and the transcript
16 clearly indicates this...is I was evaluating the new
17 statement that they had put in there for what it was.
18 Okay? And they were evaluating the statement that had been
19 put in there for what it said. It said since the
20 comprehensive test program. So the very first thing, as an
21 engineer, that occurred to me is -- is the definition. And
22 -- and so, you know, that -- that stumped me. It stumped
23 me as far as being able to verify with this list or any
24 other list this statement.

25

BOARD EXAMINATION

1 BY CHAIRMAN BLOCH:

2 Q Mr. Mosbaugh, the question was: Did you know
3 that what was going to be sent out would be incorrect?

4 A I was reviewing the words that were in there at
5 their face value. And...

6 Q First...

7 A ...I didn't...

8 Q ...answer yes or no, or "I can't say," and then
9 explain. Did you know, at the time that it went out, that
10 it would be incorrect?

11 A Not with absolute certainty. I...

12 Q And why didn't...?

13 A I suspected...

14 Q What was lacking so that you were uncertain?

15 A The definition of the CTP.

16 Q And was there any definition, based on the data
17 you had at the time, that would have been correct?

18 A If there was an early enough definition that
19 would have -- would have had at least 18 starts after it,
20 you know, if -- if there was a valid definition of -- of
21 the CTP completing, my -- my view of the term was that it
22 would have completed at the time of the UV test.

23 Q Well, in fact, as we listened to the tape this
24 morning someone in that call suggested that the
25 comprehensive test program would be at least until the end

1 A If -- if you would define the -- a CTP ending
2 with the trip on 1730 on 3-23, there's 18 -- it appears
3 that these are all starts. It doesn't say a start and
4 stop. That it appears there's 18 entries after that.
5 There's -- there are 18 entries after that.

6 Q Until April 9th?

7 A Oh, until April 9th? No, there aren't -- there
8 aren't 18 entries until April 9th.

9 Q And didn't you understand that corporate's
10 position was that they intended to -- to be able to say
11 that there were 18 -- at least 18 consecutive successful
12 starts after the completion of the comprehensive test
13 program and before April 9th?

14 A I heard Mr. Bockhold and Mr. McCoy talk about
15 that and I just went over that, and that -- that sounded
16 like a fishy statement to me. But, you know, that's --
17 that's what they were saying, okay?

18 Q Is that the answer, "yes"? That's what you
19 understood corporate to intend, that's what they were
20 trying to do? Well, sir, I don't understand why you're
21 smiling.

22 A Well, I think they were trying to pull one.
23 That's -- that's why I'm smiling. I -- you know, when -- I
24 think when they -- they said -- my view of that discourse
25 between Mr. Bockhold and Mr. McCoy was that they knew that

1 have been?

2 A Well, I would have -- I guess I would have
3 viewed the trip on -- at time 1730 as -- as a problem and a
4 failure. In my view of what a -- a trip problem is when
5 you correspond with the NRC.

6 Q So the answer is "no"? If they had intended
7 the end of comprehensive test program to be prior to 1730
8 on March 23rd, 1990, then what they were intending to say
9 could not be accurate, is that correct? Because there was
10 a trip 1730 on March 23rd?

11 A Yeah, I think that's true.

12 Q And we've also established that it could not
13 have been accurate if they defined comprehensive test
14 program after 1730 on March 23rd because there aren't 18
15 starts between that and April 9th, is that also correct?

16 A Yeah, I think that's correct.

17 Q So how, with this data in front of you, can you
18 say that it's purely a function of how you define
19 comprehensive test program? If it couldn't have been
20 before that date and it couldn't have been after that date,
21 how could they have defined it to make it accurate when you
22 had this data in front of you?

23 A I wasn't looking at this data to define the
24 comprehensive test program. This was a list. I was
25 looking at the words. You put words in to the NRC you've

1 got to have a meaning for them. You don't back fit it to
2 the data. You mean something as the starting point first,
3 you know. This idea of defining a program by counting
4 backwards on a list and saying it's there is a way of -- of
5 justifying and rationalizing your statement.

6 CHAIRMAN BLOCH: Mr. Mosbaugh, you're not
7 getting the question.

8 THE WITNESS: I'm sorry.

9 CHAIRMAN BLOCH: He's questioning whether there
10 was any definition of the test program that would have
11 allowed the possibility of making a correct statement on
12 April 9th. And he's arguing that anything that started
13 after 1730, which is noted on this list -- 1730 of March
14 23rd, would have had fewer than 18 starts by April 9th, is
15 that correct?

16 THE WITNESS: Yeah, that's...

17 CHAIRMAN BLOCH: So regardless of the
18 definition of comprehensive test program, you had something
19 in front of you that would have allowed you to know that
20 they had to be wrong, anyway.

21 THE WITNESS: I guess, analyzing it now in --
22 in those terms, you can box -- I guess you can box it in,
23 which is kind of what you're doing. I wasn't analyzing in
24 those terms. I was looking at a statement they're making.
25 We did a -- we did all this. We did a...

1 made a comment about it.

2 Q Do you have any recollection of -- of what
3 person may have brought the list to you?

4 A Well, I -- I don't have a -- I don't have a
5 recollection, but my guess is that -- how things would have
6 transpired in -- in bringing it in, my best guess would
7 have been that the list would have been brought in by
8 Mr. Webb or Odom. Since they worked for Mr. Aufdenkampe
9 they would have probably given it to him. If I would have
10 gotten the list, then most likely it would have come
11 probably from -- I probably got the list from
12 Mr. Aufdenkampe to me. That's -- just because of the
13 reporting relationship, I think that would be most normal.

14 CROSS EXAMINATION (Continued)

15 BY MR. BLAKE:

16 Q Mr. Mosbaugh, does your prefiled testimony
17 include any reference to the Webb-Odom list or the -- their
18 assignment to develop a list, or the data that you received
19 on April 19th?

20 A I -- I don't think it does, and -- no, I don't
21 think -- I don't think it does.

22 Q And last week when -- when I disclosed that I
23 believe you had a copy of that list and that you'd received
24 it in December of 1994, from making copies of certain
25 specified NRC documents and their files, what was your

1 reaction?

2 A My reaction was, you know, "Gee -- gee, could I
3 really have the -- could I really have a copy of this?"
4 And so I went and searched.

5 Q You at that point had not recognized it to be
6 the Webb-Odom data?

7 A No.

8 Q Although it was the only handwritten list of
9 diesel starts which you said you focused on when you went
10 through the OI files?

11 A I think it was the only handwritten list that I
12 pulled out of there.

13 Q And you had your own handwriting on that
14 document?

15 A I -- I didn't remember reviewing that list, you
16 know, and seeing my handwriting on it at that time.

17 Q Although it didn't appear in the original file
18 list, you found it in documents outside, as though it had
19 been either fallen out, I think as you put it yesterday, or
20 you had pulled it out of the list that you copied from the
21 NRC?

22 A I had -- it wasn't in the -- the blue folder
23 that we had put those in, but it was in a box that was with
24 the blue folder.

25 Q Indicating that you had pulled it out from the

1 Q At this point in time, page 38, lines 7 and 8,
2 had you formed a firm opinion as to the truthfulness of
3 what was in the April 19th LER?

4 A With respect to the final language, I could not
5 say in an absolute fashion that that was incorrect. I had
6 suspicions, I was trying to get definitions, get
7 information, but I couldn't say no, this is wrong.

8 CHAIRMAN BLOCH: And as of what date could you
9 say that?

10 THE WITNESS: By the 30th of April, when I
11 had -- and probably just a little -- when I started writing
12 that memo, you know, that I was going to put George on
13 notice, I'd come to a firm conclusion.

14 BY MR. STEPHEN KOHN:

15 Q Now I'd like to call your attention to page 39,
16 and if you can look at line 11 in which Mr. Aufdenkampe
17 say, "And George has an argument on why that's correct."
18 And George refers to who?

19 A I will assume Mr. Aufdenkampe was talking about
20 George Bockhold.

21 Q Okay. And to the best of your knowledge, when
22 he says "George has an argument on why that's correct,"
23 what was your understanding to the best of your
24 reconstruction as to what he's talking about here?

25 A My reconstruction is that there were some

1 portions of that call A that I didn't participate in, that
2 I walked into. And that George Bockhold may well have made
3 some arguments on that call that John heard that I didn't -
4 - where I wasn't present. And I think he's maybe referring
5 to some information that he gathered then in Mr. Bockhold's
6 argument.

7 Q Okay. Now calling your attention back to what
8 you're calling call A, and for the record is that the call
9 in which Mr. Bockhold first -- can you just find on this
10 transcript, tell us what page number the call A is
11 beginning at, in terms of your entering.

12 (The witness reviews a document.)

13 Q I'm calling your attention -- would that be on
14 page 7 of --

15 A I would say page 7, line 16.

16 Q Okay. Now I notice on line 15, it says
17 "Walking sounds, door opening sounds." Do you see that?

18 A Right.

19 Q Did you -- where was that conversation when you
20 entered it?

21 A In the middle of it.

22 Q And prior to entering it, where it appears you
23 entered on line 16 on page 7, were you privy to anything
24 that had been discussed prior to that?

25 A No, I'd been downstairs in Mr. Swartzwelder's

1 grinning ear to ear." Again, Michael, I don't remember the
2 exact timing of that particular portion of the tape.

3 Q I'm going to play that portion for you to see
4 if we can refresh your recollection about that.

5 CHAIRMAN BLOCH: The Board is willing to hear
6 it again, but it was pretty clear to us that there was some
7 overspeaking going on there.

8 MR. MICHAEL KOHN: Thank you.

9 CHAIRMAN BLOCH: This is not able to be
10 stipulated to?

11 MR. BLAKE: I am able to stipulate that in fact
12 it appears with these people on speaker phones in different
13 locations, that Mr. Shipman cuts right in or cuts off right
14 directly at the end of Mr. Aufdenkampe's statement that
15 appears on the transcript at lines 19 and 20, and I would
16 like in return a stipulation that there was plenty of space
17 after Mr. Shipman's statement for Mr. Mosbaugh to have
18 spoken up, between lines 22 and 23.

19 MR. MICHAEL KOHN: That's not supported by the
20 tape, so I think we'll just play it.

21 CHAIRMAN BLOCH: All right.

22 MR. BLAKE: I tried.

23 (Whereupon, a tape recording was played
24 for the witness.)

25 CHAIRMAN BLOCH: Okay, stop. Go back and put

1 it right next to the mic.

2 (Whereupon, the tape recorder was moved and
3 the tape was replayed as follows:)

4 VOICE: "Somebody has gone and validated
5 that data and that's what George presented.
6 The data that's been offered to us does not
7 bring into question that data. It tends to
8 support that data. Would you take
9 exception...."

10 VOICE: "We're going to go with that.
11 Jack Stringfellow just grinned from ear to ear.
12 The only issue is...."

13 (Whereupon, the tape was stopped.)

14 CHAIRMAN BLOCH: No, you've got to keep playing
15 it because he says there was another space after that where
16 there could be a response.

17 BY MR. MICHAEL KOHN:

18 Q At this point, I'd just like to ask the witness
19 if he was able to hear where Mr. Shipman started making his
20 statement.

21 A I heard Mr. Shipman start making a statement.
22 It's sometime in this time frame where I'm talking "to
23 that, Allen?"

24 MR. MICHAEL KOHN: I'm going to play it again
25 and see if you can determine whether Mr. Shipman begins

1 speaking at the word "exception" on line 19.

2 (Whereupon, the tape was replayed as
3 follows:)

4 VOICE: "...support that data. Would you
5 take exception..."

6 VOICE: "...We're going to go with that.
7 Jack Stringfellow just grinned...."

8 (Whereupon, the tape was stopped.)

9 CHAIRMAN BLOCH: Off the record now. Let's
10 continue with this off the record.

11 (Discussion off the record.)

12 CHAIRMAN BLOCH: Back on the record.

13 BY MR. MICHAEL KOHN:

14 Q Mr. Aufdenkampe, where did you hear Mr. Shipman
15 begin overspeaking?

16 A It appeared to me by listening to the tape this
17 time with this equipment, that it started right after the
18 word "exception".

19 Q And before the words "to that, Allen" on line
20 20.

21 A That is correct.

22 Q And now we're going to play the remainder of
23 the tape, and let me know -- I want you to listen to where
24 you think a logical spot for Mr. Mosbaugh to start speaking
25 would begin.

1 (Whereupon, the tape was played as
2 follows:)

3 VOICE: "At least 18 times each, huh?"

4 VOICE: "Yeah. I mean, somebody has gone
5 and validated that data and that's what George
6 presented. The data that's been offered to us
7 does not bring into question that data, it
8 tends to support that data. Would you take
9 exception...."

10 VOICE: "We're going to go with that.
11 Jack Stringfellow just grinned from ear to ear.
12 The only issue is we can't let people be misled
13 to think that there were not failures until we
14 started doing that count."

15 VOICE: "And we say that. We say after
16 the 3/29 event, the control systems of both
17 engines have been subjected to a comprehensive
18 test program. Subject to this test program,
19 diesel generator 1-A and 1-B have been started
20 at least 18 times each and no failures or
21 problems have occurred during any of these
22 starts."

23 VOICE: "... (inaudible).... When you
24 talk about the comprehensive test program, I
25 kind of set the philosophy for that down here

1 Continue, Mr. Kohn.

2 MS. YOUNG: On which machine?

3 CHAIRMAN BLOCH: Huh?

4 MS. YOUNG: On which machine?

5 CHAIRMAN BLOCH: Oh, on which machine -- that's
6 a good question. This is on the 1-A. I assume though that
7 there'd be a similar schedule for the 1-B.

8 MS. YOUNG: (Nodding head negatively.)

9 CHAIRMAN BLOCH: No?

10 MR. MICHAEL KOHN: I believe it's different.

11 CHAIRMAN BLOCH: May be different?

12 CROSS EXAMINATION (continued)

13 BY MR. MICHAEL KOHN:

14 Q Now on page 38 of the same transcript, you say,
15 "George told Shipman that it started after the third
16 failure...." Does that refresh your recollection of one of
17 the things that Mr. Bockhold stated?

18 A I think we were going to go look at the section
19 of the tape that's --

20 Q Well, I'm on right now what your understanding
21 of the comprehensive test program was, the definitions you
22 had heard prior to Mr. Mosbaugh raising a question as to
23 the definition on page 28 on tape 58.

24 A My understanding was that the comprehensive
25 test program was completed after the sensor testing/sensor

1 calibration -- that's my recollection now.

2 Q And your recollection on page 38 was after the
3 third failure, is that correct?

4 A Page 38 of tape 58?

5 Q Yes.

6 (Pause.)

7 A Would you repeat the question, please?

8 Q Yes. You were speaking about the third failure
9 as the definition of where the comprehensive test program
10 was ending.

11 A From reviewing the transcripts, that appears to
12 be the case.

13 Q So does that refresh your recollection that at
14 some point earlier in the day, you had a conversation with
15 Mr. Bockhold or someone else who defined to you the
16 starting -- the ending point of the comprehensive test
17 program as after the third failure?

18 A I think I understood that the comprehensive
19 test program ended -- or was after the third failure, yes.
20 But I also think that I understood that the sensor
21 calibration had been completed too, and that was --

22 Q And do you recall having a definition of it
23 being after the bugs were worked out, from Mr. Bockhold?

24 A Yes.

25 Q And do you recall a definition of after the

1 third trip?

2 A I don't recall that specifically right now.

3 Q Do you recall a definition after logic testing?

4 A I have some vague recollection of saying after
5 logic testing.

6 Q So do you recall Mr. Rockhold stating after
7 logic testing?

8 A It may have been George Bockhold.

9 Q Excuse me?

10 A It may have been George Bockhold.

11 Q Now Mr. Mosbaugh was coming up with a
12 definition of the end of the comprehensive test program
13 that you hadn't heard before, the UV testing, is that
14 correct?

15 A That's correct.

16 Q So Mr. Mosbaugh was objecting to the prior
17 definitions and restating what he believed the
18 comprehensive test program definition would have to
19 include, is that true?

20 A I think Allen was evaluating the previous
21 definitions and trying to see if that fit with his own
22 definition, or what he could define as the definition.

23 Q And it did not fit with Mr. Mosbaugh's
24 definition, did it?

25 A Not in this context.

1 Q And so Mr. Mosbaugh took exception to the
2 definitions that had been presented to him prior to the
3 portion of tape 58 on page 27, lines 11 through 22 -- prior
4 to page 28, line 5 actually.

5 A I do not think that Allen took exception to
6 what was contained on lines 19 and 20, what we were
7 discussing there; no, I don't.

8 Q My question is did Mr. Mosbaugh take exception
9 to the definition of the comprehensive test program that
10 had been offered to him?

11 A I think he questioned the comprehensive test
12 program, yes.

13 Q And if he took exception to the comprehensive
14 test program, then he, by definition, was taking exception
15 to the data that had been presented to him, isn't that
16 true?

17 A I cannot make that jump, but --

18 Q Well, do you think you could count the number
19 of starts, if you didn't know the definition of a
20 comprehensive test program?

21 A In today's time frame, no. During that time
22 period, I was comfortable that it was after the third trip
23 and I was able to count 18.

24 Q So would it surprise you that Mr. Mosbaugh was
25 not comfortable and could not count, because he didn't know

1 when the comprehensive test program began or ended?

2 A Well, Allen may have been familiar with more
3 information than I had available. So he could have been
4 uncomfortable and raised....

5 MS. YOUNG: Talk a little louder.

6 THE WITNESS: Sorry.

7 THE REPORTER: I didn't hear the last part of
8 your answer either, you tailed off.

9 THE WITNESS: What I said is Allen was more
10 familiar with the information on the diesel than I was, or
11 could have been. And he could have taken some exception to
12 what was going on.

13 BY MR. MICHAEL KOHN:

14 Q Well, you had earlier picked up in the PRB an
15 action item to verify that. Wouldn't it be your
16 responsibility to be more familiar with those numbers at
17 that point than Mr. Mosbaugh?

18 A I think I was familiar with those numbers. I
19 had the Webb list and it verified the 18 consecutive
20 starts.

21 Q After the comprehensive test program?

22 A After the comprehensive test program that I
23 understood was after the third failure.

24 Q And in your mind, is there a difference between
25 the third failure and the third trip?

1 intimately familiar with it and I had a definition from the
2 general manager that said that it ended after the third
3 failure and after the sensor calibration, as I recall. And
4 he said that after that, there were 18 starts. In
5 addition, I had data from my people that after the third
6 failure, counting up on the B diesel, there were 18 starts
7 and that's -- you know, that's my recollection of why I
8 thought that the LER was correct when it went out.

9 BY CHAIRMAN BLOCK:

10 Q The fact that there were 18 starts after the
11 third failure made you think that the comprehensive test
12 program had been completed by then?

13 A I think that in conjunction with what George
14 had said, plus I also had known that Ken McCoy had talked
15 to Ken Brockman and explained to him everything that was
16 going on and what their definitions were. So, while I
17 maybe should have been more familiar, I wasn't and I was
18 comfortable that the LER was correct at the time.

19 Q Did you have any reason at the time to doubt
20 what Mr. Mosbaugh said about the testing program going
21 through the under-voltage test?

22 A I didn't have any reason to doubt that either.

23 Q Did you notice that that was different?

24 A I may have, but I didn't know where the UV test
25 was, so --

1 Q So it sounds to me like you thought two people
2 said credible things. Why didn't you think you should
3 inquire further?

4 A In retrospect, maybe I should have, but I was
5 comfortable with, you know, the data that we had, with the
6 phone conversation we'd be on with the general manager and
7 I felt that the -- and I knew it had been discussed with
8 the NRC and I felt the LER was correct.

9 BY ADMINISTRATOR JUDGE CARPENTER:

10 Q What did you know about Mr. McCoy's
11 communications with the NRC on this subject?

12 A All I know is that Tim McCoy talked to --

13 Q But you don't know what --

14 A I do not know the specifics of that.

15 Q You never saw --

16 A No, I did not, sir.

17 Q -- a telephone transcript or notes, or what-
18 have-you.

19 A No, I did not.

20 Q So why did you depend on it?

21 A I guess the best way to explain it is more in
22 context with what we were trying to do with the LER. What
23 we were trying to do with the LER is paint a picture of the
24 sequence of events, what went on, what we did to restore the
25 diesel to operability. We did a comprehensive test

1 appropriate path based on the information I had available.

2 Q Well, you had at the site all the information
3 you needed, didn't you, to come up with an accurate and
4 correct number?

5 A Did I have at the site all the information
6 available?

7 Q Yes.

8 A I did not know where the UV test was. So if we
9 use that definition, then I couldn't come up with an
10 accurate number. If we used it was after the third trip,
11 then I could come up with an accurate number.

12 Q Now, is it fair to use a makeshift definition
13 of a comprehensive test program, or does there have to be a
14 factual basis for a definition?

15 A I think there should be a factual basis for a
16 definition.

17 Q And in your mind was the third trip a qualified
18 definition of a comprehensive test program, or did it seem
19 to you to be a makeshift definition?

20 A At the time I felt that it was an adequate
21 definition.

22 Q And what did you base the adequacy of the
23 definition (sic)?

24 A Just -- I can't answer that question, Michael.

25 Q You had no factual basis to judge whether it

1 could have said, "Hey, we've got a little problem about
2 tests here."

3 THE WITNESS: Well, we still don't know at this
4 point in time -- the words "comprehensive test program"
5 still has not...

6 CHAIRMAN BLOCH: That still hasn't...

7 THE WITNESS: ...been added.

8 CHAIRMAN BLOCH: Okay, thank you. Thank you
9 for knowing it better than I do.

10 BY MR. MICHAEL KOHN:

11 Q And in fact basically what happened was...

12 THE WITNESS: I was there.

13 Q If I understand it, it was corporate who was
14 coming up with this comprehensive test program language, is
15 that correct? Is that your understanding of where it was
16 derived?

17 A I don't know specifically where it was coined.
18 The first time I heard it was during what we have referred
19 to in this testimony as Call A.

20 Q So when the language, the final language in the
21 LER was in the process of being drafted and finalized, that
22 is the first time you heard the definition or the use of
23 the term "comprehensive test program," is that your
24 testimony?

25 A That is correct.

1 Honor. I could just be rephrasing that Odom got this, just
2 reemphasizing that.

3 Q Okay, now, go on with what you were wanting to
4 elaborate.

5 A Well, I was just saying that I -- I think I can
6 point out in the transcript where we got -- when the Webb-
7 Odom list came over to my office.

8 Q That would be helpful.

9 A If I can find it.

10 (The witness reviews certain material.)

11 A If you go to Tape 58, Page 16, Line 24, you see
12 me ask Tom Webb a question, and Tom Webb responding to
13 that. I think that was Tom Webb bringing his list over.

14 Q Okay, is Mr. Mosbaugh in the room at that time?

15 A Yes, anything on tape Mr. Mosbaugh is in the
16 room.

17 Q And at the time was the list handed to you?

18 A I have a vague recollection that I was at my
19 desk and that Tom handed the list to Allen.

20 Q He handed it to Allen, you think?

21 A Yes, sir. Very vaguely.

22 Q Since Mr. Webb got this list -- did he not? He
23 got this list?

24 A Yes.

25 Q What do you think that statement meant later on

1 prefilled testimony.

2 Q And today I think you just testified Page 16 is
3 specifically where you believe it was handed, is that
4 correct?

5 A That is correct.

6 Q And what has happened between the day you
7 prepared your prefilled testimony and today to allow you to
8 identify Page 16?

9 A I was -- last night I was trying to figure out,
10 I was struggling with Tape 57 and -- and the sequence of
11 events in 57, so I wrote out everything that happened. And
12 as I was reading through the transcript I noticed in the
13 flow that Mr. Webb had come into my office, which is
14 something that I hadn't realized before. And that sparked
15 a recollection on me that -- of remember from Webb coming
16 into the office, and also remembering the conversation with
17 Mr. Odom. And then this line of questioning has reaffirmed
18 that recollection.

19 BOARD EXAMINATION

20 BY CHAIRMAN BLOCH:

21 Q I have a question or two. On Page 34 is it
22 possible that on Line 19 you had just looked at this list
23 for the first time?

24 (The witness reviews certain material.)

25 A My -- my recollection, Your Honor, is that the

1 from the beginning and reverify it.

2 Q Do you think when the PRB made a comment that
3 the actual number of starts should be inserted in the LER,
4 that they assumed that no one would check the base count of
5 April 9th?

6 A I think when the PRB made the comment to verify
7 the greater than 20 starts, that they expected my
8 department to go through whatever process was necessary to
9 verify greater than 20 counts.

10 Q Yeah, I...

11 A I don't think the PRB had -- you're talking
12 about the PRB on April 18th?

13 Q Well, that's one date. I asked you actually
14 about the 13th, but that's okay.

15 A Okay.

16 Q Now, looking at Page 2 of your testimony you
17 indicate that the word "several" was replaced with a count.
18 Wasn't that also a PRB comment?

19 A That was a PRB comment on April 18th, yes,
20 ma'am.

21 Q On April 18th? Your testimony talks about on
22 or about April 13th, middle of Page 2.

23 A Oh, I'm...

24 Q I'm talking about when the word "several" got
25 replaced with a number.

1 (The witness reviews certain material.)

2 Q Or do I just have it wrong?

3 A I don't think that the -- this wasn't a PRB
4 comment to replace it with "several." What I say in my
5 testimony is -- and I won't read it into the record, but on
6 -- around April 13th we got a little bit -- and I -- and I
7 think it was in -- because of some question some people
8 were asking, and I don't remember the specifics, but we
9 weren't sure that the -- the 18 and 19 was right, so we put
10 in the word "several" so there would be no concern about
11 the 18 and 19. And then later in the PRB on April 18th
12 they asked us to remove the "several" and put in the number
13 of counts and to verify that.

14 Q Okay, so when you talk about the April 18th
15 instruction from the PRB do you think the PRB assumed that
16 you would not have recounted the base information that was
17 drawn from the April 9th letter?

18 A Again, I don't think the PRB had any -- any
19 specific process in mind that they thought that my
20 department needed to go through to verify that greater than
21 20 statement, that I just would do that with whatever it
22 took to do that.

23 Q And you at the time didn't think you had to go
24 back and recount the April 9th information?

25 A I looked to Tom Webb to complete that task. I

1 Q But your response is, "Well, not pretty quick."

2 A Yes, it is.

3 Q If you had a list would that have been a true
4 statement?

5 A If we -- no, if -- if we had a list, you know,
6 we -- we should have been able to count pretty quick. But
7 just expanding on this, you know...and I don't have a
8 specific recollection...but I could have been referring to,
9 well, first we had to -- if we determined it was the UV
10 test we'd have to go take the time to find out what that
11 is. Or it may have been a snide remark, commenting on our
12 inability to count it pretty quick after being working on
13 it for all day.

14 Q I can't believe you'd ever make a snide remark.

15 A No.

16 Q But in terms of what you've done for me this
17 afternoon, were you able to count pretty quick using this
18 list?

19 A Yes.

20 Q Okay. And if you go to Page 16, which I
21 believe you identified for Mr. Mosbaugh this afternoon,
22 what is it about that page -- oh, I'm sorry, not to
23 Mr. Mosbaugh, Mr. Kohn. What is it about Page 16 that
24 leads you to believe you had the Webb-Odom list?

25 A We talked about this a little earlier. When I

1 was re-reading through Transcript 58 last night I came
2 across this entry, and I was trying to put together, just
3 to keep things straight in my mind, a chronology of -- of
4 all the stuff that -- that went on. And I had -- I had had
5 a recollection of talking to Rick Odom a couple of times
6 during the day that aren't included in this tape. I don't
7 remember the specifics of those conversations, I just
8 remember talking to Rick several times during the day,
9 wanting to know when Tom Webb was going to be done with his
10 count. And when I -- when I saw that Tom Webb entered the
11 office then I -- I ended up -- I had a vague recollection
12 of -- of seeing Tom Webb come into my office...and part of
13 this stuff gets confusing 'cause you can't remember the
14 specific days...but I remember Tom Webb sticking his head
15 in my office, and I also had a vague recollection of
16 talking to Rick Odom about the list and asking him to bring
17 it over. And -- and this just -- to me this was a
18 confirmation of that when I reviewed that last night.

19 Q But do you see anything on this page that
20 refers to the list?

21 A No, I do not.

22 Q And you may have had oral reports about the
23 results of the Odom-Webb efforts before you were handed a
24 list.

25 A I'm sure I did have oral reports prior to

1 6.0 of tech specs to make sure.

2 Q Is an LER a reportable event?

3 A Yes, it is.

4 Q And therefore, LERs had to be submitted for PRB
5 approval?

6 A I do not know whether tech specs require LERs
7 to be submitted for PRB approval, but in this time frame,
8 LERs were reviewed and approved by the PRB, yes.

9 Q Was the basis that you relied upon to determine
10 that the April 19th LER was not a material false statement
11 simply the fact that it could be true?

12 A I thought when the LER went out, that we had
13 sufficient evidence to show that the LER was correct.

14 Q Actually if you could answer this yes or no, I
15 would appreciate it. The question goes to whether the
16 basis you relied upon ultimately to determine that the
17 April 19 LER did not constitute a material false statement
18 was that it could be true.

19 A Would you repeat the question?

20 Q Was the basis you relied upon to determine that
21 the April 19 LER was not a material false statement the
22 fact that it could be true, with respect to the 18 and 19
23 starts?

24 MR. BLAKE: Mr. Kohn, could I just ask, is the
25 point in time before it went out on the 19th? Is that when

1 you're asking the witness?

2 MR. MICHAEL KOHN: Yes, sir.

3 A That was the confusing point. No.

4 BY MR. MICHAEL KOHN:

5 Q My understanding is your basis was the Webb
6 list and your ability to count backwards and come up with
7 18 starts?

8 A That was part of my basis.

9 CHAIRMAN BLOCH: What was the rest?

10 THE WITNESS: My basis for feeling that the LER
11 was correct is that we had had statements from the general
12 manager saying that they had had 18 starts after completion
13 of the comprehensive test program, and I had also had a
14 verification done by Mr. Webb that indicated that yes,
15 there were 18 successful consecutive starts.

16 BY MR. MICHAEL KOHN:

17 Q You also had a statement from Mr. Mosbaugh that
18 you heard during the course of that day where he indicated
19 that he thought that the information provided in the
20 corrective action letter constituted a material false
21 statement, didn't you? Didn't you have communications with
22 Mr. Mosbaugh?

23 A I think that was my statement.

24 Q You were aware that Mr. Mosbaugh raised that
25 also with --

1 that you were sending out.

2 A If Mr. Mosbaugh had told me that -- that the
3 LER statement was wrong, I would have could Birmingham and
4 pulled the LER back and corrected it.

5 Q You had a 30-day deadline on the LER which was
6 expiring as of that date, did you not?

7 A Yes, I did.

8 Q Would that have caused you to knowingly issue
9 an inaccurate document?

10 A No, in accordance with 50.9 you cannot provide
11 false information to the NRC. Beyond that, it's just not
12 right.

13 Q Is it your -- was it your understanding on
14 April 19th that Mr. Mosbaugh was telling you that you were
15 sending out inaccurate information to the NRC?

16 A No, that was not my understanding.

17 Q Is it your -- was it your understanding on
18 April 19th that anyone thought you were putting out
19 inaccurate or incomplete data to the NRC?

20 A On April 19th I don't think anybody thought
21 that. And let me expand. If anybody did they had an
22 obligation to stop the LER from going out.

23 Q Judge Carpenter has asked you about your
24 reporting relationship with Mr. Mosbaugh. Mr. Kohn's asked
25 you about Mr. Mosbaugh's operating philosophy. Judge Bloch

1 asked you about your views on Mr. Mosbaugh's actions as an
2 alleged. You heard Mr. Mosbaugh testify here. Can you
3 tell me what your reaction was, please. And John, I
4 apologize -- I apologize to you.

5 MR. MICHAEL KOHN: Your Honor, I object. This
6 would require the witness to give, in an sense, an opinion
7 testimony which he may not be qualified to give.

8 CHAIRMAN BLOCH: It's beyond the scope of the
9 questions that have already been asked of him.

10 MS. YOUNG: Well, may I ask for clarification,
11 what do you mean by "reaction"?

12 MR. BLAKE: If the witness doesn't understand
13 he's free to ask me.

14 MS. YOUNG: I think it's very broad, Judge
15 Bloch. I mean, is there some specific point you want him
16 to address that was raised in Mr. Mosbaugh's testimony?
17 Because I believe he stated he was not here in the room the
18 whole time Mr. Mosbaugh testified.

19 MR. BLAKE: Yes, I would like to have him react
20 to -- his reaction to Mr. Mosbaugh's state of knowledge as
21 described in his testimony in this proceeding on April
22 19th.

23 CHAIRMAN BLOCH: I think the dynamics of the
24 inter -- personal interrelationships here are important for
25 the Board to understand, so I'll allow the question.

1 BY THE WITNESS:

2 A My initial reactions, in listening to Allen's
3 testimony, were that, you know, I -- I felt uncomfortable
4 for Allen having to go through this. As I listened to the
5 testimony further, I reached a conclusion and I don't know
6 the exact time that I reached that conclusion. But I
7 reached the conclusion that Allen, on April 19th, knew the
8 LER was wrong when we sent it out. That is the first time
9 in all that has transpired on this event that I ever felt
10 that way. And -- and that was a -- that was a real
11 struggle for me to get over.

12 And part of the reason that -- that I felt that
13 it -- it was -- you know, that everybody felt that the LER
14 was correct was at one point I remember asking Allen, you
15 know, "What do you want me to do?" And his response was
16 that there was nothing that I could do. And -- and I guess
17 I feel that we all have that obligation that if we think
18 something is wrong we have to correct it. I'm not sure
19 that answers all your question, Mr. Blake.

20 Q That's fine. Thank you.

21 CHAIRMAN BLOCH: So is there any further cross
22 based solely on the redirect?

23 MR. MICHAEL KOHN: Yes, there is, Your Honor.
24 And if we could have a five minute recess.

25 CHAIRMAN BLOCH: It's 11:46; we'll start at

1 A I certainly would.

2 Q So you believe other people...

3 CHAIRMAN BLOCH: I'm sorry, I don't understand
4 the relationship of the question to the answer. Could you
5 re-ask it? I didn't...

6 BY MR. MICHAEL KOHN:

7 Q Do you think it strange that no other person at
8 the plant, other than Mr. Mosbaugh on April 19, would think
9 that the LER language was false?

10 A Could you repeat the question again.

11 Q Yeah. I thought you testify that listening to
12 Mr. Mosbaugh, that you believe that he knew the LER was
13 false when it was issued.

14 A And what I testified to is in listening to
15 Mr. Mosbaugh testify, I came -- I felt, after listening to
16 his testimony, that he knew the LER was wrong and he let it
17 go out anyway. Yes.

18 Q And do you think that other people also knew
19 that the LER was false and let it go out?

20 A No.

21 Q And do you think it strange, given the
22 knowledge, the collective knowledge at the plant, such as
23 that Mr. Burr would have, that Mr. Webb had, that you had,
24 that Mr. Bockhold had, collectively when you sat down as a
25 group, that collective group could not independently

1 determine that the statement with respect to the
2 comprehensive test program was false?

3 MR. BLAKE: Objection. I don't understand what
4 the reference is to the collective group of people sitting
5 down, Mr. Burr, Mr. whatever. I don't know of any such
6 testimony.

7 CHAIRMAN BLOCH: Sustained. I don't know of
8 that time, either.

9 BY MR. MICHAEL KOHN:

10 Q During the course of the drafting of the LER...
11 Let me back up.

12 From the time the April 9th letter was issued
13 that contained the numbers, the total people who would have
14 reviewed that -- that corrective action letter and drafts
15 of the LER, do you believe that the sum total of the
16 knowledge of Georgia Power people would have led them to
17 believe, if they sat and discussed it, that the April 9th
18 letter contained a material false statement?

19 A I think it's fairly obvious at this juncture,
20 if we had put all the facts together, that we would have
21 determined that the April 9th letter contained false
22 information, as did the April 19th LER.

23 Q So do you believe that the people -- let me go
24 individually.

25 Do you believe Mr. Burr had more knowledge

1 about the starts than Mr. Mosbaugh?

2 A I do not know the depth of Mr. Burr's
3 knowledge.

4 Q Well, you knew he was there during the entire
5 testing, didn't you?

6 A Yes, I did.

7 Q And you knew he was -- I think you testified
8 that he -- that in your observation he was the lead -- one
9 of the lead engineers involved with the diesel generators.

10 A My...

11 CHAIRMAN BLOCH: Mr. Kohn, I'm not sure why
12 you're continuing on this line. The witness gave the
13 answer that you wanted.

14 MR. MICHAEL KOHN: I have no further questions.

15 MS. YOUNG: Mr. Aufdenkampe, you said you
16 believed...

17 CHAIRMAN BLOCH: Wait just a second.

18 RE-CROSS-EXAMINATION

19 BY MS. YOUNG:

20 Q Mr. Aufdenkampe, you stated that you believed
21 Mr. Mosbaugh knew the LER was wrong when it went out on
22 April 19th.

23 A That is correct.

24 Q Did you know the LER was right when it went out
25 on April 19th?

1 Q And I want to call your...

2 A You're on the wrong exhibit, I think.

3 Q Oh, I'm sorry. I'm very sorry. Exhibit 54.

4 I'm very sorry.

5 A Okay.

6 Q Thank you.

7 A I'm sorry, we were on a different set of
8 exhibits.

9 Q So if you can please look at Intervenor's
10 Exhibit 4, which is a two-page...

11 CHAIRMAN BLOCH: Is it 54?

12 MR. STEPHEN KOHN: 54.

13 BY MR. STEPHEN KOHN:

14 Q Which is a two-page document.

15 A I have it.

16 Q Is this the count that you referred to when you
17 said you did a count?

18 A This looks like it, yes.

19 Q Is that your handwriting?

20 A Yes, it looks like my handwriting. Yes.

21 Fairly certain it is.

22 Q And I want to call your attention to Page 2.
23 And it would be the Footnote 2 on Page 2 which says, "Total
24 number of start attempts is 24, not counting Starts 120."
25 There was a number off the page. It's 100-something,

1 handwritten, written in correction or change, and just
2 focus on the typewriting in that one paragraph. This was
3 the version that was before the PRB on April the 18th.
4 Did you vote to recommend approval of this subject to
5 changing "several" to the precise number?

6 A Yes, I believe I voted approval with comments.

7 Q And the language that appears in this says,
8 "Since 3/20/90 DG1A and DG1B have been started several
9 times, and no failures or problems have occurred during
10 any of these starts," correct?

11 A That's the typewritten language here.

12 BOARD EXAMINATION

13 CHAIRMAN BLOCH: And that's the language you
14 voted to approve. Is that correct?

15 THE WITNESS: If this represents what we had,
16 yes.

17 MR. BLAKE: And I believe at this point that
18 I'll need to bring Mr. Webb to -- or for someone else in
19 order to confirm that that's the case, Mr. Bloch. Now the
20 -- did you say to anybody at that April 13th meeting that
21 this language was incorrect or false in any respect?

22 THE WITNESS: I don't remember saying that at
23 the meeting, but I don't remember very much about this
24 meeting.

25 BY MR. BLAKE:

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1 Q Do you think if you had talked it was false or
2 inaccurate and that you had stated such things, you would
3 remember it?

4 A Well, I think it is a possibility that I was
5 having some discussion with Mr. Aufdenkampe about this
6 issue at that -- at the point in time before the 19th.
7 But I don't remember.

8 Q About whether or not this was false or
9 inaccurate?

10 A No, about the start count issue.

11 Q But my question is, did you indicate to
12 anybody in the PRB meeting that you thought this language
13 was inaccurate or false in any respect?

14 A Not that I can recall.

15 BOARD EXAMINATION

16 CHAIRMAN BLOCH: Is it possible that this
17 meeting has been recorded, but hasn't been transcribed?

18 THE WITNESS: It's possible that this meeting
19 could be recorded.

20 CHAIRMAN BLOCH: Is anyone aware of whether or
21 not a tape of the April 18th meeting exists?

22 MS. YOUNG: The Staff is not aware.

23 MR. BLAKE: No.

24 CHAIRMAN BLOCH: I take it Intervenor is not
25 aware?

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CROSS EXAMINATION (continued)

BY MR. BLAKE:

Q Look at page 37 of your testimony, Mr. Mosbaugh. Up at the top of that page, lines five through 11, -- actually -- yes, at lines five through 11, when you informed Mr. Bockhold that the LER was incorrect and that you had verified the data, didn't Mr. Bockhold tell you that the LER needed to be revised?

A I know Mr. Bockhold and I discussed revising the LER. Obviously it would need to be revised.

Q Well, in your testimony, at page nine and ten, you state there, "I proceeded to correct the LER, get it PRB approved," etc. Do you see anything in there about Mr. Bockhold indicating to you that the LER would need to be corrected?

A No, I don't say anything about that. I'm just talking about what I did.

Q Do you think there's a difference to the reader of your testimony for you to say I came up with these lists, these corrected lists, and I proceeded to correct the LER -- do you think that's different from saying that when I pointed out these corrected lists to Mr. Bockhold, he directed me to change the LER -- correct it?

A No, I don't think there's any difference. I

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1 initiated the actions, brought to management's attention
2 that a change was needed, and Mr. Bockhold sent me back to
3 verify the information. We discussed the revision of the
4 LER. I think we may have talked about the COA as well.
5 And I proceeded to get it revised through the PRB.

6 Q Do you recall now that in fact Mr. Bockhold
7 did tell you that there would be a need to change the LER?

8 A I didn't not recall that, Mr. Blake.

9 ADMINISTRATIVE JUDGE CARPENTER: Mr. Blake, do
10 you have a particular day in mind?

11 MR. BLAKE: Yes. From the tape transcript
12 dated May 2nd, tape number 90.

13 MR. STEPHEN KOHN: Do you have an exhibit
14 number?

15 MR. BLAKE: No, but we'll pass it out and make
16 it one.

17 ADMINISTRATIVE JUDGE CARPENTER: I'm so glad I
18 asked.

19 BOARD EXAMINATION

20 CHAIRMAN BLOCH: I'm not sure that that's
21 necessary. But if you're going to do that, that's okay.
22 Is your testimony that Mr. Bockhold did ask you to revise
23 the LER once he realized it was wrong?

24 THE WITNESS: Yeah, that was the expectation
25 all along when I brought in the memo on the 30th, that it

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1 MR. BLAKE: The witness, about his reliance or
2 not rather than having counsel testify here. How about
3 that?

4 CHAIRMAN BLOCH: Let's proceed. I'm not sure
5 his objection is relevant anyway, that he didn't rely on
6 it.

7 MR. BLAKE: Mr. Mosbaugh, have you had a
8 chance to take a look at the pages that I asked you to
9 look at in Mr. Brockman's deposition?

10 THE WITNESS: I have looked at 62 and 63.

11 MR. BLAKE: And 64?

12 THE WITNESS: I hadn't gotten all to 64 yet.
13 Okay. I scanned over 64.

14 MR. BLAKE: Does Mr. Brockman's testimony
15 indicate what I asked you to confirm? That is, that he
16 testified that he understood the diesel testing program
17 consisted of a couple of phases, the analytical phase and
18 the verification phase, and he understood that the CTP
19 phrase was a reference to the first phase?

20 MR. STEPHEN KOHN: I'm just going to pose a
21 relevancy objection.

22 MR. BLAKE: Relevancy?

23 CHAIRMAN BLOCH: Well, the question that's
24 being pursued by Mr. Blake, though there may be other
25 implications also, is whether or not Mr. McCoy spoke to

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1 document they also indicated they might use.

2 MR. STEPHEN KOHN: Your Honor, the reason why
3 the Brockman deposition is listed as an exhibit is because
4 we didn't want to waive our rights to move in certain
5 portions as testimony in lieu of the live testimony of the
6 witness.

7 CHAIRMAN BLOCH: So then why can't the
8 Licensee do that?

9 MR. STEPHEN KOHN: I'm saying I'm not
10 objecting to them moving in portions or the parties saying
11 well, "Let's move in page 5 through 20 of the deposition."
12 I am objecting to its use with this witness.

13 CHAIRMAN BLOCH: I don't understand the
14 possible relevance of that. I mean, what's the objection
15 to using it with this witness if it is admissible?

16 MR. STEPHEN KOHN: It's just the relevance. I
17 mean, this document says what this document says. If this
18 witness --

19 CHAIRMAN BLOCH: Overruled.

20 MR. BLAKE: Mr. Mosbaugh, are you able to
21 answer my question now?

22 THE WITNESS: I see in this portion, this
23 deposition, where Mr. Brockman talks about his considering
24 the comprehensive test program to have had an analytic and
25 a verification phase.

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1 MR. BLAKE: And that he understood the
2 comprehensive test program phrase was a reference to the
3 first of those phases?

4 THE WITNESS: Well, he says this one sort of
5 says that the comprehensive test program is only the
6 analytical phase.

7 MR. BLAKE: Are you looking at page 63?

8 THE WITNESS: Yes.

9 MR. BLAKE: How about taking a look at 64 as
10 well, at the top. The paragraph that begins on page three
11 and goes through line 10, and states in it, in my mind,
12 that is in total consonance with the words that are
13 provided in that LER right there. That reads that the
14 comprehensive thing is only what I call the analytical
15 phase, as I read the words on page 6.

16 THE WITNESS: I read what it said. That is
17 what it says on --

18 MR. BLAKE: Okay. Now, Mr. Mosbaugh you cited
19 --

20 THE WITNESS: Thirteen through 21.

21 MR. BLAKE: You cited in your testimony from
22 answers given by Mr. Brockman in interrogatories. I ask
23 you now, did you read Mr. Brockman's deposition transcript
24 which you proposed as a potential exhibit in this
25 proceeding?

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1 Q Okay. And, by August 30th, or in August,
2 there seemed to be a number of tapes that you have where
3 you don't seem to be talking much during the taping.

4 Was there a reason for that?

5 A Yes. I've thought about that recently and I
6 really hadn't tried to dissect my behavior before but
7 Judge Bloch had asked a question that wasn't too similar
8 from yours.

9 And, at the point in time, I think there did
10 probably come a transition point in July after -- at a
11 point in July after Mr. Bockhold's -- I think it was
12 around the time that he tried to debrief me in front of
13 the NRC and then with Lee Glenn.

14 And, then, I found out that the notes were
15 going to the law firm. I wrote a letter back to Mr.
16 Bockhold in about that same time frame stating that I had
17 tried to work through the company before.

18 Worked through the chain of command using
19 internal vehicles. And, at that point, I informed him
20 that I didn't think those were working and that I had made
21 a decision to work through the NRC at that point.

22 CHAIRMAN BLOCH: Is that an exhibit that we
23 have?

24 THE WITNESS: I don't believe it's in the
25 proceeding yet, at this time.

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1 CHAIRMAN BLOCH: I think it would be helpful
2 if on redirect we could get that as an exhibit.

3 MR. STEPHEN KOHN: Your Honor, we can do that.

4 THE WITNESS: And, I indicated in that memo
5 that I would do, you know, would not disobey anything that
6 the company told me but that I -- it was my intention to
7 work through the NRC to resolve my concerns at that point.

8 MS. YOUNG: From what -- if I understand what
9 you're saying there basically came a point in time where
10 you just got tired of arguing with your co-workers at GPC?

11 THE WITNESS: Well, not arguing with my co-
12 workers. I got tired of trying to resolve my concerns
13 through the internal channels that I had been trying to
14 use because I didn't think they were effective.

15 And, I had made the decision that I could be
16 effective by working through the NRC at that point.

17 BY MS. YOUNG:

18 Q Now, had you told the NRC in the July August
19 time frame that you were taping?

20 A No, not in the July August time frame.

21 Q I think yesterday you told me you turned over
22 taped to OI or someone else at the NRC in September of
23 1990?

24 A That's correct.

25 Q So, that's the first time the NRC became aware

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1 only set of data relied upon when issuing the final LER
2 language with respect to the diesel starts was the data
3 contained in the April 9th letter, isn't that true?

4 A No, that's not true.

5 Q What additional data was relied upon, that you
6 know of?

7 A The data that Mr. Odom and Mr. Webb collected
8 and presented to Mr. Aufdenkampe and Mr. Mosbaugh.

9 Q And when did you see this data?

10 A I did not see it.

11 Q When did you rely on this data?

12 A I relied on the data by Mr. Mosbaugh and Mr.
13 Aufdenkampe.

14 Q Well, what happens if Mr. Mosbaugh and Mr.
15 Aufdenkampe were not relying on the data?

16 A I can't speak for what happened if they were
17 not relying on it, but it's my understanding from the
18 transcript that, first of all, they had a charge to collect
19 the data; and second of all, that the data was provided to
20 them prior to the final number going into the LER.

21 Q And what, in the transcript, led you to the
22 conclusion that they had obtained that data?

23 A In the transcript, there is reference to -- by
24 Mr. Aufdenkampe, that the data we've been provided -- and I
25 don't -- can't quote the exact words, but something to the

1 when I asked you, "And you understand that Mr. Mosbaugh was
2 still under the same impression now when you are -- let me
3 back up, I have to start a little earlier.

4 The question is, "And Mr. Mosbaugh, prior to
5 this, had already told you that you didn't have the 18 to
6 19 starts that were in the 4/9 letter, as far as he was
7 concerned, right?"

8 And then you say, "As far as he was concerned."

9 And then a following question appears, "And you
10 understand that Mr. Mosbaugh was still under the same
11 impression now when you were having this later conversation
12 with him, correct?" And you respond, "Yes."

13 Isn't that true?

14 A Yes. And I believe that does not necessarily
15 preclude Mr. Mosbaugh having the data from Mr. Webb and Mr.
16 Odom. If you follow this taped conversation through, even
17 at this time, Mr. Mosbaugh would prefer in his view to
18 define the end of the comprehensive test program
19 differently. He desired to define it after the UV tests
20 were complete, and there was significant discussion on this
21 issue and that certainly is an acceptable place to define
22 it, but it did not happen to be the place that Mr. Bockhold
23 had described that he'd define it. And where you define
24 the end of the program affects what your count number is.
25 So yes, I believe Mr. Mosbaugh at this time in his

1 reference plane was still under the impression that the
2 data was wrong.

3 Q So the data that -- whatever data Mr. Mosbaugh
4 had in front of him, he was unable to use to determine
5 whether the data that was relied upon earlier in call A was
6 accurate, isn't that true?

7 A I can't establish that for a fact. Again, it
8 goes to was Mr. Mosbaugh willing to accept a different
9 count point than what he would prefer.

10 Q But you didn't feel it was necessary to include
11 a definition of the comprehensive test program in the LER
12 when your own management couldn't figure out where it began
13 or ended, isn't that true?

14 A Well, it's not a question of whether they could
15 figure out where it began and ended, it was a question of
16 whether or not they were willing to accept the definition
17 that had been given, as to where it began or ended.

18 Q And it's your understanding that the definition
19 of the comprehensive test program was sufficiently
20 established on April 19 to determine where it began and
21 ended with respect to everyone who was to participate in
22 verifying the information?

23 A I believe it was. If anyone had any questions,
24 they should have been resolved as a result of this
25 conversation on this tape where both Mr. Aufdenkampe and I

1 defined what Mr. Bockhold had told us his reference point
2 was.

3 Q And to really -- the problem is Mr. Bockhold
4 was no longer available was he? Isn't that correct?

5 A At this time, I don't believe Mr. Bockhold was
6 available on site.

7 Q So there was no one around to referee whose
8 understanding of what the comprehensive test program was,
9 that was actually more accurate, was there?

10 A I did not think we needed a referee. There was
11 nothing wrong with defining it at the end of the UV test
12 program. There was also nothing wrong with defining it, as
13 Mr. Bockhold had defined it. And why would we need a
14 referee.

15 Q So there was nothing wrong with putting a set
16 of data in an LER that could have multiple definitions?

17 A I'm sorry, it did not have multiple
18 definitions.

19 Q Well, I thought you just said it was fine
20 however -- how Mr. Mosbaugh described it or as Mr. Bockhold
21 described it, isn't that true? But they would be two
22 separate starting points, wouldn't they?

23 A It would have been acceptable to define it
24 either way. The counts would have changed depending on
25 which one of those definitions you took.

1 Q Well if you didn't, how did you know that the
2 same definition was being used in the letter?

3 A Because the conversation with Mr. Brockman
4 occurred, as I understand it, after the earlier call where
5 the definition was inserted in the LER, and it's my
6 understanding that that call was probably made to discuss
7 that and other issues.

8 CROSS EXAMINATION (Continued)

9 BY MR. MICHAEL KOHN:

10 Q And if you'd look at page 28 of tape 58. Mr.
11 Mosbaugh specifically tells you where he believes the
12 definition of a comprehensive test program would have to
13 begin, the start count would have to begin, with the UV
14 testing, isn't that correct?

15 A That's Mr. Mosbaugh's personal opinion and
16 that's where he would start it.

17 Q And as an engineer, do you think your response
18 to Mr. Mosbaugh's statement as to where the count should
19 begin was valid? You respond -- you don't provide Mr.
20 Mosbaugh with any factual information to indicate that
21 that's not where it should start. You only state that Mr.
22 McCoy had discussed it with Mr. Brockman. Do you think
23 that is a sufficient response to Mr. Mosbaugh?

24 A Again, I need to go back and read the
25 transcript to see if we have not been over this issue with

1 Mr Mosbaugh already in this conversation about where Mr.
2 Bockhold defined the start to be, versus where he would
3 like to define it to be. I think this is still a
4 conversation about Mr. Mosbaugh's preference of where he
5 would like to start it. And the response I think I was
6 trying to give him was not only was it acceptable to start
7 it where Mr. Bockhold had started his definition, but also
8 that starting point was something that was understood by
9 the Commission.

10 Q Well, if --

11 CHAIRMAN BLOCH: I'm sorry, I didn't hear the
12 last word, understood by the --

13 THE WITNESS: Commission.

14 CHAIRMAN BLOCH: -- Commission -- the NRC.

15 THE WITNESS: The Nuclear Regulatory
16 Commission.

17 BY MR. MICHAEL KOHN:

18 Q By Commission, do you mean Ken Brockman?

19 A I mean by Ken Brockman and the folks from the
20 Commission who were on site.

21 Q Now, why would Mr. McCoy be having a
22 conversation with the NRC about where the start count was
23 beginning before you're calling back to the site to
24 determine whether that's accurate?

25 A The call back to the site was not to determine

1 to be verified.

2 Q Had you ever seen Mr. Cash's data?

3 A I have seen --

4 Q As of the 19th. As of the 19th, had you ever
5 seen it?

6 A No. Sir, I don't have a direct recollection of
7 having seen it by the 19th.

8 Q Do you remember ever having asked for it on the
9 19th?

10 A No, I do not.

11 Q Does that puzzle you, given that you expected
12 that the site would have data to support anything that they
13 told to the NRC?

14 A There is a question here about who has access
15 to data, who is responsible for developing data and what my
16 role or our role and the staff function in the corporate
17 office is in this relationship. I believed then and I
18 believe now that the development of the correct data was a
19 site function and I relied on them to provide correct data.

20 Q See, I'm still puzzling about what you believed
21 the site had with respect to what had been told to the NRC
22 on April 9th. On April 19th, what did you believe the site
23 had?

24 A I believe that on April 19th that the site had
25 on April 9th, a list of data developed by Mr. Cash for Mr.

1 originated?

2 A I think the words originated on an earlier
3 telephone conference call that Mr. Bockhold and Mr. McCoy
4 was involved with the site and us here in corporate, and I
5 think the record shows that Mr. McCoy suggested that we
6 insert the phrase "after completion of the comprehensive
7 test program," and there was some discussion then about
8 what that meant, with Mr. Bockhold and Mr. McCoy, and
9 that's where -- to my recollection, and my recollection is
10 purely what I read -- it's the first time the phrase was
11 introduced and also the meaning of what it meant.

12 Q Mr. Shipman, at that point in time, did it
13 occur to you that if there was 18 or 19 of something that
14 had been counted and then you changed the definition under
15 which you were doing the counting, that the count number
16 unavoidably had to get smaller if you were discarding some
17 of those counts?

18 A The strange thing about that is again if you
19 read the transcript, is that Mr. Bockhold did not believe
20 that this insertion of "end of the comprehensive test
21 program" changed his criteria. In fact, I think the
22 transcript reflects that he indicated that yes, that was in
23 agreement with what he had done, so that it would not make
24 anything change.

25 Q And that didn't seem surprising to you?

1 his belief.

2 MR. BLAKE: I understand. We've all spoken
3 about rust, but you wouldn't ask me about this.

4 CHAIRMAN BLOCH: Mr. Shipman, this is Judge
5 Bloch. Are you at all familiar with this document?

6 THE WITNESS: This is the first time I've seen
7 the document, sir.

8 CHAIRMAN BLOCH: I think, Mr. Kohn, this is the
9 wrong person to be asking these questions of.

10 BY MR. MICHAEL KOHN:

11 Q Is the verification of an LER -- would you
12 consider that licensed activity?

13 A I'm sorry, could you do a better definition of
14 what you mean by verification of an LER?

15 Q Well, I think you're in a better position to
16 define that for me. The verification of accuracy of
17 information in an LER, would you consider that to be
18 licensed activity?

19 A If there is a question about the data, I would
20 consider that to be everyone's responsibility, not just
21 licensing. Licensing has, I don't think a specific defined
22 responsibility that every piece of information in an LER I
23 need to go personally verify. We depend upon the people
24 who provide that information to us and if we have a
25 question, then we question the thing that we have a question

1 with. But saying that licensing has a responsibility to
2 independently verify all of the information contained in
3 the LER, I would say no, that's not their responsibility.

4 Q And perhaps I misspoke, when I said licensed
5 activity, I meant licensed, with an e-d. Does that change
6 your response?

7 A I'm sorry, I couldn't understand you.

8 CHAIRMAN BLOCH: I don't understand the point
9 of this question anyway. I mean, --

10 MR. BLAKE: Do you mean needs to be done by a
11 licensed operator as in licensed activity?

12 CHAIRMAN BLOCH: Before it's submitted, it has
13 to be accurate, are you really asking anything beyond that?

14 MR. MICHAEL KOHN: I'm addressing the witness'
15 testimony with respect to chain of command. And my
16 question is, is a verification of an LER licensed activity.

17 CHAIRMAN BLOCH: Are you talking about whether
18 it's in the jurisdiction of a certain group at the plant?

19 MR. MICHAEL KOHN: Let me ask a backup
20 question.

21 BY MR. MICHAEL KOHN:

22 Q It's my understanding that licensed activity is
23 supposed to follow the chain of command within the SONOPCO
24 project at that time?

25 A That's true.

1 correct as it was being used in the April 19th or used in
2 the draft of the LER, si that correct?

3 A I received it. I commented that it might not
4 be correct, but I didn't have information that it might be
5 correct.

6 Q You commented that it might not be correct?

7 A I had received a comment from Mr. Aufdenkampe
8 that it might not be correct.

9 Q Well, did you comment on it? Mr. Aufdenkampe
10 is not your direct line supervisor, is he?

11 A He was at that time.

12 Q Okay. And Mr. Aufdenkampe told you that
13 number of starts -- you knew that that number of starts
14 came from the April 9th letter didn't you? You prepared
15 that draft, you knew that number of starts that you put in
16 that draft in the LER came from the April 9th letter?

17 A That's right.

18 Q Okay. So when Mr. Aufdenkampe told you they
19 may not be correct, did you get on the phone with
20 corporate?

21 A I don't recall if I got on the phone with
22 corporate or not. I wouldn't think I would have because
23 they would have no more information than what I had.

24 BOARD EXAMINATION

25 CHAIRMAN BLOCH: Mr. Webb, you say you think

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1 BY MR. MICHAEL KOHN:

2 Q Your testimony says, "At my suggestion, the
3 draft was revised to read" --

4 A What page, please?

5 Q Page 4 starting at line 9. "At my suggestion,
6 the draft was revised to read 'Since 3/20/90 DG1A and 1B
7 have been started several times and no failures or
8 problems have occurred during any of these starts.'" So
9 you made the suggestion on how to reword it to take out
10 the 18 and 19 start language, correct?

11 A That's correct.

12 Q And your basis for removing it was?

13 A My manager told me to.

14 Q Your manager told you to because it might not
15 be correct?

16 A That was the way I understood it at the time,
17 yes sir.

18 Q All right. Now, on page 5 of your testimony,
19 after a PRB meeting, looking at where you use the word
20 several, looking at line 7 on page 5, you see the word
21 several in the seventh draft? We're referring to that
22 language that you created, right?

23 A That's right.

24 Q And then you go on to say on April 18th you
25 went and came up with 21 and 23 starts should be used in

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1 redoing the draft. And if I understand what you're
2 telling me, if it was up to you, you would have used the
3 valid start numbers in the draft you were working on but
4 you used the information contained in the April 9th letter
5 because that's what someone else wanted?

6 A That's correct.

7 Q And who's the someone else that wanted that?

8 A John Aufdenkampe.

9 Q I'm a little confused now. Mr. Aufdenkampe
10 originally told you not to use the April 9th letter
11 because the start count may be incorrect. Now you're
12 saying he's the one who wanted you now to reuse it because
13 why?

14 A No, that was not the testimony.

15 Q I'm sorry.

16 A He didn't say to reuse the letter. He said
17 they want to use the same term. So, reask the question.

18 Q Did Mr. Aufdenkampe tell you the exact
19 terminology to use?

20 A He directed me to use information from the
21 April 9th letter regarding diesel starts.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: He not only told you to use
24 the word successful starts but to use the information from
25 the April 9th letter?

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1 THE WITNESS: Yes sir.

2 CHAIRMAN BLOCH: This was subsequent to the
3 time that he told you that he thought there was a problem
4 with the April 9th figures?

5 THE WITNESS: No, he had -- he had previously
6 told me to use the information from the April 9th letter.
7 And after that, he came back and said that 18 and 19 may
8 not be correct and we substituted the word several starts
9 after that.

10 BY MR. MICHAEL KOHN:

11 Q And then you were given the responsibility to
12 come up with the number of starts and on your own you
13 could have put in a number of valid successful starts.

14 CHAIRMAN BLOCH: He went through that. He
15 said he would have done that on his own.

16 It's a good time for a break unless you're in
17 the middle of something so burning?

18 MR. MICHAEL KOHN: No, it's fine, Your Honor.

19 CHAIRMAN BLOCH: We'll take a ten minute
20 break.

21 (Whereupon, at 10:00 a.m. a brief recess until
22 10:12 a.m.)

23 BY MR. MICHAEL KOHN:

24 Q Were you asked to verify the more than 20
25 times each language contained in the draft of the April

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1 19th LER?

2 ADMINISTRATIVE JUDGE CARPENTER: Mr. Kohn, if
3 there are references to his prefiled testimony, it might
4 be helpful.

5 BY MR. MICHAEL KOHN:

6 Q On page 6 you start talking about, "One
7 comment from the corporate office was to verify the more
8 than 20 times each." Were you tasked with verifying that
9 statement? A Yes, I was.

10 Q On what date?

11 A April 19th.

12 Q And who gave you the assignment to verify it?

13 A Mr. Rick Odom.

14 Q And did Mr. --

15 CHAIRMAN BLOCH: If it's already in the
16 testimony, you don't have to ask the question. You can
17 ask additional things.

18 BY MR. MICHAEL KOHN:

19 Q Did you verify it?

20 A Yes, I did,

21 Q And when did you verify it?

22 A On the afternoon of April the 19th.

23 Q You verified that the April 19th LER with the
24 numbers greater than 20 was accurate?

25 A I verified that we had more than 20 starts,

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1 yes sir.

2 Q Without problems or failures?

3 A No, we had had some with problems and
4 failures.

5 Q So then, did you verify the statement more
6 than 20 times each without problems or failures?

7 A I verified that that was incorrect.

8 Q You verified it was incorrect?

9 A On April 19th, in the afternoon.

10 Q And did you tell Mr. Odom that you verified
11 that it was incorrect?

12 A Yes, I gave him a list of diesel starts to
13 back up that.

14 Q Did you hear that Mr. Odom had been involved
15 with a phone conversation with Mr. Aufdenkampe and
16 corporate where it was reported back that corporate was
17 reviewing it to see if it was a material false statement?

18 A No, I didn't hear that.

19 Q And what did you do after you gave this list
20 to Mr. Odom?

21 A I checked back with him later in the afternoon
22 to ask what he had done with the list and he said he had
23 given it to the man down the hall. Which I assumed at
24 that time was Allen Mosbaugh or John Aufdenkampe since
25 they had both been down the hall that afternoon.

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1 Q You said later that afternoon. What time?

2 A I believe it was after 4:00 o'clock but I'm
3 not certain.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: How precise is that time?
6 Just give us the complete measure of the fuzziness of your
7 memory.

8 THE WITNESS: I would say it was probably 3:45
9 -- no, I would say 4:00 plus or minus an hour. Between
10 3:00 o'clock and 5:00 o'clock.

11 CHAIRMAN BLOCH: Thank you.

12 BY MR. MICHAEL KOHN:

13 Q You gave it to Mr. Odom?

14 A I gave the list of diesel starts to Mr. Odom,
15 yes sir.

16 Q And how long did you have your conversation
17 with Mr. Odom? I assume when you gave him the list,
18 that's when you told him that you couldn't verify it?

19 A That I couldn't verify that the statement of
20 more than 20 starts with no problems or failures?

21 Q Right.

22 A Yes sir.

23 Q Now, it was corporate who wanted to verify the
24 greater than 20 starts, right?

25 A I believe that's where the comment came from.

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1 Q I'd like to call your attention to Exhibit
2 171-D. And I notice on the top it says JGA comments,
3 4/13/90, a.m.

4 A That's correct.

5 Q And that would refer to Mr. Aufdenkampe?

6 A Yes, it does.

7 Q And then on project page 057669, I see the
8 numbers 18 and 19 are circled.

9 A Yes, they are.

10 Q Are those Mr. Aufdenkampe's comments?

11 A I believe they are, yes.

12 Q And this is the time that Mr. Aufdenkampe
13 identified to you that these numbers were suspect?

14 A He had the comment that they may not be
15 correct.

16 MR. MICHAEL KOHN: No further questions.

17 BOARD EXAMINATION

18 CHAIRMAN BLOCH: Staff? Well, I actually have
19 one question. Mr. Webb, Judge Bloch.

20 THE WITNESS: Yes, sir?

21 CHAIRMAN BLOCH: Were you at all familiar with
22 the amount of time it took to retrieve documents from the
23 central repository in 1990 -- the document repository at
24 Vogtle?

25 THE WITNESS: Yes, I went there on a regular

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1 second to an answer you gave a few minutes ago. I think
2 you may have been confused. I wanted to clear it up. You
3 said that Mr. Aufdenkampe didn't tell you to put in the
4 information from the April 9 letter until April 13. But
5 in your prefiled testimony, you indicate it was April 9
6 that Mr. Aufdenkampe told you to do that.

7 A Oh, okay. I must have been mistaken. It must
8 have been April 9th.

9 Q So you're sure that your prefiled testimony is
10 correct on that point?

11 A Yes, sir. I guess I need to look at my -- at
12 the testimony closer when you're asking me questions. I'm
13 trying to keep up with it, but I'm not fast enough.

14 Q I'm focusing now on page 3 of your prefiled
15 testimony.

16 A All right.

17 Q And lines about 13 through 15, you indicate it
18 was April 9 that Mr. Aufdenkampe approached you about
19 incorporating the language from the April 9 letter?

20 A Yes, sir.

21 CHAIRMAN BLOCH: Just a second. Mr. Webb, if
22 you do need to look at your testimony -- this is Judge
23 Bloch. If you do need to look at your testimony, take
24 your time. The problem isn't that you're not fast enough.
25 It's that you're too fast. If you need to look at

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1 something, take your time to look at it.

2 THE WITNESS: All right. Thank you.

3 BY MR. HULL:

4 Q I noticed you say in your prefiled testimony
5 "on or about April 9," so I guess it could have been
6 April 10 that he talked to you?

7 A It could have been, yes, sir.

8 Q Now, continuing on page 3 of your prefiled
9 testimony, you refer to Mr. Aufdenkampe's instruction to
10 include in your next draft a statement regarding the
11 diesel starts which GPC had made to the NRC in a letter
12 dated April 9, 1990. Is the information about the diesel
13 starts that you put into your next draft, would that be
14 reflected in Exhibit B, GPC II-171B? And let me try to
15 help you, it's page -- it looks like it's page 10 of
16 Exhibit B.

17 A Thank you. It looks like that's the first
18 page it shows up on these drafts.

19 Q And is that the sentence that begins, "Since
20 3/20/90, DG 1A has been started 18 times"?

21 A Yes, sir.

22 Q Turn to page 4 of your prefiled testimony,
23 please. You state that you submitted a fourth draft of
24 the LER to Mr. Aufdenkampe for review on April 13, 1990.
25 Do you see that there on page 4?

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1 A Yes, sir.

2 Q Did you take Mr. Aufdenkampe's comment to mean
3 that the April 9 letter contained a material false
4 statement?

5 A You're referring to his comments that 18 and
6 19 may be incorrect?

7 Q Yes.

8 A No, I didn't.

9 Q Did you take that -- his comments to mean that
10 the April 9 letter was in error?

11 A No, I didn't.

12 Q Can you explain your answer, please?

13 A Well, he merely expressed an opinion without
14 any -- any information to the -- to back it up or to
15 explain why he thought it was his opinion, so I -- it was
16 something that I didn't -- didn't dig into any further
17 than that.

18 Q Well, why didn't you dig into it any further
19 if you just regarded it as an opinion of Mr.
20 Aufdenkampe's?

21 A Because if he didn't like it, we needed to
22 change it, so I found some words that he liked, which was
23 "several starts."

24 Q Well, didn't you think it would be prudent, at
25 that point, to go back into the control log to try to find

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1 out what the actual number of starts had been?

2 A We could have done that, but the control logs
3 don't contain all of the diesel starts.

4 Q What are the other source documents you would
5 need to determine that?

6 A The only one I know would be the diesel start
7 sheets.

8 Q Did you make any effort to determine where the
9 diesel start sheets were at that point?

10 A All through this time period, up to April
11 19th, we made efforts to find the diesel start sheets, and
12 we were unable to obtain all of them.

13 BOARD EXAMINATION

14 CHAIRMAN BLOCH: I'm sorry. I don't
understand the answer. You told me where to find them.

15 THE WITNESS: If we can find copies of the
16 original and document control after they have been filed,
17 but that's often several weeks after the event.

18 CHAIRMAN BLOCH: It takes weeks to have it
19 filed there?

20 THE WITNESS: Yes, sir. That was the
21 situation in 1990.

22 ADMINISTRATIVE JUDGE CARPENTER: Has it
23 changed in 1995?

24 THE WITNESS: It's improved at least somewhat.
25

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1 ADMINISTRATIVE JUDGE CARPENTER: I'm sorry. I
2 didn't hear you.

3 THE WITNESS: It has improved at least
4 somewhat, yes, sir.

5 CROSS EXAMINATION (Continued)

6 BY MR. HULL:

7 Q Now, do you recall any discussion that you had
8 with Mr. Aufdenkampe regarding verification of the 18 and
9 19 numbers which he had told you might be incorrect?

10 A I'm sorry. Could you repeat that, please?

11 Q Do you recall any discussions that you had
12 with Mr. Aufdenkampe regarding verification of these 18
13 and 19 start numbers, which he had told you may be
14 incorrect?

15 A No, sir, I can't recall any specific
16 conversations.

17 Q And you don't recall any discussions with
18 Mr. Aufdenkampe about this, either on April 13 or any
19 other date?

20 A No, just that we agreed to come up with the
21 phraseology of -- to say "several starts" rather than say
22 "18 and 19."

23 Q And you didn't think it was prudent at that
24 point to review the start logs or otherwise investigate
25 how those numbers were arrived at?

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1 A No, I didn't think it was germane to getting
2 out the LER.

3 Q Did you have any basis for use of the term
4 "several starts"?

5 A Well, we felt that 18 or 19 was probably the
6 right number, but even if it wasn't, we knew we had that
7 -- close to that many, and we had had more since that
8 date, since April 9th.

9 Q And, again, at this point, were you simply
10 assuming that the information in the April 9 letter was
11 correct, so you didn't see any need to try to verify those
12 numbers?

13 A I didn't see a need to verify the numbers from
14 the April 9th letter as of April 13th, no, sir. Because
15 even if it was an incorrect number, it was -- it was
16 insignificant and not a safety issue, and it was something
17 that we certainly would want to correct in time, but it
18 was not a -- it was not important, obviously.

19 Q Prior to the April 19 LER's issuance, did you
20 ever speak to Mr. Cash about diesel starts?

21 A I don't recall speaking to Mr. Cash back in
22 that timeframe.

23 Q Do you recall in that timeframe if anybody
24 ever told you that Mr. Cash had prepared a list for Mr.
25 Bockhold for use in his April 9 presentation?

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1 did you feel any personal obligation yourself to try to
2 clarify or correct that information in the April 9 letter?

3 A No, I didn't. I took Mr. Aufdenkampe's
4 opinion and treated it as an opinion, and we went forward
5 with that.

6 Q Well, who do you think would have been
7 responsible for correcting any misinformation that may
8 have been in the April 9 letter?

9 A Well, if Mr. Aufdenkampe had misgivings about
10 it, and he wanted me to correct it, he would have told me
11 so.

12 Q Well, did you ever followup -- this up with
13 Mr. Aufdenkampe at any time before the April 19 LER was
14 issued as to whether his concerns about that information
15 had been allayed or not?

16 A I don't recall.

17 Q Now, on page 5 of your prefiled testimony, you
18 reference an April 18, 1990, PRB comment to replace the
19 word "several" in the draft LER with the actual number of
20 starts. Did you receive any instructions or clarification
21 from the PRB, or others, on what to do in response to this
22 comment?

23 A Yes, sir. The PRB member who had the comment
24 said we had more than 20 starts and we ought to say so, so
25 that was what -- that was what went into the next

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1 revision, the next draft of the revision.

2 Q Who was that PRB member?

3 A Michael Lackey.

4 Q I'm sorry. Could you spell the last name?

5 A Michael Lackey, L-A-C-K-E-Y.

6 Q Do you recall if anyone other than Mr. Lackey
7 had comments in this April 18 PRB meeting about this?

8 A I'd have to look at the PRB minutes to be
9 sure, but I don't know.

10 Q Is the control room log review that you
11 performed on April 18 in response to this PRB comment, was
12 that the first time that you had looked at any start logs
13 since beginning your work on drafting the LER?

14 A I believe it was, yes, sir.

15 Q And did the logs that you reviewed on April 18
16 consist of the unit control log and the shift supervisor
17 log?

18 A I can't recall if it had both of them, but it
19 should have been. I should have used both logs, yes, sir.

20 Q I ask the question because on line 16 on
21 page 5, you simply refer to a review of the control room
22 logs. But then, later on, when you testify about
23 reviewing logs on April 19, you specify that it was the
24 unit control log and the shift supervisor log. Do you
25 have a recollection of not reviewing the same thing on

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1 MR. HULL: 21 and 23, yes, Your Honor.

2 THE WITNESS: I believed that they were
3 accurate at the time. I believe the following day --

4 CHAIRMAN BLOCH: No, I know you believed that
5 at that time. The question is, with the information you
6 now have, do you still believe that 21 and 23 were
7 accurate counts?

8 THE WITNESS: Oh. No, certainly not, because
9 we know that the 18 and 19 weren't correct, and it was
10 partially based on that.

11 CHAIRMAN BLOCH: Does that handle your
12 problem, Mr. Hull?

13 CROSS EXAMINATION (Continued)

14 BY MR. HULL:

15 Q Well, Mr. Webb, let me have you look at your
16 -- well, first, let me ask you, is what I've handed you
17 and what was marked as GPC Exhibit II-71, is that a copy
18 of a diesel start list that you made on April 19?

19 A Yes, it is.

20 Q And there's various handwriting that's
21 contained on that exhibit. There is some writing in red,
22 and there is some in black. Can you distinguish for us
23 what writing is yours and what writing is not yours?

24 A I believe that the scratch-out on the top of
25 the front sheet is my scratch-out, but the other written

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1 in, either pencilled or penned in writing on this copy
2 that I have here, doesn't appear to be mine.

3 Q Now, if you'd focus for a minute on the second
4 page of what you have there. It has DG 1B at the top.

5 A That's right.

6 Q The first entry there is dated 3/21/90. Is
7 that your writing?

8 A Yes, it is.

9 Q And the 2156, is that your writing?

10 A Yes, it is.

11 Q And the 2156 is the -- refers to the military
12 version of the time of day, correct?

13 A That's right.

14 Q Now, the entry next to there, "failed to
15 start," is that your writing?

16 A Yes, it is.

17 Q Now, just focusing on the comments on that
18 right-hand side of the page, going down the page, what is
19 the first comment there which is not your writing?

20 A "High jacket H₂O enunc."

21 Q Now, on the first page of this exhibit or
22 document, for the DG 1A starts, you came up with a total
23 of 32, is that correct?

24 A Yes, that's correct.

25 Q And can you explain the difference between the

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1 21 starts that you got for the diesel 1A on April 18 with
2 the 32 starts you got for 1A on April 19?

3 A On April 19th, we used logs going back to
4 March 20th. And on April 18th, we used logs going back to
5 April 10th.

6 Q And you do not list any problems with the
7 diesel 1A starts on that first page, is that correct?

8 A That's correct.

9 Q Now, on diesel 1B, looking at your list of
10 April 19, you list 27 starts, is that correct?

11 A Yes, sir.

12 Q And how many of those 27 starts, according to
13 the list that you prepared, had problems or failures?

14 A Three of them. The one on the 21st at 2156,
15 one on the 22nd at 1106, and a third one on the 23rd at
16 1730.

17 Q Now, on page 6 of your prefiled testimony, you
18 reference a direction that you received from Mr. Odom on
19 April 19 to verify the "more than 20 times each" language
20 in the draft LER. Do you see that?

21 A Yes.

22 Q And you prepared this list, this April 19
23 list, in response to that direction, correct?

24 A That's correct.

25 Q And the log review that you did on April 19,

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1 A Could you describe that, I don't know if I
2 have it here.

3 Q That's the tape 57 transcript.

4 A I don't have that.

5 (Whereupon, the witness is proffered the
6 document.)

7 BY MR. HULL:

8 Q And if you'll turn please to page 77 of that
9 transcript.

10 A All right.

11 Q Now you refer there to a misconception that
12 had started nine days ago. Do you see that?

13 A Yes.

14 Q Were you referring there to the start count
15 information that had been contained in the April 9 letter?

16 A Yes, I was.

17 Q And you thought that information was in error
18 when you said this on April 19?

19 A At that time I don't recall if I knew that it
20 was in error, but I do know it said that there had been no
21 problems or failures or words to that effect. By this
22 time on the 19th we knew that there had been tests with
23 problems or failures.

24 Q What did you mean when you said that we
25 shouldn't -- "I don't know if we should try to continue

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1 the misconception?"

2 A The misconception that we had had no problems
3 or failures.

4 BOARD EXAMINATION

5 CHAIRMAN BLOCH: So when you said -- I'm
6 sorry, this is Judge Bloch. When you just said that you
7 weren't sure if you knew there was an error in the letter,
8 what did you mean, you didn't know that that language was
9 in the letter?

10 THE WITNESS: What error, sir?

11 CHAIRMAN BLOCH: Doesn't the letter mention no
12 problems or failures?

13 THE WITNESS: Yes, sir.

14 CHAIRMAN BLOCH: So did you know there was a
15 problem in the letter?

16 THE WITNESS: By this time on April 19th or by
17 that time in the afternoon on April 19th.

18 CHAIRMAN BLOCH: You did know?

19 THE WITNESS: I knew, yes, sir.

20 CHAIRMAN BLOCH: Okay. I didn't understand
21 the preface to the answer that you gave.

22 THE WITNESS: Okay.

23 BY MR. HULL:

24 Q Mr. Webb, do you know if either in the April 9
25 letter or the April 19 LER whether GPC was trying to just

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1 CHAIRMAN BLOCH: If you want to ask what's
2 meant, what he thought it was meant by on the 19th, so
3 that you know what his statements on the 19th meant,
4 that's okay.

5 MR. HULL: Let me try going about it this way,
6 Your Honor.

7 BY MR. HULL:

8 Q Mr. Webb, what was your understanding, in
9 other words what instructions, if any, were you given as
10 to what information you were supposed to be trying to get
11 regarding diesel start counts in your preparation of the
12 April 19 LER?

13 A On the afternoon of April the 19th I believe
14 we were supposed to verify that we had more than 20 starts
15 for each diesel with no problems or failures.

16 Q And were you supposed to be getting a
17 consecutive count of starts without problems or failures?

18 A I wasn't directed specifically of how to do
19 that.

20 Q And on this tape transcript of tape 57, after
21 performing your review, you felt that the statement about
22 no problems or failures in the April 9 letter was
23 incorrect, is that correct?

24 A I felt it had the potential to mislead people.

25 Q And what steps did you take to try to clear

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1 A Well, it wasn't my call to make as to what
2 numbers went in there. I was asked to provide
3 information, so I provided it.

4 Q And this information that you provided exactly
5 was what?

6 A Was this list of diesel starts that we were
7 speaking of earlier.

8 Q But your list includes starts with problems or
9 failures, doesn't it?

10 A That's correct. No one asked me for a
11 recommendation as to how do you think we should reword
12 this. That was never put to me.

13 Q And you yourself didn't make a recommendation
14 of well, hey, why don't we just use the numbers that I
15 have come up with in my list of April 19?

16 A I don't recall making that recommendation.

17 Q Do you recall for what length of time on April
18 19 it was that you conferred with Mr. Odom about the
19 results of your evaluation of the records that day?

20 A It was probably 15 to 30 minutes.

21 Q You refer in page seven of your prefiled to
22 the normal quitting time. What were your regular hours
23 back in April of 1990?

24 A 7:30 to 4:00 p.m.

25 Q And it's your recollection that you were

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1 working on your start list after 4:00 p.m. on the
2 afternoon of April 19?

3 A Yes, sir.

4 Q And was it sometime after 4:00 p.m. that you
5 had your discussion with Mr. Odom about the results of
6 your start count?

7 A That was what I recall, yes, sir.

8 Q And can you recall at this point any of your
9 conversation with Mr. Odom at that time?

10 A I remember passing on to him the information
11 as shown on the list and the specific information that
12 there had been tests with problems, but I can't recall
13 what else might have been said.

14 Q And was it in the same conversation -- strike
15 that. And then I think you testified previously that a
16 half hour or so later you went back to Mr. Odom to see
17 what had happened to your list?

18 A That's right.

19 Q So that would have been around what, 5:00 p.m.
20 that you went back to Mr. Odom?

21 A It would be 4:30, between 4:30 and 5:00.

22 Q And that was at that point Mr. Odom said that
23 he had given your list to the man down the hall or words
24 to that effect?

25 A That's right.

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1 the question.

2 MR. MATTHEWS: So in effect, I'm answering my
3 own question.

4 MR. STEPHEN KOHN: Should we have it read back
5 by the reporter?

6 CHAIRMAN BLOCH: Do you need it read back if
7 you understand that you are answering your own question?

8 MR. MATTHEWS: Mr. Skinner asked that it be
9 read back and I want to make sure that he's comfortable
10 with understanding the question before he starts
11 answering.

12 CHAIRMAN BLOCH: Okay, let's do that. Read
13 back what Mr. Matthews said before.

14 (Off the record. Reporter read back prior
15 questions.)

16 MR. SKINNER: Mr. Blake, my answer to that
17 question would be I would probably find Mr. Mosbaugh of
18 possible careless disregard in that area. I based that
19 primarily on the previous considerations that we had given
20 to all the other individuals that we had looked at during
21 this period of time.

22 BOARD EXAMINATION

23 CHAIRMAN BLOCH: May I ask the panel what they
24 meant by the first assumption that the company would use,
25 wanted to use the same count as they used in the April 9th

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1 letter? I was thinking about that. I wonder what that
2 means to you.

3 MR. SKINNER: To me, that means that the LER
4 information was going to be identical to the 4/9
5 information rather than take any consideration of the
6 period of time subsequent to 4/9 between 4/9 and 4/19.

7 CHAIRMAN BLOCH: As the cutoff date was
8 supposed to be 4/9?

9 MR. SKINNER: That's correct.

10 MR. MATTHEWS: That was my understanding of
11 the assumption.

12 CHAIRMAN BLOCH: And once the language,
13 comprehensive test program was introduced, would that
14 assumption remain or would that change it?

15 I'm sorry, there are other people who -- I'm
16 sorry, I thought that was an answer for the whole panel.
17 Is that not true?

18 MR. SKINNER: No, Mr. Blake asked us for
19 individual --

20 CHAIRMAN BLOCH: I'm very sorry. I shouldn't
21 be interrupting at this point. Please continue.

22 MR. MATTHEWS: My answer would similarly
23 extend to the possibility that careless disregard would
24 have been the judgment of the coordinating group, but we
25 are answering for ourselves individually and my view is

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1 that it would extend to careless disregard.

2 MR. HOOD: I think it's highly likely in that
3 situation that we would have found that it extends at
4 least to careless disregard.

5 CHAIRMAN BLOCH: Mr. Blake, I'm going to
6 reserve any further questions I have. So continue.

7 MR. BLAKE: Gentlemen, you were carried
8 through in the course of cross examination by Mr. Kohn in
9 fairly exquisite detail accounting of Mr. Bockhold's
10 performances, statements to his people, a variety of
11 actions taken by Mr. Bockhold in particular and I want to
12 ask whether or not as a result of the cross examination or
13 your thinking and responding to the questions or anything
14 really which has occurred, do you change at this point any
15 of the conclusions that you reached in your pre-file
16 testimony and I want to know from each of you. Or do you
17 stand by those at this juncture?

18 CHAIRMAN BLOCH: Do you need a recess?

19 MR. HOOD: No. I didn't get the premise of
20 the question. I'm sorry. On the basis of what?

21 MR. BLAKE: There's been a lot of information
22 elicited from you, pointed out by counsel in the course of
23 cross examination, particularly focused on Mr. Bockhold,
24 but not exclusively. He's covered a large number of
25 topics over the last day or two days in the course of

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***EXCERPTS
MOSBAUGH JULY 18, 1990
INTERVIEW***

BEFORE THE
U. S. NUCLEAR REGULATORY COMMISSION

In the Matter of:)
INVESTIGATIVE INTERVIEW OF:)
ALLEN MOSBAUGH)
(CLOSED))

Shoney's Inn
Washington Road
Augusta, Georgia

Wednesday, July 18, 1990

The above-entitled matter convened for
INVESTIGATIVE INTERVIEW pursuant to notice at 7:30 p.m.

APPEARANCES:

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1 don't doubt that they didn't find anything, you know,
2 particularly in the air receiver. I'd be surprised if the
3 air receiver was truly clean, you know, especially when we
4 start looking at this in terms of 15 micron orifices,
5 okay, in an air pneumatic logic system, and the other
6 thing is an inspection of the receiver and of the filter
7 doesn't measure dewpoint.

8 Q Right.

9 A Okay. And our commitment is one of dewpoint.
10 The thing that can, you know, be a little bit misleading
11 about just looking in the air receiver or in the filter is
12 that humid air goes right through the filter. It goes
13 down some sensing line. If it gets hit by cool air
14 someplace else, maybe you'll have water, you know, down
15 some other point, you know; not at the filter. You know,
16 there are literally thousands of feet of three-eighths
17 inch air control tubing, you know, on one of these big
18 diesels. Look in the receiver. That's a good central
19 point to look at. Look at the filter. You know, that's
20 another point, but that does not vouch for every point in
21 the system.

22 Q Did that response to confirmation of action
23 letter also refer to the diesel generator starts?

24 A Yeah. Yeah.

25 Q And what was the statement there?

1 A It said in it that since -- it said since the
2 event, being the site area emergency, that the diesel A
3 and B had been started, and I think the number is like 18
4 or 19 times, and there has been no problems or failures.
5 That's the statement that's in there. When I first read
6 that, like I said, the comment about air kind of stuck
7 out, and the statement about the start stuck out. The one
8 on the starts, I knew there had been failures. Okay. But
9 I didn't know how many starts there had been maybe since
10 the failures without any problems or failures. Okay. So,
11 that required some research. Paul Kochery had put
12 together some information on starts mainly right after the
13 site area emergency. Later, Tom Webb from NSAC put
14 together some tabulations of starts from the review of
15 control room logs, and so, I started looking at starts, and
16 it wasn't until -- That required a bit of research. Okay.
17 You have the shift supervisor log. You have a control
18 log, and you have data sheets that are filled out for each
19 start. So, there's three different source documents. So,
20 I started researching that to confirm or disprove the
21 statements that were in the COA letter, and it wasn't
22 until April 30th that I had mulled over all the logs to
23 get what I was comfortable with as an accurate list. An
24 LER was being prepared because of the site area emergency,
25 and that LER is due, you know, 30 days or so after the

1 event, and that LER made some statements about -- That LER
2 was written by the NSAC people. I think Tom Webb, and it
3 started out as a very big LER, like 16 pages or so, and
4 it went to the PRB initially as a 16 pager. The PRB tabled
5 it and said -- Skip Kitchens chaired the meeting and said,
6 "We'd like the document about eight pages." So, they were
7 sent back to re-write it at about eight pages. Tom Webb
8 put some information in it about successful diesel starts,
9 and what he wrote in there was merely a outgrowth of the
10 statements that were contained in the confirmation of
11 action letter. Statements had been made there; since the
12 event, there's been 18 or 19 starts of the A and B machine
13 without problems or failures. So, he started off just by,
14 you know, taking, you know, that information and putting
15 the same kind of words into the LER.

16 Q "He" being Webb?

17 A "He", Webb. Yeah. That was the same time that
18 he started compiling some lists. He was looking at the
19 control logs and was doing the same kind of thing that I
20 eventually did; you know, look in the control logs and
21 tabulating the starts. When I saw the draft of the LER
22 that was making those statements, I was clearly aware from
23 some of the early lists of diesel starts of these failures
24 that had happened, and I -- As this LER was being
25 prepared, you know, we were aware that there had been

1 failures, but until we had the whole list of all the
2 starts, you know, you couldn't say that the information was
3 wrong. That original information -- I'm going to digress a
4 little bit. -- the original information contained in the
5 confirmation of action letter was put together by Jimmy
6 Paul Cash on a weekend, on a Sunday I think. He and
7 George Bochhold worked on that, and they worked on that for
8 a verbal presentation that George Bochhold made in the
9 region. So, that's where the original data had come from,
10 and Cash had put it together from -- I believe from
11 control room logs.

12 Q How do you know that?

13 A I talked to Jimmy.

14 Q Okay.

15 A So, we started looking into that because we knew
16 there were these failures mixed in, and it started becoming
17 clear, I think, that there was kind of -- there were a
18 couple of failures kind of right smack in the center of
19 the starts, and so, you know, with the failure right in
20 the center of all the starts, it was looking fairly
21 unlikely that there was 18 successful starts after the
22 failure that had been right about in the center, and I
23 know -- I talked to Jimmy Paul about it, and Aufdenkamp
24 talked to Jimmy Paul and asked him, "Well, how did you
25 conclude this?" and eventually what it appeared that he

1 had done is he had counted all of the successful starts.
2 He might've had a failure and two good starts and then a
3 failure and then more successful starts, and I believe
4 that what he did is he counted all the starts even though
5 they were interspersed with failures. The wording, as it
6 finally came out, says, "18 or 19 successful starts
7 without problems or failures." Very strongly implies that
8 those were successive starts without problems or failures.

9 Q And this is in the -- both in the verbal
10 presentation and in the response the confirmation of
11 action?

12 A Yeah. Yeah.

13 Q You said he got them from the logs. Do the logs
14 enumerate whether there was a failure or a successful, or
15 do the logs just say that the diesel generators test was
16 done?

17 A No. The logs show results. You know, they
18 indicate tripped on -- I'll get into later there are some
19 mistakes in the logs and inconsistencies between the logs
20 that I found. When I -- when I took all three, okay, and
21 put them all together and made a master list, I found
22 discrepancies, but what I think what happened with Cash is
23 that -- is Cash counted every successful start, and that
24 was how he came up with the numbers that he came up with,
25 and the successful starts that he counted were

1 interspersed with failures and problems. I believe also,
2 and later it came out when we had the good list, that Cash
3 even counted some that failed as starts, as successful,
4 even some starts where the diesel tripped. He must have,
5 in error, counted as a successful start.

6 Q So, this is your analysis of what he probably
7 did. He never said -- he never told you that he counted
8 all the successful starts regardless of whether there were
9 failures interspersed or not?

10 A No. I think he -- I think that eventually came
11 out; that that was what he did.

12 Q That he told you that?

13 A He told me that, or he told Aufdenkamp that.

14 Q Okay.

15 A And that in the PRB meeting, eventually when we
16 proposed the revision to it, I know there was a discussion
17 that starts that actually -- where the diesel actually
18 tripped had to have been counted to get the 18 number.
19 Okay. I don't -- I'm not sure if Jimmy ever admitted that
20 he made that mistake or not, but when you have the actual
21 data, the only way you can get 18 is to count a start
22 where it actually failed. Okay. Well, anyway, so those
23 were these questions being raised about, you know, the
24 accuracy of the information as we were preparing the IER.
25 I was the -- I was the duty manager about the week that

1 Williams' people for copies of the shift supervisor logs
2 and the control logs which they keep and review daily.
3 So, I got copies of the logs from them, and I went to
4 Kenny Stokes and got copies of the diesel start data
5 sheets, and I took those, and by April 30th, I had had a
6 chance on the weekend to mull through all those and create
7 a tabulation of all the starts. What I found was starts
8 documented in the diesel start data sheets that were not
9 documented in the main control room control logs, about
10 three or so. I found starts that were documented in the
11 main control room control log but not in the diesel start
12 data sheets, about three or so. And I found more problems
13 and more failures than I was originally aware of. I found
14 lots of different kinds of problems, various alarms that
15 had come in, relays that had come in, several failures of
16 the machine, and most of those comments are detailed in
17 the write-up here.

18 Q Right.

19 A And the ones that weren't in one log or the other
20 are noted with asterisks or pound signs. When I started
21 looking at that, you know, you just couldn't say that
22 either statement that had been made was -- in the COA
23 letter or the LER was accurate, and specifically I'm
24 speaking of -- the diesel I'm speaking of specifically
25 here has been and is the 1-B diesel generator. The 1-A

1 diesel generator's starting history had been better, and
2 there had not been failures. And after I, you know, went
3 over that and with all these problems that came out, I
4 wrote another memo to the general manager after I had
5 completed that, and that memo was dated April 30th. I
6 stated that the information that we had provided to the
7 NRC was incorrect. I attached to it the listing of the
8 diesel starts and the problems very similar to the one
9 that's here. He saw that. I talked to him about it, and
10 he wrote a little note back on it and said he wanted this
11 information validated, and he asked me to validate it with
12 Jimmy Paul Cash. I had some trouble initially getting
13 Jimmy to participate in that effort, and I gave him the
14 tabulation. We never did go through the logs together or
15 anything. Eventually he said, "Yeah. I thought it was
16 correct," and so, I took it -- And I had double- checked
17 mine.

18 Q He said that he thought it was correct as you
19 presented it?

20 A As I presented it. Yeah. And I think also as
21 part of the validation, I think I had asked Kenny Stokes
22 or a diesel system engineer to work with Jimmy Paul in the
23 validation process too. It wasn't just me. Okay. So,
24 within a couple of days, I went back to the general
25 manager and said that I had validated the information, and

***INTERVENOR'S RESPONSE TO
THE SECOND SET OF
INTERROGATORIES OF
GEORGIA POWER COMPANY***

statements made beyond stating that statements contained in this documents and facts related thereto were discussed. Nonetheless, Intervenor believes that the transcript of his interviews with NRC-OI will accurately reflect any discussions occurring at that time.

d. Since March 20, 1990, 1B diesel had problems or failures on at least start numbers 1, 2, 4, 5, 13, 14, 15, 17, and a problem occurring on April 3, 1990 at 05:15 between starts 26 and 27. Intervenor has not determined the root cause of these failures and problems, but believes that start numbers 13, 15, and 17 may be associated with the problems experienced with the A diesel on March 20, 1990.

e. Intervenor objects to responding to this portion of the interrogatory question as it requires Intervenor to provide a speculative response. Without waiving this objection, Intervenor states that the answer is yes. The bases for this response is as follows: 1) NRC was not fully aware of the extent of the continuing reliability problems associated with the Calcon Switches; 2) NRC was not aware that operational problems with the control air system were not corrected; and 3) NRC was not aware that the diesel had yet to achieve the required level of reliability.

f. Based on a comment from John Aufdenkampe, Intervenor was under the impression that information and source documents were provided to Al Chaffee and/or someone on his team by persons then reporting to John Aufdenkampe. Intervenor does

not know the exact date this occurred, and his knowledge is based on hearsay. Most likely this comment is contained somewhere in the Mosbaugh tape recordings. Intervenor's best guess as to the time frame is some time between late March and early to mid June of 1990.

g. Intervenor cannot speak for NRC as to which starts NRC was unaware of having occurring by April 12, 1990.

h. Intervenor has no recollection of being advised on or before April 9, 1990 that NRC was informed of all of the failures and problems occurring on the 1 B diesel generator that occurred up to that point.

i. GPC's April 9, 1990 Confirmation of Action letter states at page 4: "completion of these investigations, reviews, tests and corrective actions justify GPC's determination that the DG's are operable." Based on this statement, if these investigations, reviews, tests and corrective actions were not adequately completed, then it stands to reason that the diesel generators may not have been operable. Intervenor contends that until the root cause of the failure was corrected (i.e., removal of the Calcon switches) and the diesel was proven reliable, it was imprudent to declare the diesels operable.

j. Intervenor contends that at a minimum, the problems with the Calcon switches should have been corrected, and that this correction would not include either re-calibration or replacement of the Calcon switches (as this activity was

already known to be an ineffective remedy to the root cause of the reliability problem).

k. Intervenor recalls being involved with an in-house review of the feasibility of the replacement of the pneumatic control system, during which time he discussed the benefits replacing the control system would have on the reliability of the diesel generator. Mr. Mosbaugh also consulted with an intervenor group who wanted the control systems replaced. Mr. Mosbaugh advised the intervenor group that it was an idea worth consideration and that other plants had replaced their control systems.

l. Intervenor does not have specific knowledge of information provided to or retained by Al Chaffee. However, Intervenor does not believe that he knew the extent of the unreliability of the Calcon switches or of the true feeling of the Instrument and Control group at Plant Vogtle about the Calcons.

m. Yes, the 95% reliability factor per diesel generator is an ongoing requirement. As a result of the diesel's failure to adequately perform its safety function when actually called upon to do so, the continuing 95% reliability factor was disrupted. At that point GPC was required to correct the root cause and establish that the diesel system had regained the 99% reliability factor (and each diesel had regained a 95% reliability factor) before the diesel system could be declared operable and before NRC should have lifted

the hold on the restart of Unit 1. This is based on NRC requirements set out in Diesel Generator System Regulatory Guide and NRC Branch Technical Position EICS (b)(2), "Diesel Generator Reliability Quality Testing," dated 11-24-95, Standard Review Plan app. 7(a) of NUREG 75/087;² and NRC Generic Letter 84-15.³

2. a-c. Intervenor incorporates his response to Interrogatory 1, subparts a, b and c, as stated above.

d. The 4-18-90 date is incorrect as the conversations occurred on 4-19-90. The conversations occurring on 4-19-90 were previously identified in Intervenor's response to GPC's first set of interrogatory questions (the actual conversations were produced in the tapes Intervenor provided to GPC).

e. Mr. Mosbaugh saw a list of diesel starts, but does not know who prepared this list. Intervenor does not recall ever possessing a final list prepared by Webb and/or Odem and does not have in his custody or control any list he believes were prepared by Webb or Odem.

3. a. June, 1991.

b. Intervenor incorporates his response to Interrogatory response 1(b).

² This document requires GPC to establish a 99% reliability at a nominal 50% confidence level for a plant diesel generator system (i.e., both diesels combined).

³ This document states that the reliability goal on a per diesel basis is to be at a minimal reliability level of 95%.

c. Intervenor made oral statements regarding the issues discussed in the document to Larry Robinson in June of 1991. In addition, prior to the Senate subcommittee hearings, Intervenor met with Senator Lieberman's aid, Dan Berkowitz, and discussed the issues detailed in this document. Between July 18-19, 1990, during the course of a transcribed interview Mr. Mosbaugh provided NRC-OI, Intervenor made additional statements regarding the issues contained in this document.

d. On 4-19-90 Messrs. Shipman and Stringfellow stated to Mr. Mosbaugh that they were about to discuss the fact that the diesel generators had experienced failures and trips with Mr. Hairston. After making this statement, during the course of a subsequent telephone conference call, Mr. Hairston stated: "so we didn't have no trips?" Mr. Hairston's reference to "trips" evidences that he did, in fact, have discussions with Shipman and/or Stringfellow concerning trips of the diesel generator.

e. Statements contained in the Six Tapes set out the statements Intervenor knows to have been made. One such statement not contained in this document concerns a statement made by Mr. Aufdenkampe after April 9, 1990, where he refers to GPC's April 9, 1990 Confirmation of Action letter as a document "where they lied" to the NRC.

4. a-c. Intervenor incorporates his response to Interrogatory 3, subparts a, b and c, as stated above.

5. a-b. This information is set out in the Six Tapes provided to GPC and in the conversations referenced in Interrogatory question 3(e) above. GPC's counsel had discussed with counsel to Intervenor the desirability of attempting to verify the accuracy of transcripts of these conversations, including the individuals speaking and the statements made. This future effort will provide GPC with the information herein requested. Nonetheless, Intervenor believes the transcripts of conversations set out as Attachments 1 (entitled "Transcript Mosbaugh Tape of Conversation A") and 2 (entitled "Transcript Mosbaugh Tape of Conversation B") hereto accurately reflect conversations occurring on April 19, 1990.

c. Intervenor formally drew the conclusion that the inaccuracy was willful by 6-13-90, and initially began to draw this conclusion on 4-19-90. The conclusion was based on the information discussed in the documents referenced in interrogatories 1-4 above, as well as the tape recording of the 3-23-90 Site Area Emergency critique team, and statement made by Cash as to his knowledge of the diesel trips which occurred of 3-23-90. The critique team meeting was recorded by Intervenor and is contained on one of the Six Tapes provided to GPC.

d. At no time did Mr. Mosbaugh specifically tell any GPC employee that he concluded the inaccuracies were willful out of fear that such an accusation of criminal conduct would

result in adverse employment action. Nonetheless, Mr. Mosbaugh did hint his concerns to John Aufdenkampe.

e. Mr. Mosbaugh first contacted the NRC to report the material false statement sometime in early June, 1990, shortly before 6-13-90. He first informed the NRC that these statements may be willful in a June 13, 1990 meeting with Larry Robinson. All documents responsive to this interrogatory have already been produced.

f. J.P. Cash and Ken Burr compiled and counted the start information from a review of Control Room Logs following the instruction Cash received from George Bockhold to "just get the good stuff."

g. Intervenor believes that someone should have questioned the accuracy of this language and he will not be able to fully respond until after Intervenor completes the deposition process.

6. a. Intervenor objects on the ground of duplication as this information was provided in response to Intervenor's response to GPC's first set interrogatory questions. The information is also contained in the Six Tapes and in Attachment 1 and 2 to hereto.

b. Intervenor provided first-hand information demonstrating that this statement was inaccurate on April 19, 1990 to Stringfellow, Shipman and Aufdenkampe. It was provided second-hand to Hairston and others that same day. Statements relating to these events are included in the Six

Tapes. On April 30, 1990, Intervenor provided Mr. Bockhold with a written memorandum demonstrating the inaccuracy of this information.

c. Mr. Mosbaugh began to suspect willful wrongdoing on or about April 19, 1990 and formally concluded such on June 13, 1990.

d. Intervenor indirectly advised GPC the first time when his counsel provided GPC's counsel with a copy of the September 11, 1990 2.206 Petition on the afternoon of September 11, 1990.

e. Intervenor incorporates his response to Interrogatory questions 2a and 3a above.

f. Yes. In discussions occurring on April 19, 1990, Mr. Mosbaugh participated to phone conversations wherein Shipman and Stringfellow were told that language equivalent to this constituted a material false statement.

g. Intervenor was present when the phrase "subsequent to this test program" was being developed for inclusion into the LER. At that time Mr. Bockhold and Mr. McCoy stated the following with respect to the number of starts that were to be included in the language of the LER:

Bockhold: O.K., so we'll say greater than those numbers that were used in the conference [held on April 9, 1990, at NRC Region II headquarters].

McCoy: O.K., and those numbers you used were used in the conference were after they had completed the comprehensive test of the control system on each diesel.

Bockhold: That is correct, those numbers were not before that time.

* * *

Shipman: 18 and 19? What did you have in your presentation George, 17 and 18, or 18 and 19?

Bockhold: 18 and 19.

The reference to the completion of a comprehensive test program for the diesel generators is synonymous with the diesel testing and start information presented to NRC Region II in on April 9, 1990 in a transparency presented by George Bockhold, and which was then reconfirmed in writing in the April 9, 1990 Confirmation of Action response submitted by Mr. Hairston to NRC.

h. Yes. The conversations related to this communication are set out in Attachments 1 and 2 hereto.

7. The PRB and Mr. Aufdenkampe's departments prepared the revision and sent it to the corporate office by May 15, 1990. The documents Intervenor is aware of which evidence such a revision are the PRB meeting minutes.

8. Stokes and Kochery prepared a list of diesel start information. Intervenor does not recall exactly when he reviewed this document, sometime between 4-9-90 and 4-19-90. Mr. Mosbaugh either had a copy or wrote down information contained in the

Stokes/Kochery list. Intervenor cannot locate either the list prepared by Stokes/Kochery or notes he made concerning failures of the diesel generators. Mr. Mosbaugh also received a copy of Bockhold's transparencies on 4-10-90.

9. The tabulation was finished sometime after April 19 but before April 30, 1990, most likely sometime in the middle of that time period. The information was then provided to Mr. Bockhold on April 30, 1990.

10. Intervenor objects on the basis that the term "successful starts" is not adequately defined and it is not a term defined in Regulatory Guide 1.1.08.

11. Intervenor incorporates his response to Interrogatory No. 10 above.

12. On April 19, 1990, Mr. Aufdenkampe was pressed by Mr. Shipman to buy into the language contained in LER 90-006 (i.e., Shipman stated to Aufdenkampe something to the effect that changing the start numbers would create a huge selling job with the NRC). At this point in time Mr. Aufdenkampe stated to the effect that if George Bockhold asserts that the number of starts is accurate, then, he must be right. Mr. Aufdenkampe thereafter made a statement indicating his lack of trust in the accuracy of Bockhold's assertion by stating to Mr. Mosbaugh something to the effect that if Bockhold's numbers are wrong, GPC will have to revise the LER.

13. Intervenor's knowledge of specific events and knowledge of statements made by GPC employees are contained in the tape

recordings in the possession of NRC and in the tape recordings already in the possession of GPC. Intervenor objects to providing further information on the ground that the question, as worded, is vague and calls for speculation.

14. Yes. Mr. Aufdenkampe at least must have had reservations given his assertion to Mr. Mosbaugh that GPC may have to revise the LER. Moreover, Mr. Aufdenkampe previously stated to Mr. Stringfellow that he believed that the language concerning the number of starts of the diesel generators set out in a prior draft of the LER constituted "a material false statement."

15. On April 19, 1990, Vogtle site personnel (including Messrs. Aufdenkampe, Bockhold and Mosbaugh) participated in a late afternoon conference call with persons from the corporate Southern Nuclear offices (including Messrs. Hairston, Shipman, McCoy and Stringfellow). During this conference call, Messrs. Bockhold, Stringfellow, Shipman and McCoy undertook the task of revising the language of the LER and saw to it that the diesel start information was consistent with the language previously provided to the NRC on April 9, 1990, and at that time included reference to a "comprehensive test program." A subsequent telephone call was received by Mr. Aufdenkampe from Mr. Shipman. During this call Mr. Shipman essentially stated to Mr. Aufdenkampe that it would be advisable to adopt the information presented during the prior conference call because to do otherwise would create a huge selling job with the NRC. Higher levels of management approved the language used in the LER during the prior late afternoon conference

call. The follow-up call did not include further action with respect to revising the wording that had been adopted in the earlier late afternoon conference call. If anything, Mr. Shipman's subsequent call indicates a gut feeling on his part that lower-level management at the site were troubled by the events occurring during the conference call and wanted to bring these managers into the fold.⁴

16. Intervenor objects on the basis of the attorney-client and work product privileges. To the extent that this information is not privileged it is set out in the response Intervenor's counsel filed to GPC's motion to compel production of the tapes.


17. Exhibit 13 which accompanied the exhibits submitted in response to Mr. Mosbaugh's May, 1991 Motion for Summary Decision in DOL case No. 91-ERA-11 constitutes a letter faxed to Mr. Robinson by Mr. Mosbaugh's counsel (exhibit pages 1 and 2) together with two additional pages of documentation provided to Mr. Robinson on June 13, 1990. This document is not the only documentation provided to Mr. Robinson on that day. In this respect, see responses to Interrogatory questions 1.a and 2.a, above.

18. Intervenor assumes that GPC seeks a response with respect to his answer to GPC's first set of interrogatory questions and not Intervenor's response to GPC's first request for documents. In this respect, Intervenor was referring to

⁴ Intervenor has no way of verifying whether Mr. Hairston was a party to the follow-up phone conversation between Aufdenkampe and Shipman, but notes that it was not unusual for managers to listen in on such phone conversations.

interviews conducted by the NRC OSI. Intervenor is not currently in possession of these interview transcripts and cannot state the date or persons interviewed. Moreover, as GPC is in possession of these transcripts, Intervenor objects to further supplementation of this interrogatory question.

b(1). In Intervenor's statement on the bottom of page 18, the word "approved" or "approving" were used to connote the PRB's normal review process, which includes voting on the recommend language and/or the content of all correspondence concerning plant Vogtle and the NRC. This process was the normal PRB policy and procedure in effect during 1990. In this respect, reference to "approve" means that the PRB successfully voted or concurred with recommend language to be forwarded to the NRC. In this respect, the Corrective Action Response letter of April 9, 1990, was not presented to the PRB prior to its transmittal to the NRC which violated the normal plant practice and procedure that was in place at that time.

b(2). No. 

c(1). No. By June 29, 1990, GPC submitted to the NRC a revision to LER 90-006.

c(2). Yes. Everyone on the April 19, 1990 conference call knew or should have known of the failures and problems with the diesel generators which would have rendered the language contained in the LER false.

c(3)-(4). Wording related to the comprehensive test program was not in the particular draft of the LER being discussed

at that time. The fact remains that Mr. Mosbaugh and Mr. Aufdenkampe notified Southern Nuclear management that there were problems and failures that were improperly excluded from the diesel start data set out in the earlier draft of the LER. The subsequent addition of the comprehensive test program language failed to address or correct the underlying factual reason as to why the earlier draft and the LER was materially false. Finally, the exclusion of specific significant problems, including important trips and failures of the diesels that were specifically identified by Mr. Mosbaugh prior to the issuance of the LER demonstrates intentional wrongdoing by omission.

c(5). Yes.

d. Southern Nuclear prepared under the guidance of Mr. Hairston some 7-8 multiple drafts of the cover letter to accompany the revision to LER 90-006. These various drafts include differing and conflicting explanation for the inclusion of the false statement in the original LER. Moreover, the final cover letter to the LER makes reference to record keeping errors contained in the logs. Inasmuch as there were no record keeping errors with respect to the trips and problems experience by the diesel generators, this assertion is materially false.

e. Intervenor notes that GPC states in this question that this meeting occurred on June 9, 1990 (where Intervenor stated in his response June 8, 1990). Intervenor believes this meeting occurred on June 8, 1990, when the IIT presented

a report to the Commission and that this meeting was attended by GPC personnel. Nonetheless, Intervenor did not attend this meeting and has no first hand knowledge of who, in fact, attended this meeting.

f. Yes, Intervenor was party to the conference call and the call was recorded.

g(1). In response to this interrogatory, intervenor does not agree with use of the word "independent". It is Intervenor's understanding that Mr. Aufdenkampe directed his staff to compile "start" data from the main control room logs.

g(2). No. Intervenor incorporates his response to Interrogatory No. 12 above. Nonetheless, Intervenor does not believe that Mr. Aufdenkampe used the word "acceptable."

g(3). GPC already has in its possession all written allegations in the control and possession of Intervenor that were submitted to the NRC.

h. Intervenor objects to responding to this interrogatory as it calls for speculation. Intervenor will not determine this until after the deposition process is concluded.

19. Intervenor brought with him the Six Tapes, handwritten notes and two transcripts of conversations included in the Six Tapes. The two transcripts are attached hereto as Attachments 1 and 2. Attached as Attachment 3 is a four page document consisting of the notes Mr. Mosbaugh had in his possession at the time he presented testimony before the Senate Subcommittee. Mr. Mosbaugh

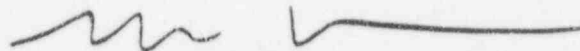
also referred to documents included in the prepared testimony he provided to the Subcommittee the day before he presented live testimony. Mr. Mosbaugh's written testimony and attachments thereto are available for duplication at the law offices of Kohn, Kohn & Colapinto, P.C.

20. Marvin Hobby. Intervenor does not recall discussing with any other current or former Southern System employee matters concerning this proceeding after October 22, 1992. Intervenor objects with respect to individuals his counsel may have contacted on the basis of the attorney work product doctrine.

21. Intervenor does not recall contacting any employee of any of the plant Vogtle co-owners since October 22, 1992. Intervenor further incorporates his response to Interrogatory No. 20 above.

22. Intervenor has previously produced all documents in his control and possession related to the illegal license transfer.

Respectfully submitted,



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Attorney for Intervenor

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ATTACHMENT 1

TRANSCRIPT

MOSEBAUGH TAPE OF CONVERSATION A

(A conversation that allegedly occurred on April 19, 1990)

John Aufdenkampe:
Manager
Technical Support
Vogtle Nuclear Plant

Allen Mosbaugh:
Assistant General Manager
Plant Support (Acting)
Vogtle Nuclear Plant

Jack Stringfellow:
Licensing Engineer
Southwestern Nuclear Operating Company
Birmingham, AL

1 Aufdenkampe: No comment.

2 Stringfellow: Okay.

3 Aufdenkampe: Page two.

4 Stringfellow: Uh.

5 Aufdenkampe: No comment.

6 Stringfellow: Okay.

7 Aufdenkampe: Page three.

8 Stringfellow: Uh.

9 Aufdenkampe: According to the operator, um, third paragraph.

10 Stringfellow: I'm waiting.

11 Aufdenkampe: According to the operator, several annunciators
12 were lit. Then it reads 'in order to restore emergency power...'

13 (pause)

14 Stringfellow: Power.

15 Aufdenkampe: 'The operator reset the annunciators...'

16 (pause)

1 Stringfellow: Okay.

2 Aufdenkampe: 'Without fully evaluating the conditions...'

3 Stringfellow: Okay.

4 Aufdenkampe: And then it goes 'during those times.' Does
5 that take care of Hairston's comment?

6 Stringfellow: Well, only to the extent that, okay, it-it,
7 yeah, that's...

8 Aufdenkampe: We don't know what he saw.

9 Stringfellow: Okay, we can not say what he saw. Right?

10 Mosbaugh: The first time...

11 Aufdenkampe: What's written here - yeah.

12 Mosbaugh: The first trip?

13 Aufdenkampe: Yup.

14 Mosbaugh: No.

15 Aufdenkampe: What's written here is...

16 Mosbaugh: Operations don't know.

17 Aufdenkampe: What was written here is what he said that his
18 report what he saw. What I just gave you is...

19 Stringfellow: What Hairston wants to see in there.

20 Aufdenkampe: ...is a little bit more than-than what he w-w-
21 we read his mind in the PRB. (Laughter)

22 Stringfellow: I understand. Okay, so the-but the answer to
23 Hairston's question is we don't know, uh, what they actually
24 looked at, uh, on that first trip.

25 Aufdenkampe: Well, you don't want to say that. You can't
26 say we don't know what they looked at.

1 Stringfellow: But we don't know, well, I guess what I'm
2 saying is he...

3 Aufdenkampe: What you're saying is he...

4 Stringfellow:where, no, did they look at, you know, did
5 they look at jacket water temperature and pressure and that sort
6 of thing?

7 Aufdenkampe: No.

8 Mosbaugh: No.

9 Aufdenkampe: He didn't look at much.

10 Stringfellow: Okay.

11 Mosbaugh: The machine...

12 Aufdenkampe: He was in a hurry to get power back.

13 Mosbaugh: The machine is already tripped.

14 Aufdenkampe: When in and started pressing buttons.

15 Mosbaugh: The machine is already tripped.

16 Stringfellow: His objective was to get the diesel started
17 so, uh, he-they probably thought, well, if I can clear these
18 annunciators and reset, you know, and reset the thing, then I can
19 get, you know, I can try and start it again, right?

20 Aufdenkampe: We can speculate that that's what he thought.
21 As Allen pointed out the diesel was already tripped so there
22 wasn't much to see on the gauges and stuff.

23 Stringfellow: That's a point.

24 Aufdenkampe: So.

25 Stringfellow: Yeah. Okay. But that's, in other words,
26 that's all, in-in response to Hairston's concern, that's all we

1 can-we think we can say.

2 Aufdenkampe: Yeah.

3 Stringfellow: All right.

4 Aufdenkampe: Go on to page, uh, the next page.

5 Stringfellow: Yes.

6 Aufdenkampe: Site area emergency. Was declared at 8:40.

7 Uh, agencies of the-of the emer..., uh, government agencies of the
8 emergency at 8:48 central standard time.

9 Stringfellow: Uh-huh.

10 Aufdenkampe: Period,

11 Stringfellow: Okay.

12 Aufdenkampe: And delete the next, 'n, to the end of the
13 line.

14 Stringfellow: Okay.

15 Aufdenkampe: There. Now, it doesn't-now, it doesn't ask the
16 question wh-why it took us seventeen minutes.

17 (Laughter)

18 How's that?

19 Stringfellow: Well, all right, we can try that. In other
20 words, we can't say that-that-that part of that seventeen minutes
21 was due to the problem with the ENN.

22 Aufdenkampe: Not specifically.

23 Stringfellow: Not specifically. Okay, well, I-I think that-
24 that may be okay, because Hairston said, you know, if we can't
25 say that, then he wanted to reword it, to take it-to not have the
26 time in there. Okay?

1 Aufdenkampe: Well, that takes care of that.

2 Stringfellow: Yeah.

3 Aufdenkampe: Take out the time out.

4 Stringfellow: Alright.

5 Aufdenkampe: Okay, the next one was your sentence you gave
6 me - for direct cause.

7 Stringfellow: Yeah.

8 Aufdenkampe: That went through fine and his comments about
9 an off site source went through fine Uh, the next page - root
10 cause.

11 Stringfellow: Mhmm.

12 Aufdenkampe: No comment. The next page. On the twenty
13 starts.

14 Stringfellow: Yeah yeah yeah.

15 Aufdenkampe: I'm struggling with that one.

16 Stringfellow: You struggle with that one, huh?

17 Aufdenkampe: I'm struggling with that one. I'm trying to
18 verify that still.

19 Stringfellow: Oh, okay, alright.

20 Aufdenkampe: Okay, uh, we think that it's basically a
21 material false statement.

22 Stringfellow: Really?

23 Aufdenkampe: Yeah. Well, we know for a fact that the B
24 diesel tripped at least once. After March 20th.

25 Mosbaugh: Actually, it trip-tripped twice after March 20th.
26 Or it had at least two separate problems.

1 Stringfellow: Well, do we need to take this more than 20
2 times each out than?

3 Aufdenkampe: That's what we're thinking, but I got Tom Webb
4 [↑] reviewing the-the, uh, reactor operator's log and counting.

5 Stringfellow: Okay.

6 Aufdenkampe: I don't know where he's at. When's Hairston's
7 due back in the office?

8 Stringfellow: He's supposed to be there now.

9 Aufdenkampe: Oh, so you gotta hurry and get this up here,
10 huh?

11 Stringfellow: Well, yeah, yeah. Well, I've, see, I-I have
12 given him, I-I've given Shipman, you know, uh, the ver..., a
13 typed version of what you guys have been looking at, so now-now
14 as soon as we get off the phone, I'm gonna run back in there and
15 tell him what you told me, you know?

16 Aufdenkampe: Okay. Uh, so anyway, I'm still looking for
17 words for you on that one, but what that-that sentence is gonna
18 have to change.

19 Stringfellow: Okay. What about, uh, the thing about, did
20 you get my message on your machine?

21 Aufdenkampe: Yes. I-I'm-I'm getting to that.

22 Stringfellow: Okay. I'm sorry.

23 Aufdenkampe: Next page, on corrective actions. That went-
24 went through fine.

25 Stringfellow: Okay.

26 Aufdenkampe: Okay, now, last page.

1 Stringfellow: Okay.

2 Aufdenkampe: Item six. Uh, we've reworded that one
3 substantially.

4 Stringfellow: Oh, alright.

5 Aufdenkampe: Okay, you ready?

6 Stringfellow: Yeah.

7 Aufdenkampe: Uh, 'A back up ENN system powered from the AT&T
8 systems which previously existed and was operational for South
9 Carolina agencies has been extended to include Georg, local,
10 and state agencies.'

11 Stringfellow: 'Has been extended to include Georgia and
12 local and state agencies.'

13 Aufdenkampe: Yes. Okay, and then cross out the entire last
14 sentence...and write this.

15 Stringfellow: Oh, alright. Okay.

16 Aufdenkampe: 'Instructions...have been given...to...
17 emergency directors...and communicators...concerning...use...of
18 the...emergency communication systems.'

19 Stringfellow: Systems plural?

20 Aufdenkampe: Systems - plural.

21 Stringfellow: Okay.

22 Aufdenkampe: That's what they said.

23 Stringfellow: Let me read it back. 'Instructions have been
24 given to emergency directors and communicators concerning use of
25 the emergency communication systems.'

26 Aufdenkampe: Is that right, is it? Systems? That's on that

1 George letter, do you have that? I think I got that....That-
2 that-that's-that's, if I still have it. George, uh, All n has a
3 hard time with-with using that, but...he didn't vote. (Laughter)
4 He abstained due to the lack of review time.

5 Mosbaugh: I happened to be an emergency director.

6 Aufdenkampe: Are you an emergency director?

7 Mosbaugh: Yeah.

8 Aufdenkampe: Really?

9 Mosbaug' An-an-and I-I haven't felt-feel I've been given
10 very much.

11 Aufdenkampe: But you've been given something, right?

12 Mosbaugh: I've been given one sheet that I got with my badge
13 one day.

Aufdenkampe: I can't find it.

15 Stringfellow: Well, we had systems in there before, so I
16 guess that's a-that's okay.

17 Aufdenkampe: Okay.

18 Stringfellow: Okay, uh, oh, uh, on number five, uh, they've
19 identified, instead of just saying a laboratory test program,
20 they said, uh, uh, they identified Wyle Laboratories.

21 Aufdenkampe: Yeah, that's why it got in. In addition, a
22 test program will be conducted at Wyle Laboratories.

23 Stringfellow: Okay, okay, good, you got that. Alright,
24 okay, I'm sorry. I thought maybe Shipman might have adjusted
25 something after I called you, but apparently not. Okay. Good.
26 Alright, John, I think we've-we've, uh, let's see, we're down to,

1 now, we're down to the twenty-twenty times each question.

2 Aufdenkampe You want me to hold on, see if I can get ahold
3 of, uh, Tom Wer'. real quick?

4 Stringfellow: Yeah, I'll be glad to.

5 (phone dials-rings)

6 Aufdenkampe: This one is a killer.

7 Rick Odom: Hey, John.

8 Aufdenkampe: Hey, do you know if Tom Webb's, how Tom Webb's
9 doing?

10 Odom: He was, uh, heading over to the control room, ~~but he~~
11 ~~did~~ have two or three days here. And the logs?

12 Aufdenkampe: Yeah?

13 Odom: He's at the control room to fill it in.

14 Aufdenkampe: Okay. Is he gonna call back, well, who's he
15 gonna call when he finds out?

16 Odom: I think he's gonna come back, I think. Is there,
17 okay, is he going in the LER?

18 Aufdenkampe: Uh, yeah.

19 Odom: Oh, and you know this is not gonna be val-valid
20 information now? It's gonna be control room, which is, and then
21 you gotta interpret whether it's a valid start or, you know,
22 valid attempt or not.

23 Aufdenkampe: Oh, he-all-all-we aren't at, looking for valid
24 failures or invalid failures, all we're looking is for starts and
25 not-and trips. That's what he's looking at, right?

26 Odom: I told him valid failures, I said valid starts and

1 val...(?). Yeah, starts and failures is what I told him.

2 Mosbaugh: The word-the wording in the LER that came from
3 corporate did not use the word valid.

4 ?: Yeah.

5 Odom: Well, he-he can't do that anyway, let don't tell you
6 whether it's valid or not.

7 Aufdenkampe: Right.

8 Mosbaugh: Yeah.

9 Aufdenkamp: I understand. And-and that's cause "?" doesn't
10 make that determination.

11 Odom: Right.

12 Aufdenkampe: Okay.

13 Odom: Okay, I'll find out where he's at.

14 Aufdenkampe: Yeah, you-you better. Jack's on the other line
15 waiting.

16 Odom: Alright.

17 Aufdenkampe: Okay. Thanks.

18 Odom: Sure.

19 (phone hangs up)

20 *PAUSE*
Aufdenkampe: You there still?

21 Stringfellow: I'm here.

22 Aufdenkampe: We don't know yet.

23 *AS*
Stringfellow: We don't know yet. But now, you know, I just-

24 it-it just dawned on me what Allen was saying a minute ago. In

25 other words, if we say 'and no failures or problems have

26 occurred during any of these starts,' you-you're saying that

1 that's not true.

2 Aufdenkampe: Yes. I'm saying that's not true.

3 Stringfellow: Oh, wonderful. Okay.

4 Aufdenkampe: So, which is also telling you that, it's
5 telling you something else I imagine. Cause you know we, this is
6 certa... been written to the NRC once already.

7 Stringfellow: Yes, I know. That-that's exactly what I was
8 thinking.

9 Aufdenkampe: So, I'm working on that.

10 Stringfellow: Alright, John. Okay, well I'll be patiently
11 waiting. Or impatiently waiting, or however you want to look at
12 it.

13 ↑ Aufdenkampe: Okay. Well, I must be off.

14 Stringfellow: Thanks.

15 Aufdenkampe: Bye.

16 Mosbaugh: You got that other letter?

17 Aufdenkampe: Huh?

18 Mosbaugh: Do you have that, uh, do you have Hairston's,
19 uh...

20 Aufdenkampe: Yeah

21 mosbaugh: ...confirmation and action response...

22 Aufdenkampe: Yeah.

23 Mosbaugh: ...letter?

24 Aufdenkampe: Yeah.

25 Mosbaugh: Cause that's the one they, where they...

26 Aufdenkampe: Where they lied.

1 Mosbaugh: ...uh, incorporate...

2 Aufdenkampe: I mean they...

3 Mosbaugh: ...made that statement previously.

4 Aufdenkampe: Mr. Kenny, what are you doing down here sir?

5 Kenny Stokes: I come by to say hello, and see if, uh, I can
6 talk to you a little about this connoseal, blow-down question.

7 Aufdenkampe: You mean it's going to be done Friday?

8 Stokes: It's going to be done tomorrow. It may be done
9 today.

10 Mosbaugh: That-that that went to you guys?

11 Stokes: Yeah.

12 Mosbaugh: Went to Cliff and then went to you?

13 Stokes: Yeah.

4 Mosbaugh: Let me-let me see if I can't, uh, pull some, uh,
15 diesel stuff from Kochery.

16 Aufdenkampe: Okay, Ken Stokes is working on that.

17

ATTACHMENT 2

TRANSCRIPT

MOSBAUGH TAPE OF CONVERSATION B

(A conversation that allegedly occurred on April 19, 1990)

Bill Shipman:
General Manager, Nuclear Support
Southern Nuclear Operating Company
Birmingham, Alabama

Allen Mosbaugh:
Assistant General Manager
Plant Support (Acting)
Vogtle Nuclear Plant

1 (dial phone, rings)

2 Shipman: Hello.

3 Mosbaugh: Yeah, this is Allen Mosbaugh.

4 Shipman: Hey, Allen, this is Bill Shipman.

5 Mosbaugh: Say Bill.

6 Shipman: ~~Are you where~~ you can talk for a minute? X

7 Mosbaugh: I am.

8 Shipman: Great. I-I-I....Help!

9 Mosbaugh: Okay.

10 Shipman: Uh, the, uh, uh, LER, we're-we're, you know, we're
11 trying to get all this Hairston's questions answered.

12 Mosbaugh: Right.

13 Shipman: Uh, there are two things, uh, I guess, uh, George
14 has asked us, you know, to-to find out, and, and, uh, I guess you
15 were, you and, you probably were with Tom at the time talking
16 with Jack and-and Jack's, uh, answered, uh, I guess, one of the
17 questions and the question has to do with, uh, when the, uh,
18 operators went into the diesel panel the first time.

Mosbaugh: Right.

2 Shipman: Uh, it has to do with whether they observed any of
3 the instrumentation or whether they just went and, and, uh,
4 noticed the annunciator's, uh, lit and reset the annunciators.
5 Uh, George has remembered hearing somewhere that-that the
6 operators looked at some pressure gauges or something for some of
7 the diesel engine, uh, functions before they reset the
8 annunciators and, you know, I don't-I don't know what the
9 operator did, b'-- he's so insistent in-in trying to respond to-
10 get a response to that question. I wonder did the operator or
11 the operators who was on-on-shift or went into the diesel room at
12 that time, is on-shift now, and-and somebody could ask him a
13 direct question.

14 Mosbaugh: I'll find him and, um, we'll get him on the phone.

15 Shipman: That would be great.

16 Mosbaugh: Uh, you know, I-I-I mean, uh, he may, he may not
17 be on shift, which case we can try to reach him at home, you
18 know, we can-I can go do all that.

19 Shipman: You-you understand, Allen, that...

20 Mosbaugh: My understanding is that I don't think they looked
21 at much.

22 Shipman: I don't either.

23 Mosbaugh: Okay, I-I was in the critique, I-I don't, I did- I
24 did, uh, I did, uh, was in the meeting with Al Chaffee and the
25 team when they interviewed the operators that first responded to
; the panel and-and I recall them talking to Al Chaffee about that.

1 Uh, but, uh, you know, they, the gist of that conversation is
2 that they didn't scrutinize things very much, you know. And-and
3 indeed the diesel had already tripped, so when they got into the
4 room, it was, uh, a good number of, well, it was minutes later,
5 and the machine had already tripped. Nobody was in the room when
6 the machine tripped, and, uh, so all they could have observed,
7 you know, when they got in was what remained lit at that time
8 and-and any, uh, machine parameters that-that were still-still
9 valid with the machine tripped. That's all that was basically
10 available to observe. Hello? Hello?

11 (hangs up phone, dials again, rings)

12 Shipman: Hey, Allen.

13 Mosbaugh: Something happened.

14 Shipman: Something about the time you started telling me
15 about, uh, sitting with, uh, Chaffee..

16 Mosbaugh: Yeah.

17 Shipman: We sort of left-lost you.

18 Mosbaugh: Okay (laughs), um, anyway, I was in there, and
19 like I say, they-they didn't, you know, respond that they saw
20 very much, indeed nobody was in the room when it tripped.

21 Shipman: Right.

22 Mosbaugh: It tripped before they got to the room. All they
23 could have seen, all that would've been available to see, uh,
24 would be whatever annunciators remained lit and whatever engine
25 parameters remained valid with the machine stopped.

26 Shipman: Right.

1 Mosbaugh: So, so that doesn't, you know, leave a whole lot.

2 Shipman: Okay.


3 Mosbaugh: And-and-and I believe that, you know, they cleared
4 the annunciators, uh, you know, without-without much, uh, uh,
5 assessment.

6 Shipman: Well, I put myself in their place, and-and-and I
7 would walk in the room and say, yeah, there are some annunciators
8 lit and-and reset 'em, and all the things that would've cleared,
9 would've cleared and those that were still valid, the alarms
10 would've remained lit, and I'd a-would have gone on with trying
11 to get the diesel started. And, so I, you know, I don't...

12 Mosbaugh: Yeah.

13 Shipman: ...have a-a problem with what we got written, but
14 George does and-and, uh, I just need to get a...

15 Mosbaugh: Yeah, okay, well, let me-let me do my best there.
16 I'll try to find, see if the operator is here, uh, if he's here,
17 we'll try it again, and if he's, uh, at home, we'll try to call
18 him, and, um, you know, see if I can set that up, so we can, uh,
19 ask the questions.

20  Shipman: Okay, and the other, of course, the other question
21 we've been trying to-to get an answer to is to-to (noises)
22 reassure George we had, uh, more than 20 valid starts since, you
23 know, since March the 20th, uh, like we say in the LER.

24 Mosbaugh: Yeah, that, you realize, I think there's a problem
25 with the way that's stated because, you know, the machine, you
26 know, I-I, we can, you know, there-there, we got one of the guys

1 trying to find what the total number of-of valid starts is, but
2 there were failures.

3 Shipman: Yeah. The problem that we got, Allen, is is that
4 the data that's in the LER is what George wrote and took and told
5 to the Ebnetter last Monday in Atlanta.

6 Mosbaugh: Well, you know, if-if anybody says that, uh, there
7 weren't any failures, you know, that-that's just not true,

8 Shipman: Well, if you look at George's outline, that-that he
9 made to take to Atlanta with him, he says, at that time it was
10 like eighteen and nineteen.

11 Mosbaugh: Yeah.


12 Shipman: And, uh, and-and, without a failure.

13 Mosbaugh: Mm.

14 Shipman: So, you know, somebody had given George that
15 information, uh...

16 Mosbaugh: On the B...

17 Shipman: (?) we had a failure since George went to...?

18 Mosbaugh: No. On the B, let me-let me tell you what I know,
19 okay? On the B machine, um, on the B machine on, uh, three
20 twenty-two, at, uh, twelve forty-three, the machine tripped on
21  high lube oil temperature.

22 Shipman: Caused by what?

23 Mosbaugh: Caused by the switch that gives you high lube oil
24 temperature probably (laughs).

25 Shipman: No, I understand that, but did we-did we not have,
6 uh...

1 Mosbaugh: I-I don't believe high-a high temperature physical
2 condition existed. I-I, uh, I believe....

3 Shipman: Was that a valid, considered a valid failure?

4 Mosbaugh: I haven't assessed these for being valid or not.

5 Shipman: You see, because I could, we could-we could solve
6 the problem that's created by that information by saying 'no
7 valid failures.'

8 Mosbaugh: Let me, uh, let me find, I think we got one other
9 one. Um, here it is. On three twenty-three at seventer- thirty-
10 one, machine tripped on low, this is B machine again, on low
11 jacket water pressure slash turbo lube oil pressure low.

12 Shipman: Okay, the-the first one was on what date did you
13 say?

14 Mosbaugh: Three twenty-two.

15 Shipman: Okay, how-how, you know, with that data, um, uh, I
16 think this things already been to the PRB a couple of times. How
17 in the world did it get through the PRB?

18 Mosbaugh: What's that?

19 Shipman: The statement.

20 Mosbaugh: The LER or...

21 Shipman: Yeah, the LER.

22 Mosbaugh: Well, I mean...

23 Shipman: Did that-that data not, was not available in the
24 PRB?

25 Mosbaugh: The previous times that this LER went through the
26 PRB, I'm not sure if those statements were in there.

1 Shipman: Yeah. Jack says yeah they were.

2 Mosbaugh: They were?

3 Shipman: Yeah.

4 Stringfellow: In fact, the last PRB added the parenthetical
5 phrase a 'more than twenty times each'. I say the last, not
6 today, but the previous PRB.

7 Mosbaugh: You-you know, this thing, it came to the PRB, you
8 know, fifteen pages long, the first time, and then it was, you
9 know, basically tabled for a complete rewrite back to eight
10 pages. And, uh...

11 Stringfellow: It went back to the PRB as eight pages.

12 Mosbaugh: And then it went back as eight. And, uh...

13 Shipman: Well...

14 Mosbaugh: Anyway...

15 Shipman:...(unintelligible) that whole question is
16 immaterial, and, you know, it's just that, it's just sort of a
17 bother, but, uh, what-what we need to do is find out what's
18 correct and make sure we only say what's correct.

19 Mosbaugh: Yeah, I, now I, you know, what I have here is-is,
20 uh, there was a tabulation made of diesel activities, you know,
21 early on, uh, by Kochery, and-and that's where I'm getting this
22 information from, and, uh, I believe these, uh, I believe this
23 tabulation was provided to the Chaffee team.

24 Shipman: (cough) Well, the, uh, uh, I think people have been
25 reviewing the diesel generator log, but-but that's, but only
26 because we thought the other day that only went through the

1 thirteenth....(unintelligible)

2 Mosbaugh: Yeah.

3 Shipman: (unintelligible). Somebody did save it.

4 Mosbaugh: Yeah, this data picks up on the thirteenth.

5 Shipman: Yeah, somebody, gosh, somebody must have looked.

6 Uh-uh, Allen, would you take that as a-as a second thing and-a d
7 try to give me the correct information for that? Sounds like
8 this whole statement needs to be just stricken.

9 Mosbaugh: You know, I-I-I basically don't have any better
10 information than the two, than the two trips, uh, that I told you
11 about on the, uh, twenty-second and...

12 Stringfellow: Okay, are you-can we-can we determine if they
13 are valid, if those are valid tests or valid failures?

14 Mosbaugh: Let me-let me talk to, uh, Stokes and Kochery
15 about 'em.

16 Shipman: Yeah, I-I guess, uh, oh, in the point we're in now,
17 where this thing has been in the, in PRB several times and we've
18 had several review cycles up here and everybody's, uh, gotten
19 accustomed to seeing that data, if-if-if-the we could use the
20 data we probably ought to, if it's certain, if it's not a valid
21 statement, we-then we need to get it the heck out of here,
22 regardless of what George has told, uh, Ebnetter. So, you know,
23 if (noises) if there's anything you need to do to check to make
24 sure that the data you have from Paul is-is correct and valid,
25 uh, would ask that you do that. Or if you feel very confident
26 that it is correct now, I just need to see what I need to do

about striking this statement.

2 Mosbaugh: Okay, I, you know, I-I feel this is the best-the
3 best data there is, and I-I believe it's accurate. I will verify
4 with Kochery though.

5 Shipman: Okay.

6 Mosbaugh: And I will, uh, pursue trying to get, uh, a
7 conversation with the operator.

8 Shipman: Okay. Jack and I are going to leave here and walk
9 down to Mr. Hairston's office to, uh, go over his comments
10 and what we've been able to do with those and, uh, try to, you
11 know, finish beating out what he wants to do to this thing. Uh,
12 and if, so if you want to, you know, find somebody and want to
13 call back, you might just, you might just call down there.

14 Mosbaugh: What's the number?

15 Shipman: 5581.

16 Mosbaugh: Okay.

17 Shipman: That's right. Okay.

18 Mosbaugh: Will do. We're-we're-we are in to the-the
19 torsional test.

20 Shipman: Great. We are in to it.

21 Mosbaugh: Yeah, we-we spun the machine up to 1800, had a
22 little problem with the, uh, a, um, seal oil, uh, emergency pump
23 coming on, adjusted to the set point, and, uh, we're, uh, we're
24 back down, uh...

25

ATTACHMENT 3

Reduced legal to Letter 5.2e

①

Intro: Thanks

~~Family members~~

Background

Education NE ^{and other}

Experience 16 yrs, 5 utilities

Whistleblower last thing

~~Whistleblower last thing~~

~~Whistleblower last thing~~

~~Whistleblower last thing~~

1984 ^{managing} Supt. 60-70 and good place

Then 1988 wholesale reg. change

~~Whistleblower last thing~~

~~Whistleblower last thing~~

I moved up Promoted 3x in 4 years of RC

At time blew whistle I was 2 highest level mgmt

350 emp RC & mgmt

Willful Violations

late 1988 doctor Di Value + S viol

Concluded willfully criminal felony

Drafted amm. alleg. & sent

Not go directly for fear of leaks of my identity

Wait so far as fingerprint PO mail

Additionally

In this also repress concern Major Accident

Initial NRC response prompt and appropriate OI invest

OI found willful

Then NRC actions slowed & ^{pressure} unforced down

but finally issued & paid \$100,000

2

Manat Response

a week or so after submit

~~Attitude change~~

Attitude change

Back stabbing feeling

Questioning as to source

Hard to get out. (I never knew they suggested so)

Then I had no ill values - Attorney rep w/arc advised

All this over a few notes

Protect myself, Don Desoria, Don Safety.

Considered

~~to~~ to Tape - Denude One Party.

I saw Security Law GPC's ^{controversial} Taping of plant on my home

~~Legal~~

Legal Home notice by GPC's attorney that justified it

Proc/Policy Review / others used tape, There were none

~~First~~

I began taping

Site Area

Major Accident

Total Blackout of safety that could have led to cost

TMI - Cleanable

Bad but what I learned there after was

- Direct prob known for years / had to fall NRC
- So false statements to NRC about prob. to start back up.

~~3~~ 3 major false statements after learned of first ^{sonoma} ~~statements~~

~~I~~ I informed ^{that the person} ~~that the person~~ the signed it anyway. ~~I~~

Next action I peaked getting statements corrected

~~Attempt~~ ~~at~~ ~~correcting~~ ~~in~~ ~~mail~~ / ~~etc~~ ~~to~~ ~~be~~ ~~sent~~

Review PAB

Resumed job

~~Blah~~

~~[Large scribbled-out section]~~

Complain to DOL out

(3)

Confidential Info to NRC G-12

At this point I didn't ^{tell} quote NRC of tapes, I know somehow that fact would look ^{like} I gave NRC detailed writeups based on tapes

~~[Scribbled-out text]~~

Deposition ^{to get P DOL proceeding} only sent ~~[Scribbled-out text]~~

Told GPC of existence of tapes ^{Tried to get [scribble] thing}

Tapes to NRC

As soon as GPC ^{and} gave tapes to NRC

Suspension

Fighting

Closing

Impudence

Who are these people who having made false statements to NRC of untruth.

REA

The highest ^{over} mgrs over 6 Nov Boast

Key person over Advances by Consensus
Now Can.

~~[Scribbled-out text]~~

(4)

~~Nuclear professional~~
I am ~~an~~ ~~engineer~~ ~~and~~ ~~professional~~ ~~engineer~~

Followed my New Train - Doc Doc
No contact to small

Followed my Conscience - I'm proud, I did right
thing, Did it benefit me

Nixon would have done it if he didn't rise
to criminal level / I had to / if crossed
the line

I am a very good engineer as honest citizen
and for blowing whistle during the right time

I lost job / career / unemployed ~~since~~
since ~~1974~~

I live on wife's salary 24k
support 4 children (school age)

I am fear for my families future my dreams
are broken.

Therefore this law is broken it doesn't
work

The burden too great, the climb too long
The mountain too high

~~I am not a nuclear professional~~
~~and I am not a nuclear professional~~
~~and I am not a nuclear professional~~

- Senators Thank you - for allow me to testify

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

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the Matter of)

GEORGIA POWER COMPANY)
et al.)

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

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(transfer to Southern Nuclear)

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

AFFIDAVIT OF ALLEN L. MOSBAUGH

My name is Allen L. Mosbaugh and I am over the age of 18. The following statements are made under the pains and penalties of perjury and are true and correct to the best of my knowledge and belief.

1. I am the intervenor in the above-captioned proceeding.

2. I hereby certify that the statements and opinions set out in Intervenor's response to Georgia Power's Second Set of Interrogatories are true and correct to the best of my personal knowledge and belief.

AFFIANT SAYETH FURTHER NOT,

Allen L. Mosbaugh
Allen L. Mosbaugh

Aug. 11, 1993
Date

054\verifica.aff

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

In the Matter of)

GEORGIA POWER COMPANY)

et al.,)

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

) Docket Nos. 50-424-OLA-3
) 50-425-OLA-3

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

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

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 1993 a copy of
Intervenor's Response to the Second Set of Interrogatories of
Georgia Power Company was served via First Class Mail upon the
following:

Administrative Judge
Peter B. Bloch, Chair
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge
Dr. James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge
Thomas D. Murphy
Atomic Safety and Licensing Board
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Atlanta, GA 30308-2216

[continued on next page]

Ernest L. Blake, Jr.
David R. Lewis
SHAW, PITTMAN, POTTS &
TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037

Office of the Secretary (Original and two copies)
Attn: Docketing and Service
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

By: 

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

054\cert.dt

FILED TESTIMONY

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	:	
GEORGIA POWER COMPANY, <u>et al.</u>	:	Docket Nos. 50-424-OLA-3
	:	50-425-OLA-3
(Vogtle Electric Generating Plant,	:	Re: License Amendment
Units 1 and 2)	:	(Transfer to
	:	Southern Nuclear)
	:	
	:	ASLBP NO. 93-671-OLA-3

PREFILED TESTIMONY
OF
JOHN GILBERT AUFDENKAMPE, JR.
ON
DIESEL GENERATOR REPORTING ISSUES

1 Q. PLEASE DESCRIBE YOUR INVOLVEMENT IN THE PREPARATION OF THE
2 DIESEL GENERATOR STARTS LANGUAGE IN LER 90-006 PRIOR TO APRIL
3 19, 1990.

4 A. The initial drafts of LER 90-006 were prepared by Tom Webb and
5 adopted the same diesel starts language that was included in
6 Georgia Power's April 9, 1990 letter to NRC. I reviewed a
7 number of drafts prepared by Mr. Webb. On April 12, 1990 the
8 PRB reviewed a draft of LER 90-006 and discussed at some
9 length what information should be included in the LER. At the
10 PRB's request, the LER was redrafted to reduce its length from
11 about 16 to about 8 pages.

12 On or about April 13, 1990 the diesel starts statement in
13 the draft LER was revised by Tom Webb to replace the reference
14 to 18 and 19 starts with a general reference to "several"
15 starts. I believe it was changed because a question had been
16 raised about the numbers.

17 On April 18, 1990, the PRB reviewed the draft LER and
18 voted unanimously to approve the LER with certain comments.
19 The voting members of the PRB were Messrs. Allen Mosbaugh,
20 James Swartzwelder, Mike Horton (part time attendee), Harvey
21 Handfinger, and myself. A comment was made by Mr. Mike Lackey
22 that the draft LER language referring to "several starts" of
23 the diesels should be changed to "state the number of starts
24 rather than several." See PRB Meeting Minutes, Mtg. No. 90-
25 59, and Comment Review Sheet, attached hereto as composite
26 Exhibit B. As approved, the diesel starts statement read:

1 site area emergency.) The April 10 conversation was
2 transcribed by the NRC (IIT document #212) and a portion of
3 that transcript, which I believe to be accurate, is attached
4 hereto as Exhibit E. During the discussion, the NRC's Mr.
5 Rick Kendall said "one of the problems we were having was that
6 we were listening on yesterday's call [GPC's April 9
7 presentation to NRC] where we understand there has been
8 something like 16 successful starts in a row of the 1-A diesel
9 generator. And we go back, and we try to count them up, and
10 we don't get that many. So somewhere along the line we are
11 missing a few and we want to complete the picture." Mr.
12 Kendall also said "Paul Kochery prepared a table that
13 discussed the starts between starting with the 20th, starting
14 on March 20th, and going through, I guess, the first phase of
15 troubleshooting. But it does not go beyond that point."

16 Q. WHAT DID YOU DO AFTER THE PRB MEETING WITH RESPECT TO THE
17 DIESEL STARTS STATEMENT IN THE DRAFT LER?

18 A. Sometime after the PRB meeting, Mr. Mosbaugh and I discussed
19 the draft LER with Mr. Stringfellow in the corporate office.
20 As the transcript of Tape 57 indicates, we advised Mr.
21 Stringfellow that we thought the draft diesel starts language
22 appeared to be a material false statement because there had
23 been two problems with the 1B diesel since March 20. I also
24 said that the draft LER language would have to change and may
25 need to be deleted depending on the results of a review of the

1 numbers of diesel starts which Mr. Webb was conducting using
2 the reactor operators' log (the "Unit Control Log" or "Control
3 Log"), but which had not yet been completed. We also
4 discussed the fact that the April 9 letter appeared to be
5 false because of the failures of the 1B diesel after March
6 20th. (We had not determined at that time that the numbers
7 reported in the April 9 letter were inaccurate. That would
8 depend on the results of Mr. Webb's review of the Control
9 Log.) The telephone call ended with me stating that I was
10 "working on that." See transcript of Tape 57, GPC Exh. 1, at
11 pp. 44-46, 48-51.

12 Q. WHAT DID YOU DO NEXT?

13 A. While I do not recall specifically what I did next, the next
14 discussion I was involved in that Mr. Mosbaugh taped involved
15 Messrs. Mosbaugh, Rick Odom and Tom Webb. See transcript of
16 Tape 57, GPC Exh. 1, at pp. 72-79. I recounted for Messrs.
17 Odom and Webb essentially what had transpired earlier in the
18 day as described above. We discussed the two 1B diesel
19 failures and concluded that they were not valid failures. We
20 also discussed the accuracy of the April 9 letter and
21 concluded that, even though there were two 1B diesel failures
22 after March 20, the statement could still be interpreted as
23 accurate if there were 19 successful starts of the 1B diesel
24 since the last failure of which we were aware, i.e., the one
25 on March 23 at 1700 hours. Mr. Mosbaugh said it was critical

1 to know the accurate count of diesel starts in order to
2 determine the accuracy of the statement. Mr. Mosbaugh also
3 advised Mr. Odom that he needed to get the diesel start
4 information from the Control Log. This was necessary because
5 the Diesel Start Log maintained by Mr. Stokes was not
6 sufficiently up to date. It is apparent to me now that this
7 discussion was contrary to the statement that the April 9
8 letter was a material false statement, which Mr. Mosbaugh and
9 I had made earlier to Mr. Stringfellow. I do not know whether
10 we further advised Mr. Stringfellow of the substance of the
11 conversation discussed above.

12 Q. WHAT HAPPENED NEXT?

13 A. The next discussion of the diesel starts data that I am aware
14 of on April 19, 1990 is the one that is reported in the
15 transcript of Tape 58 (GPC Exh. 2), beginning at p. 7. There,
16 Mr. Mosbaugh joined, and began taping, a conversation already
17 in progress. Based on the transcript, the persons
18 participating in the discussion with me included Messrs.
19 Bockhold, McCoy, Shipman, Stringfellow, Mosbaugh, and later
20 Mr. Hairston. While it is impossible to tell how long the
21 conversation had been in progress, I believe there had been
22 some discussion of the diesel starts statements which was not
23 recorded by Mr. Mosbaugh. At the beginning of Mr. Mosbaugh's
24 recording, I informed the group that my staff initially came
25 up with the "at least 20 times each" language in the draft LER

1 by adding starts occurring after April 9 to the 18 and 19
2 numbers reported in the April 9th letter. Mr. Bockhold
3 indicated his agreement with the greater-than-20 number. Mr.
4 McCoy said they needed to know the number of starts after the
5 completion of the comprehensive test program of the control
6 systems. Mr. Bockhold said the 18 and 19 numbers were
7 verified correct by Mr. Jimmy Cash. Mr. McCoy asked if those
8 numbers were after the completion of the comprehensive test
9 program and Mr. Bockhold assured that they were. Mr. Shipman
10 proposed that they use the words "greater than 18" but McCoy
11 interjected that it would not be greater than 18 for one of
12 the diesels, "it would be 18." See transcript of Tape 58 (GPC
13 Exh. 2), at pp. 7-9. The group then discussed another subject
14 concerning what the plant equipment operator saw on March 20.
15 It was during that discussion that it appears from the
16 transcript that Mr. Hairston entered the conversation. Id. at
17 10. Next, the short part of the conversation can be heard
18 which was aired on the NBC Nightly News on August 9, 1992.
19 Mr. Hairston stated "We got the starts, so we didn't have no
20 ... didn't have no trips." Mr. Shipman can then be heard to
21 say, "No, not not...." Id. at 11-14.

22 Q. DO YOU AGREE WITH THE INTERVENOR'S VERSIONS OF THE DISCUSSION
23 WHICH APPEARS AT P. 14, LL. 7-27 OF THE TRANSCRIPT OF TAPE 58?

24 A. No. While I cannot understand completely what is being said
25 on that portion of Tape 58, and I don't have any independent

1 Q. WHAT TRANSPIRED IN THE FINAL TELEPHONE CONVERSATIONS THAT YOU
2 HAD WITH THE CORPORATE OFFICE ON APRIL 19, 1990 CONCERNING THE
3 ACCURACY OF THE DIESEL STARTS STATEMENT IN THE LER?

4 A. Mr. Mosbaugh, Mr. Shipman and I discussed that Mr. Bockhold
5 had said earlier in the day that the 18 and 19 starts,
6 reported to the NRC on April 9, occurred after all the sensors
7 had been recalibrated, i.e., after all the bugs had been
8 worked out. Mr. Mosbaugh informed Mr. Shipman that we had the
9 diesel starts data but didn't know the date and time of the
10 completion of the instrument recalibrations. Mr. Shipman said
11 they could begin the count at the point at which the diesels
12 were declared operable but that those numbers would be a lot
13 smaller than the numbers reported to NRC on April 9.
14 Nonetheless, Mr. Shipman was clear that if that was the only
15 valid explanation, that's what he wanted to say. I believed
16 there was reasonable assurance that the diesel statement in
17 the LER was accurate, based on Mr. Bockhold's assurances that
18 the 18 and 19 numbers had been validated, which was not called
19 into question by the data we had received from Messrs. Odom
20 and Webb. When I asked Mr. Mosbaugh if he took exception to
21 that, he did not disagree. See transcript of Tape 58 (GPC
22 Exh. 2), at pp. 22-27.

23 Next, Mr. Shipman read the final diesel starts statement
24 and Mr. Mosbaugh then said that the statement suggested the
25 diesel start count began after the UV (i.e., undervoltage)
26 testing. Mr. Shipman explained that Mr. McCoy had spoken with

1 the NRC's Ken Brockman about the diesel start numbers and the
2 basis for them as it had been described by Mr. Bockhold and
3 that Mr. Brockman understood that basis and so did the IIT
4 team. Id. at 27-29. Mr. Mosbaugh had no further comment and
5 the conversation moved on to a discussion of Mr. McDonald's
6 comments on other portions of the LER. Later, Mr. Shipman
7 read the diesel starts statement one more time, and thanked
8 everyone for their efforts in getting the LER finalized. No
9 further concerns were expressed about the diesel starts
10 statement. Id. at 31-32. Based on the transcript of Tape 58,
11 that was the last conversation about the diesel starts
12 statement between the site and the corporate office.

13 Q. WHAT WAS YOUR VIEW OF THE SIGNIFICANCE OF THE DIESEL STARTS
4 STATEMENT IN LER 90-006?

15 A. I believe that all material communications with the NRC must
16 be accurate and complete. On April 19, 1990, my focus was on
17 the numbers of consecutive successful starts after the last
18 failure of the diesel. This was to me the real indicator of
19 reliability, not whether there were so many starts after point
20 A or point B. Because I had been informed that Mr. Bockhold's
21 description of the comprehensive test program had been
22 discussed with the NRC, the ambiguity of that phrase was not
23 significant to me. The numbers of consecutive, successful
24 starts prior to April 19 was significant to me.

1 with the NRC, it should begin with after the sensor
2 calibrations which I understood coincided with the third and
3 last diesel failure after March 20. Id. at 34-36. We spoke
4 to Jimmy Cash (Id. at 36-38), who had made the original count
5 of the 18 and 19 diesel starts for the April 9 presentation.
6 Mr. Cash said he counted everything after March 20 on the 1A
7 diesel through about April 9. However, Mr. Cash's responses
8 to our questions did not convince me that the diesel starts
9 statement in LER 90-006 was inaccurate. In the end, when I
10 asked Mr. Mosbaugh what he wanted to do about the matter, he
11 decided to let it drop, apparently agreeing with my reasoning.
12 Id. at 39. That was the last I heard about the matter on
13 April 19, 1990.

1 Q. DID MR. MOSBAUGH RAISE THE ISSUE OF THE DIESEL STARTS
15 STATEMENT WITH YOU AFTER APRIL 19, 1990?

16 A. Yes. Based on tape recordings that Mr. Mosbaugh made of many
17 of our conversations, I know that we discussed the issue on
18 Tape No. 71, which apparently was made on April 27, 1990. The
19 transcript of our conversation on Tape 71, attached hereto as
20 Exhibit F, is an accurate account of that discussion. During
21 that conversation, Mr. Mosbaugh said he thought there was a
22 high probability that there was a problem with the diesel
23 starts statement in the LER. I told Mr. Mosbaugh that there
24 was probably a better way to word the statement but that I did
25 not believe the words in the LER were meant to be "weasely,"

1 the error, but it would have been the cure for it. See
2 transcript excerpt of Tape 159, attached hereto as Exhibit P.

3 Q. DID YOU MISLEAD THE CORPORATE STAFF ON APRIL 19, 1990
4 CONCERNING THE ACCURACY OF THE DIESEL STARTS STATEMENT IN LER
5 90-006?

6 A. No. I based my comments to the corporate office on April 19,
7 1990 on an honest assessment of the diesel starts information
8 available to me on April 19. I focused on the fact that the
9 data and Mr. Bockhold's statements convinced me that, as of
10 April 19, there were at least 18 consecutive, successful
11 starts of the 1A and 1B diesels.

10/16/45

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	:	
	:	Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY, <u>et al.</u>	:	50-425-OLA-3
	:	
	:	Re: License Amendment
(Vogtle Electric Generating Plant,	:	(Transfer to
Units 1 and 2)	:	Southern Nuclear)
	:	
	:	ASLBP NO. 93-671-OLA-3

PREFILED TESTIMONY

OF

GEORGE BOCKHOLD, JR.

ON

DIESEL GENERATOR REPORTING ISSUES

Corrections

Pgs 9, 15

1 addition, I was aware as of April 19, 1990 that there had been
2 additional starts of the DGs between April 9, 1990 and April
3 19, 1990, although the specific number was not known to me.
4 During a group telephone conference on April 19, 1990 which
5 was recorded by Mr. Mosbaugh (See transcript of Tape 58, GPC
6 Exhibit 2, at p. 8), I was informed that the Technical Support
7 Department personnel were in the process of reviewing the
8 control room logs to verify the DG start count number. In
9 fact, Mr. John G. Aufdenkampe, the Vogtle Manager - Technical
10 Support informed me that his staff came up with greater than
11 20 starts by using numbers from the April 9, 1990 letter and
12 adding the number of starts that occurred between April 9,
13 1990 and April 19, 1990. Id. at 7.

14 Q: DID YOU GIVE ASSURANCES THAT THE 18 AND 19 DG STARTS OCCURRED
15 AFTER THE COMPLETION OF THE COMPREHENSIVE TEST PROGRAM
16 ("CTP")?

17 A: Yes, as the transcript of Tape 58 indicates (see GPC Exhibit
18 2, at p. 8), I informed the other individuals that Mr. Cash
19 had verified the start count number I used at the presentation
20 and assured everyone that the start count numbers were not
21 before the CTP.

1 Q: AT THE TIME, WERE YOU AWARE OF ANY INFORMATION THAT WOULD
2 INDICATE THAT YOUR REPRESENTATION WAS INACCURATE?

3 A: No. I understood the comprehensive test program of the diesel
4 control systems ended with the final recalibration of the
5 sensors and logic testing, i.e., after all the "bugs" had been
6 worked out of the DGs. There had been additional starts
7 between April 9, 1990 and April 19, 1990. The LER stated that
8 there were at least 18 starts. At the time, this information
9 and my knowledge from April 9, 1990 led me to provide the
10 strong assurances that I did on April 19, 1990.

11 Q: WHAT DID THE LER STATE AS TO THE NUMBER OF DG STARTS?

12 A: The final signed LER stated:

13 Numerous sensor calibrations (including jacket water
14 temperatures), special pneumatic leak testing, and
15 multiple engine starts and runs were performed under
16 various conditions. After the 3-20-90 event, the control
17 systems of both engines have been subjected to a
18 comprehensive test program. Subsequent to this test
19 program, DG1A and DG1B have been started at least 18
20 times each and no failures or problems have occurred
21 during any of these starts. In addition, an undervoltage
22 start test without air roll was conducted on 4-6-90 and
23 DG1A started and loaded properly.

24 Q: WAS THE "AT LEAST 18 TIMES EACH" STATEMENT ACCURATE?

25 A: Only when the term comprehensive test program ("CTP") of the
26 control systems is understood to end with recalibration of
27 the Calcon sensors.

1 Q: DO YOU BELIEVE THE TERM CTP WAS CLEAR AND THAT THERE WAS AN
2 UNDERSTANDING OF ITS MEANING?

3 A: At the time I believed it was clear. My understanding of the
4 term was after recalibration of the Calcon sensors. I now
5 believe the term CTP could reasonably be interpreted to
6 include testing which continued beyond the point of the sensor
7 recalibrations and logic testing.

8 Q: DO YOU BELIEVE YOUR ACTIONS CONTRIBUTED TO A LAX VERIFICATION
9 OF THE INFORMATION.

10 A: I do now, yes. When I reviewed the April 19, 1990 LER, I
11 relied upon the prior count used on April 9, 1990. On April
12 19, 1990, I should have made sure my staff completed the
13 verification effort. I now realize my statements contributed
14 to a lax verification effort. More importantly, I relied on
15 my own understanding that as of April 9, 1990, there were at
16 least 18 consecutive, successful starts after overhaul and
17 sensor calibration and logic testing, and that any "problem"
18 starts would be excluded from the count. Knowing the
19 information was to be communicated to the NRC, I should have
20 applied a higher standard of care.

21 Q: WHEN WAS IT BROUGHT TO YOUR ATTENTION THAT THE START COUNT
22 INFORMATION PREVIOUSLY SUBMITTED TO THE NRC WAS INACCURATE?

23 A: On April 30, 1990, Mr. Allen Mosbaugh gave me a memorandum
24 with an attached listing of 1B DG starts, which, when

1 confirmed on May 2, 1990, showed that the start count reported
2 in the April 9, 1990 presentation, the April 9, 1990 COA
3 letter response and the April 19, 1990 LER were incorrect.

4 Q: WHAT DID YOU DO WHEN YOU WERE PRESENTED WITH THIS INFORMATION?

5 A: I requested Mr. Mosbaugh to obtain the correct information and
6 prepare appropriate documentation to be sent to the NRC and
7 correct the previously filed documents.

8 Q: WHAT ELSE, IF ANYTHING, OCCURRED DURING THAT TIME?

9 A: During May of 1990 the Plant staff had problems determining an
10 accurate DG start count and in early June I learned that Mr.
11 Hairston had requested an audit of the DG start data.

12 Q: WAS THE NRC ORALLY ADVISED OF THE ERROR IN THE DG STARTS
13 STATEMENT?

14 A: I know that in May, 1990 George Hairston called Stewart
15 Ebnetter of the NRC and advised him that the original start
16 count numbers were ⁱⁿ correct, and that Mr. McCoy called the NRC
17 as well. In addition, either I called the NRC Resident
18 Inspector or requested John Aufdenkampe to inform the NRC
19 Resident Inspector of the error in the statement.

20 Q: WAS A REVISED LER 90-006 AND COVER LETTER PROVIDED TO NRC?

21 A: Yes. On June 29, 1990, GPC submitted a cover letter and
22 revised LER, which I reviewed. The cover letter corrected the

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

PREFILED TESTIMONY

OF

C. KENNETH McCOY

ON

DIESEL GENERATOR REPORTING ISSUES

Corrections

Pp. 6, 10, 22

Strike series

1 primarily responsible for preparing the LER. This group
2 reported to the Technical Support Manager (Mr. Aufdenkampe),
3 who in turn reported to the acting Assistant General Manager,
4 Plant Support (Mr. Mosbaugh).

5 Q: WHAT WAS YOUR INVOLVEMENT IN PREPARING THE LER ON APRIL 19?

6 A: I was out of town in the morning and early afternoon of April
7 19, and did not return to my office in Birmingham until about
8 2:30 or 3:00 p.m. I had previously reviewed a draft of the
9 LER, but I do not recall any comments or concerns about the
10 accuracy of the diesel testing description prior to my return
11 to Birmingham on the afternoon of the 19th. When I returned,
12 the plant staff and personnel in the corporate office were
13 working on the final draft of the LER. At that time, Bill
14 Shipman told me there were some concerns about the accuracy of
15 the diesel generator testing described in the draft LER, and
16 that they were working on it.

17 Some time later, I participated in a conference call with
18 the plant staff. A portion of this conference call was taped
19 by Mr. Mosbaugh, but I believe that there was some discussion
20 prior to the time that Mr. Mosbaugh joined the call. It is my
21 recollection that I joined a group of people in one of the
22 conference rooms after the call had commenced (I had entered
23 looking for Bill Shipman), and the tape transcript indicates
24 that Mr. Mosbaugh joined the call after this. Mr. Mosbaugh
25 joined the call in the middle of a discussion concerning the

1 statement in the draft LER on the number of diesel starts. At
2 that time, the draft LER being reviewed stated, "Since 3-20-
3 90, DG1A and DG1B have been started several times (more than
4 twenty times each) and no failures or problems have occurred
5 during any of these starts."

6 It is my belief that prior to the portion of the call
7 taped by Mr. Mosbaugh, Mr. Shipman had identified a concern
8 that had been raised by either Mr. Mosbaugh or Mr. Aufdenkampe
9 regarding this language in the draft LER. I believe that the
10 concern that Mr. Shipman had already recounted was that this
11 statement appeared inaccurate because there were some problem
12 starts when the diesels were coming out of maintenance. I
13 also believe that George Bockhold had clarified that the
14 successful starts occurred after the comprehensive test
15 program. By the time Mr. Mosbaugh joined the conversation,
16 the subject had shifted to the need to confirm the number of
17 starts.

18 Q: WHY DO YOU BELIEVE THAT THIS DISCUSSION OCCURRED PRIOR TO THE
19 TAPING BY MR. MOSBAUGH?

20 A: First, I have a general recollection of Mr. Shipman having
21 identified the concern during or prior to the conference call,
22 but such a discussion is not reflected in the portion of the
23 call taped by Mr. Mosbaugh. Since Mr. Mosbaugh joined the
24 call in the middle of the discussion, I assume that Mr.
25 Shipman's remarks occurred earlier. In addition, on page 8 of

1 the transcript of tape 58, at lines 1 to 3, I state: "We need
2 to be sure that we know the number of starts after we've
3 completed the comprehensive control test program," and on
4 lines 12-14 I seek confirmation that the numbers previously
5 reported to the NRC during the April 9 presentation were
6 starts that occurred after completion of the comprehensive
7 test of the control system of each diesel. To the best of my
8 belief, my understanding at this point that the count began
9 after completion of the test program was based on a statement
10 made earlier during the discussion. On page 8 of the
11 transcript, I believe that I was merely repeating and asking
12 for confirmation of what I had previously heard.

13 Q: DID YOU RECEIVE CONFIRMATION OF THE NUMBER OF STARTS THAT
14 OCCURRED AFTER COMPLETION OF THE COMPREHENSIVE TEST PROGRAM?

15 A: In response to my statement that we needed to confirm the
16 numbers, John Aufdenkampe informed me during the conference
17 call that his staff was reviewing the operators' log. In
18 addition, Mr. Bockhold informed me that the numbers presented
19 to the NRC on April 9 had been verified to be correct by Mr.
20 Cash after review of the operators' logs. Based on Mr.
21 Bockhold's assurance that the numbers had been verified, I
22 suggested that we use the numbers that had been previously
23 presented to the NRC.

1 Q: DID YOU TAKE ANY OTHER ACTIONS ON APRIL 19, 1990, TO MAKE SURE
2 THE NRC UNDERSTOOD THE INFORMATION ON DIESEL STARTS?

3 A: Yes. I telephoned Ken Brockman to make sure he understood
4 that the numbers presented to the NRC on April 9 had not
5 included problem starts. I believe that Mr. Brockman replied
6 that the NRC understood that the 1B diesel had experienced
7 problems and failures in the process of coming out of
8 maintenance, and understood that the data we had presented
9 reflected starts after repairs had been made. I believe I
10 also discussed with Mr. Brockman the reference that would be
11 made in the LER to the comprehensive test program and
12 confirmed that he understood what that meant.

13 Q: DID YOU REALIZE AT THE TIME THAT THE INFORMATION PRESENTED ON
14 APRIL 9 HAD BEEN INACCURATE?

15 A: No. I do not believe that Mr. Shipman told me that inaccurate
16 information had been provided on April 9, and I had, at that
17 time, no concerns regarding the number of starts that had been
18 reported. Mr. Shipman may have told me there was a concern
19 that the NRC might not have understood that there were
20 additional problem starts after the site area emergency. My
21 discussion with Mr. Brockman on April 19 indicated to me that
22 our April 9 presentation and letter had not created such a
23 misunderstanding.

PREFILED TESTIMONY OF ALLEN L. MOSBAUGH

1 Q: PLEASE STATE YOUR NAME?

2 A: Allen Lee Mosbaugh

3 1. EDUCATIONAL TRAINING AND QUALIFICATIONS

4 Q: COULD YOU SUMMARIZE YOUR ENGINEERING BACKGROUND AND
5 TRAINING?

6 A: My resume is attached as Intervenor's Exhibit ("EXHIBIT")
7 #1. I have a Bachelors Degree in Chemical Engineering
8 (1971) and a Masters of Science Degree in Engineering (1974)
9 majoring in Nuclear and Chemical Engineering both from the
10 University of Cincinnati.

11 I completed most of all my course work toward a Doctorate in
12 Engineering majoring in Nuclear and Chemical Engineering,
13 also at the University of Cincinnati, but did not finish the
14 Doctorate program. As a Graduate Research Assistant I
15 conducted research for my Masters in the area of transient
16 two phase fluid flow for use in Loss of Coolant Accident
17 analysis under an AEC contract. My research for my Doctorate
18 was also in the area of two phase fluid flow but was under a
19 National Science Foundation contract.

21 Q: DO YOU HAVE ANY SPECIALIZED TRAINING IN THE AREA OF FLUID
22 FLOW FLUID DYNAMICS, AND TWO PHASE FLUID BEHAVIOR AND
23 PRESSURE DROPS?

24 A: Yes. I have completed the following undergraduate level
25 courses that dealt with those topics: Basic Fluid Mechanics,
26 Transport Analysis; and the following graduate courses:
27 Transport Phenomena I and II, Fluid-Solid Systems and
28 Operations. Since both my Masters and Doctorate research
29 projects dealt with two phase liquid-vapor and liquid-gas
30 fluid flow and pressure drops, I did additional studies and
31 research in those specific areas.
32

34 Q: DO YOU HAVE ANY SPECIALIZED TRAINING IN ENGINEERING AREAS
35 RELATED TO MASS AND PHASE TRANSFER OR LIQUID-VAPOR PHENOMENA
36 INCLUDING PSYCHOMETRY?

37 A: Yes, I have completed the following undergraduate level
38 course that dealt with those topics: Energy balances; and
39 the following graduate level courses, Principles of
40 Equilibrium Processes I and II. Chemical engineering deals
heavily with the engineering fundamentals of vapor pressure,
partial pressures, and mass and phase transfer, because of

1 A: Yes, this is the memo I just described. I gave it to
2 Bockhold on 4-30-90. Attached to my memo was my list of
3 diesel starts.

4 Q: WHAT HAPPENED NEXT?

5 A: Bockhold asked me to verify my diesel start list. I recall
6 that Ken Stokes provided me with a DG1A list at this time.
7 The lists were reviewed by Ken Stokes. By 5-2-90 I told
8 Bockhold that the lists were reviewed and correct. With the
9 DG1A list the LER was also incorrect for DG1A. I proceeded
10 to correct the LER, get it PRB approved by about 5-9-90 and
11 sent to corporate by about 5-15-90.

12 Q: DO YOU RECOGNIZE EXHIBIT #30?

13
14 A: Yes, this is a transcript of a conversation I had with Rick
15 Odom and Tom Webb on 5-2-90 about correcting the LER and
16 they discussed the history of how GPC personnel knew the LER
17 was questionable before it was signed out. On page 19, Odom
18 told me, "I mean, I swear to God, it ain't like -- before
19 the LER was sent out, that April 9th letter was talked about
20 and how questionable it was. I mean that's stupid. Why do
21 we try and write things like that when we know they are
questionable?" In that same conversation Odom stated to me
22 how he thought the diesel start statements were "misleading
23 as hell" and that "whoever put that wording in there was
24 dancing all around it because look at it--".
25

26 21. MY REMOVAL FROM THE PRB AND LINE MANAGEMENT
27 RESPONSIBILITY

28 Q: DO YOU REMEMBER ANYTHING NOTEWORTHY FROM THE PRB MEETING
29 AFTER YOU APPROVED THE REVISION TO LER 90-006?

30 A: Yes. I recall assigning an action item to Bockhold to
31 determine how the COA would be corrected. The site did not
32 initiate that letter and would not normally be responsible
33 for correcting it but we knew it was incorrect and needed to
34 be corrected. That is why I assigned Bockhold the action
35 item.

36 Q: DO YOU RECOGNIZE EXHIBIT #31?

37 A: EXHIBIT #31 is the minutes from the 5-10-90 PRB meeting
38 where I assigned Bockhold the action item to determine how to
39 correct the COA response letter.

1 A: GPC personnel acknowledged to me on 4-19-90, before the LER
2 was signed, that they recognized that the 4-9-90 presentation
3 was false with respect to the diesel starts. I testified to
4 their acknowledgment previously and these conversations are
5 documented on EXHIBIT #28, Tape #57. This had been conveyed
6 up the chain of command all the way to McDonald.

7 Q: WHAT DID THAT INFORMATION MEAN TO YOU? / "that information referred to
8 A: With that knowledge, I thought again about how Shipman ^{but that the conference call was}
9 beeped me shortly before the conference call to do the two _{production}
10 tasks for Hairston. Several things didn't make sense.

11 Q: WHAT DIDN'T MAKE SENSE?

12 A: First Hairston's personal interest in interviewing an
13 operator. Why was he taking a personal interest in this
14 somewhat obscure aspect of the LER rather than the diesel
15 starts issue that corporate had been put on notice was a
16 false statement by that point. He could have asked for an
17 interview with the diesel engineers, Cash, Burr or Bockhold
18 to resolve the diesel start count if Hairston wanted to get
19 involved.

20 Q: WHAT ELSE DID NOT MAKE SENSE?

21 A: The second thing was, Shipman didn't tell me about the
22 conference call even though he was asking me to work on
23 resolving LER issues, including the start count, that was
24 the subject of the scheduled conference call.
25

26 Q: WAS THERE ANYTHING ELSE THAT WAS NOT NORMAL?

27 A: Yes. Shipman went outside the chain of command to directly
28 contact me to setup a call between Hairston and a plant
29 equipment operator, a union employee who did not work on my
30 side of the organization and who I did not know. Shipman's
31 request for me to verify LER information was also out of the
32 chain of command. That request should have come from McCoy
33 to Bockhold and from Bockhold to me if he thought I was the
34 one to do the job. This verification task would be
35 considered licensed activity.
36

37 Q: WERE THESE TYPE OF REQUESTS NORMAL?

38 A: No. It was in direct contradiction of the philosophy of

1 LER statement which included the CTP phrase. I don't believe
2 that anyone verified the numbers.

3 Q: DID YOU HAVE ANYTHING TO DO WITH CLARIFYING OR VERIFYING
4 BOCKHOLD'S DIESEL START COUNT FOR HIS 4-9-90 ORAL
5 PRESENTATION.

6 A: No. My involvement with that was to point out to management
7 on 4-19-90 before the LER was signed that the 4-9-90 numbers
8 were incorrect.
9

10 Q: WERE YOU EVER ASKED ON 4-19-90 BY SHIPMAN OR ANY SUPERIOR TO
11 VERIFY THE DIESEL START NUMBERS THAT WENT WITH THE CTP
12 PHRASE THAT CORPORATE ADDED?

13 A: No.

14 Q: DID YOU EVER CONCUR WITH THE FINAL LANGUAGE CTP START COUNT
15 LANGUAGE THAT CORPORATE WAS ADDING.

16 A: No. I continued to argue with Shipman till he told me the
17 NRC had been called and "understood exactly". I also did not
18 concur by silence. I recall that at some point Aufdenkampe
19 stated a confusing question "--somebody has gone and
20 validated that data, and that's what George presented and the
21 data that's been offered to us does not bring to question
22 that data. It tends to support that data. Would you take
23 exception to that Allen?"

24 Q: DID YOU RESPOND TO AUFDENKAMPE'S QUESTION?

25 A: By listening to Tape #58 it is clear that before Aufdenkampe
26 had finished the word "exception" in his statement, Shipman
27 interrupts responding "We're going to go with that", "Jack
28 Stringfellow's just grinning from ear to ear."

29 Q: SO SHIPMAN DECIDED "TO GO WITH THAT" BEFORE AUFDENKAMPE POSED
30 HIS QUESTION TO YOU?

31 A: Yes. That is very clear from the tape. But I did respond
32 after the interruptions. That was when I continued to argue
33 with Shipman about the definition until Shipman brought up
34 the call to the NRC.

35 Q: DID AUFDENKAMPE OR ANYONE THAT YOU KNOW OF VERIFY THE DIESEL
36 START STATEMENT WITH RESPECT TO THE CTP LANGUAGE?

- data
1 documented in the maintenance work orders (MWO's). The MWO's
2 were used to perform the Preventive Maintenance (PM) checks
3 of the diesel air dewpoints per checklist SCL00166. The
4 MWO's ~~were~~^{data} provided to me by GPC in response to
5 interrogatories and document requests. Each list shows the
6 date, dewpoint readings, the instrument used to measure the
7 dewpoint, and its calibration due date from the MWO's. I
8 have prepared a bar graph for each set of data.

9 Q: NOW I AM GOING TO SHOW YOU ANOTHER DOCUMENT, EXHIBIT 35, A
10 PACKAGE OF MAINTENANCE WORK ORDERS. DO YOU RECOGNIZE THIS
11 DOCUMENT?

12 A: Yes this is the package of Maintenance work orders ^{data} on the
13 diesel air system and dewpoint testing per PM SCL00166 that I
14 was just referring to. I used these to prepare DEMONSTRATIVE
15 AID #4. *I also used MWO's supplied by GPC in this proceeding.*

16 Q: DOES THE DEMONSTRATIVE AID #4 ACCURATELY REFLECT THE
17 DEWPOINT INFORMATION IN EXHIBIT 35, THE MWO PACKAGE, *and the MWO's?*

18 A: Yes, to the best of my knowledge.
19

20 Q: DO THE WORK ORDERS AND THIS DEMONSTRATIVE AID SHOW DEWPOINTS
21 MEASURED FOR THE DIESEL AIR SYSTEM AROUND THE TIME OF THE
22 SITE AREA EMERGENCY AND BEFORE THE 4-9-90 GPC COA RESPONSE
23 LETTER?

24 A: Yes. In fact the "recent" unsatisfactory high dewpoint
25 measurements referred to in the 4-9-90 COA response letter
26 for the 1A diesel began on 3-9-90 just before the
27 3-20-90 Site Area Emergency and continued on 3-29-90 just
28 after the site area emergency.

29 Q: HOW MANY OUT OF SPECIFICATION HIGH READINGS WERE THERE ON
30 DG1A?

31 A: For diesel generator 1A there were a total of 22 out of
32 specification (OOS) high measurements between 3-9-90 and the
33 4-9-90 COA response letter. These 22 OOS high readings were
34 taken with two different Vogtle Measuring and Test Equipment
35 M&TE instruments.

36 Q: HOW MANY OUT OF SPECIFICATION HIGH READINGS WERE THERE ON
37 DG1B?

August 10, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

REBUTTAL TESTIMONY OF
WILLIAM B. SHIPMAN

No strikes granted.

Corrections P. 8, L. 7

Mosbaugh and Aufdenkampe later in the day, I understood that the data they had received from Messrs. Webb and Odom, which I did not see, did not call the "at least 18" starts number into question and, in fact, tended to support the statement.

Q. WHY DIDN'T LER 90-006 EXPLAIN WHAT WAS MEANT BY THE COMPREHENSIVE TEST PROGRAM AS YOU UNDERSTOOD IT?

A. We don't typically explain that level of detail in an LER. It didn't occur to us that it was necessary to define that term. Further, the transcript of Tape 58 (GPC Exh. II-2), at pp. 28-29, indicates that it was my understanding at the time that Mr. McCoy had spoken with the NRC's Mr. Brockman about "the [diesel start] numbers and what the basis of the numbers was as George Bockhold described it." It was, therefore, my understanding that the NRC understood what was meant by the reference to the comprehensive test program and no explanation of that was necessary in the LER.

Q. ON APRIL 19, 1990, YOU HAD A FINAL CONVERSATION WITH MESSRS. MOSBAUGH AND AUFDENKAMPE ABOUT THE DIESEL STARTS STATEMENT IN LER 90-006 WHICH APPEARS ON THE TRANSCRIPT OF TAPE 58 (GPC EXH. II-2) AT P. 31, L. 25 TO P. 33, L. 17. WHAT IS YOUR UNDERSTANDING OF WHAT TRANSPIRED ON THAT CALL?

A. I was satisfied that Messrs. Mosbaugh and Aufdenkampe confirmed that they believed there were 18 and 19 diesel starts after the completion of the comprehensive test

program as Mr. Bockhold had defined it. I understood Mr. Bockhold's definition of the comprehensive test program and to me that definition was reasonable. This did not preclude Mr. Mosbaugh from having a different definition (that included the UV tests) that he preferred. However, his statements to me on this portion of the tape did not lead me to believe that the final LER statement was incorrect.

Q. DID YOU HAVE A COPY OF THE DIESEL STARTS DATA WHICH MESSRS. MOSBAUGH AND AUFDENKAMPE REFERRED TO IN THE CONVERSATIONS ON TAPE 58, TR. 22-33?

A. Based on the transcript of Tape 58, I am convinced that I did not have such diesel start count data. Nor do I believe that I had a copy of any other diesel start list, the Diesel Start Log, or the control room logs. I do not believe that I was even aware that some of the starts, which Messrs. Aufdenkampe and Mosbaugh were counting, had occurred after April 9, 1990.

I believe that the corporate office was dependent on site personnel to verify the diesel start count information and that I reasonably relied on site personnel to gather and interpret the data available to them.

Q. DID YOU DECIDE TO "GO WITH" THE LER STATEMENT, REGARDLESS OF WHATEVER ELSE MR. MOSBAUGH MIGHT HAVE SAID, AS MR. MOSBAUGH

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	:	
	:	Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY, <u>et al.</u>	:	50-425-OLA-3
	:	
	:	Re: License Amendment
(Vogtle Electric Generating Plant,	:	(Transfer to
Units 1 and 2)	:	Southern Nuclear)
	:	
	:	ASLBP NO. 93-671-OLA-3

PREFILED TESTIMONY

OF

NORMAN JACKSON STRINGFELLOW.

ON

DIESEL GENERATOR REPORTING ISSUES

WJA Corrections

P. 9, L. 24

1 to verify the diesel start count information. The corporate
2 office did not have diesel start count data and we reasonably
3 relied on site personnel to gather and interpret the data.

4 Q: WHAT DID YOU DO WHEN MESSRS. MOSBAUGH AND AUFDENKAMPE INFORMED
5 YOU ON APRIL 19, 1990 THAT THERE WERE FAILURES OF THE 1B
6 DIESEL AFTER MARCH 20?

7 A: As the transcript of Tape 57 (GPC Exh. 1) reflects, at pp. 44-
8 46, 50, I was informed that there had been failures of the 1B
9 diesel after March 20 and that, in the opinion of Messrs.
10 Mosbaugh and Aufdenkampe, the draft LER language quoted above
11 constituted a material false statement. Also, I concluded
12 that because the April 9 letter contained a similar statement
13 to the draft LER, it too was inaccurate. While I do not have
14 a specific recollection of my actions after this call, I
15 believe I would have passed along to Mr. Shipman my
16 understanding at the time that the statements in the draft LER
17 and April 9 letter were inaccurate because of the fact that
18 there were failures of the 1B diesel which occurred after
19 March 20.

20 Q: WHAT WAS YOUR UNDERSTANDING OF THE ACCURACY OF THE NUMBERS OF
21 DIESEL STARTS THAT WERE SPECIFIED IN THE DRAFT LER?

22 A: As the transcript of Tape 57 (GPC Exh. 1) states, at pp. 50-
23 51, I understood that Messrs. Mosbaugh and Aufdenkampe had
24 assigned Messrs. Odom and Webb to count diesel starts from the

1 numbers which were referenced in the April 9 letter (McCoy
2 Exh. K; GPC Exh. 13). That is, the transcript reflects that
3 I was present during a discussion that there was a string of
4 18 and 19 successful starts without failures on the 1A and 1B
5 diesels, respectively, which occurred after what was described
6 as the completion of the comprehensive test program of the
7 control systems of the diesel generators. Based on the
8 discussions which appear at pp. 22-26 of the transcript of
9 Tape 58 (GPC Exh. 2) among Messrs. Shipman, Mosbaugh and
10 Aufdenkampe, to which I listened from Mr. Shipman's office
11 that day, I heard that the string of successful diesel starts
12 occurred after the problems had been worked out of the diesels
13 (i.e., after the last failure). This string of successful
14 starts was also described in that discussion as occurring
15 after the final calibrations of the Calcon sensors. As the
16 transcript also reflects (GPC Exh. 2, pp. 26-27), I was
17 informed by Messrs. Aufdenkampe and Mosbaugh that they had
18 data, which I did not see, that they said did not call into
19 question the above-described information. In summary, based
20 on the input I received on April 19, 1990 from site personnel,
21 on which I relied, I believed the final signed LER was
22 accurate.

23 Q: WHY DIDN'T LER 90-006 EXPLAIN WHAT WAS MEANT BY THE
24 COMPREHENSIVE TEST PROGRAM AS ^{GEORGIA POWER} YOU UNDERSTOOD IT?

25 A: The transcript of Tape 58 (GPC Exh. 2), at p. 28-29, indicates

1 that it was Mr. Shipman's understanding at the time that Mr.
2 McCoy had spoken with the NRC's Mr. Brockman about "the
3 [diesel start] numbers and what the basis of the numbers was
4 as George Bockhold described it." It was, therefore, my
5 understanding that the NRC understood what was meant by the
6 reference to the comprehensive test program and no explanation
7 of that was necessary in the LER.

8 Q: WHY WASN'T THE INACCURACY IN THE DIESEL STARTS STATEMENT OF
9 THE APRIL 9 LETTER CORRECTED WHEN IT WAS DISCOVERED ON APRIL
10 19, 1990?

11 A: As discussed above, I believed that the April 9 letter was
12 inaccurate because there were failures of the 1B diesel which
13 had occurred after March 20, 1990. It was my understanding
14 that the final signed LER corrected the statement in the April
15 9 letter and that no further action was necessary. That is,
16 the LER statement made clear that the 18 diesel starts
17 occurred after all of the bugs had been worked out of the
18 diesels. Further, based on the discussions appearing in the
19 transcript of Tape 58 (GPC Exh. 2), at pp. 28-29, it is my
20 understanding that Mr. McCoy discussed the diesel start
21 information with Mr. Brockman on April 19, 1990 so that there
22 was no misunderstanding concerning the statement in the April
23 9 letter.

REVISED

August 14, 1995

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

PREFILED REBUTTAL TESTIMONY

OF

THOMAS E. WEBB

ON

DIESEL GENERATOR REPORTING ISSUES

No Corrections to Text

Exhibits Added

1 A: I prepared various drafts for review and approval by my
2 supervisor and by the Vogtle Plant Review Board ("PRB").
3
4 Q: MR. MOSBAUGH STATES THAT YOU RECOUNTED TO HIM "THE
5 HISTORY OF HOW GPC PERSONNEL KNEW THE LER WAS
6 QUESTIONABLE BEFORE IT WAS SIGNED OUT." (ALLEN MOSBAUGH
7 RETYPED PREFILED TESTIMONY AT 37). PLEASE DESCRIBE THE
8 HISTORY OF EFFORTS IN PREPARING THE LER.
9 A: Shortly after the March 20, 1990 event, Mr. Odom directed
10 me to prepare a draft LER for the event. I completed the
11 first draft ^(WEBB EXH. C, GPC EXH. II-171A) and submitted it for review to my "acting"
12 supervisor, Mr. Mehdi Sheibani, and Mr. Aufdenkampe. On
13 or about April 9, 1990, Mr. Aufdenkampe instructed me to
14 include a Unit 1 Diesel Generator-related statement about
15 starts which Georgia Power had previously provided the
16 NRC in the April 9, 1990 confirmation of action response
17 letter (McCoy Exh. K; GPC Exh. II-13). On April 10, I
18 completed another draft of the LER ^(GPC II-171B), received additional
19 comments from him, and on April 11, 1990 completed a
20 third draft ^(GPC II-171C) of the LER. This draft was telecopied to Mr.
21 Norman "Jack" Stringfellow in the Vogtle Project office
22 in Birmingham and submitted to the PRB.
23 Q: WAS THIS DRAFT LER APPROVED?
24 A: No. The PRB members reviewed this draft during the April
25 12, 1990 PRB meeting and returned it to me with

1 instructions to rewrite it so that the LER would be no
2 longer than eight pages; the draft which I had submitted
3 was substantially longer than that.

4 Q: DID YOU SUBMIT ANOTHER DRAFT LER TO THE PRB?

5 A: Yes. On April 13, 1990, I completed a fourth draft^(GPC II-171D) of
6 the LER and submitted it to Mr. Aufdenkampe. Mr.
7 Aufdenkampe had additional comments, including a comment
8 to the effect that the "18 and 19 starts" language in the
9 draft LER might not be correct. At my suggestion, the
10 draft was revised to read "Since 3-20-90, DG1A and DG1B
11 have been started several times and no failures or
12 problems have occurred during any of these starts." This
13 was incorporated in the fifth draft^(GPC II-171E) which I sent to Mr.
14 Stringfellow. On April 16 I received comments on this
15 fifth draft from the corporate office^(GPC II-171F) which did not
16 concern the diesel generator starts statement. On April
17 17, 1990, I completed the sixth draft^(GPC II-171G) of the LER,
18 received additional comments from Mr. McCoy (via Mr.
19 Aufdenkampe)^(GPC II-171H) and completed the seventh draft^(GPC II-171I) of the LER.
20 This, also, I forwarded to Mr. Stringfellow.

21 On April 18, 1990, the PRB reviewed the seventh
22 draft of the LER and approved it by unanimous vote
23 subject to a number of comments.^(GPC II-171J) The minutes of this PRB
24 meeting (No. 90-59) are attached to Mr. Aufdenkampe's
25 testimony as Exhibit B (GPC Exh. II-28).

1 Q: MR. MOSBAUGH INDICATES THAT ON APRIL 19 THE PRB EXPRESSED
2 CONCERN ABOUT THE DIESEL STARTS NUMBERS (ALLEN MOSBAUGH
3 RETYPED PREFILED TESTIMONY AT 53). DID ANY OF THE
4 COMMENTS FROM THE EARLIER APRIL 18 PRB PERTAIN TO DIESEL
5 GENERATOR STARTS STATEMENT?

6 A: Yes. One of the various PRB comments on April 18 was
7 that the word "several" in the seventh draft should be
8 replaced with the actual number of starts. After the PRB
9 meeting, I initiated a review of diesel generator start
10 data and, upon completion that same day, concluded that
11 21 and 23 starts should be used in lieu of 18 and 19,
12 respectively. I reached this conclusion by adding
13 additional starts without problems or failures occurring
14 after April 9, 1990 to the numbers of starts identified
15 in the April 9 letter. I identified these additional
16 starts by reviewing the control room logs for the period
17 April 10 through the morning of April 18, inclusive, and
18 by speaking to Mr. Ken Stokes. Mr. Stokes informed me of
19 one additional start on the 1B diesel generator on April
20 18th. I incorporated the PRB comments into the eighth
21 draft of the LER, ^(GPC II-171K) sent a copy of it to Mr. Stringfellow,
22 and submitted it to Mr. George Bockhold, the Plant

1 which are supposed to be filled out by operators for each
2 start.

3 Q: DID YOU DEVELOP ANY DOCUMENTATION OF THE STARTS?

4 A: Yes, I developed a list of all the documented starts.
5 The list identified some starts which had experienced
6 problems or failures. My efforts began in the early
7 afternoon of April 19th (around lunch time) and continued
8 until after normal quitting time. During the process, I
9 was periodically contacted by Messrs. Odom and
10 Aufdenkampe, and they requested my completed list.
11 Basically, the list included the date and time of a start
12 and would note any problems annotated in the control room
13 logs.

14 Q: WHAT DID YOU DO WITH YOUR LIST?

15 A: I delivered my list to Mr. Odom who, I believe, then
16 provided the list to Mr. Aufdenkampe or Mr. Mosbaugh late
17 in the afternoon of April 19, 1990.

18 Q: IS THE LIST YOU PREPARED THE SAME AS GPC EXHIBIT 71?

19 A: Yes, GPC Exhibit II-71 is a photocopy of my original
20 list. However, some of the information shown on GPC
21 Exhibit II-71 is not my handwriting and was not on the
22 list delivered to Mr. Odom, including the information in
23 red ink and in black ink on the original of the document

1 identified as GPC Exhibit II-71. The line near the top
2 of the page is crossed out in pencil, probably by me.

3 Q: DID YOU PERSONALLY VERIFY THE FINAL LER STATEMENT
4 CONCERNING DIESEL GENERATOR STARTS WHICH REFERRED TO THE
5 "COMPREHENSIVE TEST PROGRAM" OF THE CONTROL SYSTEMS?

6 A: No. While I thought that I was tasked by Mr. Odom to
7 verify the diesel start statement in the LER which had
8 been approved by the PRB, no one ever got back to me to
9 further review the LER wording after I compiled my list.

10 Q: MR. MOSBAUGH HAS TESTIFIED THAT HE FIRST SAW THE TEXT OF
11 THE FINAL LER 90-006 A DAY OR SO AFTER IT WAS SENT TO THE
12 NRC. (ALLEN MOSBAUGH RETYPED PREFILED TESTIMONY AT 53).
13 WHEN DID YOU FIRST OBTAIN AND REVIEW A COPY OF THE FINAL
14 LER WHICH HAD BEEN SIGNED BY MR. HAIRSTON AND SENT TO THE
15 NRC?

16 A: On April 20, 1990. As I recall, Mr. Mosbaugh was with me
17 when I first reviewed the telecopy of the final LER from
18 the corporate office on April 20th. I was surprised to
19 see words similar to "subsequent to the test program"
20 inserted into the LER. I wasn't sure what it meant.
21 This phrase, I thought, could cause the LER statement to
22 be incorrect, since I recalled identifying on April 19th
23 only about 10 or 11 starts following the return to
24 operability of the diesel engines. I recall Mr. Mosbaugh

1 looking over my shoulder as I read the final LER. I said
2 something to the effect of "Oh, [expletive]. That's
3 wrong. What does 'subsequent to the test program' mean?"
4 In response to my question Mr. Mosbaugh said, in effect,
5 that he knew the LER statement appeared to be wrong, but
6 he also said he did not know what the statement
7 "subsequent to the test program" meant.

8 Q: DID YOU REVISE THE LER?

9 A: After I had informed Mr. Mosbaugh that the LER appeared
10 to be incorrect, I also informed Mr. Odom, I believe. On
11 or about April 30, 1990, Mr. Odom informed me that the
12 LER would be revised to reflect a current diesel
13 generator statement. At that time, I first received two
14 hand-written sets of diesel generator starts data from
15 Mr. Mosbaugh. One set was entitled "DG1A Start History
16 for March and April," Intervenor Exhibit II-150, which
17 had been prepared by Mr. Stokes. The second set of data
18 was entitled "DG1B" (GPC Exhibit II-70) and had been
19 prepared by Mr. Mosbaugh. I prepared a draft revision. ^(GPC II-171L)

20 Q: DID YOU DEVELOP AND SUBMIT TO THE PRB A REVISION TO LER
21 90-006?

22 A: Yes. Based upon comments and review by my supervisor and
23 manager of two drafts, ^(GPC II-171L and II-171M) a third revision ^(GPC II-171N) was prepared and
24 this one was submitted to the PRB on May 8, 1990. It

GPC EXHIBITS

GPC EXHIBIT 8
MCCOY EX. F

DOLA

DATE	TIME	Detailed
5-12-90	1306	STARTED
	1317	TIED TO GRID
	1345	LOADED TO 7400 KW
	1355	UNLOADED TO 4800 KW
	1-25	REMOVED FROM PARALLEL TO GRID NOW SUPPLYING BUS LOAD
	1-29	PARALLEL TO GRID
	1-135	OUTPUT BREAKER OPENED AS FULL POWER PER 2-ENG-90-13
	1137	STOPPED
5-12-90	0009	STARTED
	0017	OUTPUT BREAKER CLOSED
	0038	P. O. PLACED ON RECLRC. FOR CHEMISTRY
	0257	CAME OUT OF DROOP MODE. OPERATOR IN CONTROL ROOM PLACED BACK IN PARALLEL MODE, AND BEGAN INCREASING LOAD TO 7000 KW
	0301	LOAD > 6800 KW
	0310	IT WAS DETERMINED THAT DOLA SWITCHED TO UNIT MODE AS A RESULT OF SPECIAL SEQUENCE TEST PROCEDURE BY ENGINEERING.
	0502	OUTPUT BREAKER OPEN
	0506	STOPPED
	0509	PLACED IN MAINTENANCE MODE
	1320	POWER POWER TAKEN OFF RECLRC. - RESULT SAT.

NOTE: All starts unless
otherwise noted are
from the Control Room

F. C

DCLA

DATE	TIME	EVENTS
3-20-80	0320	LOSS OCCURRED - LOST "A" RAT - DCLA TRIP AND TRIPPED (SEVERAL ALARM CAME - NOT NOTED IN THE LOG)
	0841	AUTO STARTED AFTER SENTINEL RESET AND TRIPPED ON LOW JACKET WATER PRESSURE
	0856	EMERGENCY BREAK CLASS START LOCALLY TO RECOVER POWER FROM STATION BERTH OUT. D/G IS SUPPLYING THE 4.50 KV TRANS "A" LOAD
	1029	(RAT "B" ENERGIZED)
	1040	(RAT "B" ENERGIZED FROM "B" RAT)
	1155	D/G LA PLACED BACK IN SERVICE
	1157	(LAAC2 ALTERNATE PROTECTING BREAKER CLOSED IN PARALLELING IN DCLA)
	1211	LOADED TO 6800 KW TO BE RUN FOR 45 MINUTES DUE TO LOW LOAD OPERATION
	1324	TIE BREAKER OPEN
	1326	SHUTDOWN
	1405	PLACED IN STANDBY READINESS
	1720	D/G DECLARED INOPERABLE
	1741	(RAT "A" ENERGIZED)
	2021	D/G IN MAINTENANCE MODE FOR MOISTURE CHECK BEFORE RUN

DCA

DATE	TIME	STATUS
3-26-70	1219	STARTED
	1222	CUTTER BREAKER SHUT AND TIED TO GRID
	1225	CUTTER BREAKER OPEN
	1228	STOPPED
	1231	STARTED
	1238	STOPPED
	1239	STARTED
	1254	STOPPED
3-22-70	2210	PAUSED WATER AND LUBE OIL PUMP DASH SYSTEMS SHUTDOWN TO SUPPORT MAINTENANCE
3-23-70	0227	IN MAINTENANCE MODE FOR MOISTURE CHECK
	0251	MOISTURE CHECK COMPLETE AND PLACED BACK INTO STANDBY
	0254	STARTED FOR MAINTENANCE TROUBLE- SHOOTING
	0259	CUTTER BREAKER SHUT AND TIED TO GRID
	0450	PLACED BACK ON STANDBY MODE
	1724	STARTED AND PARTIALLY STOPPED FROM C.R.

DG1B

DATE	TIME	STARTED
3-13-90	1440	TAKEN TO LOCAL FOR MDISTURE CHECK
	1512	IN AUTO STANDBY MDISTURE CHECK COMPLETE
	1518	START FOR MAINT. TEST
	1634	TRIED TO GRID - NORM INCOMING BREAKER REMOVED TO 1BA03
	1717	LOAD 6800 KW
	1838	RUNNING
3-14-90	0120	BEGAN UNLOADING D/G 13
	0142	DISCONNECTED FROM THE GRID
	0146	STOPPED
	0149	TOOK TO LOCAL AND PLACED IN MAINT. WILL BE TAGGED OUT
	0401	OPERABILITY TEST COMPLETE AND SAT FOR D/G 13
3-21-90	2149	FAILED TO START DUE TO INSUFFICIENT FUEL IN FUEL LINES AFTER MAINTENANCE.
	2156	FAILED TO START AGAIN
	2202	STARTED AND GOVERNO VENTED
	2217	STOPPED

NOTE: All starts unless otherwise noted are from the Control Room

DG18

DATE	TIME	STARTED
03-21-90	2259	STARTED D/G 18 FOR OVERSPEED TRIP TEST
	2301	STOPPED MANUALLY DUE TO LOW LUBE OIL PRESSURE AND HIGH OIL FILTER AP
	2314	STARTED
	2318	STOPPED
3-22-90	0017	STARTED
	0023	STOPPED FOR MAINTENANCE
	0350	IN MAINTENANCE MODE FOR MOISTURE CHECK
	0428	OUT OF MAINTENANCE LOCKOUT. MOISTURE CHECK COMPLETED
	0428	STARTED FOR TESTING
	0429	STOPPED
	0714	LOCALLY STARTED FOR MAINTENANCE AND ENGINEERING TESTING
	1030	LOCALLY SHUTDOWN
	1106	STARTED FROM C.R.
	1112	TIE BREAKER CLOSED
	1135	LOAD > 6800 KW
1243	TRIPPED ON D/G HIGH LUBE OIL TEMP	

DC1B

DATE	TIME	STATUS
1-25-90	0445	MOISTURE CHECK STARTED
	0500	MOISTURE CHECK COMPLETED
	0509	STARTED FOR MAINTENANCE RUN AND SYSTEM OPERATOR NOTIFIED
	0514	TIED TO GRID, OUTPUT BREAKER OPEN
	0539	FULLY LOADED (7000 KW)
	1145	LOAD INCREASE TO 7500 KW
	1150	LOAD REDUCED TO 6800 KW
	1153	THE BREAKER FOR 100% LOAD REJECTION TEST IS MISSING
	1202	STOPPED
	1730	STARTED FOR 4 HR. RUN
	1731	TRIPPED ON LOW JACKET WATER PRESSURE/TURBO LUBE OIL PRESSURE LOW
	1744	STARTED FOR 4 HR RUN
	1758	TIED TO GRID
	1819	LOADED TO 6800 KW
	1842	STOPPING FOR MAINTENANCE RUN
	2232	AFTER LOADING IT WAS DISCONNECTED FROM THE GRID AND DIESEL IS STOPPED
	2320	PLACED IN LOCAL MAINTENANCE MODE FOR MAINTENANCE
	2357	MOISTURE CHECK STARTED

stake-out
is in
pencil

DGIA STARTS since JHE

GPC II-71

Date	Value	Date	Value
3-20-90	2119	4-1-90	0423
	2223	4-6-90	1345
	2233		1419
3-23-90	0254		1404
	1724	4-9-90	2141
3-29-90	1139	4-6-90	<u>2247</u>
3-30-90	1920		32
	2235		
	2254		
	2313		
	2328		
	2343		
	2348		
3-31-90	0012		
	0016		
	1827		
	1845		
	1858		
	1904		
	1921		
	1955		
	2254		
4-11-90	1258		
4-13-90	1316		
4-17-90	0304		
4-18-90	1306		

OSP1998

red

UV test

Black Ink

DG 1B STARTS since JAE

3-21-90 2156 - Failed to start

2259

2314

3-22-90 3017

3428

0714

1106 - Tripped on Hi Lube Oil Temp

3-23-90 3509

1730 - Tripped on Hi Jacket Water Pres / Turbo Lube Oil Pres L.

1744 red

3-24-90 0048 - Hi Jacket H₂O Alarm.

Black Ink

3-27-90 1649

1909

1951

1957

red

Env. logics test 2004

2220

UV start

Black Ink

14980

3-28-90 0403

1350

1356

15127 DG 1B op dec. SS Log.

4-4-90 -1632

4-5-90 0030

red

0307

4-3-90 0515

Moist. Lock out Alarm due to low control air pressure, at 41 psig.

4-10-90 0137

4-12-90 1020

4-16-90 0000

4-18-90 0759

27

more than 4-11
7

"clean more than 4-19"

↓ "

JPC
II-72

1 ^{Am}
~~MR. BROWN:~~ On the B unit, the under-voltage
2 testing is certainly part of the comprehensive test program.

3 JGA VOICE: I don't know.

4 ^{Am} VOICE: Well, hell, it was part of the test
5 program that we put in writing in the little schedule we
6 gave to the IIT.

7 JGA VOICE: I personally don't think it matters
8 whether we put in 18 or 40.

9 ^{Am} VOICE: I think it personally matters a hell of a
10 lot because you can't put false information in written
11 correspondence to the NRC.

12 JGA VOICE: Well, in the -- well, I agree with that
13 one. The reason I don't think it matters is because,
14 regardless of how we put it in there, when they come and ask
15 us questions about it, we'll tell them this ~~is~~ is what our
16 basis for it was. This is why we got 18. If they interpret
17 it differently, we're sorry. ^{We're} ^{for out.} ^{you} Send a ~~log-up~~ log-up. You know, ~~is~~
18 ~~not talking about --~~ ^{don't agree with me on that}

19 ^{Am} VOICE: I'm having trouble counting starts. I
20 can't find very many starts.

21 JGA VOICE: And ^{I'm} ^{WRONG OR RIGHT} they're not talking about [inaudible],
22 ^{I'm} ^{PRACTICAL} they're just talking ^{practical}: The practical side of it is
23 that that what will happen.

24 ^{Am} VOICE: I can't find enough starts. I'm really
25 having trouble finding starts, and ^{MAYBE THEY ARE NOT A} ~~a number of them I don't~~

Tom Hix ~~was~~
&
Odom was working a list of starts

Submitted 6/13 or 6/14/90

ALM-2

GPC II-73A

Georgia power has made an additional Material false statement in written correspondence to the NRC in Licensee Event Report 90-006 submitted 4-19-90. It is similar to the Material false statement made on 4-09-90 and involves the claims of successful starts without problems on Vogtle's Diesel generators that failed during the Site-Area Emergency of 3-20-90.

On page 5 under item D it states "Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. After the 3-20-90 event, the control systems of both engines have been subjected to a comprehensive test program. Subsequent to this test program, DG1A and DG1B have been started at least 18 times each and no failures or problems have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on 4-6-90 and DG1A started and loaded properly."

The above statement regarding the number of successful starts without "failures or problems" subsequent to the control systems comprehensive test program is materially false by omission or commission. The 1B diesel control logic testing was completed on 3-27-90 just prior to performing the first undervoltage test at 22:04 CST on 3-27-90 and prior to declaring the diesel operable at 15:27 CST on 3-28-90. Completion of this testing, is the earliest point in time that a claim of completing a comprehensive control systems test program could be made. Subsequent to that date and time until 4-19-90, DG1B has been started only 11 times.

The 1A diesel control logic testing was completed on 3-31-90 just prior to performing the first undervoltage test at 22:53 CST on 3-31-90 and prior to declaring the diesel operable at 11:54 CST on 4-01-90. Completion of this testing is the earliest point in time that a claim of completing a comprehensive control systems test program could be made. Subsequent to that date and time until 4-19-90, DG1A has also been started only 11 times.

This material false statement is similar to the one made by Georgia power on 4-9-90 in correspondence ELV-01516 and again falsely overstates the extent of reliable starting experience with DG1B and DG1A. Concern was raised by plant staff on 4-18-90 with the SONOPCO Licensing Engineer, the SONOPCO Licensing Manager, the SONOPCO General Manager Plant Support, the Vogtle General Manager, the SONOPCO Vice President Vogtle, and the SONOPCO Senior Vice President Nuclear as to the accuracy of the Diesel start information

reference
to
6-29-90
on
11-3-4

and the fact that there had been "failure and problems" prior to submittal of the LER. SONOPCO was pressed for time and issued the LER without adequate verification and in the face of concerns for the accuracy of the information raised by the site. The issue of the accuracy of correspondence ELV-01516 including specific failure information was raised by site personnel on the phone call with the above personnel at the same time.

On 4-30-90 the Vogtle General Manager was provided a memo with start data on the DG1B, derived from control logs, shift supervisor logs and source diesel operating logs, that clearly showed that previous statements made to the NRC were false. He took no immediate action and ask for the information to be validated by operations and engineering. The information was validated on 5-1-90 and found correct. It was presented again to the General Manager on 5-2-90 and in this presentation it was stated that statements on both diesels 1A and 1B were incorrect in the LER and that the letter ELV-01516 was wrong as well. Still he took no action to promptly inform the NRC of the false statement and suggested that a revision to the LER be prepared. He also suggested that the letter ELV-01516 be corrected by including a correction in the letter being prepared for submittal to the NRC on 5-15-90. The General Manager did not follow up on the progress of these revision actions or set any time table for completion as he normally would on important issues. A revision was made to the LER and approved by the PRB on 5-8-90. On 5-10-90 the PRB reviewed the 5-15-90 letter (actually submitted on May 14) to the NRC. It had nothing that addressed or corrected the material false statement as previously suggested by the General Manager. SONOPCO and the General Manager were heavily involved in writing, editing and specifying the contents of the May 15 letter. The PRB made a comment on the fact that the letter did not address the material false statement and assigned the General Manager an action item to resolve that. After the General manager saw the action item his secretary came to the PRB secretary's office and said "Doesn't NSAC have anything better to do than assign the General Manager action items". Later on 5-24-90 the general Manager signed the action item off as complete and attached a note instruting the Technical Support Manager to use the LER cover letter to correct the other incorrect document. SONOPCO most always drafts the cover letters, not the Technical Manager.

On 5-11-90 the PRB met again with the General Manager to approve the "final" version of the May 15 letter to be sent to the Senior Vice President SONOPCO for signature. Again no correction had been made and the previous material false statement was not addressed. The "final" version was approved. The individual that had raised the issue of the

material false statements had been removed from the PRB by a memo from the General Manager(NOTS-00382) dated 5-10-90 and effective 5-11-90.

By May 15 the revised LER was with SONOPCO.No action occurred to submit the LER to the NRC until about the first week in June when again site personnel began asking SONOPCO about what was taking so long to submit the correction.SONOPCO licensing personnel told site personnel that the Senior Vice President Nuclear planned to sign the revision on June 8 (the day of the IIT presentation to the Commission on the Vogtle Site-Area emergency). On June 8,11 and 12 an extraordinary number of meetings and telephone calls occurred over the Diesel start information. Quality assurance was directed by the Senior Vice President to audit all of the Diesel start logs.When this was completed ,no errors were found in the information that had been presented to the General Manager over a month before on 4-30-90.With this done the Senior Vice President ask for a "complete revision" and updating of the LER.This was done and a revised LER was PRB approved by 6-22-90.Only 3 of 8 pages needed any rewrite on the "complete revision".A complete revision had originally not been planed until 6 months after the event.

The "complete" revision LER switches the counting and reporting of Diesel generator starts and failures to "valid" starts and failures per Reg Guide 1.108.By doing so correlation between the previous LER can not be made without detailed and specific data on each start.While the original LER was being drafted it was suggested that we might want to use "valid starts and failures" but that method was discounted because it was recognized that we had very few valid tests.If the original LER were stated in terms of valid starts we could only say "Subsequent to this test program the DG 1A and DG 1B have had 6 valid starts without problems or failures".If the COA response letter were stated in terms of "valid starts" we could only say "Subsequent to the event the DG1A has had 1 valid test with no failures and the DG1B has had 2 valid tests with no failures".If valid tests are a more "useful" measure of Diesel performance then clearly the perception of the Diesel reliability changes from that previously provided to the NRC.

On 6-28-90 and 6-29-90 a total of 6 cover letters to be sent in with the LER revision were originated and proposed by SONOPCO.Each is different and attempts to explain the Material False statement in a different manner:

DRAFT

07:51 6-28-90

This draft says that all tests were counted but only valid failures were considered in reaching a conclusion there were no problems or failures.

08:55 6-28-90 This draft says that all tests were counted regardless of whether they were valid or not.

07:55 6-29-90 This draft says that the COA response letter used the words "Subsequent to the event" and that the LER inadvertently used the words "Subsequent to the test program" but should have been consistent with the COA response letter and the verbal presentation in Atlanta.

11:42 6-29-90 This draft says the LER statement didn't consider failures and problems associated with troubleshooting and restarting the Diesel and should have been "Subsequent to the event" which is consistent with the COA response and the verbal presentation.

12:06 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B as of 4-19-90.

13:11 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B. It also says that test program starts were included in the original count and that was due to poor record keeping practices and no definition of the end of the test program.

These explanations are all untrue and are being concocted after the fact without regard to how and why the errors were actually made. In short these are lies and an attempt to coverup the careless personnel errors made by the operations superintendent and General Manager which originated in the verbal presentation, were repeated in the COA response letter and were carelessly restated in the LER.

A look at the Diesel generators starting and failure history after the LER was written on 4-18-90 provides a technical as well as a objective view of the reliability of the diesels

which is at the heart of the Material False Statement.

Diesel Generator 1B

DATE	TIME	RESULT
04-19-90	03:14	Diesel was inadvertently started due to personnel error in performing Surveillance 14619-1
04-19-90	09:55	Successful start
04-29-90	09:09	Successful start
05-23-90	12:26	Diesel Tripped after start
05-23-90	13:10	Diesel tripped after start
05-23-90	14:12	Successful start manual trip
05-23-90	14:45	Successful start manual trip
05-23-90	21:18	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:38	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:57	Diesel tripped after start on low turbo lube oil pressure
05-23-90	22:55	Diesel tripped after start on Hi Jacket water temperature
05-23-90	23:37	Diesel tripped after start on Hi Jacket water temperature
05-24-90	12:29	Successful start
05-24-90	12:42	Successful start
05-24-90	12:53	Successful start
05-24-90	13:10	Successful start
05-24-90	15:19	Successful start
05-24-90	15:30	Successful start
05-24-90	19:16	Successful start
05-26-90	20:28	Successful start
06-01-90	11:45	Successful start

Clearly this diesel generator continued to experience an excessive rate of trips and failures most of which were the same kind of failure that led to the station blackout at mid-loop that occurred on 3-20-90. Clearly this diesel was not reliable as the COA response letter and the LER tried to convey. As further proof of the unreliability Georgia Power had to initiate a design change to remove some of the unreliable components from the control logic after experiencing all the additional failures.

Considering the evidence:

The words are false in counting the starts.
They overstate the reliability of the diesel.
They were used by NRC to make decisions "Significant to the Regulatory Process" (To allow Restart)
Concern was raised about the accuracy of the start data before submittal of LER.

SONOPCO personnell recognized that the previous (COA) statements were false before submittal of the LER. Factual data was presented disputing the data after submittal and stating that information provided to NRC was incorrect.

Substantial delays occurred in starting to correct the LER. Additional delays were introduced after beginning correction (QA audit).

Revisions were delayed until after critical meetings with NRC (6-08-90 IIT presentation to Commissioners)

Additional unplanned delays were introduced (complete revision) after QA audit substaintated inaccuracy claim. Multiplicity of revision letters (also false) to explain the mistake.

Submittal to AEOD by LER revision to correct multiple non-LER errors.

Performance of the Diesel itself proves the unreliability and the falseness of the statements given to the NRC.

Above actions did not proceed without repeated and continuing expression of concern from the plant employee who exposed the Material False statement .

one can only conclude that Georgia Power uid indeed make Material False Statements in written correspondence to the NRC due to as a minimum careless disregard and willfully conspired to delay and cover up the disclosure of those false statements.

These serious events bring into question SONOPCO's and Georgia Powers' commitment to safety and it's fundamental trustworthiness as a licensee.

GPC II-73A

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material false statements had been removed from the PRB by a memo from the General Manager (NOTS-00382) dated 5-10-90 and effective 5-11-90.

By May 15 the revised LER was with SONOPCO. No action occurred to submit the LER to the NRC until about the first week in June when again site personnel began asking SONOPCO about what was taking so long to submit the correction. SONOPCO licensing personnel told site personnel that the Senior Vice President Nuclear planned to sign the revision on June 8 (the day of the IIT presentation to the Commission on the Vogtle Site-Area emergency). On June 8, 11 and 12 an extraordinary number of meetings and telephone calls occurred over the Diesel start information. Quality assurance was directed by the Senior Vice President to audit all of the Diesel start logs. When this was completed, no errors were found in the information that had been presented to the General Manager over a month before on 4-30-90. With this done the Senior Vice President ask for a "complete revision" and updating of the LER. This was done and a revised LER was PRB approved by 6-22-90. Only 3 of 8 pages needed any rewrite on the "complete revision". A complete revision had originally not been planed until 6 months after the event.

The "complete" revision LER switches the counting and reporting of Diesel generator starts and failures to "valid" starts and failures per Reg Guide 1.108. By doing so correlation between the previous LER can not be made without detailed and specific data on each start. While the original LER was being drafted it was suggested that we might want to use "valid starts and failures" but that method was discounted because it was recognized that we had very few valid tests. If the original LER were stated in terms of valid starts we could only say "Subsequent to this test program, the DG 1A and DG 1B have had 6 valid starts without problems or failures". If the COA response letter were stated in terms of "valid starts" we could only say "Subsequent to the event the DG1A has had 1 valid test with no failures and the DG1B has had 2 valid tests with no failures". If valid tests are a more "useful" measure of Diesel performance then clearly the perception of the Diesel reliability changes from that previously provided to the NRC.

On 6-28-90 and 6-29-90 a total of 6 cover letters to be sent in with the LER revision were originated and proposed by SONOPCO. Each is different and attempts to explain the Material False statement in a different manner:

DRAFT

07:51 6-28-90

This draft says that all tests were counted but only valid failures were considered in reaching a conclusion there were no problems or failures.

08:55 6-28-90 This draft says that all tests were counted regardless of whether they were valid or not.

07:55 6-29-90 This draft says that the COA response letter used the words "Subsequent to the event" and that the LER inadvertently used the words "Subsequent to the test program" but should have been consistent with the COA response letter and the verbal presentation in Atlanta.

11:42 6-29-90 This draft says the LER statement didn't consider failures and problems associated with troubleshooting and restarting the Diesel and should have been "Subsequent to the event" which is consistent with the COA response and the verbal presentation.

12:06 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B as of 4-19-90.

13:11 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B. It also says that test program starts were included in the original count and that was due to poor record keeping practices and no definition of the end of the test program.

These explanations are all untrue and are being concocted after the fact without regard to how and why the errors were actually made. In short these are lies and an attempt to coverup the careless personnel errors made by the operations superintendent and General Manager which originated in the verbal presentation, were repeated in the COA response letter and were carelessly restated in the LER.

A look at the Diesel generators starting and failure history after the LER was written on 4-18-90 provides a technical as well as a objective view of the reliability of the diesels

which is at the heart of the Material False Statement.

Diesel Generator 1B

DATE	TIME	RESULT
04-19-90	03:14	Diesel was inadvertently started due to personnel error in performing Surveillance 14619-1
04-19-90	09:55	Successful start
04-29-90	09:09	Successful start
05-23-90	12:26	Diesel Tripped after start
05-23-90	13:10	Diesel tripped after start
05-23-90	14:12	Successful start manual trip
05-23-90	14:45	Successful start manual trip
05-23-90	21:18	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:38	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:57	Diesel tripped after start on low turbo lube oil pressure
05-23-90	22:55	Diesel tripped after start on Hi Jacket water temperature
05-23-90	23:37	Diesel tripped after start on Hi Jacket water temperature
05-24-90	12:29	Successful start
05-24-90	12:42	Successful start
05-24-90	12:53	Successful start
05-24-90	13:10	Successful start
05-24-90	15:19	Successful start
05-24-90	15:30	Successful start
05-24-90	19:16	Successful start
05-26-90	20:28	Successful start
06-01-90	11:45	Successful start

Clearly this diesel generator continued to experience an excessive rate of trips and failures most of which were the same kind of failure that led to the station blackout at mid-loop that occurred on 3-20-90. Clearly this diesel was not reliable as the COA response letter and the LER tried to convey. As further proof of the unreliability Georgia Power had to initiate a design change to remove some of the unreliable components from the control logic after experiencing all the additional failures.

Considering the evidence:

The words are false in counting the starts. They overstate the reliability of the diesel. They were used by NRC to make decisions "Significant to the Regulatory Process" (To allow Restart) Concern was raised about the accuracy of the start data before submittal of LER.

SONOPCO personnell recognized that the previous (COA) statements were false before submittal of the LER. Factual data was presented disputing the data after submittal and stating that information provided to NRC was incorrect.

Substantial delays occurred in starting to correct the LER. Additional delays were introduced after beginning correction (QA audit).

Revisions were delayed until after critical meetings with NRC (6-08-90 IIT presentation to Commissioners)

Additional unplanned delays were introduced (complete revision) after QA audit substaintated inaccuracy claim. Multiplicity of revision letters (also false) to explain the mistake.

Submittal to AEOD by LER revision to correct multiple non-LER errors.

Performance of the Diesel itself proves the unreliability and the falseness of the statements given to the NRC.

Above actions did not proceed without repeated and continuing expression of concern from the plant employee wno exposed the Material False statement .

one can only conclude that Georgia Power did indeed make Material False Statements in written correspondence to the NRC due to as a minimum careless disregard and willfully conspired to delay and cover up the disclosure of those false statements.

These serious events bring into question SONOPCO's and Georgia Powers' commitment to safety and it's fundamental trustworthiness as a licensee.

GPC II-73B

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ON 6/14/90

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TO
OSCAR D. *JLR*
6/18
10:30 AM

***** PLEASE NOTE *****

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The above paragraph is materially false by omission and/or commission in that it presents a conclusion (that air quality is satisfactory) that cannot be concluded from objective evidence and knowledge of Vogtle's Diesel generator air systems. This includes the dewpoint measurements taken, the procedures used, the maintenance history of the DG 1A dryers, the operational alignments, the air quality acceptance criteria requirements of the Vogtle diesel generators from the Vogtle FSAR and Vogtle's response to Generic Letter 88-14 in correspondence ELV-00197 page 3. The following substantiates a less than satisfactory

history of air quality:

1. Vogtle's response to Generic Letter 88-14 presents the "maximum dewpoint acceptance criteria for the VEGP diesel air start system ---as 50 F at system pressure " (225 to 250 psig).
2. Prior to 6-28-89 dewpoints were not regularly checked with no measurements taken in 1987 and only one taken in 1988. The 1988 value is theoretically impossible for the refrigeration type dryers installed (less than 32 F). The 2 measurements taken in 1989 prior to 6-28-89 were also theoretically impossible (less than 32 F).
3. Since the equipment used to measure dewpoints measures at atmospheric pressure and the criteria is at system pressure, a calculation or correction must be performed to adjust to reference pressure. The maintenance procedures used, do not include instructions for this and there are no calculational records or data that show how it was done. Therefore the accuracy of even post 6-28-89 data is not certain.
4. The maintenance procedure in use is contrary to the dewpoint measurement equipment vendors recommendations in that it uses a pressure regulator which the vendor says holds moisture and gives false readings.
5. Readings obtained on 3-9-90 and 3-31-90 exceeded acceptance criteria and were as high as 80 F. This was explained as "faulty equipment" but after that, on 4-6-90, valid dewpoint readings of 84 F were measured for Unit 1 DG air dryer K01 and 83 F for K02 as documented on DC 1-90-186. Maintenance work order 2-9000964 documents air quality problems on the Unit 2A diesel where nearly every dewpoint measurement exceeded acceptance criteria when measured with several kinds of instruments. Values as high as 95 F were measured on 4-9-90 thru 4-11-90. DC's were not written for these out of spec. conditions. Maintenance work order 2-9001136 documents continuing dewpoint problems on the 2A diesel.
6. The air dryers for the Unit 1A diesel generator have been out of service for excessive periods of time. Maintenance work order 1-88-02991 was open from 5-10-88 to 5-2-89 to repair both the K01 and K02 dryers. Refrigeration compressors as well as condensing fans have been broken. When preparing to perform the UV testing of the diesels for the IIT, air dryers were found out of service.
7. Despite having the air dryers out of service the associated compressors have remained in service.
8. The diesel generator utilizes a pneumatic air control logic system which has extremely small orifices as small as 6 thousandths of an inch. This air control system takes its air from the starting air system.

9. Qualitative and gross observations at a few points in the system, one air receiver tank and a filter, is not sufficient to confirm satisfactory air quality and internal cleanliness of hundreds of air lines after years of inadequate air dryer maintenance and dewpoint testing.
10. Air in the diesel building is not air conditioned and therefore the air compressors utilize ambient air which in the Central Savannah River Area is typically extremely warm and humid much of the year. Without dryers in service, water in the system is bound to be a problem.
11. For periods of operation without dryers in service (which have been extensive) the air in the receiver would be saturated and have a dewpoint of that of room temperature. Receiver blowdown would not alter those conditions. For summer at Vogtle that would be 90 - 100 F. Using psychrometric charts a drop of approximately 30 F in dewpoint would occur upon pressure reduction to the control air pressure of 80 psig. This would produce a dewpoint of 60 to 70 F which exceeds the acceptance criteria. This value is surprisingly close to the valid measurements recently taken with the dryers out of service. Clearly air quality should be expected to be unsatisfactory during periods when the dryers have been out of service.

Considering items 1 thru 11, the only conclusions that can be drawn is that the air quality for the Vogtle Unit 1 Diesels is unknown and indeterminate for the first 2 1/2 years of post license operation with known lengthy periods of dryers out of service during which times air quality probably was unsatisfactory against the acceptance criteria stated in response to Generic Letter 88-14. For the most recent period since 6-28-89 air quality was measured and generally met acceptance criteria except when dryers were out of service (the extent of which is difficult to reconstruct) at which times air quality was probably again unsatisfactory. At the time that correspondence ELV-01516 was signed by Georgia Power, 2 of 4 diesels had air quality problems with high dewpoints (outside acceptance criteria) ranging from 64 to 84F.

Dewpoints that high could easily result in water in the air lines as room temperatures cycle (when cool night or early morning air is drawn into the room). The outside air dampers locations in the Diesel rooms make this a distinct possibility. The presence of any water in the lines will lead to corrosion and particulate matter formation which could be carried to the pneumatic logic boards, sensor valves and other pneumatic components and could easily cause malfunctions.

In ELV-01516 page 3 item g. it states "Since March 20, 1990, GPC has performed numerous sensor calibrations (including jacket water temperature), extensive logic testing, special pneumatic leak testing, and multiple engine starts and runs under various conditions. Since March 20, the 1A DG has been started 18 times, and the 1B DG has been started 19 times. No failures or problems have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on April 6, 1990 and the 1A D/G started and loaded properly."

The above paragraph is materially false by omission and/or commission because according to Vogtle control room logs and procedure 14980 data sheets the 1B DG had been started 29 times (see NOTE * below) since March 20, 1990. It experienced 8 failures or problems during these starts and one problem with control air pressure between starts as follows:

Start	Date	Time	Comment
1	3-21-90	21:49	Diesel failed to start
2	3-21-90	21:56	Diesel failed to start
3	3-21-90	22:02	
4	3-21-90	22:59	Diesel had to be stopped due to low lube oil pressure and hi oil filter DP
5	3-21-90	23:14	Diesel had to be manually stopped because of high fuel oil DP
6	3-22-90	00:17	
7	3-22-90	04:28	
8	3-22-90	07:14	
9	# 3-22-90	08:54	
10	# 3-22-90	09:21	
11	# 3-22-90	09:50	
12	# 3-22-90	10:09	
13	3-22-90	11:06	Diesel tripped Hi Lube Oil Temp
14	3-23-90	05:09	Got B phase 127 Undervoltage relay flag on start
15	3-23-90	17:30	Diesel tripped Lo Jacket Water Press./Turbo Lube Oil Press.
16	3-23-90	17:44	
17	3-24-90	00:48	Got generator ground relay 164 dropout on start. Received DG1B Trip Hi Jacket water alarm. DG should have tripped but didn't.
18	3-27-90	16:49	
19	3-27-90	19:09	
20	* 3-27-90	19:51	
21	* 3-27-90	19:57	

22	*	3-27-90	20:04	
23		3-27-90	22:20	Diesel 1B Undervoltage Test
24		3-28-90	04:03	Diesel TS Surveillance 14980
25		3-28-90	13:50	
26		3-28-90	13:56	
		3-28-90	15:27	Diesel 1B Declared Operable
		4-03-90	05:15	Got Maint. lockout alarm due to low control air pressure (41 psi)
27		4-04-90	16:32	
28		4-05-90	00:30	Functional test of design change DCP 133
29		4-05-90	03:07	Diesel TS Surveillance 14980

Date of ELV-01516 4-9-90

30		4-10-90	01:37	Surveillance 14980
31		4-12-90	10:20	Surveillance 14980
32		4-16-90	00:00	Surveillance 14980
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From the above it is clear that there have been numerous trips and problems with the 1B diesel since 3-20-90, many of which are associated with features being investigated to determine the cause of the 1A diesel failure, such as CALCON switches and control air. In addition, even if you disregard the trips and problems, there were only 14 successful starts on 1B Diesel since the time of the last trip and only 3 starts since the time of the last problem and the date of ELV-01516.

It is clear that the data do not support the claims made in the letter of "No failures or problems during any of these starts" for this diesel. It is particularly disturbing that Georgia Power has misled the NRC with this information, information presented to convince the NRC of the reliability of Vogtle's diesel generators and to obtain permission to resume power operations.

Since the cause for failure of the Vogtle diesel generator 1A and the subsequent testing and reliable operation of both 1A and 1B diesels is particularly significant to the Site-Area Emergency, the Confirmation of Action Letter and associated regulatory action and since ELV-01516 was signed by the Senior Vice President SONOPCO, these Material False Statements are very disturbing.

Detailed information and source documents including Diesel start and failure data used to compile the above concern have been provided to Al Chaffee of the NRC IIT team.

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JHC II-73B

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6/18
10:30 AM

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Date of ELV-01516 4-9-90

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Detailed information and source documents including Diesel start and failure data used to compile the above concern have been provided to Al Chaffee of the NRC IIT team.

***** PLEASE NOTE *****

The level of detail contained in this concern will allow the Vogtle and SONOPCO management to conclusively identify the author. Because of the high level of the personnel involved and the seriousness of these concerns, I request that you do not reveal the text of this letter or the fact that this information was obtained thru an allegation, to Vogtle or SONOPCO personnel. I fear that retaliation including the possibility of physical harm could come to me or my family. I am concerned because of recent articles surrounding Gulf Power, a Southern Co. subsidiary, and the Jake Horton case as well as my observations of Georgia Power, SONOPCO, and Vogtle management for many years.

***** PLEASE NOTE *****

GPC II-73C

Georgia power has made an additional Material false statement in written correspondence to the NRC in Licensee Event Report 90-006 submitted 4-19-90. It is similar to the Material false statement made on 4-09-90 and involves the claims of successful starts without problems on Vogtle's Diesel generators that failed during the Site-Area Emergenc, of 3-20-90.

On page 5 under item D it states "Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed up to the 3-20-90 event, the control systems were subjected to a control test program, DG1A started at least 18 times each and many of these starts were without air roll and loaded properly."

Larry : 7-2-90

I have updated this writeup (you have earlier draft) to include additional information and the 6 cover letters

been frequent to this at least 18 occurred during the start test DG1A started

The above statement states "starts without" control systems false by omission testing was completed the first underway prior to declaration 90. Completion of that a claim of test program completed until 4-19-90.

Also more recent diesel failures.

successful attempt to the material, control logic performing 27-90 and 27 CST on 3-28-90 point in time control systems date and time times.

The 1A diesel generator just prior to 22:53 CST on 3-20-90 was operable at 11:15 is the earliest comprehensive check made. Subsequent testing has also been successful

Allen

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This material false statement is similar to the one made by Georgia power on 4-9-90 in correspondence ELV-01516 and again falsely overstates the extent of reliable starting experience with DG1B and DG1A. Concern was raised by plant staff on 4-18-90 with the SONOPCO Licensing Engineer, the SONOPCO Licensing Manager, the SONOPCO General Manager Plant Support, the Vogtle General Manager, the SONOPCO Vice President Vogtle, and the SONOPCO Senior Vice President Nuclear as to the accuracy of the Diesel start information and the fact that there had been "failure and problems"

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On page 5 under item D it states "Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. After the 3-20-90 event, the control systems of both engines have been subjected to a comprehensive test program. Subsequent to this test program, DG1A and DG1B have been started at least 16 times each and no failures or problems have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on 4-6-90 and DG1A started and loaded properly."

The above statement regarding the number of successful starts without "failures or problems" subsequent to the control systems comprehensive test program is materially false by omission or commission. The 1B diesel control logic testing was completed on 3-27-90 just prior to performing the first undervoltage test at 22:04 CST on 3-27-90 and prior to declaring the diesel operable at 15:27 CST on 3-28-90. Completion of this testing, is the earliest point in time that a claim of completing a comprehensive control systems test program could be made. Subsequent to that date and time until 4-19-90, DG1B has been started only 11 times.

The 1A diesel control logic testing was completed on 3-31-90 just prior to performing the first undervoltage test at 22:53 CST on 3-31-90 and prior to declaring the diesel operable at 11:54 CST on 4-01-90. Completion of this testing is the earliest point in time that a claim of completing a comprehensive control systems test program could be made. Subsequent to that date and time until 4-19-90, DG1A has also been started only 11 times.

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prior to submittal of the LER. SONOPCC was pressed for time and issued the LER without adequate verification and in the face of concerns for the accuracy of the information raised by the site. The issue of the accuracy of correspondence ELV-01516 including specific failure information was raised by site personnel on the phone call with the above personnel at the same time.

On 4-30-90 the Vogtle General Manager was provided a memo with start data on the DG1B, derived from control logs, shift supervisor logs and source diesel operating logs, that clearly showed that previous statements made to the NRC were false. He took no immediate action and ask for the information to be validated by operations and engineering. The information was validated on 5-1-90 and found correct. It was presented again to the General Manager on 5-2-90 and in this presentation it was stated that statements on both diesels 1A and 1B were incorrect in the LER and that the letter ELV-01516 was wrong as well. Still he took no action to promptly inform the NRC of the false statement and suggested that a revision to the LER be prepared. He also suggested that the letter ELV-01516 be corrected by including a correction in the letter being prepared for submittal to the NRC on 5-15-90. The General Manager did not follow up on the progress of these revision actions or set any time table for completion as he normally would on important issues. A revision was made to the LER and approved by the PRB on 5-8-90. On 5-10-90 the PRB reviewed the 5-15-90 letter (actually submitted on May 14) to the NRC. It had nothing that addressed or corrected the material false statement as previously suggested by the General Manager. SONOPCO and the General Manager were heavily involved in writing, editing and specifying the contents of the May 15 letter. The PRB made a comment on the fact that the letter did not address the material false statement and assigned the General Manager an action item to resolve that. After the General manager saw the action item his secretary came to the PRB secretary's office and said "Doesn't NSAC have anything better to do than assign the General Manager action items". Later on 5-24-90 the general Manager signed the action item off as complete and attached a note instructing the Technical Support Manager to use the LER cover letter to correct the other incorrect document. SONOPCO most always drafts the cover letters, not the Technical Manager.

On 5-11-90 the PRB met again with the General Manager to approve the "final" version of the May 15 letter to be sent to the Senior Vice President SONOPCO for signature. Again no correction had been made and the previous material false statement was not addressed. The "final" version was approved. The individual that had raised the issue of the material false statements had been removed from the PRB by a

memo from the General Manager (NOTS-00382) dated 5-10-90 and effective 5-11-90.

By May 15 the revised LER was with SONOPCO. No action occurred to submit the LER to the NRC until about the first week in June when again site personnel began asking SONOPCO about what was taking so long to submit the correction. SONOPCO licensing personnel told site personnel that the Senior Vice President Nuclear planned to sign the revision on June 8 (the day of the IIT presentation to the Commission on the Vogtle Site-Area emergency).

On June 8, 11 and 12 an extraordinary number of meetings and telephone calls occurred over the Diesel start information. Quality assurance was directed by the Senior Vice President to audit all of the Diesel start logs. When this was completed, no errors were found in the information that had been presented to the General Manager over a month before on 4-30-90. With this done the Senior Vice President ask for a 'complete revision' and updating of the LER. This was done and a revised LER was PRB approved by 6-22-90. Only 3 of 8 pages needed any rewrite on the "complete revision". A complete revision had originally not been planed until 6 months after the event.

The "complete" revision LER switches the counting and reporting of Diesel generator starts and failures to "valid" starts and failures per Reg Guide 1.108. By doing so correlation between the previous LER can not be made without detailed and specific data on each start. While the original LER was being drafted it was suggested that we might want to use "valid starts and failures" but that method was discounted because it was recognized that we had very few valid tests. If the original LER were stated in terms of valid starts we could only say "Subsequent to this test program the DG 1A and DG 1B have had 6 valid starts without problems or failures

On 6-28-90 and 6-29-90 a total of 6 cover letters to be sent in with the LER revision were originated and proposed by SONOPCO. Each is different and attempts to explain the Material False statement in a different manner:

DRAFT

07:51	6-28-90	This draft says that all tests were counted but only valid failures were considered in reaching a conclusion there were no problems or failures.
08:55	6-28-90	This draft says that all tests were counted regardless of whether they were valid or not.
07:55	6-29-90	This draft says that the COA response letter used the words "Subsequent to

UPDATE TO ORIGINAL ALLEG.
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the event" and that the LER inadvertently used the words "Subsequent to the test program" but should have been consistent with the COA response letter and the verbal presentation in Atlanta.

11:42 6-29-90 This draft says the LER statement didn't consider failures and problems associated with troubleshooting and restarting the Diesel and should have been "Subsequent to the event" which is consistent with the COA response and the verbal presentation.

12:06 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B as of 4-'9-90.

13:11 6-29-90 This draft says that "If the comprehensive test program completed with the first Surveillance 14980-1 then there were 10 successful starts on DG1A and 12 on DG1B. It also says that test program starts were included in the original count and that was due to poor record keeping practices and no definition of the end of the test program.

These explanations are all untrue and are being concocted after the fact without regard to how and why the errors were actually made. In short these are lies and an attempt to coverup the careless personnel errors made by the operations superintendent and General Manager which originated in the verbal presentation, were repeated in the COA response letter and were carelessly restated in the LER.

A look at the Diesel generators starting and failure history after the LER was written on 4-18-90 provides a technical as well as a objective view of the reliability of the diesels which is at the heart of the Material False Statement.

Diesel Generator 1B

DATE	TIME	RESULT
04-19-90	03:14	Diesel was inadvertently started

7/6/90 UPDATE

		due to personnel error in performing Surveillance 14619-1
04-19-90	09:55	Successful start
04-29-90	09:09	Successful start
05-23-90	12:26	Diesel Tripped after start
05-23-90	13:10	Diesel tripped after start
05-23-90	14:12	Successful start manual trip
05-23-90	14:45	Successful start manual trip
05-23-90	21:18	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:38	Diesel tripped after start on low turbo lube oil pressure
05-23-90	21:57	Diesel tripped after start on low turbo lube oil pressure
05-23-90	22:55	Diesel tripped after start on H1 Jacket water temperature
05-23-90	23:37	Diesel tripped after start on H1 Jacket water temperature
05-24-90	12:29	Successful start
05-24-90	12:42	Successful start
05-24-90	12:53	Successful start
05-24-90	13:10	Successful start
05-24-90	15:19	Successful start
05-24-90	15:30	Successful start
05-24-90	19:16	Successful start
05-26-90	20:28	Successful start
06-01-90	11:45	Successful start

Clearly this diesel generator continued to experience an excessive rate of trips and failures most of which were the same kind of failure that led to the station blackout at mid-loop that occurred on 3-20-90. Clearly this diesel was not reliable as the COA response letter and the LER tried to convey. As further proof of the unreliability Georgia Power had to initiate a design change to remove some of the unreliable components from the control logic after experiencing all the additional failures.

Considering the evidence:

- The words are false in counting the starts.
- They overstate the reliability of the diesel.
- They were used by NRC to make decisions "Significant to the Regulatory Process" (To allow Restart)
- Concern was raised about the accuracy of the start data before submittal of LER.
- SONOPCO personnell recognized that the previous (COA) statements were false before submittal of the LER.
- Factual data was presented disputing the data after submittal and stating that information provided to NRC was incorrect.
- Substantial delays occurred in starting to correct the LER.
- Additional delays were introduced after beginning correction (QA audit).

7/6/90 UPDATE

- Revisions were delayed until after critical meetings with NRC (6-08-90 IIT presentation to Commissioners)
- Additional unplanned delays were introduced (complete revision) after QA audit substantiated inaccuracy claim.
- Multiplicity of revision letters (also false) to explain the mistake.
- Submittal to AEOD by LER revision to correct multiple non- LER errors.
- Performance of the Diesel itself proves the unreliability and the falseness of the statements given to the NRC.
- Above actions did not proceed without repeated and continuing expression of concern from the plant employee who exposed the Material False statement .

one can only conclude that Georgia Power did indeed make Material False Statements in written correspondence to the NRC due to as a minimum careless disregard and willfully conspired to delay and cover up the disclosure of those false statements.

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On page 5 under item D it states "Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed up to the 3-20-90 event, the control systems were subjected to a control test program, DG1A started at least 18 times each and no failures occurred during any of these start tests. The first undervoltage test program completed on 3-27-90 and 27 CST on 3-28-90. Completion of that a claim of successful starts without air roll and loaded properly." The above statement is materially false by omission of testing was completed the first undervoltage test program completed prior to declaration of emergency on 3-27-90. Completion of that a claim of successful starts without air roll and loaded properly until 4-19-90.

Larry: 7-2-90

I have updated this writeup (you have earlier draft) to include additional information and the 6 cover letters.

Also more recent diesel failures.

Allen

The 1A diesel generator just prior to 11:22:53 CST on 3-20-90 was not operable at 11:22:53 CST on 3-20-90. This is the earliest comprehensive test made. Subsequent tests have also been successful.

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Completed on 3-31-90. The diesel generator test at the time of this testing was completing a test which would be completed on 3-19-90. DG1A

This material false statement is similar to the one made by Georgia power on 4-9-90 in correspondence ELV-01516 and again falsely overstates the extent of reliable starting experience with DG1B and DG1A. Concern was raised by plant staff on 4-18-90 with the SONOPCO Licensing Engineer, the SONOPCO Licensing Manager, the SONOPCO General Manager Plant Support, the Vogtle General Manager, the SONOPCO Vice President Vogtle, and the SONOPCO Senior Vice President Nuclear as to the accuracy of the Diesel start information and the fact that there had been "failure and problems"

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7/6/90 UPDATE →

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

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the Matter of)

GEORGIA POWER COMPANY)
et al.,)

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

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(transfer to Southern Nuclear)

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

INTERVENOR'S RESPONSE TO THE
SECOND SET OF INTERROGATORIES OF GEORGIA POWER COMPANY

Intervenor, Allen L. Mosbaugh, files his responses to the interrogatories filed by Georgia Power Company ("GPC") on July 26, 1993.

Interrogatory Responses.

1. a. On June 13 or 14, 1990.

b. Prior to July 15, 1993, Intervenor provided copies to counsel and United States Congressional staff personnel.

c. Intervenor discussed virtually all aspects of this document with Mr. Robinson between June 13-14, 1990. The exact comments are not recorded and Intervenor has no notes of his meetings with NRC-OI. Additional discussions occurred between July 18-19, 1990, when Mr. Mosbaugh was interviewed under oath by NRC-OI.¹ Mr. Mosbaugh cannot recall the

¹ Intervenor is relying on NRC's response to GPC's request for documents for the accuracy of the July 18 and 19, 1990 dates. Intervenor knows that his interviews occurred in July but he does not have an independent recollection of the dates.

the hold on the restart of Unit 1. This is based on NRC requirements set out in Diesel Generator System Regulatory Guide and NRC Branch Technical Position EICS (b)(2), "Diesel Generator Reliability Quality Testing," dated 11-24-95, Standard Review Plan app. 7(a) of NUREG 75/087;² and NRC Generic Letter 84-15.³

2. a-c. Intervenor incorporates his response to Interrogatory 1, subparts a, b and c, as stated above.

d. The 4-18-90 date is incorrect as the conversations occurred on 4-19-90. The conversations occurring on 4-19-90 were previously identified in Intervenor's response to GPC's first set of interrogatory questions (the actual conversations were produced in the tapes Intervenor provided to GPC).

e. Mr. Mosbaugh saw a list of diesel starts, but does not know who prepared this list. Intervenor does not recall ever possessing a final list prepared by Webb and/or Odem and does not have in his custody or control any list he believes were prepared by Webb or Odem.

3. a. June, 1991.

b. Intervenor incorporates his response to Interrogatory response 1(b).

² This document requires GPC to establish a 99% reliability at a nominal 50% confidence level for a plant diesel generator system (i.e., both diesels combined).

³ This document states that the reliability goal on a per diesel basis is to be at a minimal reliability level of 95%.

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

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. James H. Carpenter
Thomas D. Murphy

In the Matter of)

GEORGIA POWER COMPANY)

et al.,)

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

Docket Nos. 50-424-OLA-3
50-425-OLA-3

Re: License Amendment
(transfer to Southern Nuclear)

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

AFFIDAVIT OF ALLEN L. MOSBAUGH

My name is Allen L. Mosbaugh and I am over the age of 18.
The following statements are made under the pains and penalties
of perjury and are true and correct to the best of my knowledge
and belief.

1. I am the intervenor in the above-captioned proceeding.
2. I hereby certify that the statements and opinions set out in Intervenor's response to Georgia Power's Second Set of Interrogatories are true and correct to the best of my personal knowledge and belief.

AFFIANT SAYETH FURTHER NOT,

Allen L. Mosbaugh
Allen L. Mosbaugh

Aug. 11, 1993
Date

054\verifica.aff

UNIT 1 SECOND REFUELING OUTSIDE
MODE C/FE
INTERVAL: 1 PERIOD(S)

APR 3	APR 4	APR 5	APR 6	APR 7	APR 8	APR 9
TUE	WED	THU	FRI	SAT	SUN	MON

VOOTLE UNIT 1 SECOND REFUELING OUTSIDE

17:00 SU

100178000 1205-U412Z RHR R TRAIN VLV 80881 LEAK 8:00 SU 8-11 17:00 SU

190551100 1805-850701 (PM) COMPLETE ESSENTIAL BAR PRINT 18:00 SU 8-30 7:00 TU

190552600 1805-881601 (PM) 0:00 TU 8-5 5:00 TU

809018284 1804 DEM CLR 1-00-18264 18043 NET 808V 7:00 TU 8-1 8:00 TU

821007803 1807 - RETURN TO 18118 POWER SUPPLY 7:00 TU 8-1 8:00 TU

824030881 2403-04001 PREP R 0/0 TEMP M20 FOR P08 9:00 TU 8-1 11:00 TU

100058800 1804-33003 SE-ENERGIZER 4180V SUPER 18003 10:00 TU 8-1 11:00 TU

824030500 2403-04002 PERF 0/0 8 TRN D/O 87803 17:00 WE 8-2 19:00 WE

824030504 2403-04002 0/0 16 DCP 90-133 19:00 WE 8-1 20:00 WE

824030504 2403-04002 0/0 16 DCP 90-133 19:00 WE 8-1 23:00 WE

824030505 2403-04002 0/0 16 DCP 90-133 19:00 WE 8-1 23:00 WE

824030508 2403-04002 0/0 16 DCP 90-133 23:00 WE 8-1 0:00 TH

824030528 2403-04001 SET-UP FOR TEMP PROCEDURE 2:00 TH 8-5 7:00 TH

824030510 2403-04002 16 D/O OPERABLE 4:00 TH

100048000 1807 807/808 REMOVE TEMP M20 1-00-904 4:00 TH 8-2 8:00 TH

824030540 2403-REPL BEARER 1-800 IN 1801-10 6:00 TH 8-24 8:00 FR

824030530 2403-04001 0/0 16 TRN 87803 7:00 TH 8-5 13:00 TH

824030532 2403-04001 0/0 16 TRN 87803 13:00 TH 8-22 11:00 FR

100185100 2403-04001 DEN POINT 100 HIGH 2:00 FR 8-15 17:00 FR

819015585 2403-04001 8/0 16 DCP 90-133 17:00 FR 8-1 18:00 FR

824030514 2403-04001 0/0 16 TRN 87803 18:00 FR 8-2 20:00 FR

899015586 2403-04001 8/0 16 DCP 90-133 20:00 FR 8-1 21:00 FR

824030518 2403-04001 0/0 16 TRN 87803 21:00 FR 8-7 4:00 SA

824030520 2403-04001 16 D/O OPERABLE 4:00 SA

811305001 1201-805E LINE DATA AT VPR POINTS TO BE MEASURED 15:00 WE 8-8 0:00 TH

991000599 PERF FUNCTIONAL TESTS REQUIRED PRIOR TO MODE 4 17:00 WE 8-109 18:00 WE

100303101 2101 SECURITY WALKDOWN OF CONTAINMENT 12:00 TH 8-4 18:00 TH

171048002 1201-PRO488C PIR SPRAY VLV REPAIR FROM OUTSIDE 4:00 FR 8-12 16:00 FR

991201408 1201-COOLDOWN PIR TO 200 DEG - 4 DEPARTMENTS 16:00 FR 8-30 22:00 SA

100180201 1201-F00099 INSTALL TUBING FOR P0485 4:00 SA 8-8 12:00 SA

100180501 1201-F00099 INSTALL TUBING FOR P0485 WORK 12:00 SA 8-8 16:00 SA

991201403 1201-DEBRIN RCS FOR 1201-PRO488C REPAIR 22:00 SA 8-5 4:00 SU

100180800 1201-PRO488C PIR SPRAY VLV LEAKS BY SEAT 4:00 SU 8-28 8:00 MO

171080001 1201-PRO488C REMOVAL OF SPRAY VALVE 4:00 SU 8-28 8:00 MO

991201408 1201 FILL RCS 4 VENT PIN - SUSPENDED 8:00 MO 8-5 14:00 MO

100180203 1201-F00099 REROUTE TUBING 4 INITIAL HAZE 14:00 MO 8-1 18:00 MO

991201407 1201-DEBRIN RCS FOR 1201-PRO488C BUSHING 18:00 MO 8-5 20:00 MO

171060003 1201-PRO488C REINSTALL BUSHING IN PIR SPRAY VLV 20:00 MO 8-5 2:00 TU

1201 AS-BUILT SCHEDULE

LEGEND

REPORTED PROGRESS
WORKING SCHEDULE
EVENT
CRITICAL
SCHEDULE BARS

TUE	WED	THU	FRI	SAT	SUN	MON
APR 3	APR 4	APR 5	APR 6	APR 7	APR 8	APR 9

VOOTLE UNIT 1 SECOND REFUELING OUTSIDE

1745
HEATUP - EUNC
FUNCTIONAL TESTS
FOR MODE 4

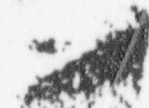
4/30



From: G. Bockhold, Jr.

To: ALM/WFK

Have Engineering and
Ops (JP Cash) work
together to agree with
the list, then have
Tech Support propose
changes PAGEments
as required. George



4-11-90

1

1 TAPE NO. 42, SIDE 1

2 VOICE: This?

3 VOICE: Uh-huh.

4 VOICE: Off the chart, is that the (inaudible)
5 reductions in a depressorization (phonetic) from what to
6 what?

7 VOICE: It didn't change much over a (inaudible).
8 It's from 200 to 80. *psi*

9 VOICE: Uh-huh.

10 VOICE: Or from 100 to 90. *psi*

11 *PHB* VOICE: Yeah, 200 to 80 is the one I looked at.

12 *Am* VOICE: Okay.

13 VOICE: Okay.

14 VOICE: Uh-huh.

15 *PHB* VOICE: But if you looked at it for 120 degree
16 drop, it was almost 30 degrees for a look (inaudible) --

17 VOICE: Okay.

18 VOICE: (Inaudible) pressure.

19 *Am* VOICE: Yeah, the same PSI pressure drop would
20 yield about the same --

21 VOICE: The one I looked at was --

22 VOICE: (Continuing) -- depression.

23 VOICE: (Continuing) -- 200.

24 VOICE: Okay.

25 *Am* VOICE: I don't know. I think -- my gut feeling

1 times, and the one ^B diesel has been started 19 times. No
 2 failures or problems have occurred during any of these
 3 starts."

4 Now, if that's -- if those 18 and 19 starts
 5 include all of the starts since the 20th, I know we had
 6 problems and failures.

7 Now, if those 19 -- if we started the machines a
 8 total of 25 times, and those 18 and 19 are the last 18 and
 9 19, and the failures, as I recall, may be one of the first
 10 set, you know, maybe this is still a true statement.

11 But do you have a data log or something that ~~would~~
 12 show ^S all these starts?

13 ^{BECAUSE}
 14 [^] I'm afraid we could have another problem with this
 15 statement here.

16 Do you ever -- what do you have that would show
 17 all the starts?

18 Does Kenny -- Kenny's log?

19 *Kochony* ~~VOICE:~~ No.

20 *ALM* ~~VOICE:~~ Does it cover all of that?

21 *PK* ~~VOICE:~~ 19 -- you didn't have a ^{failure you have} (inaudible) [^] [INAUDIBLE]

22 *ALM* ~~VOICE:~~ Well, we certainly had problems, okay?

23 I mean, if I recall, we had the machine tripped,
 24 the B machine tripped.

25 *Kochony* ~~VOICE:~~ ^{NOT ON (INAUDIBLE) THE B machine tripped}
[^] ~~not only~~ (inaudible) ~~took them before~~
 that.

1 ^B
~~beam?~~

2 PK VOICE: Okay, this is one ^Bbeam. From starting,
3 this is (inaudible).

4 This is prior to the outage of the ^{DIESEL}
[^]beeper, okay?

5 ALM VOICE: Yeah.

6 PK VOICE: (Inaudible) one ^{B DIESEL.}
[^]beeper.

7 ALM VOICE: Well, we gotta start -- okay, on the 20th, THE
8 ^{20TH, THE}
[^]21st, correct?

9 PK VOICE: Yes.

10 ALM VOICE: Okay, one, two, three, what stopped?

11 PK VOICE: You know, manually stopped.

12 ALM VOICE: Oh, is each one of these times ^A
[^]they

13 start?

14 ^{Kodway} VOICE: Okay, this is the failed to start.

15 ^{Am} VOICE: That's an attempt and a failure?

16 PK VOICE: That's right.

17 ALM VOICE: Another attempt and a failure.

18 PK VOICE: That's right.

19 ALM VOICE: Okay, that's a start?

20 PK VOICE: And go another.

21 ALM VOICE: And what's this?

22 PK VOICE: That's a stop.

23 ALM VOICE: Stop from the third start?

24 PK VOICE: Yes, that's correct.

25 ALM VOICE: So that's three starts there.

1 PK ~~VOICE:~~ That's right.

2 ALM ~~VOICE:~~ Three start attempts.

3 (Telephone ringing.)

4 PK (TALKING ON PHONE)
^ ~~VOICE:~~ Hello.

5 ~~VOICE:~~ (Inaudible).

6 PK ~~VOICE:~~ Uh-huh.

7 Am ~~VOICE:~~ Four, five, six.

8 Kockray ~~VOICE:~~ Yes, uh-huh.

9 PK ~~VOICE:~~ You can do it either way.

10 PK ~~VOICE:~~ That's right.

11 ALM ~~VOICE:~~ Seven.

12 PK ~~VOICE:~~ Uh-huh.

13 ALM ~~VOICE:~~ Eight.

14 PK ~~VOICE:~~ Up to the 3rd there from January 1st.

15 ~~VOICE:~~ No, that's correct.

16 ~~VOICE:~~ That is including the insurance benefits

17 as ^{WELL} ~~ordered~~, okay?

18 PK ~~VOICE:~~ Uh-huh.

19 ~~VOICE:~~ Okay.

20 ~~VOICE:~~ That's correct.

21 ~~VOICE:~~ Okay.

22 ~~VOICE:~~ That's correct.

23 ~~VOICE:~~ Which one?

24 ~~VOICE:~~ Yeah.

25 ~~VOICE:~~ You can do either way.

1 *Kochery* VOICE: You can put a, you know, separator or --
 2 I'll talk to you later.

3 (End of telephone conversation.)

4 VOICE: (Inaudible).

5 *ALM* VOICE: ^(LAUGHING) It was -- I've got -- ^(LAUGHING) oh great -- I've
 6 confused apples and oranges here.

7 I went from the one B to the one A, and now I'm
 8 lost, okay.

9 *PK* VOICE: This is a --

10 *ALM* VOICE: Do you have anything -- you don't have
 11 any data then, past the ^{23RD} ~~30th~~?

12 *PK* VOICE: No.

13 *ALM*: Well, we did a lot more past the 23rd.

14 *Kochery* VOICE: No, I don't have anything past the 23rd
 15 on that.

16 *ALM* VOICE: Oh, okay.

17 *Kochery* VOICE: These ^{DIESEL} ~~are~~ generators failed here, the one
 18 2.

19 They should be right here.

20 *ALM* VOICE: There's a bunch of them. ^{I SPOTTED} ~~There were~~
 21 several problems in the course of that. It's on the next
 22 page, I think.

23 *PK* VOICE: Yeah.

24 *ALM* VOICE: It should have (inaudible).

25 *Kochery* VOICE: That's right.

1 Is this the end of your run? This is another up.

2 PK VOICE: That's right. That's a -- you can see
3 that (inaudible) was started the time.

4 ALM VOICE: Okay.

5 PK VOICE: That's where, you know.

6 ALM VOICE: An^D off, there we go, yeah, okay.

7 ~~VOICE:~~ I mean, it's steady to the extent that
8 you'd say steady is within ~~(inaudible)~~ ^{plus or minus} ~~at~~ three or four
9 degrees.

10 It's steady within that range, okay, right?

11 PK VOICE: (Inaudible) -- back to 115 on a third
12 (inaudible).

13 ALM VOICE: Yeah, okay, ^{plus or minus} (inaudible) ~~is~~ five degrees.

14 PK VOICE: It started going up, and then went down
15 again.

16 ALM VOICE: Okay.

17 ~~VOICE:~~ Who do you think has the rest of the
18 starts?

19 PK VOICE: (Inaudible)^{JIMMY PAUL}

20 ALM VOICE: Who?

21 PK VOICE: I ~~agree with him that~~ ^{THINK} it's ^{JIMMY} Paul Cash

22 ~~(phonetic)~~, you know, also.

23 ~~ALM:~~ ^{JIMMY} VOICE: You think ^{JIMMY} Paul Cash has all the starts?

24 PK VOICE: Yeah.

25 ALM VOICE: Okay.

1 *Kochany* VOICE: (Inaudible) -- ^{THE} only two ^{FAILURES} ~~(inaudible) are~~
 2 on a ^{THE} diesel, one B which is the high temperature, ^{LUBE OIL} ~~low boil~~ -

3 -

4 ALM VOICE: Yeah.

5 *Kochany* VOICE: (Continuing) -- and the low pressure, ^{JACKET} ~~back~~
 6 ~~in the water and the~~ ^{LUBE OIL, TURBO LUBE OIL.} ~~low boil, (inaudible) low boil.~~

7 That's because it's connected ⁱⁿ ~~and~~ one
 8 ^{logic} ~~(inaudible)~~.

9 Anytime tnat you get, ^{ONE,} ~~that on,~~ you get both of them
 10 on.

11 ALM VOICE: ~~(Inaudible)~~ ^{Does Keny} ^{STOKES} ^{keep a log of all}
^{facts}

12 PK VOICE: Yeah, ^{HE DOES} ~~(inaudible)~~. You see, you're
 13 behind on this.

14 ALM VOICE: I know why, because of all the starts.

15 PK VOICE: That's right.

16 ALM VOICE: Okay. ^{SOMEbody HAS GOT TO HAVE THEM.}

17 ~~VOICE: One of these guys had them.~~

18 PK VOICE: (Inaudible) X CONTROL ROOM.

19 ALM VOICE: We put something together for the --
 20 didn't we put something together for the IIT ~~(phonetic)~~ on
 21 that?

22 PK VOICE: Yeah, this is what I made for IIT.

23 ALM VOICE: I ~~heard~~ ^(INAUDIBLE) ^{of} them, unless they made it
 24 (inaudible).

25 *Kochany* VOICE: Yeah, that's it. That's what Jimmy Paul

1 has.

(INAUDIBLE)

2 ALM: He has that, he and Zimmerman (phonetic)

3 ~~VOICE:~~ All right, maybe I'll get with ^{HIM.} them.

4 Let me make copies of these just for now, so I can
5 make some notes.

(BACKGROUND CONVERSATIONS)

6 ~~VOICE: Yeah, we're gonna do that.~~

(SOUND OF XEROX MACHINE)

7 (Pause.)

8 ~~VOICE: I've never had that.~~

9 ~~VOICE: It was held up initially. (Inaudible).~~

10 ~~VOICE: Did you get that number?~~

11 ALM ~~VOICE:~~ I appreciate that.

12 (Pause.) (BREAK IN TAPING)

13 VOICE: Okay, the administrative chain up there -

14 -

15 VOICE: (Inaudible).

16 VOICE: Curtis (phonetic) -- yeah, I mean, but he

17 was, you know, I mean, he was like that.

18 He's a fairly high guy. Was it O'Reilly

19 (phonetic) who was administrative then?

20 VOICE: Yeah.

21 VOICE: O'Reilly in administration?

22 VOICE: (Inaudible).

23 VOICE: You know, I mean --

24 VOICE: (Inaudible).

25 VOICE: He was to the administrative branch, you

LER 1-90-5

LOSS OF OFFSITE POWER LEADS TO SITE AREA EMERGENCY

EVENT DATE: 3-20-90

ABSTRACT

On 3-20-90, Unit 1 was in a re-fueling outage and Unit 2 was operating at 100% power. At 0820 CST, a fuel truck in the switchyard backed into the support holding C phase insulator for the Reserve Auxiliary Transformer (RAT) 1A. The insulator and line fell to the ground, causing a phase to ground fault. Both RAT 1A and the Unit 2 Train B RAT Hi Side and Low Side breakers tripped, causing a loss of offsite power condition (LOSP). ~~Since the Unit 1 Train B RAT and DG were out of service for maintenance.~~ Both units' emergency Diesel Generators (DG's) started, but the Unit 1 DG tripped, causing a loss of residual heat removal (RHR) to the reactor core. A Site Area Emergency (SAE) was declared and the site Emergency Plan was implemented. The core heated up to 136 degrees F before the DG was emergency started at 0856 CST and RHR restored. At 0915 CST, the SAE was downgraded to an Alert after onsite power was restored.

The direct cause of these series of events is personnel error. The truck driver failed to use proper backing procedures in the switchyard and hit a support, causing the phase to ground fault and LOSP. The most probable cause of the DG1A trip is the intermittent actuation of the DG jacket water temperature switches.

Corrective actions include strengthening policies for control of vehicles, extensive testing of the DG and replacement of suspect switches.

A. REQUIREMENT FOR REPORT

This event is reportable per.

- a) 10 CFR50.73 (a)(2)(vii)(B), because a single event led to a system becoming inoperable which is designed to remove residual heat.
- b) 10 CFR50.73 (a)(2)(ii), because an event resulted in the condition of the plant, including its principal safety barriers, being seriously degraded.
- c) 10 CFR50.73 (a)(2)(iv), because an unplanned Engineered Safety Feature (ESF) actuation occurred when the ESF Actuation System Sequencer started.
- d) Technical Specification 4.8.1.1.3, because a diesel generator failure occurred.

B. UNIT STATUS AT TIME OF EVENT

B.1 Power Level/Mode

Unit 1 was in Mode 6 (Refueling) at 0% rated thermal power. The reactor was shutdown on 2-23-90 for a 45 day scheduled re-fueling outage. The reactor core reload had been completed, the initial pass to tension the reactor vessel head studs was complete, and the outage team was waiting permission from the control room to begin the final tensioning. Reactor Coolant System (RCS) level was being maintained at mid-loop (187'-11") with Train A Residual Heat Removal (RHR) pump in service for decay heat removal. RCS temperature was being maintained at approximately 90 degrees F with indication from two connected incore thermocouples. The Emergency Boration Water Source was the Reactor Water Storage Tank (RWST). RWST level was at 79% (approx. 580,000 gallons) with a boron concentration of 2457 ppm. The Emergency Boration Flow Path was from the RWST through Train A Centrifugal Charging Pump (CCP) and the alternate charging flow path via valve 1HV-8147. Both Trains A and B Safety Injection (SI) breakers were capable of being racked in and the pumps operated in the hot leg injection mode if needed.

B.2 Inoperable Equipment/Abnormal System Alignment

Due to the refueling outage maintenance activities in progress, some equipment was out of service and several systems were in abnormal configurations.

The Train B Diesel Generator (DG1A) was out of service for a required 36 month maintenance inspection. The Train B Reserve Auxiliary Transformer (RAT 1B) had been removed from service for an oil change. 1BA03, the Train B Class 1E 4160 Volt switchgear, was being powered from the Train A RAT (1A) through its alternate supply breaker. All Non-1E switchgear was being powered from the Unit Auxiliary Transformer (UAT). Procedure 13417-1, "Main and Unit Auxiliary Transformer Backfeed to the 13.8kV and 4160V Non-1E Busses" was used to establish power to Non-1E Busses 1NA01, 1NA04, and 1NA05.

The Train B CCP was removed from service for various corrective maintenance work orders (MWO's). The Chemical and Volume Control System (CVCS) letdown flowpath had been out of service for various maintenance activities and was being aligned for return to service.

The Accumulator #4 Isolation Valve (1HV-8808D) and the CVCS Normal Charging Check Valve (1-1208-U6-036), both located inside containment, were disassembled for repair. All Steam Generator (S/G) Nozzle Dams had been removed, but only S/G's #1 and #4 had their primary manways secured. Maintenance personnel were in the process of restoring the primary manways on S/G's #2 and #3. It was necessary to maintain the RCS level at mid-loop for the valve repairs and the S/G manway restorations. In addition, the pressurizer manway was removed to provide a RCS vent path.

C. DESCRIPTION OF EVENT

On March 20, 1990, at approximately 0817 CST, a truck driver and security escort entered the protected area driving a fuel truck. The driver's duties were to refuel air compressors and welding machines staged around the site for the outage on Unit 1. He had had these duties for the past three weeks. Since this vehicle was not a "designated vehicle", as defined by plant procedure, it does not remain in the protected area, and a security escort was provided for the truck.

The driver, who generally backs into the switchyard to fuel the machines in this area, pulled straight in. He checked the welding machine that was in the area, and found that it did not need fuel. He returned to the fuel truck and was in the process of backing when he hit a support holding "C" phase insulator for the RAT 1A. The insulator and line fell to the ground, causing a phase to ground fault, and the transformer tripped.

At 0820U5T, both RAT 1A and the Unit 2 Train B RAT/Hi Side and Low Side breakers tripped causing a loss of offsite power condition (LOSP) to the Unit 1 Train A Class 1E 4160 volt Buss (1AA02), the Unit 2 Train B Class 1E Buss (2BA03), and the 480 volt busses supplied by 1AA02 and 2BA03. The Unit 1 Train B Class 1E 4160 volt buss (1BA03) also lost power since RAT 1A was feeding both Trains of Class 1E 4160 volt busses. RAT 1B was out of service for planned outage work. During this time, Non-1E busses for Unit 1 were energized through the 230 kV Switchyard to step-up transformers (step-down in this case) to the UAT to Non 1E busses 1NA01, 1NA04 and 1NA05. Unit 2 was in a normal electrical alignment. The ESF Actuation System Sequencers actuated upon LOSP and sent a start signal to Unit 1 and Unit 2 Diesel Generators. DG1A and DG2B started and sequenced the loads to their respective busses. Further description of the Unit 2 event is described in LER 50-425/1990-002.

One minute and twenty seconds after the DG1A engine started and sequenced the loads to the Class 1E bus, the engine tripped. ~~tripped~~ This again caused an under voltage (UV) condition to class 1E bus 1AA02. The additional UV signal is a maintained signal at the sequencer. DG1A starting logic receives this signal and relays R-4A, TD2A and SOL-202-1A (activate shut-downs) energize. Since DG1A was coasting down from the trip, the shutdown logic did not allow the DG fuel racks or starting air solenoids to open and start the engine. This caused the engine starting logic to lock-up, a condition that existed until the UV signal was reset and relay TD2A deenergized. For this reason, DG1A did not re-start by itself after it tripped.

After the trip, operators were dispatched to the Engine Control Panel to investigate the cause of the trip. According to the operators, several annunciators were lit. Without fully evaluating the condition, the operators reset the annunciators. On the generator panel, the voltage balance relay was also found to be actuated. During this time, a Shift Supervisor (SS) and Plant Equipment Operator (PEO) went to the sequencer panel to find out if any problems were present on 1A sequencer. The SS quickly pushed the UV reset button. After pushing the reset button, the SS reset the sequencer by deenergizing and energizing the power supply to the sequencer. This caused the TD2A relay to deenergize and meet the permissive for starting air solenoid to energize for another 5 seconds which caused the engine to start. This happened 19 minutes after the DG tripped the first time. The engine started and the sequencer sequenced the loads as designed. After 1 minute and 10 seconds, the breaker and the engine tripped a second time. It did not start back due to the starting logic being blocked as described above. At this time, operators, a maintenance foreman and the diesel generator vendor representative were in the DG room. The initial report was that the jacket water pressure trip annunciators were the cause of the trip. The maintenance foreman and vendor representative observed that the jacket water pressure at the gauge was about 12-13 PSIG. The trip set point is 6 PSIG and the alarm setpoint is 8 PSIG. Also, the control room observed a lube oil sensor

malfunction alarm.

Fifteen minutes after the second DG1A trip, DG1A was started from the engine control panel using the emergency start breakglass button. The engine started and loads were manually loaded. When the DG is started in emergency mode, all the trips except four are bypassed. However, all alarms will be annunciated. During the emergency run, no trip alarms were noticed by the personnel either at the control room or at the engine control panel. The only alarms noted by the control room operator assigned for DG run were lube oil pressure sensor malfunction and fuel oil level High/Low alarm.

DG1A ran until 1157 CST, supplying power to the 1AA02 4160 volt buss. At 1040 CST, RAT 1B had been energized to supply power to the 1BA03, 4160 volt, Class 1E Train B buss. At 1157 CST, the 1AA02 buss was tied to RAT 1B.

A Site Area Emergency was declared at 0840 CST, due to a loss of all off site and on site AC power for more than 15 minutes. The Emergency Director signed the notification form used to inform off site government agencies of the emergency at 0848 CST. The ENN Communicator then attempted to notify off site agencies using the primary ENN to Georgia and South Carolina. However, the primary ENN was inoperable due to the loss of power. The primary ENN receives power from A Train 1E buses which were de-energized due to the loss of electrical power event. The General Manager made an update to the notification form at 0856 CST to state that power had been restored at 0856 CST.

The ENN Communicator then went to the South Carolina backup ENN and established communications with South Carolina agencies (South Carolina Emergency Preparedness Division (EPD), Savannah River Site (SRS), Aiken, Allendale and Barnwell Counties) at approximately 0858 CST. Initial notification of the emergency to these agencies was completed at approximately 0910 CST. The Georgia Emergency Management Agency (GEMA) was contacted via commercial telephone, which is the designated backup to GEMA and Burke County EMA, at approximately 0915 CST. However, no notification message was transmitted during this contact, because of communication confusion.

At the time the Control Room ENN communicator contacted GEMA on the commercial telephone, the Technical Support Center (TSC) ENN Communicator was confirming the operability of the primary ENN to Georgia and South Carolina. The ENN in the TSC was operable because it received power from the Security Diesel, which was operating properly. The commercial telephone contact between the control room and GEMA was terminated because both parties assumed the notification would be transmitted via the ENN. In fact, the TSC ENN Communicator did not have the notification forms and could not pass the required information. Attempts by GEMA to obtain the notification form information were successful at 0935 CST when South Carolina Emergency Preparedness Division (EPD) sent GEMA the notification form via facsimile. Plant Vogtle

established communications with ULMA at 0940 CST and passed the notification information successfully via commercial telephone lines. Subsequent notifications were made without difficulty.

The initial notification to the NRC was made at 0858 CST by the Control Room on the ENS. Subsequent updates from the Control Room and TSC were performed without major problem except for a hardware problem on the NRC end which caused them to drop off the line occasionally.

The primary means of notifying on-site personnel is via the plant public address system (plant page) for personnel in the protected area and outside the protected area but in the owner controlled area. In general, these notifications were made successfully with a few minor exceptions.

The plant page announcement of the site area emergency was made at 0901 CST. It was heard in all of the protected area except inside containment, on the turbine deck of the turbine building, and in the diesel building. Personnel in these areas were notified by informal means (word of mouth, supervisors, observing others leaving area, etc.) within approximately 10 minutes of the page announcement. Personnel in buildings outside the protected area were notified by telephone calls from security by 0917 CST.

The delay in making the plant page announcement, from emergency declaration at 0840 to page announcement at 0901, caused emergency facility activation to be delayed approximately 21 minutes.

The plant was at mid-loop when the event occurred. Several work orders were in progress at that time. Instructions were given by the Emergency Director to complete the following tasks prior to leaving containment:

- a) 1HV-8808D reassembly and bonnet bolts tightened. This is the SI Accumulator #4 isolation valve.
- b) Complete installation of Steam Generators #2 and #3 manways.
- c) Close the equipment hatch and reinstall the interlocks on the personnel air lock.

All work was accomplished and maintenance personnel exited containment by 1050 CST.

The supply breakers for Class 1E busses 1AA02 and 1BA03 were moved so that RAT 1B could supply power.

This still needs to be moved

The announcement of the emergency advised that a Site Area Emergency had been declared and that all visitors and escorts should report to the Plant Entry Security Building (PESB); and all emergency response personnel should report to their emergency response facility. The prescribed section of the initial announcement from the emergency procedure concerning evacuation and assembly was purposely omitted. Therefore, neither a total site evacuation nor a complete assembly and accountability were initiated. The decision to omit this section by the Emergency Director was based on there not being any immediate radiological danger to the plant personnel. The omission of the evacuation and assembly announcement caused confusion on the plant site because there were no instructions for non-essential personnel. Some personnel stayed at their work location, some personnel exited the protected area and assembled in the Administration Building and parking lot area for accountability, and approximately 200 personnel relocated to a relocation center located about 1 mile from the plant.

Another public address system announcement was made at approximately 0917 CST stating that the emergency had been downgraded to an "Alert" status and that all non-essential personnel were to assemble at the Administration Building parking lot for accountability. Some personnel already located in the Administration parking lot area did not hear this announcement due to public address system inaudibility. Therefore, no additional information was received by these people. Many personnel considered themselves essential, and therefore, re-entered the plant protected area.

News media releases were made out of the Georgia Power Company corporate office in Atlanta, Ga. with information supplied by the Southern Nuclear Operating Company (SONOPCO) Project office in Birmingham, Alabama. The process that SONOPCO uses to release information to the media is as follows:

The SONOPCO public affairs (PA) personnel are notified upon activation of the General Office Operations Center (GOOC) by the GOOC Manager. Upon notification, they report to the GOOC.

The GOOC Manager assists public affairs personnel by providing plant status information coupled with technical assistance as the PA personnel prepare draft press releases.

The press releases are then approved by the Project Vice President or Corporate Duty Manager and transmitted to the Georgia Power Supervisor of Public Relations in Atlanta by telecopy. The Supervisor of Public Relations then transmits the press release to the site Public Relations Supervisor and to media personnel.

Plant status to the GOOC was hampered by failure of the telephone bidge status loop to work properly. GOOC personnel established communications with the TSC thru a separate phone line to obtain plant status.

The first press release contained two errors. The first error was in the time of declaration of the Site Area Emergency. This occurred when the General Manager called the Project Vice President and indicated that a site area emergency had been declared. This was the first indication for corporate personnel that a site area emergency had been declared and the time of the call was approximately 0900 CST. Previous notification by the site duty manager to the corporate duty manager did not indicate that activation of the emergency plan had occurred at 0840 CST. GOOC personnel assumed the Site Area Emergency had been declared at 0900 CST. The second error stated that "non-essential personnel were evacuated" and should have stated that non-essential personnel were evacuated from the protected area to accomplish site accountability. This error resulted from a miscommunication between the plant and GOOC personnel. The second press release contained only the time error. No further press releases were needed due to the press conference held that afternoon in the Atlanta corporate office.

By 1200 CST, plant conditions had stabilized with off site power restored to Unit 1 and RHR established for core cooling. The Emergency Director initiated a conference call with local government agencies (South Carolina, Georgia, Allendale, Barnwell, Burke County and SRS) to discuss termination of the emergency. The Emergency Director also discussed termination with the NRC. Agreement was reached with all parties that the emergency would be terminated. The emergency was terminated at 1247 CST and all agencies were notified by 1256 CST.

3. CAUSE OF EVENT

3.1 Direct Causes

- a) The direct cause of the loss of off-site class 1E AC power was the fuel truck hitting a pole supporting a 230kV line for RAT 1A, which caused the loss of the off-site power source.
- b) The direct cause of the loss of on-site class 1E power was the failure of the operable DG, DG1A, to start and load the LOSP loads on bus 1AA02.

3.2 Root Causes

- a) The truck driver met all current site training and qualification requirements, including holding a Class 2 Georgia driver's license. However, to drive the same truck on state highways would have required a Class 4 license. The site requirement was therefore, inadequate. Furthermore, site safety rules require a flagman for backing vehicles when viewing is impaired, as was the case on 3-20-90. This rule was violated.
- b) The root cause for the failure of DG1A has not been conclusively determined. The two trips that occurred during this event occurred at 1 minute 20 seconds and 1 minute 10 seconds after the DG tied to the bus. There is no record of the trips that were annunciated after the first trip. The cause of the first trip can therefore only be postulated, but most likely has the same root cause as the second trip.

The second trip occurred at the end of the timed sequence of the group 2 block logic. This logic provides for the DG to come up to operating conditions before the trips become active. The block logic timed out and the trip occurred at about 70 seconds. The annunciators observed at the second trip included jacket water high temperature along with other active trips. It is believed that the jacket water trip is the most likely cause of the second trip. In conducting an event review team's test plan, the trip conditions that were observed on the second DG trip on 3/20/90 were essentially recreated by venting 2 out of 3 temperature sensors, simulating a tripped condition. The recreation duplicated both the annunciators and the 70 second trip time. This most likely cause assumes an intermittent actuation of jacket water temperature switches.

During bench testing, all three jacket water temperature switches were found to be set high during the DG maintenance inspection in early March 1990 (by approximately 6-10 degrees F above the setpoint). All three were adjusted downward using a calibration technique that may have differed from that previously used.

Following the 3-20-90 event, all three switches were again bench tested. Switch TS-19110 was found to have a setpoint of 197 degrees F, which was approximately 6 degrees below its previous setting. Switch TS-19111 was found to have a setpoint of 199 degrees F, which was approximately the same as the original setting. Switch TS-19112 was found to have a setpoint of 186 degrees F, which was approximately 17 degrees F below the previous setting and was re-adjusted. Switch TS-19112 also had a small leak which was judged to be acceptable to support diagnostic engine tests and was reinstalled.

During the subsequent test run of the DG on 3-30-90, one of the switches (TS-19111) tripped and would not reset. This appeared to be an intermittent failure because it subsequently reset. This switch and the leaking switch (TS-19112) were replaced with new switches. All subsequent testing was conducted with no additional problems.

The jacket water temperature switches were recalibrated with the manufacturer's assistance to ensure a consistent calibration technique.

Subsequent testing indicated that the diesel annunciator indication of 3-20-90 is reproduced on a high jacket water temperature trip.

A test of the jacket water system temperature transient during engine starts was conducted. The purpose of this test was to determine the actual jacket water temperature at the switch locations with the engine in a normal standby lineup, and then followed by a series of starts without air rolling the engine to replicate the starts of 3-20-90. The test showed that jacket water temperature at the switch location decreased from a standby temperature of 163 degrees F to approximately 156 degrees F and remained steady.

Numerous sensor calibrations (including jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. Since 3-20-90, DG1A has been started 18 times, and DG1B has been started 19 times. No failures or problems have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on 4-6-90 and DG1A started and loaded properly.

Based on the above facts, we have concluded that the jacket water high temperature switches were the most probable cause of both trips on 3-20-90.

3.3 Contributing Causes

- c) Plant conditions were inadequate prior to the event. Two of four sources of class 1E AC power were not enough to ensure plant protection in light of the event which actually occurred. Procedures did not sufficiently address loss of RHR during outage conditions or rapid closing of containment and RCS openings during outage conditions.
- d) The flow of information to the GUDC was inadequate due to loss of the telephone bridge lines. Information was not easily verifiable and this led to the inaccuracies in the press releases.

- e) Off-site notifications were inadequate. Georgia agencies were not a part of the back-up ENN because in 1986 the back-up ENN was replaced before it was put into use at Plant Vogtle. A decision was made at that time that since a back-up was not required that it was not necessary to add the two Georgia agencies since they could be notified by commercial phone lines if the primary ENN failed. Thus, the commercial phone lines were the back-up notification system for the two Georgia agencies at the time of this event. The Emergency Director did not emphasize the importance of prompt off-site communications and did not ensure ongoing communications with outside agencies. Additionally, the Control Room communicators did not initially understand the functioning of the back-up and alternate systems.
- f) The Emergency Response Facility (ERF) computer did not provide accurate historical data to personnel in the TSC, Operations Support Center (OSC) and Emergency Operations Center (EOC) because of a component failure of its data concentrator.
- g) Accountability of non-essential personnel was not properly conducted because an evacuation was not ordered and there was no clear-cut understanding of who was or was not essential. The Emergency Plan implementation was inefficient in that the Emergency Director did not see that clear and explicit directions were given when deviating from Emergency Plan procedures by not ordering an evacuation when the Site Area Emergency was declared.

4. ANALYSIS OF EVENT

Unit 1 was in Mode 6 approximately 25 days into refueling, with safety related Train "A" providing decay heat removal. The primary system was at approximately mid-loop and steam generator primary manways were being installed. The loss of offsite power to the Class 1E buss 1BA03 and failure of DG1A to start and operate successfully, coupled with DG1B and RAT 1B being out of service for maintenance, resulted in Unit 1 being without AC power to both Class 1E busses. With both Class 1E busses de-energized, the Residual Heat Removal (RHR) System could not perform its required safety function.

DG1A was manually started within approximately 36 minutes, after two trips, and Train "A" RHR, Component Cooling Water (CCW), and Nuclear Service Cooling Water (NSCW) were re-established. Based on a noted rate of rise in the RCS temperature of 16 degrees F, measured at the core exit thermocouples over a fifteen minute period, the RCS water would not have been expected to begin boiling until approximately 1 hour and 50 minutes after the beginning of the event. Based on this RCS water temperature and a review of expected results of a loss of RHR flow, the fuel and equipment is expected to have remained well within design limits.

The steam generator primary side manway installation and closure of the containment equipment hatch were completed after re-establishing RHR, both well within the estimated 1 hour 50 minutes prior to the projected onset of boiling in the RCS. A review of information obtained from the Process and Effluent Radiation Monitoring System (PERMS) and grab sample analysis indicated all normal values. As a result of this event, no significant increase in radioactive releases to either the containment or the environment occurred.

Additional systems were either available or could have been made available to ensure the continued safe operation of the plant:

1. The maintenance on RAT 1B was completed and the RAT returned to service approximately 2 hours into the event.
2. Offsite power was available to Non-1E equipment through the generator step-up transformers which were being used to "back-feed" the Unit Auxiliary Transformers (UAT) and supply the Non-1E busses. Class 1E busses 1AA02 and 1BA03 could have been powered by feeding through Non-1E bus 1NA01.
3. The Refueling Water Storage Tank could have been used to manually establish gravity feed through the RHR and/or Chemical and Volume Control System (CVCS), and Safety Injection (SI) to the RCS to maintain a supply of cooling water to the reactor.

Consequently, neither plant safety nor the health and safety of the public was adversely affected by this event.

A more detailed assessment of this event and an assessment of potentially more severe circumstances will be performed and included in a supplemental LER.

F. CORRECTIVE ACTIONS

a)

- 1) Onsite truck driver license requirements will be changed to match state requirements by 2001.
- 2) Security officers' escort training will be changed by 8-1-90 to emphasize safe operation of vehicles.
- 3) Sensitive and vulnerable areas inside the the protected area will be evaluated by 2001 and appropriate barriers erected or controls established.
- 4) An engineering review of insulator support structures will be conducted by 2001 and changes made, as necessary.

b)

- 1) Personnel will evaluate the replacement of the currently installed diesel sensors switches with a more reliable design by 2001.
- 2) The Loss of Off Site Power (LOSP) diesel start and trip logic has been modified so that an automatic emergency start will occur upon LOSP.
- 3) DG operating procedures will be revised to include restarts following a DG trip during LOSP by 7-1-90.
- 4) A review of the storage, handling and installation of diesel logic boards is being conducted to improve logic board reliability and will be completed by 2001.
- 5) Operator guidance on recording pertinent alarms and indications is being developed in order to assist in investigations of future plant events and will be in place by 5-1-90.
- 6) ~~When DG1A is declared operable,~~ the test frequency will be increased to once every 7 days in accordance with Technical Specification Table 4.8-1. This frequency will be continued until 7 consecutive valid tests are completed and one or less valid failures have occurred in the last 20 valid tests. Including these two valid failures, there have been a total of four valid failures in 66 valid tests of DG1A.

c)

- 1) A review of the sequence of refueling outage maintenance activities is being conducted and will be completed by 2001. This includes plant electrical line-ups, and RCS and containment integrity with regard to mid-loop operations and Generic Letter 88-17.
- 2) The procedure governing a loss of RHR condition will be revised by 2001 to include actions to be taken during outage situations.
- 3) Procedural controls will be established by 2001 to ensure that containment and RCS openings can be expeditiously closed within required time frames.

- d)
- 1) A means for providing battery power to the telephone bridge is being studied with plans to be implemented by 2001.
 - 2) By 7-9-90, GOC personnel will implement methods for verifying the accuracy of site information prior to its public release.
- e)
- 1) GEMA and Burke County EMA have been added to the back-up ENN.
 - 2) Battery back-up power will be added to the primary ENN by 2001.
 - 3) Additional training will be provided to Control Room communicators and supervisors on the capabilities of the communication system used for off-site notifications by 9-15-90.
 - 4) By 2001 Emergency Director training will emphasize the importance of prompt accurate reports to off-site agencies.
- f)
- 1) The ERF data concentrator has been replaced and the Emergency Planning staff will begin conducting regular operability tests by 6-15-90, for the ERF computer system in the TSC and EOF.
- g)
- 1) Actual assembly and accountability drills will be conducted by 2001, and the definitions of essential and non-essential will be better defined in General Employee Training.
 - 2) Training for Emergency Directors and ERF Managers will emphasize, by 2001 that deviation from procedures may cause confusion and that clear instructions must be provided for any deviations.

G. ADDITIONAL INFORMATION

1. Failed Components:

ERF data concentrator

2. Previous Similar Events:

None

3. Energy Industry Identification System Code:

Reactor Coolant System - AB
Administration Building - MA
Residual Heat Removal System - BP
Diesel Generator Lube Oil System - LA
Diesel Generator Starting Air System - LC
Diesel Generator Cooling Water System - LB
Diesel Generator Power Supply System - EK
Safety Injection System - BQ
13.8 kV Power System - EA
4160 volt non-1E power system - EA
4160 volt Class 1E power system - EB
Chemical and Volume Control System - CB
Containment Building - NH
480 volt Class 1E Power System - ED
Engineered Safety Features Actuation System - JE
Plant Page System - FI
Security System - IA
Component Cooling Water System - CC
Nuclear Service Cooling Water System - BS
Radiation Monitoring System - IL

LOSS OF OFFSITE POWER LEADS TO SITE AREA EMERGENCY

EVENT DATE: 3-20-90

ABSTRACT

On 3-20-90, Unit 1 was in a re-fueling outage and Unit 2 was operating at 100% power. At 0820 CST, a fuel truck in the switchyard backed into the support holding C phase insulator for the Unit 1 Reserve Auxiliary Transformer (RAT) 1A. The insulator and line fell to the ground, causing a phase to ground fault. Both RAT 1A and Unit 2 RAT 1B H1 Side and Low Side breakers tripped, causing a loss of offsite power condition (LOSP). Both units' emergency Diesel Generators (DG's) started, but the Unit 1 DG tripped, causing a loss of residual heat removal (RHR) to the reactor core since the Unit 1 Train 8 RAT and DG were out of service for maintenance. A Site Area Emergency (SAE) was declared and the site Emergency Plan was implemented. The core heated up to 136 degrees F before the DG was emergency started at 0856 CST and RHR restored. At 0915 CST, the SAE was downgraded to an Alert after onsite power was restored.

The direct cause of these series of events is a cognitive personnel error. The ^{contractor} truck driver failed to use proper backing procedures in the switchyard and hit a support causing the phase to ground fault and LOSP. The most probable cause of the DG1A trip is the intermittent actuation of the DG jacket water temperature switches.

Corrective actions include strengthening policies for control of vehicles, extensive testing of the DG and replacement of suspect switches.

A. REQUIREMENT FOR REPORT

This event is reportable per: a) 10 CFR50.73 (a)(2)(iv), because an unplanned Engineered Safety Feature (ESF) actuation occurred when the ESF Actuation System Sequencer started, and b) Technical Specification 4.8.1.1.3, because a diesel generator failure occurred. Additionally, this report is a summary of the Site Area Emergency event.

B. UNIT STATUS AT TIME OF EVENT

Unit 1 was in Mode 6 (Refueling) at 0% rated thermal power. The reactor ^{was} shutdown on 2-23-90 for a 45 day scheduled re-fueling outage. The reactor core reload had been completed, the initial pass to tension the reactor vessel head studs was complete, and the outage team was waiting permission from the control room to begin the final tensioning. Reactor Coolant System (RCS) level was being maintained at mid-loop (187'-11") with Train A Residual Heat Removal (RHR) pump in service for decay heat removal. RCS temperature was being maintained at approximately 90 degrees F.

Due to the refueling outage maintenance activities in progress, some equipment was out of service and several systems were in abnormal configurations. The Train B Diesel Generator (DG1B) was out of service for a required 36 month maintenance inspection. The Train B Reserve Auxiliary Transformer (RAT 1B) had been removed from service for an oil change. 1BA03, the Train B Class 1E 4160 Volt switchgear, was being powered from the Train A RAT (1A) through its alternate supply breaker. All Non-1E switchgear was being powered from the Unit Auxiliary Transformer (UAT). All Steam Generator (S/G) Nozzle Dams had been removed, but only S/G's #1 and #4 had their primary manways secured. Maintenance personnel were in the process of restoring the primary manways on S/G's #2 and #3. ~~It was necessary to maintain the RCS level at~~ ^{being} ^{maintain} mid-loop for the valve repairs and the S/G manway restorations. In addition, the pressurizer manway was removed to provide a RCS vent path.

Additionally, the Emergency Response Facility (ERF) computer was not capable of providing reliable historical data to the ERF facilities during this event.

C. DESCRIPTION OF EVENT

On March 20, 1990, at approximately 0817 CST, a ^{contractor} truck driver and security escort entered the protected area driving a fuel truck. The driver's duties were to refuel air compressors and welding machines staged around the site for the outage on Unit 1. He had had these duties for the past three weeks.

The driver, who generally backs into the switchyard to fuel the machines in this area, pulled straight in. He checked the welding machine that was in the area, and found that it did not need fuel. He returned to the fuel truck and was in the process of backing when he hit a support holding "C" phase insulator for the RAT 1A. The insulator and line fell to the ground, causing a phase to ground fault, and the transformer tripped. Unit 1

At 0820CST, both RAT 1A and the Unit 2 RAT 1B Hi Side and Low Side breakers tripped causing a loss of offsite power condition (LOSP) to the Unit 1 Train A Class 1E 4160 volt Buss (1AA02), the Unit 2 Train B Class 1E Buss (2BA03), and the 480 volt busses supplied by 1AA02 and 2BA03. The Unit 1 Train B Class 1E 4160 volt buss (1BA03) also lost power since RAT 1A was feeding both Trains of Class 1E 4160 volt busses. Unit 2 was in a normal and sent a start signal to Unit 1 and Unit 2 Diesel Generators. DG1A and DG2B started and sequenced the loads to their respective busses. Further description of the Unit 2 event is described in LER 50-425/1990-002.

One minute and twenty seconds after the DG1A engine started and sequenced the loads to the Class 1E bus, the engine tripped. This again caused an under voltage (UV) condition to class 1E bus 1AA02. The additional UV signal is a maintained signal at the sequencer. DG1A starting logic receives this signal and relays R-4A, TD2A and SOL-202-1A (activate shut-downs) energize. Since DG1A was coasting down from the trip, the shutdown logic did not allow the DG fuel racks or starting air solenoids to open and start the engine. This caused the engine starting logic to lock-up, a condition that existed until the UV signal was reset and relay TD2A deenergized. For this reason, DG1A did not re-start by itself after it tripped.

After the trip, operators were dispatched to the Engine Control Panel to investigate the cause of the trip. According to the operators, several annunciators were lit. Without fully evaluating the condition, the operators reset the annunciators. On the generator panel, the voltage balance relay was also found to be actuated. During this time, a Shift Supervisor (SS) and Plant Equipment Operator (PEO) went to the sequencer panel to find out if any problems were present on 1A sequencer. The SS quickly pushed the UV reset button, then reset the sequencer by deenergizing and energizing the power supply to the sequencer. This caused the TD2A relay to deenergize and meet the permissive for starting air solenoid to energize for another 5 seconds which caused the engine to start. This happened 19 minutes after the DG tripped the first time. The engine started and the sequencer sequenced the loads as designed. After 1 minute and 10 seconds, the breaker and the engine tripped a second time. It did not start back due to the starting logic being blocked as described above. At this time, operators, a maintenance foreman and the diesel generator vendor representative were in the DG room. The initial report was that the jacket water pressure trip annunciators were the cause of the trip. The maintenance foreman and vendor representative observed that the jacket water

pressure at the gauge was about 12-13 PSIG. The trip set point is 6 PSIG and the alarm setpoint is 8 PSIG. Also, the control room observed a lube oil sensor malfunction alarm.

Fifteen minutes after the second DG1A trip, DG1A was started from the engine control panel using the emergency start breakglass button. The engine started and loads were manually loaded. When the DG is started in emergency mode, all the trips except four are bypassed. However, all alarms will be annunciated. During the emergency run, no trip alarms were noticed by the personnel either at the control room or at the engine control panel. The only alarms noted by the control room operator assigned for DG run were lube oil pressure sensor malfunction and fuel oil level High/Low alarm.

DG1A ran until 1157 CST, supplying power to the 1AA02 4160 volt buss. At 1040 CST, RAT 1B was energized to supply power to the 1BA03, 4160 volt, Class 1E Train B buss. At 1157 CST, the 1AA02 buss was tied to RAT 1B.

Because of the equipment problem being experienced on

★ Site Area Emergency was declared at 0840 CST, due to a loss of all off-site and on-site AC power for more than 15 minutes. The Emergency Director signed the notification form used to inform off site government agencies of the emergency at 0848 CST and notifications began at 0857 CST. Due to the loss of power and some mis-communication, the initial notification was not received by all agencies until 0935 CST. Subsequent notifications were made without difficulty.

The Emergency Director instructed personnel to complete the following tasks prior to leaving containment:

- a) 1HV-8808D reassembly and bonnet bolts tightened. This is the SI Accumulator #4 isolation valve.
- b) Complete installation of Steam Generators #2 and #3 manways.
- c) Close the equipment hatch and reinstall the interlocks on the personnel air lock.

All work was accomplished and maintenance personnel exited containment by 1050 CST:

The SAE was downgraded to an Alert Emergency at 0915 CST. By 1200 CST, plant conditions had stabilized with off-site power restored to Unit 1 and RHR established for core cooling. The Emergency Director initiated a conference call with local government agencies to discuss termination of the emergency. This was also discussed with the NRC. Agreement was reached with all parties that the emergency would be terminated. The emergency was terminated at 1247 CST and agencies were notified by 1256 CST.

3. CAUSE OF EVENT

3.1 Direct Causes

- a) The direct cause of the loss of off-site class 1E AC power was the fuel truck hitting a pole supporting a 230kV line for RAT 1A, which caused the loss of off-site power.
- b) The direct cause of the loss of on-site class 1E power was the failure of the operable DG, DG1A, to start and load the LOSP loads on bus 1AA02.

3.2 Root Causes

- a) The truck driver met all current site training and qualification requirements, including holding a Class 2 Georgia driver's license. However, to drive the same truck on state highways would have required a Class 4 license. The site requirement was therefore, inadequate. Furthermore, site safety rules requiring a flagman for backing vehicles when viewing is impaired were violated.
- b) The root cause for the failure of DG1A has not been conclusively determined. There is no record of the trips that were annunciated after the first trip. The cause of the first trip can therefore only be postulated, but most likely has the same root cause as the second trip. The second trip occurred at the end of the timed sequence of the group 2 block logic. This logic provides for the DG to come up to operating conditions before the trips become active. The block logic timed out and the trip occurred at about 70 seconds. The annunciators observed at the second trip included Jacket water high temperature along with other active trips. It is believed that the Jacket water trip is the most likely cause of the second trip. In conducting a ~~test plan~~ test plan, the trip conditions that were observed on the second DG trip on 3/20/90 were essentially recreated by venting 2 out of 3 temperature sensors, simulating a tripped condition. The recreation duplicated both the annunciators and the 70 sec. trip time. This most likely cause assumes an intermittent actuation of Jacket water temperature switches.

Following the 3-20-90 event, all three switches were bench tested. Switch TS-19110 was found to have a setpoint of 197 degrees F, which was approximately 6 degrees below its previous setting. Switch TS-19111 was found to have a setpoint of 199 degrees F, which was approximately the same as the original setting. Switch TS-19112 was found to have a setpoint of 186 degrees F, which was approximately 17 degrees F below the previous setting and was re-adjusted. Switch TS-19112 also had a small leak which was judged to be acceptable to support diagnostic engine tests and was reinstalled. The switches were recalibrated with the manufacturer's assistance to ensure a consistent calibration technique.

During the subsequent test run of the DG on 3-30-90, one of the switches (TS-19111) tripped and would not reset. This appeared to be an intermittent failure because it subsequently reset. This switch and the leaking switch (TS-19112) were replaced with new switches. All subsequent testing was conducted with no additional problems.

A test of the Jacket water system temperature transient during engine starts was conducted. The purpose of this test was to determine the actual Jacket water temperature at the switch locations with the engine in a normal standby lineup, and then followed by a series of starts without air rolling the engine to replicate the starts of 3-20-90. The test showed that Jacket water temperature at the switch location decreased from a standby temperature of 163 degrees F to approximately 156 degrees F and remained steady.

Numerous sensor calibrations (including Jacket water temperatures), special pneumatic leak testing, and multiple engine starts and runs were performed under various conditions. Since 3-20-90, DG1A has been started 18 times, and DG1B has been started 19 times. No failures or problems have occurred during any of these starts. In addition, an undervoltage start test without air roll was conducted on 4-6-90 and DG1A started and loaded properly.

Based on the above facts, ^{it is} ~~we have~~ concluded that the Jacket water high temperature switches were the most probable cause of both trips on 3-20-90.

4. ANALYSIS OF EVENT

The loss of offsite power to the Class 1E buss 1BA03 and failure of DG1A to start and operate successfully, coupled with DG1B and RAT 1B being out of service for maintenance, resulted in Unit 1 being without AC power to both Class 1E busses. With both Class 1E busses de-energized, the Residual Heat Removal (RHR) System could not perform its required safety function. Based on a noted rate of rise in the RCS temperature of 16 degrees F, measured at the core exit thermocouples over a fifteen minute period, the RCS water would not have been expected to begin boiling until approximately 1 hour and 50 minutes after the beginning of the event.

The steam generator primary side manway installation and closure of the containment equipment hatch were completed after re-establishing RHR both well within the estimated 1 hour 50 minutes prior to the projected onset of boiling in the RCS. A review of information obtained from the Process and Effluent Radiation Monitoring System (PERMS) and grab sample analysis indicated all normal values. As a result of this event, no significant increase in radioactive releases to either the containment or the environment occurred.

Additional systems were either available or could have been made available to ensure the continued safe operation of the plant:

- a) The maintenance on RAT 1B was completed and the RAT returned to service approximately 2 hours into the event.
- b) Offsite power was available to Non-1E equipment through the generator step-up transformers which were being used to "back-feed" the Unit Auxiliary Transformers (UAT) and supply the Non-1E busses. Class 1E busses 1AA02 and 1BA03 could have been powered by feeding through Non-1E bus 1NA01.
- c) The Refueling Water Storage Tank could have been used to manually establish gravity feed through the RHR and/or Chemical and Volume Control System (CVCS), and Safety Injection (SI) to the RCS to maintain a supply of cooling water to the reactor.

Consequently, neither plant safety nor the health and safety of the public was adversely affected by this event. A more detailed assessment of this event and an assessment of potentially more severe circumstances will be performed and included in a supplemental LER.

F. CORRECTIVE ACTIONS

- a)
 - 1) Onsite truck driver license requirements will be changed to match state requirements by 7-1-90.
 - 2) Sensitive and vulnerable areas inside the the protected area will be evaluated by 7-1-90 and appropriate barriers erected or controls established. *CAF*
- b)
 - 1) The Loss of Off Site Power (LOSP) diesel start and trip logic has been modified so that an automatic "emergency" start will occur upon LOSP.
 - 2) DG operating procedures will be revised to include specific instructions for restarts following a DG trip during LOSP by 7-1-90.
 - 3) Operator guidance on recording pertinent alarms and indications is being developed in order to assist in investigations of future plant events and will be in place by 5-1-90.
 - 4) The DG1A test frequency will be increased to once every 7 days in accordance with Technical Specification Table 4.8-1. This frequency will be continued until 7 consecutive valid tests are completed and one or less valid failures have occurred in the last 20 valid tests. Including these two valid failures, there have been a total of four valid failures in 66 valid tests of DG1A.

G. ADDITIONAL INFORMATION

1. Failed Components:

Jacket Water High Temperature Switches manufactured by California Controls Company.
Model # A-3500-W3

2. Previous Similar Events:

None

3. Energy Industry Identification System Code:

Reactor Coolant System - AB
Administration Building - MA
Residual Heat Removal System - BP
Diesel Generator Lube Oil System - LA
Diesel Generator Starting Air System - LC
Diesel Generator Cooling Water System - LB
Diesel Generator Power Supply System - EK
Safety Injection System - BQ
13.8 kV Power System - EA
4160 volt non-IE power system - EA
4160 volt Class IE power system - EB
Chemical and Volume Control System - CB
Containment Building - NH
480 volt Class IE Power System - ED
Engineered Safety Features Actuation System - JE
Plant Page System - FI
Security System - IA
Component Cooling Water System - CC
Nuclear Service Cooling Water System - BS
Radiation Monitoring System - IL

INTERVENOR EXHIBITS

Tape 184

Exhibit 53, page 1 of 1

SEGMENT #1

Tr. pg. 26

Date: End of August

Location: 2nd floor Service Bld. War Room

Bockhold: Lets go to the first paragraph.

Horton : Hold on a minute. There's another issue on this page.

Horton : Uh, previously Note 2 said, well we'll get to it in a minute in that paragraph, but I want to point out to the board members the one, two, three, four, five, six, the first seven runs, 120 thru 126. We--we're fixing to count start attempts in that Note 2 as -- not counting five, the first five starts. I just want everybody to look at it now when we get back to the verbiage we're going to need to address our Vogtle definition of a post maintenance start. This is an issue with the NRC.

Bockhold : What that we--

Horton : That we have post maintenance uh, shakedown is the word that is used by one of the region folks.

Bockhold : What. I mean if you got, if you are doing a post maintenance run and you had the machine apart, uh--

Horton : There's no such thing in the reg. guide.

Aufdenkampe: I remember all of a sudden. The more I do the more I remember. What we did was tie the words, should be considered valid tests

Horton: I think it's the first sentence in paragraph 7 on the next page. They should be considered valid tests.

SEGMENT #2

Tr. pg. 28, 29

Date: End of August

Location: 2nd floor Service Bld. War Room

Horton : Okay, my final issue here was really with number 124. Uh, based on my research, we're hard pressed to call that a post maintenance run.-- I'm not sure how somebody decided previously that start 120 thru 124 were post maintenance runs.

Bockhold: Was that in, in any of the previous documentation?

Voice : No.

Horton : Well every sheet is checked off post maintenance--

Bockhold: No, no, no, no, no I'm talking about the LER or any other --Then then it's not an issue.

TABLE 1
DIESEL GENERATOR 1A

Exhibit 54, page 1 of 2

START No.	DATE	"SUCCESS"	RUN TIME	UNPLANNED TRIP	DISCUSSION
139	03-20-90	NO	1m	YES	FAILURE TO MAINTAIN LOAD
140	03-20-90	NO	1m	YES	FAILURE TO MAINTAIN LOAD
141	03-20-90	YES	4 1/2h-	NO	MANUAL START, LOAD MAINTAINED
142	03-20-90	YES	45m	NO	NORMAL RAT SWAP METHOD
143	03-20-90	YES	5m	NO	OBSERVATION RUN
144	03-20-90	YES	20m	NO	OBSERVATION RUN
145	03-23-90	YES	60m	NO	OBSERVATION RUN
146	03-23-90	YES	0m	NO	STARTED WRONG DG
147	03-29-90	YES	50m	NO	UV TEST START #1
148	03-30-90	YES	2h-	YES *	BUBBLE TEST #1, HTJW SENSOR VENTED
149	03-30-90	YES	6m	NO	TRIP SIMULATION TEST
150	03-30-90	YES	6m	NO	TRIP SIMULATION TEST
151	03-30-90	YES	3m	NO	TRIP SIMULATION TEST
152	03-30-90	YES	6m	NO	TRIP SIMULATION TEST
153	03-30-90	YES	4m	NO	ORIFICE MOD FUNCT TEST
154	03-30-90	YES	10m	NO	ORIFICE MOD FUNCT TEST
155	03-31-90	YES	2m	NO	ORIFICE MOD FUNCT TEST
156	03-31-90	YES	3m	NO	ORIFICE MOD FUNCT TEST
157	03-31-90	YES	10m	NO	BUBBLE TEST #2
158	03-31-90	YES	1m	NO	SENSOR TRIP TIMING TEST
159	03-31-90	YES	1m	NO	SENSOR TRIP TIMING TEST
160	03-31-90	YES	2m	NO	SENSOR TRIP TIMING TEST
161	03-31-90	YES	1m	NO	SENSOR TRIP TIMING TEST
162	03-31-90	YES	75m	NO	SENSOR TRIP TIMING TEST
163	03-31-90	YES	27m	NO	UV TEST START #2
164	04-01-90	YES	1 1/2h-	NO	NORMAL SURU TEST
165	04-06-90	YES	1m	NO	JACKET WATER TEMP TEST
166	04-06-90	YES	1m	NO	JACKET WATER TEMP TEST
167	04-06-90	YES	10m	NO	JACKET WATER TEMP TEST
168	04-06-90	YES	2 1/2h-	NO	LOSP TRIP MOD FUNCT TEST
169	04-06-90	YES	1 1/4h-	NO	NORMAL SURU TEST

1. Valid starts, failures and tests are noted. All other starts are cons to be non-valid pursuant to Regulatory Guide 1.108.

2. Total number of start attempts is 31.

3. Total number of successful start attempts is 29.

92 PROJECT
050221

* Occurred while venting sensors, refer to NUREG AIP J.

LIST ALL ABBREVIATIONS except UV/LOSP.

TABLE 2

DIESEL GENERATOR 18 Exhibit 54, page 2 of 2

START No.	DATE	SUCCESS	RUN TIME	UNPLANNED TRIP	DISCUSSION
120	03-21-90	NO	0	NO	POST MAINT RUN, PRIME FUEL LINES
121	03-21-90	NO	0	NO	POST MAINT RUN, PRIME FUEL LINES
122	03-21-90	NO	15m	NO	POST MAINT RUN, ADJUST GOVERNOR
123	03-21-90	NO	2m	NO	POST MAINT RUN, F.O. DELTA P HIGH
124	03-21-90	NO	4m	NO	FUNCT TEST RUN, F.O. DELTA P HIGH
125	03-22-90	YES	6m	NO	FUNCT TEST FOR MAINT
126	03-22-90	YES	1m	NO	FUNCT TEST FOR MAINT
127	03-22-90	YES	15m	NO	POST MAINT OVERSPEED TEST
128	03-22-90	YES	3m	NO	POST MAINT OVERSPEED TEST
129	03-22-90	YES	5m	NO	POST MAINT OVERSPEED TEST
130	03-22-90	YES	5m	NO	VOLTAGE CLAMP CIRCUIT ADJUST
131	03-22-90	YES	2m	NO	VOLTAGE CLAMP CIRCUIT ADJUST
132	03-22-90	NO	1 1/2 hr	YES	POST MAINT LOAD TEST, HI LO TRIP
133	03-23-90	YES	7 hr	NO	POST MAINT LOAD TEST
134	03-23-90	NO	3m	YES	POST MAINT LOAD TEST, LPJW TRIP
135	03-23-90	YES	4 1/2 hr	NO	POST MAINT LOAD TEST
136	03-24-90	NO	33m	* NOT	POST MAINT LOAD TEST, HTJW ALARM
137	03-27-90	YES	1 1/2 hr	NO	BUBBLE TEST
138	03-27-90	YES	42m	NO	TRIP SIMULATION TEST
139	03-27-90	YES	3m	NO	TRIP SIMULATION TEST
140	03-27-90	YES	2m	NO	TRIP SIMULATION TEST
141	03-27-90	YES	6m	NO	TRIP SIMULATION TEST
142	03-27-90	YES	57m	NO	UV TEST
143	03-28-90	YES	1 1/4 hr	NO	NORMAL SURV
144	03-28-90	YES	4m	NO	LPLO MOD FUNCT TEST
145	03-28-90	YES	4m	NO	LPLO MOD FUNCT TEST
146	04-04-90	YES	1 1/4 hr	NO	POST MAINT LOAD TEST
147	04-05-90	YES	5m	NO	LOSP TRIP MOD FUNCT TEST
148	04-05-90	YES	2 hr	NO	NORMAL SURV

1. Valid starts, failures and test are noted. All other starts are to be non-valid pursuant to Regulatory Guide 1.108.

? → 2. Total number of start attempts is 24 not counting starts 120, 1; and 126 which were part of post-maintenance testing.

3. Total number of successful starts is 25.

92 PROJECT
050222

* HI TEMP JACKET WATER TRIP RECEIVED AD DIESEL KEPT RUNNING.

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

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

GEORGIA POWER COMPANY'S
RESPONSE TO THE NRC STAFF'S
FIRST SET OF INTERROGATORIES

I. INTRODUCTION.

Georgia Power Company ("GPC") hereby responds to the NRC Staff's First Set of Interrogatories to Georgia Power Company, dated July 16, 1993. On August 4, 1993, after obtaining the agreement of both NRC Staff counsel and Intervenor's counsel, GPC requested and the Licensing Board granted an extension of time, to August 9, 1993, to file this response.

The first paragraph of page one of the NRC's interrogatories states that the interrogatories relate to diesel starts, or attempts to start, occurring between March

20, 1990 and April 9, 1990, inclusive. Certain of the interrogatories, however, request information relative to diesel starts occurring as late as April 19, 1990. In responding to each of those interrogatories, GPC has included information concerning diesel starts which occurred between April 9 and April 19.

Unless otherwise noted, the source of knowledge of each person responsible for verifying GPC's interrogatory responses herein is their personal recollections as well as any documents referred to in the responses they are verifying.

II. GPC RESPONSES TO SPECIFIC INTERROGATORIES.¹

1. a. and b. (Cash/Bockhold) Jimmy Paul Cash counted diesel generator starts in preparation for GPC's meeting with the NRC on April 9, 1990. He used the Unit Control Log and Shift Supervisor Log² and prepared a handwritten list of diesel starts which, he believes, is the same as the

¹ GPC's responses are numbered to correspond to the numbers of the requests in NRC Staff First Interrogatories to Georgia Power Company, dated July 16, 1993.

²As of April 9, 1990, the Diesel Start Log had not been updated since March 13, 1990. When this Start Log was updated in late April, it included 18 diesel starts (nos. 1-90-128 through 131) which had not been recorded in either the Unit Control Log or Shift Supervisor Log.

typewritten list which he brought to his OI interview on June 14, 1993. Mr. Cash provided to Mr. Bockhold the number of diesel starts (18 and 19) for the 1A and 1B diesels which appeared in the April 9, 1990 presentation transparency and the April 9, 1990 GPC letter to NRC. At present, Mr. Cash cannot definitively recall which specific starts he counted in arriving at the 18 and 19 numbers. Relying on Mr. Cash, Mr. Bockhold did not personally count the starts and does not know which ones are the "18 and 19" which Mr. Cash counted. Those same numbers together with subsequent review by site personnel formed one of the bases for the "at least 18 times each" statement in the signed LER 90-006.

The "test program" which is referred to in the sentence from the April 19, 1990 LER and quoted in interrogatory no. 1, was intended by Mr. Bockhold to refer to the testing of the diesel control systems which did not require diesel starts, i.e., the calibration of the Calcon sensors and the logic testing of the control systems. According to the Plant Vogtle 1R2 D/G TRN A Target vs. Actual Schedule and Maintenance Work Order Control No. 19001576, this control systems testing was completed for the 1A diesel before start no. 148 on March 30, 1990; according to the Plant Vogtle 1R2 D/G TRN B Target vs. Actual Schedule, it was completed for the 1B diesel before start no. 137 on March 27, 1990.

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of) Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY, *et al.*) 50-425-OLA-3
(Vogtle Electric Generating Plant) Re: Licensee Amendment
Units 1 and 2) (Transfer to Southern Nuclear)
)

INTERROGATORY RESPONSE OF KENNETH E. BROCKMAN
TO THE OCTOBER 8, 1993, GEORGIA POWER COMPANY'S
FIRST SET OF INTERROGATORIES AND SECOND REQUEST
FOR PRODUCTION OF DOCUMENTS TO THE NRC STAFF

STATE of MARYLAND)
COUNTY of MONTGOMERY)

Kenneth E. Brockman, having first been duly sworn, hereby states as follows:

I am employed by the Nuclear Regulatory Commission as Chief, Incident Response Branch, Division of Operational Assessment, Office for Analyses and Evaluation of Operational Data.

In the Spring of 1990, I was Chief, Reactor Projects, Section 3B, Division of Reactor Projects, NRC, Atlanta, Georgia. On October 7, 1993, Georgia Power Company (GPC) served interrogatories upon the NRC which called for information I possessed between March 20, 1990 and April 19, 1990. I have been informed in general terms by Staff counsel that the interrogatories result from an administrative proceeding in which the intervenor has alleged that GPC knowingly submitted incorrect information to the NRC regarding Emergency Diesel Generator (EDG) starts following the March 20, 1990, site incident (Licensee Event Report (LER) 90-06 and at a meeting in NRC's Atlanta, Georgia office on April 9, 1990). Having been so informed as to the background of the interrogatories, I respond here to those interrogatories which refer to me.

INTERROGATORY 4

With respect to the telephone conversation between Messrs. Brockman and McCoy in the late afternoon of April 19, 1990, answer the following questions:

A. Does Mr. Brockman deny that, during the call, Mr. McCoy and Mr. Brockman discussed paragraph (g) of page three of GPC's April 9, 1990, letter to the NRC? If the answer is yes, please explain the basis for that answer.

B. Does Mr. Brockman deny that, during the call, Mr. McCoy confirmed that Mr. Brockman understood the Vogtle 1B diesel had experience problems and failures in the process of coming out of maintenance after March 20, 1990? If the answer is yes, please explain the basis for that answer.

C. Does Mr. Brockman deny that, during the call Mr. McCoy explained that the third paragraph of page six of GPC's April 19, 1990, LER meant that there were at least 18 starts of each diesel following completion of the sensor calibrations and logic testing, i.e., once all the bugs had been worked out of the machines after overhaul? If the answer is yes, please explain the basis for that answer.

D. Does Mr. Brockman deny that, during the call, Mr. Brockman confirmed to Mr. McCoy that he understood GPC's definition of "comprehensive test program of the diesel generator control systems," as that term was used in the April 19, 1990 LER? If the answer is yes, please explain the basis for that answer.

RESPONSE

With respect to the detailed questions provided above, since I have not retained any records of daily phone calls, I can neither confirm nor deny what transpired between Mr. McCoy and myself on the specific days in question. However, I can attest to my understanding, generically, of the matters addressed.

I did understand and Mr. McCoy did confirm that the Vogtle 1B EDG had experienced problems and failures in the process of coming out of maintenance. I also knew of these difficulties because of my position as the Regional Point of Contact for the Vogtle IIT. Also, the LER, submitted on April 19, 1990, indicated that there were, at least, 18 successful starts of the EDGs following completion of the test program.

However, I understood this to mean that there were no unexpected failures of the EDGs. To me, this meant that expected failures used to clarify and specify the particular failure mechanisms being experienced were not included in the count, but after repairs had been made all starts were successful and no failures were experienced that required the analysis and repair process to be re-entered or re-initiated.

My understanding of VEGP's comprehensive test program was described in my response to Interrogatory #3. It was a detailed program by which all of the repairs and modifications were verified to be effective and complete. My understanding of the information presented by Mr. McCoy, et al., was that at no time during the verification process were any failures experienced.