

**TROUTMAN SANDERS LLP**  
ATTORNEYS AT LAW  
A LIMITED LIABILITY PARTNERSHIP

NATIONSBANK PLAZA  
800 PEACHTREE STREET, N.E. SUITE 5200  
ATLANTA, GEORGIA 30308-2216  
TELEPHONE: 404-885-3000  
FACSIMILE: 404-885-3900

WRITER'S DIRECT DIAL:

October 6, 1995

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-95-420  
Rec'd 10-12-95

Mr. Carlton Kammerer, Director  
Division of Freedom of Information  
and Publication Services  
Office of Administration  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

RE: Freedom of Information Act Request

Dear Mr. Kammerer:

Pursuant to the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Nuclear Regulatory Commission ("NRC") regulations, 10 C.F.R. Part 9, I hereby request copies of all "records" as defined in 10 C.F.R. § 9.13 constituting or relating to Request for Investigation No. RII-91-10 (see attached copy of memorandum from James Y. Vorse to Stewart D. Ebnetter, summarizing facts already developed in the investigation).

For your information, I understand that records subject to the foregoing request are or may be in the possession of the following individuals:

- Mr. Stewart D. Ebnetter, Regional Administrator, Nuclear Regulatory Commission, Region II.
- Mr. Hugh L. Thompson, Deputy Executive Director, Nuclear Materials Safety, Safeguards and Operations Support.
- Mr. David McGuire, Region II.
- Mr. James L. Milhoan, Deputy Executive Director, Nuclear Reactor Regulation, Regional Operations and Research.
- Ms. Patricia G. Norry, Director, Office of Administration, Nuclear Materials Safety, Safeguards and Operations Support.

Carlton Kammerer

October 6, 1995

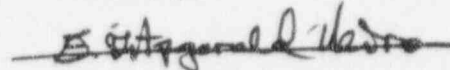
Page 2

- Mr. James Y. Vorse, Field Office Director, Office of Investigations, Region II.

I will pay the applicable production charges for the requested records in accordance with 10 C.F.R. 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.

Please feel free to contact me if you have any questions concerning this FOIA request. I appreciate your cooperation in this matter.

Sincerely,



E. Fitzgerald Veira

EFV:jmb

Attachment



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION II  
101 MARNETTA STREET NW, SUITE 2900  
ATLANTA, GEORGIA 30322

August 17, 1992

MEMORANDUM FOR: Stewart D. Ebnetter, Regional Administrator  
Region II

FROM: James Y. Vorse, Field Office Director *gyv*  
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. HUWCT, Security Manager of Georgia Power Company's (GPC) Vogtle Electric Generating Plant (VEGP), that former GPC employee Allen MOSBADGE 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 MOSBADGE, #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, MOSBADGE 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, MOSBADGE'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 MOSBADGE. 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 MOSBADGE. 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 NRC. 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. MOSBADGE told OI that he did not think any of these tapes contained safeguards material.

~~9/17/92~~

4. On September 15, 1990, GPC placed MOSBAUGH on administrative leave for conducting this taping. On October 11, 1990, MOSBAUGH's employment with GPC was terminated by GPC.
5. Of the 277 tapes he provided to NRC, MOSBAUGH identified 76 that potentially contained the most significant conversations that pertained to the ongoing OI investigations of MOSBAUGH'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 MOSBAUGH 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 MOSBAUGH. MOSBAUGH 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 MOSBAUGH. At his DOL hearing in March 1992, MOSBAUGH testified that NRC had assured him that the tapes did not contain safeguards. OI NRC did not give any such assurance to MOSBAUGH.
9. MOSBAUGH, through correspondence to NRC from his DOL attorney, has again denied that the tapes alleged by HUYCT, supra, or any other tapes MOSBAUGH 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

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 NRR 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 NRR 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.