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USNRC

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

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JOHN LAMBERSKI

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
DIRECT 404-885-3360

May 6, 1994

Joseph Rutberg, Esq.
Office of General Counsel
U.S. Nuclear Regulatory Commission
One White Flint North
Washington, D.C. 20555

RE: Georgia Power Company (Vogtle Electric Generating Plant, Units 1 and 2); NRC
Docket Nos. 50-424-OLA-3, 50-425-OLA-3; License Amendment for Transfer
to Southern Nuclear Operating Company

Dear Mr. Rutberg:

The purpose of this letter is to request that the Nuclear Regulatory Commission (NRC) Staff make appropriate redactions to protect personal privacy information contained in the NRC Office of Investigations report ("OI Report") in Case No. 2-90-20R. Based on discussions I have had with counsel for the NRC Staff, it is not clear to me that the Staff will redact all information which could, if released, constitute an unwarranted invasion of the personal privacy of individuals who may be identified in the OI Report.

As you know, the parties in this proceeding have argued the appropriateness and timing of disclosure of the OI Report. The Commission resolved this dispute by ordering, in part, that at the time of issuance of an enforcement decision (or upon a decision to take no enforcement action) the NRC Staff shall make available to the parties the OI Report after making "appropriate redactions. . . to protect personal privacy information or the identity of confidential sources." CLI-94-05, slip op. at 22 (April 7, 1994). GPC interprets this provision of the Commission's order as referring to those matters which are exempt from disclosure pursuant to the Freedom of Information Act exemptions, specifically 5 U.S.C. § 552(b)(6) and (7)(C) and (D)^{1/}.

^{1/}Exemptions b(6) and (7)(C) and (D) provide that the following types of information are exempt from public disclosure:

(6) personnel and medical files and similar files the disclosure of which would

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Counsel for the NRC Staff has indicated that addresses, telephone numbers and the like would be redacted from the report, i.e. information exempt from disclosure under Exemption (6). Georgia Power is unaware of any confidential sources which would fall under Exemption (7)(D). However, Georgia Power is unsure of the NRC Staff's plans to apply Exemption (7)(C). In light of the history of the OI investigation, continuing media interest in this case, and the future resolution by the Commission of its enforcement decision, careful consideration of this exemption is appropriate.

Georgia Power's concern in this regard is not with respect to OI's conclusions, opinions or recommendations regarding actions of the company. Rather, we desire to assure that the personal privacy rights of individuals associated with this matter are considered and protected. For example, the fact that, historically, a specific employee has been investigated for suspected criminal activity represents a significant intrusion on such employee's privacy which is exempt from disclosure under Exemption (7)(C). Fund for Constitutional Government v. National Archives, 656 F.2d 856, 865-66 (D.C. Cir. 1981). Similarly, where no criminal action is brought against an individual, the revelation of the exercise of that individual's constitutional rights in an investigation would constitute an unwarranted invasion of personal privacy. Strassman v. U.S. Department of Justice, 792 F.2d 1267, 1268-69 (4th Cir. 1986). Depending on the Commission's enforcement decision, other redactions relative to specific individuals may be appropriate. Each individual's interest in privacy should be balanced against the public's interest in the release of particular information. National Security Archive v. FBI, 759 F. Supp. 872, 883 (D.C.D.C. 1991).

Because this matter has received substantial media interest of a continuing nature, the potential for unwarranted harassment and embarrassment of individuals who are identified in the OI Report is increased. Georgia Power Company requests that the privacy interests of these individuals be carefully considered by the Commission and appropriate action taken to protect such individuals from unwarranted invasions of their personal privacy. The public interest in the free flow of information will still be served by release of the OI Report redacted in accordance with the provisions of Exemptions b(6), and (7)(C) and (D) as discussed herein.

constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would. . .

(C) constitute an unwarranted invasion of personal privacy;

(D) disclose the identity of a confidential source. . .

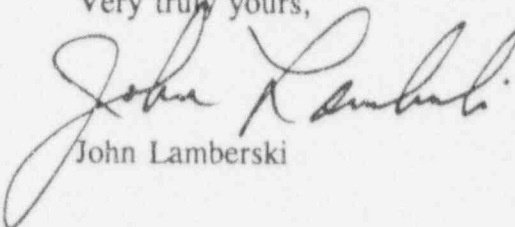
Joseph Ruthberg, Esq.

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Thank you for your consideration of this important matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Lamberski". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John Lamberski

JL:svg

cc: Service List