VOGTLE COORDINATING GROUP EVALUATION, CONCLUSIONS, AND RECOMMENDATIONS

FOR

LICENSEE AND INDIVIDUAL RESPONSES
TO THE MAY 9, 1994
PROPOSED ENFORCEMENT ACTION AND
DEMANDS FOR INFORMATION

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I. INTRODUCTION

On May 9, 1994, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalties (Notice or NOV) to the Georgia Power Company (Licensee or GPC) for violations identified during an NRC inspection and investigation. The NRC also issued three Demands for Information (DFIs) to GPC regarding the performance failures of six individuals. On July 31, 1994, GPC submitted its response to the NOV (including the Reply pursuant to 10 CFR 2.201 and the Answer pursuant to 10 CFR 2.205) and its response to the DFIs. The six individuals identified in the DFIs also responded to the DFIs. On August 4, 1994, the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research directed that the Vogtle Coordinating Group (Group) be reassembled to expeditiously review, analyze, and formulate a position on the adequacy of GPC's response and recommend a position on the proposed enforcement action in light of GPC's response. The Group's evaluation, conclusions, and recommendations regarding the NOV and DFIs are included below.

II. REVIEW OF LICENSEE'S RESPONSE TO NOTICE OF VIOLATION

This section includes a review of the Licensee's response to the Notice of Violation that includes the Licensee's Reply to the Notice of Violation (including the Licensee's corrective actions) and the Licensee's Answer to the Notice of Violation (pursuant to 10 CFR 2.205). This section also includes Group conclusions and recommendations regarding the Licensee's response.

A. REVIEW OF LICENSEE'S REPLY TO NOTICE OF VIOLATION

The Licensee admitted Violations A and D (in part), and denied Violations B, C (as stated, but admitted to the ambiguity of the correspondence in question), D (in part), and E.

Restatement of Regulatory Requirement

10 CFR 50.9(a) requires that information provided to the NRC by a licensee shall be complete and accurate in all material respects.

Restatement of Violation A

Contrary to the above, information provided to the NRC Region II Office by Georgia Power Company (GPC) in an April 9, 1990 letter and in an April 9, 1990 oral presentation to the NRC was inaccurate in a material respect. Specifically, the letter states that: "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."

These statements are inaccurate in that they represent that 19 consecutive successful starts without problems or failures had occurred on the 1B Diesel Generator (DG) for the Vogtle facility as of April 9, 1990, when, in fact, of the 19 starts referred to in the letter associated with the 1B DG at the Vogtle facility, three of those starts

had problems. Specifically, Start 132 tripped on high temperature lube oil, Start 134 tripped on low pressure jacket water and Start 136 had a high temperature jacket water trip alarm. As of April 9, 1990, the 1B DG had only 12 consecutive successful starts without problems or failures rather than the 19 represented by GPC. The same inaccuracy was presented to the NRC at its Region II Office during an oral presentation by GPC on April 9, 1990.

The inaccuracy was material. In considering a restart decision, the NRC was especially interested in the reliability of the DGs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC on April 9, 1990 in the oral presentation and in the GPC letter in reaching the NRC decision to allow Vogtle Unit 1 to return to power operation.

Summary of Licensee's Response to Violation A

GPC admits Violation A. GPC attributes the inaccuracy to the Unit Superintendent (CASH), who was responsible for obtaining the start count information. GPC stated that by including "problems" in the start count of the 1B DG, CASH began his count earlier in time than understood by the Vogtle Electric Generating Plant (VEGP) General Manager (BOCKHOLD). GPC does not agree with the NRC's position that BOCKHOLD gave inadequate instructions to CASH or inadequately assessed his work product. GPC believes that the lack of an updated single source document for DG starts and runs, containing timely and correct data, using commonly defined terminology, and reviewed by qualified personnel, was pivotal in the underlying difficulty in providing accurate DG start data.

GPC requested that materiality be reconsidered based on the following: GPC considers that the inaccuracy (19 versus 12) was not significant, particularly when considered with the extensive information concurrently provided to the NRC experts. The problem starts that are the focus of Violation A were known to these experts. GPC also considers that the use of a transparency showing quarantined components identified specific sensors that caused problem starts coming out of the overhaul on the 1B DG. In addition, GPC postulates that the observation of the testing, as well as the testing procedures themselves, rather than correspondence describing the number of successful starts, were influential in affecting NRC personnel judgement regarding operability and root cause identification.

Group Evaluation of Licensee's Response to Violation A

Based on a review of the Reply, the Group continues to believe that the causes of Violation A were (1) the failure of BOCKHOLD in directing CASH to collect DG start information and in assessing what CASH gave him before he provided the DG start information to the NRC and (2) the failure of CASH in performing and reporting his count.

GPC contends that the inaccuracy of the information in the April 9, 1990 presentation and the April 9, 1990 letter was due to the performance of CASH. CASH included "problems" in this count because the count was started earlier than the time understood by BOCKHOLD. GPC also states that BOCKHOLD and CASH had the same understanding of the term "successful start," which was the term used by BOCKHOLD to direct the efforts of CASH. GPC acknowledges in its Reply that BOCKHOLD would not have counted the three starts with problems.

The Group agrees that CASH made an error in his count, in that he did not determine the correct number of successful starts from the information he had available. However, the significant issue is that the count he produced included starts with "problems," while the count sought by BOCKHOLD was to exclude starts with "problems." This error resulted from the failure by BOCKHOLD to specify where the count was to start. If, as GPC states, BOCKHOLD and CASH had the same understanding, then problem starts would not have been included in the count that CASH reported. Since BOCKHOLD, as stated in GPC's response, would not have counted the three problem starts, then BOCKHOLD's understanding was definitely not the same as CASH's with regard to where the start count should have begun. Although BOCKHOLD may have "understood" when CASH should have started his count, there is sufficient evidence to conclude that BOCKHOLD provided insufficient guidance to CASH to begin the count at that point (i.e., after sensor calibration and logic testing).

In addition, GPC asserts that because CASH excluded certain "post-maintenance" starts, that that was indication that CASH knew not to count starts during overhaul activities. The Group believes that CASH's exclusion of the "post-maintenance" tests (starts 120, 121, 122) was not an indication that he excluded all starts during overhaul, but rather that he excluded them because he was directed to count "successful starts" and these particular starts were not successful starts based on their understanding of "successful starts."

GPC also asserts that since CASH knew that "in overhaul" was listed on the draft transparency, that it should have been reasonable indication to CASH that starts during the overhaul period would <u>not</u> be included in the count of successful starts. The inclusion of the words "in overhaul" on the draft transparency would not reasonably indicate to CASH that starts during overhaul be excluded in a count of successful starts. The words "in overhaul" on the draft transparency could reasonably have lead CASH to believe that his count should <u>specifically</u> include starts during overhaul. Further, since the transparency did not include the limitation "no problems or failures," it would not have put CASH on notice that starts with problems or failures should be excluded from his count of successful starts (as later defined by BOCKHOLD and CASH).

GPC also contends that had a single source document that collated all DG start activities with supporting data been available, then this violation might not have occurred. Although a single source document may have made data collection easier, the Group believes that it is

unlikely that a single source document for DG start information would have prevented this violation. The Group notes that a single source document, namely, the "Diesel Generator Start Log," was available on May 2, 1990 and identified DG starts 132, 134, and 136 as "successful starts." Consequently, had this document been available for use in compiling the April 9 count of successful starts, CASH would still have included starts 132, 134, and 136 in his count of successful starts. The Group continues to consider that this violation did not stem from the failure to establish commonly defined terminology (since BOCKHOLD and CASH shared the same understanding of "successful starts"), but rather it stemmed from the failure to establish a commonly defined start point for the count and the failure to collect only starts without problems or failures.

The Group reviewed GPC's positions with respect to materiality. The Reply contains no information that the Group had not previously evaluated during the Group's initial review. The Group recognizes that much of the information was available to the NRC, and that some NRC personnel would not have viewed the problems or failures as affecting the ultimate restart decision. However, the purpose of the April 9, 1990 restart presentation was to apprise NRC management of the short-term and long-term corrective actions planned to prevent recurrence of the problems that resulted in the Site Area Emergency (SAE). This presentation necessarily addressed DG performance. The NRC decision makers relied, in part, on the information that was presented regarding DG performance and therefore this information was material.

Restatement of Violation B

Contrary to the above, information provided to the NRC Region II Office by GPC in an April 9, 1990 letter was incomplete in a material respect. Specifically, the letter states, when discussing the air quality of the DG starting air system at the Vogtle facility, that: "GPC has reviewed air quality of the D/G air system including dewpoint control and has concluded that air quality is satisfactory. Initial reports of higher than expected dewpoints were later attributed to faulty instrumentation."

This statement is incomplete in that it fails to state that actual high dew points had occurred at the Vogtle facility. It also fails to state that the causes of those high dew points included failure to use air dryers for extended periods of time and repressurization of the DG air start system receivers following maintenance.

The incompleteness was material. In considering a restart decision, the NRC was especially interested in the reliability of the Dgs and specifically asked that GPC address the matter in its presentation on restart. The NRC relied, in part, upon this information presented by GPC in its letter of April 9, 1990 in reaching the decision to allow Vogtle Unit 1 to return to power operation.

Summary of Licensee's Response to Violation B

GPC argues that its April 9, 1990 letter addressed, accurately and completely, the on-going events related to concerns about dewpoint data. The statement about initial reports referred to a high dewpoint reading measured on March 29, that was first reported to NRC representatives in the April 5-9, 1990 period (i.e., reports of higher than expected dewpoint measurements taken during the recovery from the SAE). To suggest that the letter either sought to identify or explain all higher than expected dewpoints is to take GPC's statement out of context. This would give it a meaning which is inconsistent with the actual understanding of GPC and NRC representatives at the time. Prior to the NRC's decision to allow Unit 1 to return to power operation, GPC kept the NRC informed of actual high dewpoints on the 1A DG control air and oral information on other engines. Documents in the possession of the NRC substantiate the context and meaning of the statement, and understanding of the statement's meaning, by NRC representatives and of information conveyed to the NRC prior to restart.

GPC argues that the April 9, 1990 letter identified certain short-term corrective actions. GPC contends that there can be little doubt that the letter was discussing the current situation and it is unduly strained to say the statement was intended to describe all past maintenance issues. GPC further argues that a discussion of higher than expected dewpoints in the distant past attributed to system air dryers being out of service and system repressurization following maintenance was not reasonably necessary to completely describe the short-term corrective actions associated with high dewpoint readings after the SAE. Moreover, changes in preventive maintenance practices in late 1988 made more distant dewpoint measurements much less informative about air quality than recent data. Applying a rule of reason, the information in the April 9 letter was a complete explanation of the basis for GPC's closure of dew point concerns which arose subsequent to the SAE.

Based on the above arguments, GPC requests that Violation B be withdrawn.

Group Evaluation of Licensee's Response to Violation B

Upon further review, the Group concludes that GPC's statements regarding air quality presented in the April 9, 1990 letter were sufficient in scope and GPC had an adequate technical basis to support a finding that air quality was acceptable.

In response to the event, in order to determine if air quality was a root cause of the DG performance on March 20, GPC inspected air filters on the control air system that had been pulled in early March 1990. They also conducted an internal inspection of the DG air receivers after the March 20 event. Dewpoint measurements on March 29 for DG 1A air receivers that were outside specified acceptance criteria were determined to be due to a faulty instrument. GPC replaced the instrument and the resulting readings were satisfactory.

This violation was premised on the Group's conclusion that the reference to "initial reports of higher than expected dewpoints" was part of GPC's effort to present a comprehensive review of past air quality problems, including problems occurring prior to the SAE. The Group relied on information contained in Inspection Report 50-424,425/90-19, Supplement 1, that indicated that there had been high dewpoint readings related to air dryers being out of service and system repressurization in addition to those attributable to faulty instrumentation. The Group believed that the high dewpoint readings referenced in the report preceded the SAE. This information led the Group to conclude that the information on air quality contained in the April 9 letter was incomplete. The Group did not view the April 9 letter as focusing the discussion on air quality to only activities contemporaneous with the event and subsequent recovery. The Group agrees with GPC that the historical information was not necessary for a restart decision, and therefore, the April 9 letter was not incomplete.

[redacted]

Restatement of Violation C

Contrary to the above, information provided to the NRC by GPC in a Licensee Event Report (LER), dated April 19, 1990, was inaccurate in a material respect. Specifically, the LER 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."

These statements are inaccurate in that they represent that at least 18 consecutive successful starts without problems or failures had occurred on the DGs for Vogtle Unit 1 (1A DG and 1B DG) following the completion of the comprehensive test program of the control systems for these DGs, when, in fact, following completion of the comprehensive test program of the control systems, there were no more than 10 and 12 consecutive successful starts without problems or failures for 1A DG and 1B DG respectively.

The inaccuracy was material in that knowledge by the NRC of a lesser number of consecutive successful starts on 1A DG and 1B DG without problems or failures could have had a natural tendency or capability to cause the NRC to inquire further as to the reliability of the DGs.

Summary of Licensee's Response to Violation C

GPC denies the violation "as stated," but admits to the ambiguity of the LER. The LER uses "at least 18" to refer to starts without problems or failures on the 1A and 1B DGs. GPC states that in fact, there had been at least 18 consecutive successful starts without problems or failures on the 1A and 1B DGs going back in time as of April 19, 1990 (the date of the LER). There had also been at least 18 consecutive successful starts without problems or failures after the "comprehensive test program of the control systems" as defined by BOCKHOLD. GPC acknowledges that, in its view, the LER's asserted accuracy was fortuitous and admits (1) that no common definition existed for "comprehensive test program" (CTP) among the various managers and (2) that various meanings could be attributed to the term CTP. Thus, the LER was ambiguous. GPC acknowledges that the reason for this ambiguity was inadequate attention to detail on the part of those managers who were aware of the potential ambiguity. GPC also acknowledges that somewhere in the LER drafting process the term "comprehensive test program" should have been defined and commonly understood.

GPC questions the NRC's finding of materiality for several reasons. First, the NRC's materiality argument is based on the finding that there were only 10 and 12 consecutive successful starts for the 1A and 1B DG, respectively following completion of the CTP rather than the "at least 18" reported in the LER. GPC asserts that, because there were at least 18 consecutive starts for both the 1A and 1B DGs as of April 19, 1990, the demarcation of "subsequent to the comprehensive test of control system" is immaterial with respect to influencing the NRC to inquire further as to the reliability of the DGs. Second, the ambiguity did not affect the significant message in the LER that the likely cause of the 1A DG failure had been identified and there had been 18 consecutive successful starts on both DGs. Third, GPC argues that the regulatory setting of the statement should be considered. LER's are prepared and filed pursuant to 10 CFR 50.73(b) which sets forth the required contents. The cause of each component or system failure, if known, as well as the failure mode, mechanism and effect of each failed component, if known, must be included. Other required information is an assessment of the safety consequences and implications of the event, and a description of any corrective action. Because the 1B DG was not involved in March 20, 1990 site area emergency, GPC's reference to this component was not required. The omission of the number of starts of either DG after the SAE would not have "run afoul" of LER reporting requirements.

GPC also requests treatment of the violation as a self-reported and corrected violation. GPC states that it identified the LER statement's inaccuracy concerning the DG starts, orally notified the NRC of the error, and submitted a corrected LER on June 29, 1990. GPC requests that the revised LER be considered effective corrective action for the original LER. GPC refers to the NRC Enforcement Policy as supporting its request that no enforcement action be taken in this matter as the

error was promptly identified and corrected by the Licensee prior to reliance by the NRC or before the NRC raised a question about the information.

Group Evaluation of Licensee's Response to Violation C

GPC argues at length that it views the LER as ambiguous. The Group does not accept these arguments. The LER was clear in representing that "at least 18 consecutive successful starts without problems" or failures had occurred on the 1A and 1B DGs following completion of the CTP as of April 19, 1990. In fact, as of that date, only 10 and 12 consecutive starts of 1A and 1B DGs respectively had occurred following completion of the CTP. Thus the LER was in error. The Group also does not accept GPC's argument that various meanings can reasonably be attributed to the phrase "completion of the comprehensive test program." It was reasonable to conclude that the CTP ended immediately prior to the completion of the surveillance test and declaration of DG operability. This is the understanding of the phrase reflected in NUREG-1410, Appendix J, page 13, and is also the meaning given to this term by the Licensee after the June 29, 1990 audit. Given that the phrase CTP had a reasonable and commonly understood meaning, the LER conveyed erroneous information and was not ambiguous.

With regard to materiality, the Group continues to view the error in the LER as material. The LER significantly overstated the number of successful starts that had occurred on the 1A and 1B DGs following the CTP. Repeated successful starts of these DGs was significant information in the NRC's decision to restart the facility and in its overall evaluation of this incident. Numerous NRC personnel were involved in the review of this matter and in the review of the associated LER. Any overstatement of relevant information in an LER meets the NRC's threshold for materiality, i.e., such information could have had a natural tendency or capability to cause the NRC to inquire further as to the reliability of the DG.

The Group also rejects GPC's argument that the regulatory setting of the violation should be considered. GPC suggests that information provided to the NRC that is not strictly required by 10 CFR 50.73 (i.e., provided voluntarily) should be held to more lenient standards with regard to accuracy and completeness. 10 CFR 50.9 makes no such distinction. That regulation requires that all information provided to the NRC be complete and accurate in all material respects.

Restatement of Violation D

Contrary to the above, information provided to the NRC by GPC in an LER cover letter dated June 29, 1990 was inaccurate and incomplete in material respects as evidenced by the following three examples:

The letter states that: "In accordance with 10 CFR 50.73, Georgia Power Company (GPC) hereby submits the enclosed revised report related to an event which occurred on March 20, 1990. 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...."

1. The LER cover letter is incomplete because the submittal did not provide information regarding clarification of the April 9, 1990 letter.

   The incompleteness was material in that the NRC subsequently requested GPC to make a submittal clarifying the April 9, 1990 letter.

The letter states that: "If the criteria for the completion of the test program is understood to be the first successful test in accordance with Vogtle Electric Generating Plant (VEGP) procedure 14980-1 "Diesel Generator Operability Test," then there were 10 successful starts of Diesel Generator 1A and 12 successful starts of Diesel Generator 1B between the completion of the test program and the end of April 19, 1990, the date the LER-424/1990-06 was submitted to the NRC. The number of successful starts included in the original LER (at least 18) 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."

2. The last sentence in the above paragraph is inaccurate because diesel record keeping practices were not a cause of the difference in number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter. The difference was caused by personnel errors unrelated to any problems with the diesel generator record keeping practices.

   The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter had been identified by GPC.

3. The last sentence in the above paragraph is also incomplete because it failed to include the fact that the root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter were personnel errors. First, the Vogtle Plant General Manager who directed the Unit Superintendent to perform the start count (which formed the basis for the April 19, 1990 LER) failed to issue adequate

instructions as to how to perform the count and did not adequately assess the data developed by the Unit Superintendent. In addition, the Unit Superintendent made an error in reporting his count. Second, the Vogtle Plant General Manager, the General Manager for Plant Support and the Technical Support Manager failed to clarify and verify the starting point for the count of successful consecutive DG starts reported in the April 19, 1990 LER.

The incompleteness was material in that, had correct root causes for the difference in the number of diesel starts reported in the April 19, 1990 LER and the June 29, 1990 letter been presented, this information could have led the NRC to seek further information.

Summary of Licensee's Response to Violation D

Example 1 of the violation is admitted in part and denied in part. GPC admits that the June 29 LER cover letter should have corrected the "no problems or failures" language in the April 9 letter, and to that extent, the June 29 letter was incomplete. Example 1 of this violation was denied because the Licensee contends that the June 29 LER cover letter met the intended goal of providing explanatory information to the NRC by correcting and clarifying the April 9 letter, and that it went beyond what was required to provide a full and complete explanation of the different start count numbers.

Example 2 is denied. GPC based the denial on their belief that record keeping practices did contribute to the numerous and different DG start counts. However, GPC recognizes that personnel error was also a reason for the start count differences in the two pieces of correspondence. GPC concluded that the NRC is in error in concluding that personnel errors "unrelated to any problem with the diesel generator record keeping practices" was a cause of the difference in the numbers of starts reported in the April 19 LER as compared to the June 29 letter.

Example 3 is admitted. GPC continues to believe that the LER cover letter was (and is) accurate, but in retrospect, it concurs that the letter was incomplete by not blaming the start count errors on personnel errors. Specifically, a violation of 10 CFR 50.9 is admitted on the basis that the LER cover letter was incomplete by not acknowledging that personnel error (i.e. resolution of ambiguity in phraseology) contributed to GPC's failure to identify and resolve the underlying errors in the April 9 letter and April 19 LER. As GPC described in response to Violation A and Examples 1 and 2 of this violation, it admits CASH's personnel error was a cause in the inaccurate language in the April 9 letter. GPC does not view BOCKHOLD's directions to CASH to collect DG start data, or subsequent assessment of the data as involving performance failures.

Group Evaluation of Licensee's Response to Violation D

Example 1

GPC asserts that the June 29 letter clarifies the errors in the April 9 letter and April 19 LER, although GPC appears to recognize that the errors of April 9 and April 19 were different. It is clear that there were different errors in the two documents. The errors in the April 9 letter include the inaccurate number of successful starts and the use of the term "no problems or failures." The error in the April 19 LER was in the number of successful starts following the CTP. Consequently, since the explanation in the June 29 letter was directed only to the errors in the April 19 LER, it failed to explain errors in the April 9 letter. As acknowledged by GPC in its Reply, the June 29 letter did not correct the "no problems or failures" language. The Group agrees that this issue was not addressed. In addition, the June 29 cover letter did not provide an accurate count or clarification of successful starts as addressed in the April 9 letter based on the definition provided in the June 29 letter. Therefore, the Group does not accept GPC's argument that the June 29 letter met its intended goal to explain and correct the April 9 letter.

GPC also states in its Reply, that the June 29 cover letter "went beyond what was required to provide a full and complete explanation of the different start count numbers." As discussed in the Group's Evaluation of Licensee's Response to Violation C, all information provided to the NRC, whether required or voluntary, must be complete and accurate in all material respects.

GPC argues that no discussion of this violation would be complete without focusing on opportunities for the former acting Assistant Plant General Manager (MOSBAUGH) to speak accurately and completely when commenting on the June 29 cover letter. The Group concludes that evaluation of the actions of MOSBAUGH is unnecessary given the opportunities presented to GPC to correct the June 29 letter. Furthermore, the Group agrees with GPC's admission that it had enough information to trigger additional questions to resolve the concern.

Example 2

Based on its analysis of the Reply, the Group finds no reason to alter its conclusion that personnel errors unrelated to problems with DG record keeping practices were the cause of the difference in the number of starts reported in the April 19 LER and the June 29 letter. The information submitted in the April 19 LER was based on the start count reported on April 9 and that information was incorrect due to personnel errors unrelated to record keeping practices. As discussed in the Group's Evaluation of the Licensee's Response to Violation A, the control room logs were adequate to enable CASH to prepare an accurate count, considering the start point BOCKHOLD wanted to use for his presentation to the NRC on April 9. Had BOCKHOLD adequately identified to CASH the precise starting point he intended to be included in this

count, CASH would not have reviewed the control room logs that had misleading information and would not have included starts with problems, since the log entries containing erroneous data would have predated the start point BOCKHOLD would have designated. The error in the start count prepared for the April 9 presentation and letter was carried over into the April 19 LER.

GPC asserted in the Reply that, had a single source DG start document been available on April 19, and had a precise definition of the comprehensive test program been applied, the original LER would not have been in error. The Group disagrees with this assertion. The Group believes that an accurate count could have been provided on April 19 with the DG start records (control room logs) that were available had the start point for the count been adequately defined.

GPC requested in the Reply that the NRC reexamine the actual wording used in the LER cover letter. GPC contends that the sentence in question does not represent that a definitive root cause analysis of the underlying events had been performed. Based on a reexamination, the Group concluded that since the sentence attributes the problems to specific causes, that it is reasonable to infer that an investigation or review had been performed and such an effort is what the NOV was referring to by use of the term "root cause."

Example 3

The Group continues to believe that BOCKHOLD failed to issue adequate instructions as to how to perform the count and did not adequately assess the data developed by CASH.

GPC admits that the June 29 letter was incomplete for its failure to identify personnel error as a cause for the difference in the number of DG starts reported in the April 19 LER and June 29 letter. GPC also admits to performance failures on the part of CASH in performing the DG start count, but GPC denies any performance failures on the part of BOCKHOLD in supervising the development of the start data that was to be presented to the NRC. The Group disagrees with this assessment. As was fully discussed in the Groups's Evaluation of Licensee's Response to Violation A, the Group believes that the causes of for the inaccurate/incomplete information in the April 9 letter and April 19 LER were (1) the failure of BOCKHOLD in adequately directing CASH to collect DG start information and in adequately assessing what CASH gave him before he provided the information to the NRC and (2) the failure of CASH to adequately perform and report his count.

Example 3 of the NOV also identified performance failures related to the April 19 LER on the part of BOCKHOLD, SHIPMAN and AUFDENKAMPE. A footnote on page 32 of the GPC Reply states that the NRC's identification of BOCKHOLD was in error and that the NRC should have identified MOSBAUGH who was aware of the ambiguity in the starting point for the count. The Group agrees with the footnote.

GPC's Reply did not address the performance failures on April 19 of SHIPMAN, AUFDENKAMPE and MOSBAUGH. The Group continues to believe that these three people failed to perform adequately with respect to the April 19 LER. Specifically, they failed to clarify the start point for the DG count.

Restatement of Violation E

Contrary to the above, information provided to the NRC Region II Office by GPC in a letter dated August 30, 1990 was inaccurate and incomplete in material respects as evidenced by the following two examples:

The letter states that: "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."

1. These statements are inaccurate in that confusion between a successful start and a valid test was not a cause of the error regarding DG start counts which GPC made in its April 9, 1990 letter to the NRC.

   The inaccuracy was material in that it could have led the NRC to erroneously conclude that the correct root causes for the error in the April 9, 1990 letter had been identified by GPC.

2. The statements are also incomplete. While an error was made by the Unit Superintendent who performed the count of diesel starts for the April 9, 1990 letter, the root causes of the error in that letter were not completely identified by GPC. Specifically, the Vogtle Plant General Manager who directed the Unit Superintendent to perform the start count failed to issue adequate instructions as to how to perform the count and did not adequately assess the data developed by the Unit Superintendent. In addition, the Unit Superintendent did not adequately report his count to the Vogtle Plant General Manager.

   The incompleteness was material in that, had the correct root causes for the error in the April 9, 1990 letter regarding DG start counts been reported, this information could have led the NRC to seek further information.

Summary of Licensee's Response to Violation E

The Licensee denies this violation. In the first Example, GPC argues that the NRC misquotes and unreasonably reads GPC's August 30 letter. GPC contends the statements are accurate when taken in context. Second, GPC argues that its statement can not reasonably be construed as stating that confusion between a successful start and a valid test was a cause of the error in GPC's April 9 letter, i.e., either confusion by CASH in performing his count, or confusion after April 9. The letter, by its

express wording, describes two factors which caused confusion about the April 9 letter: (1) confusion about the distinction between a successful start and a valid test and (2) an error made by CASH who performed the count of DG starts. Third, GPC argues that the allegedly inaccurate statement can not be read in context, as stating that a root cause of the error in the April 9 letter was confusion between a successful start and a valid test, as that statement was simply a recognition of real confusion on the part of both GPC and NRC regarding the terminology that had been used in the April 9 presentation and letter. Consequently, in GPC's view the April 9 letter was an accurate discussion of a state of confusion that had developed over time with regard to start terminology and could not reasonably be read as offering a root cause for the error in the April 9 presentation and letter.

GPC argues in the second Example that the NRC incorrectly concludes that the letter was incomplete, when in fact, the letter was complete relative to the letter's intended purpose. GPC argues that the letter was intended only to clarify the number of starts and not to provide the NRC with a root cause analysis of the April 9 letter error. GPC states that the August 30 letter did this by laying out in Table form all DG starts and providing a definition of "successful starts" in this letter.

GPC again disagrees with the NRC's identification of a performance failure on the part of BOCKHOLD as a contributing cause of this Example of the violation, as was addressed in the GPC response to Violation A. GPC remains convinced that BOCKHOLD did not fail to adequately task or provide sufficient oversight of the performance of the task.

GPC also argues that the special inspection conducted by the NRC in August 1990 should not have prompted an assessment of the actions of BOCKHOLD and CASH as observed by the NRC in the NOV transmittal letter. This argument is based on the following:

- The Vice President was advised that the intentional error allegation had been resolved by the NRC
- The NRC's exit notes reflect this position
- A letter to all plant employees documenting this information was issued on August 21, 1990 based on the results of the Operational Safety Team Inspection findings, and
- The NRC did not request, nor does GPC suspect the NRC expected, that an explanation of personnel error associated with the April 9 letter be provided.

From this information, GPC considered the allegation had been resolved and only a technical closure on start numbers and reporting of invalid failures remained open.

GPC does acknowledge that it failed to timely recognize and correct the April 9 letter. This was due to the failure to recognize that an error existed in that document until identified by the NRC during the Operational Safety Team Inspection in August 1990.

Materiality

GPC requests the NRC to reexamine its materiality finding in light of the express purpose of the letter as understood by both the NRC and GPC. Based on alleged statements by an NRC official,"indicated they had all [the] info[rmation] and understood what occurred." GPC argues that at the time of its submittal the NRC did not review the submittal as incomplete. GPC further argues that NRC's determination of materiality is in the abstract, without a meaningful examination of whether the allegedly omitted information would have been considered by reasonable staff experts. The omitted information could not have led to further inquiry, because the relevant issues had been resolved.

Group Evaluation of Licensee's Response to Violation E

Example 1

The Group does not accept GPC's argument that the NRC misquoted and unreasonably read the August 30 letter and continues to conclude that the letter represents GPC's reasons for the errors in the April 9 letter. Although the NRC's enforcement action transmittal letter did refer to "errors" in the April 9 letter and presentation and the April 19 LER, the transmittal letter was not directly quoting the August 30 letter. Consequently, the NRC did not misquote the letter as stated by GPC. The NRC did quote the August 30 letter in the NOV and the quote (i.e.,"confusion") was correct.

The Group believes that a reasonable interpretation of the August 30 letter is that it represents, in part, an attempt by GPC to convey the reasons for the errors in the April 9 letter. GPC is correct that the NRC did construe the words "confusion in" as being synonymous with "errors in" in the letter transmitting the enforcement action. The NRC interpretation is reasonable given the evolution and context of this letter. First, the letter was submitted in response to an NRC concern that the erroneous information included in the April 9 presentation and letter had never been addressed. Second, McCOY had committed to supply additional information and clarification concerning the April 9 DG starts. Third, the August 30 letter acknowledges that the April 9 information was in error and, not only provides the correct data for April 9, but also offers in the third paragraph two causes for why the erroneous information was submitted. This paragraph reads as follows:

> 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. For the purpose of this letter, a start was considered successful when the DG was started and either ran or was intentionally shut down due to testing in progress, as identified on the attached tables. Our use of the term "successful" was never intended to imply a "valid successful test" in the context of Regulatory Guide 1.108. Many start

> attempts were made to test DG's 1A and 1B using applicable operating procedures. These procedures and data sheets do not contain criteria for determining if a start is successful which resulted in determinations of success which were inconsistent with the above definition. Second, an error was made by the individual who performed the count of DG starts for the NRC April 9th letter.

The last sentence in the above quoted paragraph specifically offers an individual performance failure as a reason for the error in the April 9 letter. This implies that the reference in the first sentence of the paragraph to "confusion in" is synonymous with "errors in." In addition, the last sentence in the paragraph, in its reference to the second cause for the error in the April 9 letter, also implies that the second sentence in the paragraph (which refers to the confusion in the distinction between a successful start and a valid test) identifies a cause for the error for the April 9 letter.

The second paragraph in the August 30 letter identifies that during the course of its inspection, the NRC had pointed out that the revised LER did not adequately clarify the numbers in the April 9 letter. The last paragraph in the letter provides correct DG start counts as of April 9. Based on the above, a reasonable interpretation of the above quoted paragraph is that it represents GPC's attempt to convey the reasons for the errors in the April 9 letter.

GPC argues that the paragraph at issue in the August 30 letter was only an effort to convey recognition of the confusion on the part of both GPC and NRC that had developed over time with regard to start terminology. The Group does not accept GPC's argument that such a reading of the paragraph is a reasonable one. While that may have been GPC's intent, the language in the letter does not support that argument.

Example 2

GPC argues that the NRC incorrectly concluded that the letter was incomplete when in fact the letter was complete relative to its intended purpose which was to only clarify start count information presented in the April 9 letter. While this may have been GPC's intention, GPC provided additional information in this letter. As discussed in the Group evaluation of Example 1 of Violation E above, a reasonable reading of the August 30 letter is that GPC also provided information regarding the two causes for the errors in the April 9 letter. The second cause, i.e., personnel error, described in the August 30 letter was incomplete as discussed in the Group's evaluation of Violation A above. Performance failures by BOCKHOLD contributed significantly to the April 9 letter. Consequently, the second cause identified in the August 30 letter, which ascribed performance failures solely to CASH was

incomplete. Once GPC elected to represent that it was conveying to the NRC the causes for the errors in the April 9 letter, pursuant to 10 CFR 50.9, such information was required to be complete and accurate in all material respects.

The Group also continues to hold the view that GPC, and particularly the Vice President - Vogtle Project (McCOY), failed to exercise adequate oversight in the preparation of the August 30 letter.

As of August 17, 1990, McCOY was aware of NRC concerns regarding the errors in the April 9 letter. Based on the evidence of Licensee discussions prior to the special team inspection exit meeting, McCOY was aware of the seriousness of the NRC concerns regarding the possible errors in the April 9 letter, including concerns that the errors in the information provided to the NRC may have been intentional. Also, GPC stated in its "White Paper" dated August 22, 1990 (that was drafted during the NRC special team inspection), that, "The major issue remaining is to try and determine through personal interviews, how the number of 19 for diesel 1B was arrived at in the April 9 letter to the NRC" (emphasis added). GPC was clearly aware of the NRC interest in how the April 9 letter was prepared. GPC attempted to provide in the August 30 letter a clarification of the April 9 letter, including an explanation of how the erroneous statements occurred. This was the understanding of McCOY, who signed the letter, and the Assistant Plant General Manager (GREENE), who chaired the Plant Review Board (PRB) meetings that reviewed the August 30 letter.

Drafts of the August 30 letter developed at corporate headquarters, under McCOY's direction, contained a statement of reasons for the error although no evaluation had been initiated to verify those reasons. GPC thus provided its explanation without an adequate assessment of the actions of the individuals (BOCKHOLD and CASH) responsible for developing the DG start information for the April 9 presentation and letter. Such an assessment was clearly needed to support the approach chosen by GPC, i.e., an explanation of how the errors in the April 9 letter occurred. As a result, incomplete and inaccurate information was provided to the NRC in the August 30 submittal.

GPC suggests that the NRC expected GPC to explain the errors in the April 9 letter by assessing the actions of BOCKHOLD and CASH. This is not correct. While the NRC did request that GPC make a submittal clarifying the April 9 letter, the NRC did not specify the nature of that clarification. It was GPC that established the nature of the clarification. As with all submittals of information to the NRC, a licensee incurs the obligation that the information be complete and accurate in all material respects. Also, GPC argues in its Reply that the NRC desired nothing more than a technical clarification of start numbers. Again, the nature of the clarification was left to GPC and GPC chose to provide more than a mere technical clarification. Even if the

NRC desired nothing more than a technical clarification of start numbers, this would not excuse GPC from fulfilling the requirement to provide complete and accurate information to the NRC when it provided reasons for the April 9 errors.

In summary, the Group continues to believe that GPC's August 30 letter provided more than start numbers. It attempted to provide an explanation of how the errors in the April 9 letter occurred. Such an approach was reasonable. GPC failed, however, to conduct an adequate evaluation to determine the causes for the April 9 errors. Therefore, the information submitted was inaccurate and incomplete.

Materiality

GPC's argument with regard to materiality misses the point. As was stated in the NRC's letter transmitting the enforcement action, the incompleteness was material in that, had all the personnel errors been identified, this information could have led the NRC to inquire further. The incompleteness in this instance was significant. GPC had failed to identify personnel errors by a senior Licensee manager, i.e., BOCKHOLD. Had the NRC been correctly informed of the performance failures of this individual in the preparation of the April 9 letter directed to the Regional Administrator of Region II, such information could have prompted the NRC to inquire further. In addition, GPC's argument that an NRC official allegedly represented that the August 30 letter provided the NRC with what it needed and therefore did not contain a material omission is specious. As discussed in the Group evaluation of Example 1 of Violation E, the letter reasonably represented that it had identified the causes for the April 9 letter. Any comment by an NRC official that the letter provided what the NRC needed is therefore understandable. Only if the NRC were already aware of the performance failure on the part of BOCKHOLD, would GPC's argument have credence. In the absence of such knowledge, the NRC would understandably accept the Licensee's response as being complete and accurate, and underscores the reliance which the NRC placed on the Licensee's statements contained in the August 30 letter. The Group concludes that the omission in this instance was clearly material.

B. REVIEW OF LICENSEE'S CORRECTIVE ACTIONS

Summary of Licensee's Corrective Actions

GPC has identified a number of steps that it has taken to reinforce its policy of open, accurate and candid communications with the NRC and to ensure that future communications with the NRC are complete and accurate in all material respects.

GPC officers responsible for VEGP operations up to and including the President and Chief Executive Officer were personally involved with the review of the enforcement action and GPC's Reply.

GPC made the NOV available to all employees and committed to posting an NRC Order, if one is issued.

The GPC Senior Vice President committed to send a letter to the Vice Presidents for Vogtle and Hatch regarding the importance of thorough record keeping during off-normal events.

The GPC Senior Vice President counseled BOCKHOLD and CASH. In addition, CASH received an "oral reminder" in accordance with the provisions of the Southern Nuclear Operating Company Positive Discipline System from his supervisor and the GPC Senior Vice President.

GPC's Executive Vice President - Nuclear Operations sent a letter on May 11, 1994 to nuclear operations employees that stressed the importance of effective communications and the effective resolution of concerns. In addition, copies of 10 CFR 50.9 were posted and employees were urged to read the documents.

Also, the current Senior Vice President - Nuclear Operations held meetings at both GPC plants (Vogtle and Hatch) to discuss GPC's policy of open, complete, and accurate communications with the NRC; GPC's letter of May 11, 1994 to all employees; and the need to resolve employee concerns.

GPC identified as an additional corrective action, observation by management of communications with the NRC to ensure that the enforcement action does not adversely affect the completeness of statements.

Also, a notice of availability of copies of the GPC Reply will be posted and circulated for reading by VEGP employees.

In addition to the above actions in response to the enforcement action, GPC recognized shortly after the March 20, 1990 SAE that it needed to improve its communications with the NRC. On May 8, 1990, the Vice President - Vogtle Project held a meeting with managers to discuss the NRC's negative perceptions of GPC's approach to regulatory obligations that were communicated to GPC by the NRC in a meeting with GPC senior managers.

On July 11 and 24, 1990, GPC nuclear officers held two meetings in Augusta, Georgia for VEGP managers to discuss issues including open and effective communications between groups within the organization, better communications between the Corporate and plant site, and greater overall candor in dealing with issues.

GPC executive management and Region II management, and site officials and Resident Inspectors periodically meet and discuss issues openly and frankly.

On January 2, 1991, the new VEGP General Manager sent correspondence to each VEGP employee that addressed the essential nature of frank and open communications, including the voicing of concerns.

Group Evaluation of Licensee's Corrective Actions

In assessing the Licensee's corrective actions, the Group recognizes that GPC did not admit all of the violations and any of the individual performance failures identified by the NRC. Although GPC did not admit all of the violations, GPC has taken and proposes to take numerous corrective actions with regard to the GPC organization, as a whole. GPC and the individuals who were the subject of the DFIs deny the performance failures, although some of these individuals recognize their shortcomings to a limited extent.

The Group observes that assessing the adequacy of corrective actions for a violation of 10 CFR 50.9 is inherently more difficult than assessing the corrective action for a violation that is technical in nature. The violations of 10 CFR 50.9 identified in this enforcement action involve communication failures associated with submittals to the NRC. The violations also involve failures by GPC employees to resolve concerns raised when proposed NRC submittals were in the draft stage. Correction of such deficiencies requires changes in personal attitudes and conduct. Assessing the adequacy of actions to produce such changes is difficult and is not amenable to a precise determination. On balance, the Group concludes that the actions taken are minimally sufficient to provide assurance that events such as those that formed the basis for this enforcement action will not recur.

The Group has also extensively considered whether, in the totality of the circumstances, the Licensee has comprehended the regulatory message and the significance that the NRC associates with this enforcement action. The major purpose of the enforcement action was to motivate the Licensee to take lasting remedial actions with regard to its communications with the NRC and to deter future violations both by this Licensee and other licensees conducting similar activities. The regulatory message was that GPC must take actions to ensure that it effectively communicates information to the NRC that is complete and accurate in all material respects. Important elements of such efforts would include taking appropriate steps to ensure the accuracy and completeness of information, fostering a questioning attitude within the GPC organization, appropriate consideration of all views presented on an issue, and adequate resolution of concerns raised. Based on its review of GPC's corrective actions, the Group believes that GPC understands the message.

Finally, consideration should be given to the effect the DFI's have had on GPC employees. Six GPC employees have been publicly identified by NRC as having performed poorly. These six individuals have had to commit time and energy to this matter including providing responses to the NRC. This matter has received wide public exposure and has also received wide exposure within the GPC organization. [redacted]

[redacted]

C. REVIEW OF LICENSEE'S ANSWER TO NOTICE OF VIOLATION

Summary of Licensee's Answer to Notice of Violation

GPC denies Violation B and E as set forth in the Reply to the NOV. GPC also denies Example 2 of Violation D, as set forth in the Reply to the NOV.

GPC requests that the NRC reconsider Violation A, Violation C and Violation D on the basis of its Reply to the NOV. The request is based largely on GPC arguments with respect to the materiality of the incorrect or incomplete information it provided. Based on extensive NRC involvement with DG testing after the SAE, including actual observation of certain DG starts, GPC argues that the NRC had an awareness of DG problems and consequently that the significance of any incorrect or incomplete information provided to the NRC is diminished.

GPC requests reconsideration of the severity level assigned to the problem and also of the amount of the civil penalty.

The principal extenuating circumstances identified is the fact that the NRC's regulatory concern is not based on an adverse impact that the underlying activities had on plant safety or any significant reliance by the NRC on the erroneous information presented by GPC.

Another extenuating circumstance offered by GPC is the relationship that developed between the former acting Assistant General Manager for Plant Support and his employer. GPC argues that this individual did not share information with co-workers who were in a position to change the course of events.

With regard to severity level, GPC argues that a Severity Level II is inappropriate in this matter for there was no careless disregard in this matter nor would the submittal of complete and accurate information have resulted in a different regulatory position. GPC appears to be referring here to the examples in the NRC Enforcement Policy dealing with incomplete and inaccurate information. GPC also argues that the Severity Level II designation and associated civil penalty are too much punishment for the events at issue.

GPC submits that these events do not reflect an inability or unwillingness of the Licensee to correct and resolve the problems which warrant the proposed civil penalty, but reflect a diligent effort to correct inaccurate statements, as then understood by GPC.

GPC also requests mitigation of the proposed civil penalty on the basis of the corrective actions described in the Reply.

GPC requests reconsideration of the level of the penalties to be imposed, as well as the severity level assigned to the violations, which the NRC concludes, after its review of the additional information provided in the Reply, is warranted on the facts and circumstances surrounding these events.

Group Evaluation of Licensee's Answer to the Notice of Violation

With regard to the specific GPC request for reconsideration, the NRC acknowledged in the transmittal letter to the NOV that the inaccuracies at issue did not affect the safety of plant operation. The significance of this matter lies in the circumstances that demonstrate an inadequate regard individually and collectively by senior Licensee management for complete and accurate communications with the NRC. As discussed in the transmittal letter and as restated above in the Group's evaluation of the Licensee's Reply to the Notice of Violation, the Group remains of the view that each inaccurate and incomplete statement in the NOV was material. The significance of this matter lies not in the degree of materiality associated with each individual violation but with the regulatory breakdown that the matter as a whole demonstrates.

GPC argues mitigation based on the lack of actual safety significance of the erroneous information and the lack of significant reliance thereon by the NRC. As discussed above in the Group evaluation of the GPC request for reconsideration, the seriousness of this matter lies not in its effect on plant safety but in the significant regulatory breakdown that this matter as a whole represents.

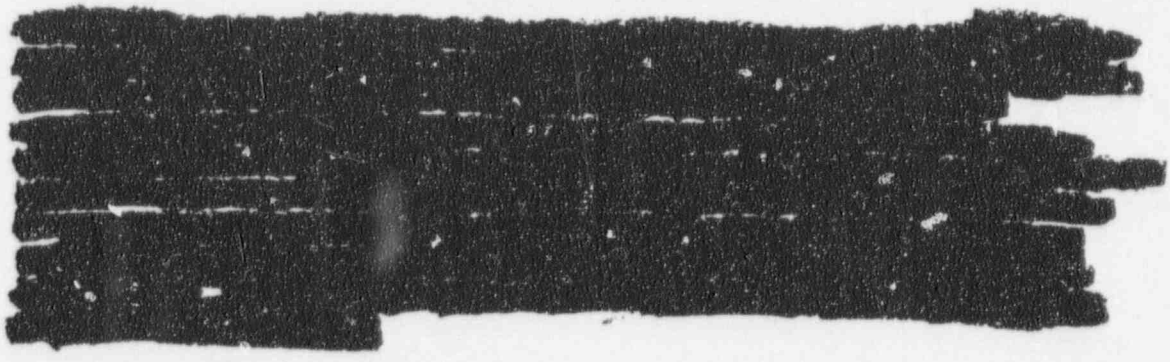
GPC argues that an individual manager did not share information with those who were in a position to change the course of events. The Group concluded that in each case where this manager was a participant in activities associated with an incomplete or inaccurate GPC submittal to the NRC, other GPC managers had opportunities to identify and correct the submittal.

With regard to GPC's arguments regarding severity level, the examples provided in the Enforcement Policy with regard to severity levels are not controlling. A Severity Level II designation is appropriate for matters of very significant regulatory concern. See Section IV of the Enforcement Policy. As the NRC explained at length in the letter transmitting the NOV, "The circumstances surrounding these violations represent a very significant regulatory concern." The Licensee has presented no significant new information which would cause the Group to alter its view in this regard.

With regard to GPC's argument that it was diligent in its efforts to correct inaccurate statements, the Licensee has presented no significant new information that would cause the Group to change its view that from the initial inaccurate representations to the NRC on April 9, 1990, through a series of inadequate efforts to modify, explain, clarify, and correct the original correspondence, the Licensee failed to meet the requirements of 10 CFR 50.9.

GPC requested mitigation on the basis of the corrective actions described in its Reply. The Group has assessed the Licensee's corrective actions as discussed above and has found those corrective actions minimally sufficient. Consequently, mitigation is not warranted.

D. CONCLUSIONS AND RECOMMENDATIONS REGARDING LICENSEE'S RESPONSE TO NOTICE OF VIOLATION



III. REVIEW OF RESPONSES TO DEMANDS FOR INFORMATION (DFIs)

The Group has analyzed the DFI responses by GPC and six GPC employees, and has identified significant issues that have been included in the analysis that follows. However, the omission in the following discussion of a subject or issue raised in the responses should not be considered as agreement by the Group with that issue or subject. It only indicates that the Group has determined that the issue was not of sufficient importance to be brought to management attention. This section also includes the Group's conclusions and recommendations regarding these DFI responses.

A. REVIEW OF RESPONSES TO BOCKHOLD DFI

April 9, 1990 Presentation and Letter: Basis for DFI

Prior to GPC briefing the Regional Administrator, Region II, on VEGP's readiness for restart, the NRC asked GPC to address DG reliability as part of its restart presentation on April 9, 1990. For that presentation, Mr. Bockhold was personally involved in the preparation of data regarding DG reliability and tasked the Unit Superintendent with collecting the number of successful DG starts for the 1A and 1B DGs. Although Mr. Bockhold was aware of problems on DG 1B during overhaul, he failed to adequately specify the starting point for the count to ensure that the count did not include these problems and failed to ensure that the Unit Superintendent understood his criteria for "successful starts." In fact, Mr. Bockhold stated no criteria for successful starts, a term not formally defined, when he directed the Unit Superintendent to gather successful DG starts. Mr. Bockhold subsequently failed to ensure that the data the Unit Superintendent provided was the information he sought and intended to present to the NRC. Specifically, Mr. Bockhold did not determine the point at which the Unit Superintendent began his count (i.e., the specific start number, date or time) or whether the Unit Superintendent's data included any problems or failures. Information was then presented to the NRC in the April 9, 1990 oral presentation by Mr. Bockhold and the April 9, 1990 letter submitted by GPC, after being reviewed by Mr. Bockhold, that there were 18 and 19 consecutive successful starts on the 1A and 1B DGs, respectively, without problems or failures. Because of, in part, Mr. Bockhold's 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, 1990. As a result of Mr. Bockhold's failures, the NRC relied, in part, upon inaccurate information provided by GPC in the April 9, 1990 oral presentation and letter in reaching the NRC decision to allow Unit 1 to return to power operation.

Group Evaluation

The Group continues to believe that BOCKHOLD failed to adequately specify the starting point for the DG count. BOCKHOLD claims that he adequately specified the starting point for DG counts based on his shared understanding with CASH of counting starts without significant problems. BOCKHOLD also claims that it was logical for him to believe that CASH would exclude the problem starts during overhaul. However, BOCKHOLD failed to specify a specific start point in terms of either a specific start number or activity. Although BOCKHOLD was aware of problems on DG 1B during overhaul, he failed to ensure that the count would not include these problems. GPC argues that there was no reason for BOCKHOLD to question CASH on the information he developed. However, the Group believes that BOCKHOLD, given his awareness of the NRC's interest in DG reliability in the context of a restart decision, and his knowledge that the April 9, 1990 information was assembled over a weekend and reported to him verbally without detailed explanation, had an obligation to ensure that the information CASH provided was consistent with the information he wanted to present to the NRC.

By GPC's own admission, CASH and BOCKHOLD had the same understanding of the term "successful starts," namely, starts without "significant problems, i.e., with the diesel starting properly and reached the required voltage and frequency." CASH and BOCKHOLD both viewed significant problems to be anything that would have prevented the diesel from operating in an emergency. GPC also admits that the three "problem" starts (designated as starts 132, 134, and 136) would not have prevented the diesel from operating in an actual emergency. Given that CASH was instructed to count "successful starts," it was appropriate for him to include starts 132, 134, and 136 in his count. Accordingly, the Group does not accept BOCKHOLD's argument that he adequately specified the point for beginning the DG start count.

GPC implies that CASH's role in formatting the DG special testing transparency, and supplying the start count numbers, provided an opportunity for CASH to ensure that he had gathered the information that BOCKHOLD sought. As explained earlier in the Group's analysis of GPC's Response to Violation A, the Group concludes that it was not reasonable for CASH to have reacted to the transparency as GPC suggests.

In addition to the Group's concerns regarding the performance failures themselves, the Group is troubled by GPC's and BOCKHOLD's response to the DFI on this particular issue. GPC states that BOCKHOLD took sufficient steps to ensure that the information presented to the NRC was complete and accurate and states that no fair basis exists for the conclusion that BOCKHOLD either knew or should have known of the error in judgment of CASH in including starts with problems in his count. BOCKHOLD stated that he adequately specified the starting point for the DG counts and that it was unfortunate that CASH made an unintentional mistake in counting DG starts by including starts that were not indicative of operability and reliability of the DGs. GPC and BOCKHOLD rigidly maintain that full responsibility for the inaccurate information

provided to the NRC rests solely with CASH. The Group believes that, given his position as General Manager, and his personal involvement, this view is unreasonable since there is sufficient evidence to conclude that (1) BOCKHOLD did not fully understood the information that CASH had provided him and (2) BOCKHOLD failed to take steps to ensure that the count reported to the NRC excluded starts with problems or failures, regardless of their affect on DG operability or reliability. The Group concludes that the failure of both GPC and BOCKHOLD to recognize the General Manager's clear performance failures in developing and reporting DG start counts indicates a disturbing tendency to unjustifiably shift blame away from BOCKHOLD and ignore his culpability.

April 19, 1990 LER: Basis for DFI

LER 90-006, submitted to the NRC on April 19, 1990, was based, in part, on information presented to the NRC on April 9, 1990. During review of the draft LER, site personnel questioned its accuracy. Given that there were trips in the 1B DG after March 20, 1990, they did not think that the statement concerning "no problems or failures" was correct. A teleconference was subsequently held between site and corporate personnel to address concerns that a count beginning on March 20, 1990 would include trips. During this conversation, Mr. Bockhold confirmed that the start count reported on April 9, 1990 began later than the problems--after completion of "a comprehensive test program" (CTP) of the DG control systems. By agreeing to the use of the term CTP in the LER, Mr. Bockhold agreed to the use of a term that was inadequate to specify the start point for the April 9, 1990 start count that Mr. Bockhold intended to convey. Mr. 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. However, it was reasonable to interpret that the CTP was completed with the first successful test to demonstrate operability, a point in time significantly later than the point intended by Mr. Bockhold. This was the interpretation given to this term by many individuals within GPC and the NRC. Mr. Bockhold had no sound basis for agreeing that the term CTP was adequate to convey what he intended, i.e., that the count being used as the basis for the April 19, 1990 LER began after testing of the DG control systems that did not require diesel starts. As a result of Mr. Bockhold's failure to adequately specify when he intended to begin the start count, the 1A and 1B DG start counts reported on April 19, 1990 overstated the actual counts by including starts that were part of a CTP.

In light of the questions raised about the accuracy of the DG start information, Mr. 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, 1990 letter before the issuance of the LER. Given these questions and the fact that Mr. Bockhold was uniquely aware of the informal means by which the data was developed for the April 9, 1990 letter, a reexamination of the April 9, 1990 data was warranted before submission of LER 90-006. There is no evidence to show that Mr. Bockhold, knowing that the April 9, 1990

information was quickly assembled and reported to him informally, directed any review of the data to assure that the information in the April 19, 1990 LER was accurate. There is no evidence that Mr. Bockhold made any effort to contact the Unit Superintendent who had collected the data which Mr. Bockhold was relying on. Mr. Bockhold's statement during an April 19, 1990 phone call that the count he presented on April 9, 1990 had been "verified correct" by the Unit Superintendent 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, when it had not. The Vice President - Vogtle Project's response that "You ought to use those numbers" indicated that he relied on Mr. Bockhold's assurances that the data was correct. The Senior Vice President - Nuclear Operations also stated that he thought the April 19, 1990 data had been checked.

Group Evaluation

The Group continues to believe that it was not reasonable for BOCKHOLD to agree to the use of the language in the April 19 LER to convey that the DG start count began after the calibration of the Calcon sensors and logic testing of the control systems. BOCKHOLD argues that the language he used referred to a subset of the NRC term CTP. The April 19 LER stated, "control systems of both engines have been subject to a comprehensive test program." (Emphasis added.) The sentence does not say that the control systems were tested as part of a comprehensive test program. As referenced in the sentence, it is reasonable to conclude that "comprehensive test program" would include all of the special testing that GPC had conducted to ensure DG reliability and operability. As the Group concluded in its evaluation of the Licensee's response to Violation C, this is the understanding of the phrase reflected in NUREG-1410, Appendix J, page 13, and is also the meaning given to this term by the Licensee after the June 29, 1990 audit. Given that the phrase CTP had a reasonable and commonly understood meaning, the LER conveyed erroneous information and was not ambiguous.

The Group also concludes that although questions had been raised regarding the accuracy of the DG start information, there is insufficient evidence to conclude that BOCKHOLD was specifically told that CASH's count was incorrect before the submittal of the April 19 LER. The Group does, however, conclude that BOCKHOLD should have followed up to ensure that verification of the DG start counts was completed. The Group believes that the tone and substance of BOCKHOLD's remarks during the April 19 conference call, coupled with his unique role with respect to the development of the April 9 start count and his position as General Manager, likely dissuaded verification. This belief is supported by McCOY's comment that "you ought to use those numbers," referring to the numbers prepared under BOCKHOLD's supervision for the April 9 presentation and letter.

BOCKHOLD asserts that he was not aware that the data developed by CASH was "uniquely informal, quickly assembled or informally reported." The Group continues to believe that BOCKHOLD was uniquely aware of the

informal means by which the data was developed for the April 9 presentation and letter. Specifically, the data was gathered over the weekend, was reported orally by CASH as totals without explanation, and was accepted by BOCKHOLD without inquiry as to when the count began or whether there were any problems or failures.

Again, the Group is troubled by GPC's and BOCKHOLD's responses to the DFI. Although GPC states that, in hindsight, BOCKHOLD likely should have followed up on the tasking of MOSBAUGH and AUFDENKAMPE to complete their April 19 verification of DG start counts, the Group notes that GPC and BOCKHOLD fail to acknowledge BOCKHOLD's role in submitting inaccurate information in the LER. On April 19 there were a number of GPC managers that questioned the meaning of the term CTP. The GPC and BOCKHOLD responses focus attention on whether BOCKHOLD was made aware that the term was "vague" or "ambiguous." Neither BOCKHOLD nor GPC apparently recognize that BOCKHOLD should have realized that the term would result in a start point other than the one he had contemplated, and that he should have realized this if he had not agreed to the use of the term so quickly. GPC also ignores the role played by BOCKHOLD in assuring others of the accuracy of the term CTP. BOCKHOLD provided emphatic assurances to McCOY that the April 9 count was correct and did not begin before the completion of the CTP. Therefore, the Group concludes that GPC and BOCKHOLD fail to acknowledge the pivotal role BOCKHOLD played in the submission of inaccurate information to the NRC.

June 29, 1990 LER Cover Letter: Basis for DFI

On May 2, 1990, Mr. Bockhold was given a list of DG starts that showed that the start counts reported in the April 9, 1990 presentation, the April 9, 1990 CAL response letter, and the April 19, 1990 LER were incorrect. Mr. Bockhold agreed that the LER needed to be revised to reflect the correct number of starts. Mr. Bockhold also agreed that the April 9, 1990 letter needed to be corrected because he asked and was informed that the April 9, 1990 error was different than the April 19, 1990 error. It was also agreed that uniform language would be used to correct both documents. The June 29, 1990 LER was submitted in part to make these corrections. Mr. Bockhold reviewed a draft of the June 29, 1990 LER revision, but he failed to ensure that it was accurate and complete in all material respects. Specifically, the June 29, 1990 submittal stated that it would clarify the April 9, 1990 letter but no such clarification, or even a relevant discussion of the April 9, 1990 information, was included in the June 29, 1990 submittal.
Mr. Bockhold's failure contributed to the Licensee's failure to provide complete information in the cover letter transmitting the June 29, 1990 LER revision.

Group Evaluation

As discussed in the Group's evaluation of the Licensee's response to Example 1 of Violation D, a reasonable reading of the June 29 letter is that it represented that errors in the April 9 letter would be addressed. The June 29 letter stated that the revision to the LER was necessary to clarify the information regarding the number of DG starts "as discussed in the GPC letter dated April 9, 1990..." but it failed to do so. The Group does not accept the arguments of GPC and BOCKHOLD that the information provided in the June 29 letter and LER revision was sufficient to clarify the April 9 letter (i.e., the start count as of April 9).

The Group also does not accept the GPC argument that BOCKHOLD's belief was that the errors in the April 9 letter and the April 19 LER were the same and consequently that a correction of the April 19 LER acted as a correction to the April 9 letter. In a conversation with MOSBAUGH on May 2, 1990 regarding errors in DG counts reported to the NRC, BOCKHOLD inquired as to the accuracy of the April 9 letter and was informed that the letter was in error and that the error was different from the error in the April 19 LER. BOCKHOLD agreed with this assessment and decided that both documents should be corrected. In spite of BOCKHOLD's direct personal knowledge and involvement in the matters being addressed, he failed to ensure that the error in the April 9 letter was explained and corrected.

In addition, the Group is again extremely troubled by GPC's and BOCKHOLD's responses to the DFI. GPC's response appears to suggest that a review by BOCKHOLD solely for major mistakes in the June 29 cover letter was acceptable. BOCKHOLD states that his review was limited to accuracy based on his recollection of the facts associated with DG starts. GPC and BOCKHOLD failed to acknowledge the regulatory requirement to review information for completeness. BOCKHOLD's response to the DFI suggests that the role played by the corporate staff (including the SAER organization, HAIRSTON, and McCOY) and the plant staff (including the PRB), diminished (if not relieved him of) his responsibility for ensuring the completeness and accuracy of information. The attitudes exhibited by GPC and BOCKHOLD in their responses shows a lack of concern for the NRC requirement for completeness and accuracy of information. The Group believes that such attitudes on the part of GPC and BOCKHOLD regarding the level of care to be taken regarding submittals to the NRC are shockingly deficient, particularly in instances such as this where the General Manager had direct personal knowledge and involvement in the matters being addressed.

August 30, 1990 Letter: Basis for DFI

During the NRC's Special Team Inspection exit interview on August 17, 1990, GPC was specifically notified by the NRC that the revised LER did not adequately clarify the DG start information contained in the April 9, 1990 letter, and NRC requested GPC to provide clarification of this submittal. GPC forwarded a submittal to the NRC on August 30, 1990 regarding the April 9, 1990 letter. A draft of the August 30, 1990 letter, sent to the site for review, erroneously suggested that one of the reasons for the error in the April 9, 1990 letter 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, 1990 letter. During an August 29, 1990 Plant Review Board (PRB) meeting which, among other things, reviewed the proposed August 30, 1990 submittal to the NRC, the VEGP Manager - Technical Support raised concerns about the accuracy of that statement. Mr. Bockhold admitted to the PRB that the Unit Superintendent (who originally collected the DG start data at Mr. Bockhold's direction) was not confused about the distinction between successful starts and valid tests when the start data was collected for the April 9, 1990 letter, but stated that the sentence was not in error because other people were confused. Mr. Bockhold acknowledged that there was confusion among individuals after April 9, 1990, but admitted that the Unit Superintendent was not confused when he developed the information. Confusion after April 9, 1990 was not relevant in explaining the reasons for the error in the April 9, 1990 letter. By retaining this wording, the first reason was inaccurate. As a result of Mr. Bockhold's failure to adequately resolve this concern, the August 30, 1990 letter was inaccurate.

Group Evaluation

Neither the response of GPC nor BOCKHOLD presents any additional information regarding the August 30 letter not already considered by the Group in its evaluation of Example 1 of Violation E. In that evaluation, the Group concluded that a reasonable interpretation of the August 30 letter was that it conveyed the reasons for the errors in the April 9 letter and that one of the reasons was "confusion in the distinction between a successful start and a valid test." BOCKHOLD was made aware that this reason did not affect the efforts of CASH in developing the data that was provided in the April 9 letter. Yet he failed to adequately resolve the concerns raised, and consequently the August 30 letter conveyed inaccurate information to the NRC.

In addition, the Group is yet again troubled by BOCKHOLD's response to the DFI. BOCKHOLD's response suggests that the role played by McCOY and the PRB in the submittal of the August 30 letter diminished (if not relieved him of) his responsibility for ensuring its completeness and accuracy. BOCKHOLD states that the letter addressed what he understood was the relevant issue (start information) and that it was accurate and complete for that purpose. Regardless of his personal view as to the purpose for the letter, BOCKHOLD had an obligation to ensure the

accuracy and completeness of the letter for all of its purposes. This is particularly so in light of concerns that were brought to BOCKHOLD's attention regarding information conveyed by the letter that may have been of only limited interest to him, i.e., the reasons expressed in the August 30 letter for the errors in the April 9 letter. The Group believes that such attitudes on the part of BOCKHOLD regarding the level of care to be taken regarding submittals to the NRC exhibits an unacceptable mindset that he need only be concerned with ensuring the accuracy of information that he believes is important, notwithstanding the purposes expressed in the submittal.

B. RECOMMENDATIONS REGARDING BOCKHOLD

The Group has analyzed the DFI responses of GPC and BOCKHOLD. These responses deny parts of the violations and deny all of BOCKHOLD's performance failures that were identified by the NRC as the basis for the DFI. In effect, the responses did not acknowledge the NRC bases and, consequently, do not provide the type of information that would be expected had the violations and performance failures been acknowledged.

As the Group continues to believe the four violations and associated performance failures occurred as stated in the NOV and DFI, the responses to the DFI could be viewed as insufficient. While GPC and BOCKHOLD may view the DFI responses as complete and sufficient, there remains a fundamental disagreement with the NRC on the basic issues.

The Group has also reviewed GPC and BOCKHOLD's responses to the DFI with regard to corrective actions. Corrective actions identified by GPC for BOCKHOLD include a meeting with BOCKHOLD, the Senior Vice President of GPC, and BOCKHOLD's immediate supervisor within Southern Nuclear, where BOCKHOLD's actions and responsibilities that are the subject of the NOV and the DFI were discussed. GPC states that this review focused on the "mistakes made by Mr. Bockhold's organization [emphasis added] and his personal performance failures to ensure that in the future all his responsibilities, including delegated responsibilities are carried out without violation of NRC regulations. This review also included ways to improve his management capabilities." In addition, GPC identified a meeting on May 8, 1990, with the VEGP managers to address concerns expressed by the NRC in that time frame. BOCKHOLD states that, in that meeting, he recognized and discussed his communications style, including shortcomings with that style, and he learned a valuable lesson from this experience.

Although the responses generally refer to a 1994 meeting between BOCKHOLD, the Senior VP, and BOCKHOLD's immediate supervisor, the Group cannot perform a full assessment of the adequacy of this corrective action because the responses fail to provide sufficient information pertinent to the NOV issued in May 1994. Also, the Group concludes that any May 8, 1990 discussion of shortcomings in BOCKHOLD's management style, appears to have been ineffective in that additional examples of his shortcomings were exhibited on June 29 and August 30, 1990.

The Group concludes that GPC's and BOCKHOLD's responses to the DFI are inadequate with regard to corrective actions. Adequate corrective actions must include a recognition by GPC and BOCKHOLD that BOCKHOLD's failures were a fundamental contributor to inaccurate information being repeatedly provided to the NRC.

The Group continues to be concerned about the repeated failure by BOCKHOLD to exercise the necessary care and attention to activities associated with the development of communications or submittals to the NRC. BOCKHOLD failed to exercise such care on four occasions, specifically, April 9, April 19, June 29, and August 30, 1990. In these instances, BOCKHOLD failed to issue adequate instructions and assess the information he received to develop a DG start count for April 9, failed to ensure that clear language was used in the April 19 LER for the start point of a DG start count, failed to ensure that an error in the April 9 letter of which he had been made aware was addressed in a June 29 submittal, and failed to ensure that the reasons for the errors in the April 9 letter were accurately presented in the August 30 submittal. The Group's review of the GPC and BOCKHOLD DFI responses provides no new information which would cause the Group to alter its conclusions with regard to BOCKHOLD's fundamental performance failures.

The GPC and BOCKHOLD DFI responses reveal additional concerns about BOCKHOLD's performance with regard to licensed activities. A major concern raised is the failure by GPC and BOCKHOLD to recognize BOCKHOLD's performance failures. This failure has significant implications for public health and safety because, in the absence of any recognition of performance problems, there is a substantial likelihood that the same or similar performance failures will recur. A second concern stems from GPC's and BOCKHOLD's continuing willingness to identify the performance failure of CASH as the sole cause for the errors of April 9. This willingness evidences an inability to fully identify causes of errors. The inability to identify causes of errors has significant implications for public health and safety because there is a substantial likelihood that such errors will be repeated. A third concern arises from the fact that GPC and BOCKHOLD apparently condone a propensity on the part of BOCKHOLD to limit the scope of his review to matters of his personal interest and importance, and to inappropriately defer to or rely on others (e.g., the corporate staff - SAER organization, McCOY, and HAIRSTON; and the plant staff - AUFDENKAMPE, MOSBAUGH, and members of the PRB) to ultimately ensure the completeness and accuracy of information provided to the NRC, regardless of his personal knowledge or involvement. This failure has significant implications for public health and safety because, irrespective of BOCKHOLD's personal knowledge or involvement, he may in the future inappropriately limit his review and thereby increase the likelihood that incomplete and inaccurate information will be submitted.

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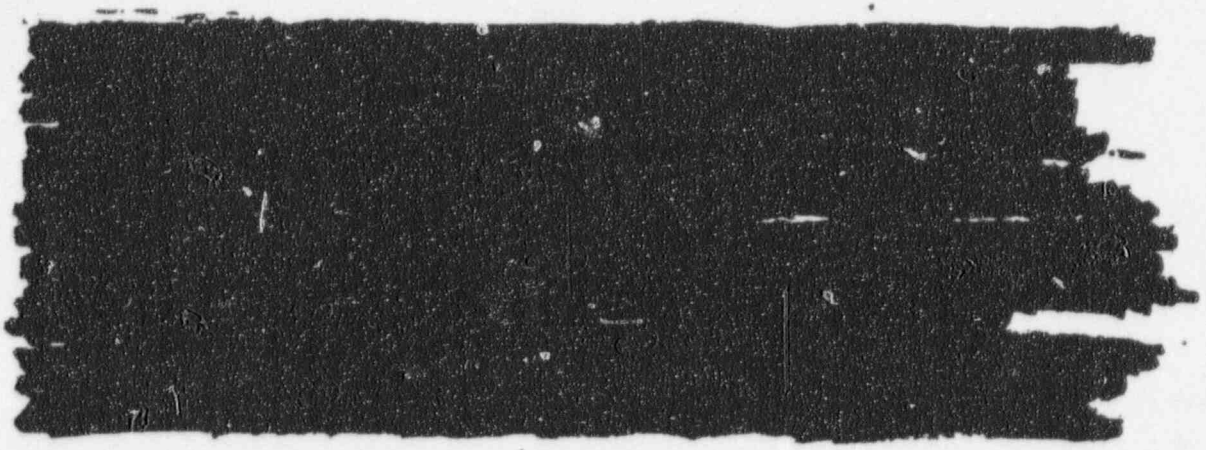

C. REVIEW OF RESPONSES TO McCOY DFI

June 29, 1990 LER Cover Letter and August 30, 1990 Letter: Basis for DFI

Mr. McCoy was actively involved in the preparation of the June 29, 1990 cover letter for an LER revision that was being submitted to the NRC and reviewed it prior to forwarding it to the Senior Vice President - Nuclear Operations for signature and issuance. The June 29, 1990 cover letter stated that its purpose was, in part, to clarify information provided to the NRC on April 9, 1990. However, no such clarification, or even a relevant discussion of the April 9, 1990 information, was provided in the June 29, 1990 submittal.

Mr. McCoy also failed to ensure that the August 30, 1990 letter submitted to the NRC adequately explained the reasons for the errors in the April 9, 1990 letter. Mr. McCoy committed during the August 17, 1990 meeting with the NRC Special Inspection Team to provide clarification to the NRC regarding the April 9, 1990 letter. Based on the evidence of Licensee discussions subsequent to this meeting with the NRC, Mr. McCoy was aware of the seriousness of the NRC concerns regarding the possible errors in the April 9, 1990 letter, including concerns that the errors in the information provided to the NRC may have been intentional. Despite this awareness, the NRC could not find evidence to indicate that Mr. McCoy took steps to ensure that a root cause analysis was performed. In particular, Mr. McCoy failed to ensure that the performance of the VEGP General Manager and the Unit Superintendent in developing the April 9, 1990 DG start data were critically examined. Thus, the NRC concludes that Mr. McCoy failed to exercise sufficient oversight of the preparation of the August 30, 1990 letter to ensure that serious NRC concerns were accurately addressed.

Group Evaluation

The Group continues to believe that McCOY failed to ensure that the June 29, 1990 letter clarified the April 9, 1990 letter. McCOY reviewed the June 29 letter that stated that the revision was necessary to clarify the April 9 letter. However, no such clarification or relevant discussion was included. Although GPC and McCOY argue that McCOY believed that the start count information in the April 9 and April 19 correspondence were the same base data, no such recognition or explanation was included in the June 29 letter. Further, given McCOY's personal involvement in counting starts in the diesel start sheets appended to the SAER audit report, the Group believes that McCOY had sufficient information available to him to recognize that the start count for April 9 could not be the same start count for April 19 in that it would be necessary to include starts between April 9 and April 19 to obtain 10 and 12 successful starts for April 19.

The Group continues to maintain that McCOY failed to exercise sufficient oversight of the preparation of the August 30, 1990 letter to ensure that it was complete and accurate in all material respects. GPC and McCOY argue that McCOY intended to convey the correct data to the NRC, not to determine a root cause of prior errors that had already been investigated by the NRC. While this may have been McCOY's intent, the letter, which McCOY reviewed and approved, provided additional information. As discussed in the Group's analysis of Violation E, a reasonable reading of the August 30 letter is that GPC provided information regarding the two causes of the errors in the April 9 letter. Given GPC's election to include this information, GPC incurred the obligation to ensure that the information was complete and accurate in all material respects. In this regard, McCOY failed to exercise sufficient oversight to ensure that appropriate evaluations had been performed to ensure that the information regarding the causes of the error in the April 9 letter was complete and accurate.

D. REVIEW OF RESPONSES TO GREENE DFI

June 29, 1990 LER Cover Letter: Basis for DFI

Mr. Greene was apprised of concerns regarding the June 29, 1990 letter by Mr. Mosbaugh (an individual who had been involved in preparing the April 19, 1990 LER and had been involved in developing an accurate DG start count). Mr. Mosbaugh identified to him the failure of the June 29, 1990 draft cover letter to address the inaccuracies in the April 9, 1990 letter that it referenced and Mr. Mosbaugh pointed out the erroneous causes stated for the reasons for the difference in the June 29, 1990 DG start counts. Mr. Greene was apparently indifferent to these concerns and, as a voting member of the PRB, approved the proposed June 29, 1990 submittal without addressing these concerns.

Group Evaluation

The Group continues to conclude that GREENE's approval in the PRB meeting of the June 29, 1990 cover letter reflected inadequate performance on his part. This conclusion is based upon (1) the contrasting views presented to him, (2) his failure to elicit further information in order to fully resolve the issues raised by his subordinates, (3) his reluctance to give MOSBAUGH's views sufficient credibility, and (4) the absence of any evidence that MOSBAUGH's positions were made available at the PRB meeting in which the June 29 LER and cover letter were approved.

Before the PRB meeting, GREENE heard opposing views about the differences or discrepancies between the April 19 LER and the cover letter and concluded that one of the reasons stated in the cover letter (record keeping practices) was reasonable and apparently correct. GREENE states he relied on FREDERICK's statements because his SAER group had studied the matter in some detail and was probably more knowledgeable than MOSBAUGH. GREENE states that based upon his prior experience and working relationship with MOSBAUGH, he had no reason to accept without reservation MOSBAUGH's statements. The Group concludes that GREENE's reliance on the SAER audit report was unreasonable, given that it did not address (and was not intended to address) the causes of the problems that resulted in the April 9 letter and April 19 LER being incorrect. The comments given to GREENE before the PRB meeting which, although not identifying a solution, were nevertheless sufficient to identify the inaccuracies.

GREENE did not elicit sufficient information to fully resolve MOSBAUGH's issues regarding the failure of the June 29 letter to address the April 9 letter. The Group concludes that GREENE did not hear any reasonable argument that adequately refuted MOSBAUGH's clear statement that "We said this was going to explain the April 9th letter. This doesn't explain the April 9th letter at all." GREENE states that he might not have appreciated why others would want the April 9 letter addressed in an LER cover letter. His response to the DFI offers no satisfactory explanation as to why MOSBAUGH's statement was not pursued to resolution. Therefore GREENE's performance was inadequate.

E. REVIEW OF RESPONSES TO FREDERICK DFI

June 29, 1990 LER Cover Letter: Basis for DFI

Mr. Frederick was aware that the audit (that formed the basis for the reasons stated in the June 29, 1990 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, 1990 LER. Mr. Frederick 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, 1990 LER. Mr. Mosbaugh and Mr. Horton made Mr. Frederick aware of this inaccuracy, but Mr. Frederick, with apparent indifference, defended the inaccuracy.

Also, Mr. Frederick was made aware by Mr. Mosbaugh on June 12, 1990 that, to identify the root cause of the error in the April 19, 1990 LER (i.e., personnel errors), the audit scope would need to include an assessment of the performance of the Unit Superintendent and the VEGP General Manager, the individuals that developed the initial count. Yet, the audit report did not include either of these individuals in the list of persons contacted during the audit. On June 29, 1990, Mr. Frederick was again made aware by Mr. Mosbaugh that the root cause for the difference was personnel error. Despite this knowledge, Mr. Frederick failed to adequately address these concerns prior to issuance of the June 29, 1990 letter.

Group Evaluation

The Group continues to believe that FREDERICK's performance was inadequate. He knew that the audit did not determine causes for the errors in the start counts reported in April 19 LER and that it only reported the condition of the logs reviewed during the audit. He was also aware that the audit report was being used by GPC senior management as a basis for identifying the causes for the errors in the April 19, 1990 LER. However, FREDERICK had been made aware by MOSBAUGH on June 12 and June 19, 1990 that, to identify the cause of the error in the April 19, 1990 LER (i.e., personnel errors), the audit scope would require an assessment of the performance of CASH and BOCKHOLD, the individuals who developed the incorrect information.

In responding to the DFI, GPC and FREDERICK apparently missed the NRC's point regarding the absence of an assessment of the performance of CASH and BOCKHOLD. It is the Group's view that the audit was adequate for its stated purpose. However, when the audit was further used as a basis for determining why incorrect information had been provided to the NRC, the Group's view is that such a use of the audit is not justified because it did not address the development of that incorrect information. FREDERICK knew the audit was being used as the basis for explaining to the NRC why incorrect information had been reported in April 1990, a knowledgeable person (MOSBAUGH) had asserted to FREDERICK on at least two occasions that to provide a valid basis for such an explanation the audit must include as assessment of the development of the incorrect information (i.e., as assessment of Messrs. Cash and Bockhold's performance), and FREDERICK was aware that no such assessment had been made. Therefore, FREDERICK's performance was inadequate.

F. REVIEW OF RESPONSES TO MAJORS DFI

June 29, 1990 LER Cover Letter: Basis for DFI

Mr. Majors had staff responsibility for preparing the cover letter for the LER revision and was specifically instructed by the Senior Vice President - Nuclear Operations to work closely with the site to ensure that the submittal was accurate and complete. Despite this clear direction, and after having been informed by the site of the clear

failure of the June 29, 1990 draft cover letter to address the April 9, 1990 letter that it referenced and that the April 9, 1990 errors were different from the April 19, 1990 errors, Mr. Majors failed to address these concerns prior to issuance of the LER revision.

Group Evaluation

The Group concludes that MAJORS, the author of the June 29 cover letter, failed to adequately address the concerns of MOSBAUGH after MOSBAUGH specifically stated that the letter failed to clarify the April 9 letter and that the April 9 errors were different from the April 19 LER errors.

The Group disagrees with GPC's statement that MAJORS was not informed of a "clear failure" of the June 29 letter to address the April 9 letter. MAJORS was clearly informed of this concern and acknowledged that the letter contained an explicit reference to the April 9 letter without a corresponding explanation for the differences.

Although GPC and MAJORS state that MAJORS made a reasonable attempt to be open and candid and that he addressed changes in a forthright, open and expansive manner, the Group concludes he did not adequately pursue resolution of MOSBAUGH's concerns.

Both GPC and MAJORS argue that MAJORS was not tasked to explain the error in the April 9 letter and that his responsibility was to take a marked-up version of the draft LER and cover letter and to incorporate the comments of various individuals. The Group believes that MAJORS had a broader responsibility. He had primary staff responsibility for the cover letter and thus had a responsibility to assure its accuracy. More importantly, he was an experienced GPC project licensing engineer whose responsibilities included assuring that complete and accurate information is provided to the NRC. Therefore, MAJOR's performance was inadequate.

G. REVIEW OF RESPONSES TO HORTON DFI

June 29, 1990 LER Cover Letter: Basis for DFI

Mr. 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 to collect the DG start data, he pointed out that it was wrong to state that the condition of his logs caused errors in the information initially provided to the NRC. Mr. Horton, who understood and agreed that DG record keeping practices were not a cause of the difference in the DG starts reported in the April 19, 1990 LER and the June 29, 1990 letter, nevertheless approved the erroneous draft as a voting member of the Plant Review Board (PRB) without resolving the problems in the draft.

Group Evaluation

The Group continues to believe that HORTON's performance was inadequate in that, notwithstanding his disagreement with the statement that DG record keeping practices were the cause for the error in the April 19 LER, HORTON, as a voting member of the PRB approved the June 29 letter. He was aware 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, and that observations stated in the audit report were inappropriately being used in the June 29 cover letter. Despite this knowledge, HORTON approved the June 29 correspondence.

HORTON stated in his DFI response that, "Mr. Hairston must surely have had enough information to make that statement." This statement provides additional justification for the Group to conclude that HORTON was deficient in his actions. The Group concludes that, contrary to his responsibilities as a member of the PRB, it appears that he was improperly influenced by the fact that the proposed wording in this letter was developed, in part, by HAIRSTON. Such an attitude undermines the independent review of a technical issue, which is one of the primary purposes of the reviews conducted by the PRB. The presumption by a PRB member that information emanating from senior corporate officials need not be critically examined is unacceptable.

GPC and HORTON argue that, during the June 29 telephone conversation, HORTON understood and accepted the basis for the statement in the letter. HORTON also points out that at a certain point in the conversation, "...Mr. Frederick's logic seemed inescapable." The evidence does not support this position. HORTON hears the statements made by FREDERICK and MOSBAUGH and disagrees repeatedly with the statements of FREDERICK and agrees with the statements of MOSBAUGH. A review of the transcript referenced by HORTON associated with the "inescapable logic" shows that he continues to disagree with the logic, but does not want to continue to argue the point. The Group believes that there is insufficient evidence to conclude that FREDERICK's view was accepted by HORTON during the conversation. Therefore, HORTON's performance was inadequate.

H. RECOMMENDATIONS REGARDING McCOY, GREENE, FREDERICK, MAJORS, AND HORTON

The Group has analyzed the DFI responses of GPC and McCOY, GREENE, FREDERICK, MAJORS, and HORTON. The responses deny parts of the violations and deny all of the individual performance failures that were identified by the NRC as the basis for the DFIs. The violations and performance failures formed the basis for the questions posed in the DFIs. In effect, the responses did not acknowledge the NRC bases and, as might then be expected, do not provide the type of information that would be expected had the violations and performance failures been acknowledged by GPC and the five individuals.

As the Group continues to believe the four violations and associated performance failures occurred as stated in the NOV and DFIs, the responses to the DFIs could be viewed as insufficient. While GPC and the five individuals may view the DFI responses as complete and sufficient, there remains a fundamental disagreement with the NRC on the basic issues.

The DFI responses fail to identify individualized corrective actions taken or planned by GPC to address the specific performance failures of these individuals. As discussed in the Group's evaluation of the Licensee's corrective actions, GPC has identified a variety of corrective actions (summarized in Section II.B) in an effort to ensure the accuracy and completeness of information provided to the NRC in the future. The Group concludes that the corrective actions are minimally sufficient to provide assurance that events such as those that formed the basis for this enforcement action will not recur. Also, as previously stated in Section II.B, the Group has considered the effect the DFI's have had on GPC employees in general.

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In addition, the Group recognizes that the performance failures of four of the individuals (GREENE, FREDERICK, MAJORS, and HORTON) were limited to the submittal of a single letter (June 29). In the case of McCOY, his performance failures were limited to two submittals (June 29 and August 30).

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