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October 3, 1991

William C. Parler, Esq.
Office of General Counsel
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Nuclear Regulatory Commission Office of Investigations'
Subpoenas Issued to Vogtle Electric Generating Plant Employees

Dear Mr. Parler:

The purpose of this letter is to inform you of recent Office of Investigations ("OI"), Region II field office, actions involving subpoenas issued by the NRC and to request that you advise the Office of Investigations concerning the proper and efficient application of agency subpoenas. My concern is that this NRC office does not fully appreciate the appropriate role of such official orders.

OI investigators issued six subpoenas to Georgia Power Company employees on or about September 17, 1991, the majority of which were served at their place of employment, the Vogtle Electric Generating Plant ("VEGP"). The VEGP had commenced a planned refueling outage just a few days previous to September 17, and several of the employees are assigned to the plant's Engineering Support group. For these particular employees, who are represented by me, the subpoenas compelling attendance at interviews on September 30 and October 1, 1991, would have resulted in a substantial burden at a time when their work demands were also great.

On September 23, 1991, I contacted the OI Field Office representative assigned to this matter and informed him that I would be representing these employees. Based on prior dealings, the representative is well aware that this firm also represents the Georgia Power Company. This OI representative expressed no reservations at that time. On September 26, in the afternoon, I contacted the office of the OI representative to confirm the two interviews scheduled for Friday, September 27. I was informed by his office that the interviews were still scheduled to be held.

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On September 27, in Augusta, Georgia, the OI representative and his associate began an "on the record" interview of the first VEGP employee represented by one of my associates and me. The stenographer had travelled from Atlanta, as had the two OI representatives and my associate and I. The OI representative read a number of preliminary, scripted questions concerning the attorney/client relationship of my client and me. All of the information provided to the investigator was previously provided or known to the investigator or could have been obtained in informal conversations.

The questioning concerning the attorney/client relationship unequivocally established that the employee had freely and voluntarily retained my counsel, and that this choice of counsel would not affect his testimony. Furthermore, I was, and am, unaware of any conflict of interest between my representation of this employee and my concurrent representation of the Georgia Power Company. I would note that the OI representatives, after the transcribed interview, informed my associate and me that they had no concerns regarding the voluntary retention of counsel by the interviewee. In addition, I suggested that OI's identification of any potential conflicts which they anticipated relative to my representation of other individuals would be appropriately considered by me. Finally, the interviewee indicated a willingness to share the transcript of his interview with his employer; the OI investigators, however, did not question me as to whether, in fact, such an arrangement would occur.

After addressing the attorney/client relationship, the OI investigators left the interview room and deferred further questioning for over one hour. Upon resuming the interview, the OI representative obtained the documentation brought to the interview by the VEGP employee in response to the subpoena. The documents produced by the employee, who is not a custodian for VEGP records, were personal documents only, as that scope of production was in accordance with my understanding with the OI representative based upon our discussions of September 23, 1991. Thereafter, the OI representative terminated the interview and informed me that all further interviews of the other five VEGP employees who are my clients were cancelled.

My understanding is that the early termination of the September 27 interview and cancellation of other interviews compelled by subpoena were actions of the Office of Investigations based on "tactical and strategic" considerations.

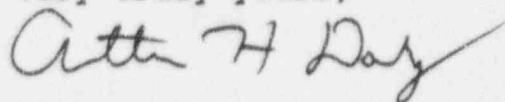
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In light of the information obtained by the OI representative in the one shortened interview (all of which could have been provided to the representatives without compulsion), genuine concerns arise as to the appropriateness of the original subpoenas and the efficiency with which this matter was addressed. The inconvenience and time demands associated with compelled VEGP employees during the early stages of a refueling outage, the public expenditures for issuing subpoenas and obtaining an Atlanta stenographer for transcription, and the use of subpoenas appear to be not only inefficient, but, in my opinion, also heavy handed. These VEGP employees and Georgia Power Company stand ready to provide whatever information these OI representatives require. Some measured balance should be made between the efficacy of subpoenas and the hardship on employees, including the status of and potential impact on operational activities at the licensed facilities where they work. In this instance, such considerations appear to have been wholly absent.

As I have expressed to the OI representative in charge of this investigation, subpoenas in this matter are an unnecessary process. Voluntary, transcribed interviews can be scheduled to accommodate OI's needs and practical constraints associated with the responsibilities of the various VEGP employees.

In conclusion, the public's trust in the NRC and its mission includes the perceptions of industry workers and the regulated community. I respectfully request that you review this matter and provide guidance to OI so that the confidence of the public and the integrity of your agency will not be affected adversely by inappropriate actions. Please feel free to contact me if I may be of additional assistance in your review. Thank you for your attention to this important matter.

Very truly yours,



Arthur H. Domby

xc: Clients

AHD/jaf