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March 22, 1991

* ADMITTED IN PA
* ADMITTED IN NJ
* ADMITTED IN DE
* ADMITTED IN MA

CONFIDENTIAL

Via Facsimile

Larry Robinson
Office of Investigations
U.S. Nuclear Regulatory Commission

Dear Mr. Robinson:

While reviewing depositions taken earlier during Mr. Allen Mosbough's Section 210 case, I have found evidence demonstrating, at a minimum, that Mr. R.P. McDonald made a false statement regarding his knowledge about the NRC-OI investigation into the "mid loop" issue.

Attached hereto, are excerpts of deposition transcripts of Mr. Arthur Domby and Mr. R.P. McDonald. The depositions were taken under oath. See, McDonald Depo. Tr. at p. 4 and Domby Depo. Tr. at p. 4.

Mr. Domby testified that he first learned of the NRC-OI "a few days prior to...January 30th when the first interviews were held," and that he learned of it from "Mr. R. Patrick McDonald." Domby Depo. Tr. at p. 6. Mr. McDonald apparently testified falsely when he stated that the first he learned about the NRC-OI investigation was "when the OI investigator came to Plant Vogtle." McDonald Depo. at 19. Mr. McDonald stated that his "startling knowledge" of the investigation commenced when the "OI inspector came on site." Id., at p. 22.

My clients, Mr. Allen L. Mosbaugh and Mr. Marvin B. Hobby, request that NRC-OI investigate whether Mr. McDonald knowingly made a false statement under oath (i.e. whether he, in fact, had knowledge of NRC-OI's investigation prior to NRC-OI's arrival on site).

On behalf of Messrs. Mosbaugh and Hobby, I remain

Sincerely,

Michael D. Kohn

65b/rob

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65b/rob

3/26/91
GAVE COPY
OF THIS
PKG TO
BRUNO FOR
ALLEGATION
REVIEW.

(THIS IS ALLEGEDLY
MCDONALD MAKING
A MFS TO D.C.
UNDER OATH.)

A1153

~~AK4~~

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KOHN MAY
BE FILING
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TO 2.206 "
WITH THIS
INFO

LLR GAVE COPY
TO EICS
5/28/91

A1154

Release

To: The United States Nuclear Regulatory Commission
(attn. Bruno Uric, Allegations Coordinator)
From: Allen L. Mosbaugh

GEORGIA POWER/SONOPCO 2.206 PETITION RESPONSE IS
FILLED WITH LIES

Among the most serious of the allegations made in the 2.206 Petition filed by myself and Marvin Hobby is the allegation that GPC thru SONOPCO submitted known, false statements to the NRC intended to mislead the NRC about the reliability of the Diesel generators specifically in an LER 90-006 dated 4-19-90. Perhaps the most significant charge is that the Senior Vice President SONOPCO, George Hairston, who signed the LER knowingly submitted false information to the NRC.

Now SONOPCO has answered the 2.206 petition in a sworn statement response signed by Executive Vice President Pat McDonald. The key facts of the response rebutting the above charge provided by SONOPCO to the NRC are blatantly false.

FALSE STATEMENT NUMBER 1

Specifically SONOPCO's response titled "Response to Hobby/Mosbaugh 2.206 Petition" Section II.b" page 3, last paragraph, footnote 3, the first fact presented is blatantly false.

Footnote 3--- "The wording was revised by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe the final draft LER presented to him after the call was accurate and complete."

Originals of tape recordings are in the possession of the NRC made of the telephone conference call referenced in footnote 3. Participants whose voices are clearly identifiable on that tape are:

George Hairston, Ken McCoy, Bill Shipman,
Jack Stringfellow, George Bockhold,
John Aufdenkampe, Allen Mosbaugh

So it is proven by the tapes that Mr. Hairston actively participated in the conference call late on April 19, 1990.

Indeed Mr. Hairston's involvement in the detailed development and wording in the LER was extensive to the point of personally interviewing plant operators, a fact SONOPCO apparently does not want the NRC to know.

Now Pat McDonald sworn statement is another lie.

FALSE STATEMENT NUMBER 2

Specifically the second fact presented in footnote 3 is false as well as the statements in section IIB, page 5 last paragraph.

Footnote 3--- "The wording was revised by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe the final draft LER presented to him after the call was accurate and complete.

AND

Page 5--- "the suggestion that GPC officers or their upper level staffs, who were aware of these efforts, would knowingly provide false information is ludicrous. The converse is the truth:---"

AND

Page 5---"The allegation that GPC officers would attempt to mislead the NRC with incorrect information is, in a word, absurd."

Mr. Hairston, The Senior Vice President Nuclear, had enumerable indicators and apparently direct knowledge that the information presented to him was suspect if not outright false before he signed the LER. Bill Shipman is an upper level manager, in fact a General manager, who reports to the Vice President Vogtle Project, Ken McCoy.

The following is a segment as stated on recordings of the conference call referenced in footnote 3.

Shipman ----- Lets see, what other questions have we got.
We got the start thing straightened out.

Stringfellow -- The other question we had Bill was---

Hairston ----- We got the starts-- So we didn't have
no, we didn't have no trips?

Shipman ----- No, not not

McCoy ----- Let me. I'll testify to that.

Shipman ----- Just disavow.

Shipman ----- What else did we have Jack.

At this point the conversation shifts rapidly to other

subjects of the LER which Hairston continues to participate in.

Immediately it is apparent that Hairston was well aware of the diesel trips by his question "So we didn't have no, we didn't have no trips?" and therefore the falsehood in the LER.

Next we hear the "SMOKING GUN" evidence.

McCoy states to Mr. Hairston the strategy that he intends to use to deny the false statement they are about to make. McCoy will "testify" that he did not know it was false since Allen Mosbaugh had not talked to him. Shipman will "disavow". Bill Shipman, McCoy's General Manager over licensing, was just put on notice by Allen Mosbaugh (see below transcript), just 2 hours before, of the details of the diesel trips and he acknowledged the falsehood of both the LER and COAR statements. Realizing the liability of the brief exchange that has just occurred Bill Shipman rapidly shifts the conversation to other topics.

Pat McDonald statements in the Petition response underlined above are outright lies to cover the criminal conduct of Hairston, McCoy, and Shipman.

Near the end of the conference call:

Aufdenkampe-- Hey Bill.

Shipman----- Yea

Aufdenkampe-- This is John. Are these all the changes we're going to make because I don't think there is anything substantial that needs a PRB?

Shipman----- I won't make that guarantee, John.

Aufdenkampe-- But, OK, So I need to keep someone on standby to do that?

Shipman----- Yes sir you sure do.

Aufdenkampe-- OK, I'll have whoever is going to be on standby give Jack a call, in case this thing drags on till 7:00 or 8:00 at night or something like that.

Shipman----- It's not going to be that long.

McCoy----- We'll be done with this in about 30 minutes with the changes and we'll call you back and let you know and you can make a judgment on whether we have to go back to the PRB.

This sets the time frame for the call as just prior to the final signing by Hairston and indeed the one referenced from Footnote 3 of GPC's response.

As further evidence of Hairston's and SONOPCO's prior knowledge of the Diesel trips and failures that made the LER statements false is the following segment of another tape recording, originals of which are in the NRC's possession. This call contains documentation of part of the actions of the "LER coordinator" described in SONOPCO's petition response on page 3 middle paragraph.

Allen Mosbaugh places this call to Bill Shipman on 4-19-90 approximately 2 hours before the above call with Mr. Hairston and puts senior SONOPCO personnel on notice of the false information in the LER. Known participants on this call are Shipman, Mosbaugh, and Stringfellow.

Shipman --- Hello
Mosbaugh--- Yeah This is Allen Mosbaugh.
Shipman --- Hey Allen. This is Bill Shipman.
Mosbaugh--- Say Bill.
Shipman--- Are you where you can talk for a minute.
Mosbaugh--- I am.
Shipman --- Great. I-- Help!
Mosbaugh--- OK
Shipman--- The , uh, LER, uh, we're, we're, you know, we're trying to get, you know, all Mr. Hairston's questions answered.
Mosbaugh--- Right
Shipman --- Uh, there are 2 things, uh, I guess, uh George has ask us to, you know, to find out and I guess you, you were probably at the time talking to Jack----

A discussion proceeds discussing the first Hairston question which regards operator responses when they first arrived at the Diesel generator room.

Below Hairston shows awareness of the start information controversy in that he has ask for assurances on the start data.

Shipman--- OK and of course the other question we have been trying to get an answer to is to reassure George that we had more than 20 valid starts since , you know, since March 20, like we say in the LER.
Mosbaugh--- Yeah, You realize I think there's a problem with the way that's' stated because you know the machine -- we can--,you know, we've got one of the guys trying to find what the total number of valid starts is, but there were failures.
Shipman--- Yeah. The problem that we got, Allen, is that the data that's in the LER is what George wrote and took and told to the--

Ebnetter last Monday in Atlanta.

Mosbaugh--- Well, you know, if anybody said that there weren't any failures, then, you know, that's just not true.

Shipman--- Well if you look at George's outline that he made to take to Atlanta with him, he says at that time it was like 18 or 19.

Mosbaugh--- Yea.

Shipman---- And without a failure.

Mosbaugh--- Mm.

Shipman---- So you know somebody had given George that information.

Mosbaugh--- On the B--

Shipman---- Have we had a failure since George went to--- ?

Mosbaugh -- No.

Mosbaugh -- On the B---Let me tell you what I know. On the B machine, on the B machine on 3-22 at 12:43 the machine tripped on hi lube oil temperature.

Shipman --- Caused by what?

Mosbaugh--- Caused by the switch that gives you high lube oil temperature probably.

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

Mosbaugh--- I don't believe that a high temperature physical condition existed. I believe---

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

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

Shipman---- You see, because I could, we could solve the problem created by that information by saying "no valid failures".

Mosbaugh---Let me find --- I think we've got one other one. It is on 3-23 at 17:31 , Machine tripped on low-- this is B machine again-- on low jacket water pressure slash low turbo lube oil pressure low.

Shipman --- OK , the first one was on what date did you say?

Mosbaugh--- 3-22

Shipman---- OK , How you know with that data?--- I think this thing has already been thru the PRB a couple of times-- How the world did it get thru the PRB ?

Mosbaugh -- What's that?

Shipman---- The statement.

Mosbaugh--- The LER or--?

Shipman---- Yea the LER.

Mosbaugh--- Well I mean--

Shipman---- Did that data-- was that not available in the PRB?

Mosbaugh--- The previous time that this LER went thru

the PRB, I'm not sure those statements were in there.

Shipman---- Yes, Jack says yes they were.

Mosbaugh--- They were?

Shipman---- Yes.

Stringfellow-In fact , the last PRB added the parenthetical phrase "more than 20 times each". I say the last, not, today but the previous PRB.

Clearly Shipman has been put on notice by Allen Mosbaugh of very specific information that the diesel tripped and that the LER information is false.

Clearly Shipman realizes the COAR was false by his comments about the presentation to "Ebnetter".

Clearly Shipman recognizes that the LER is false by his comment, "How the world did it get thru the PRB"?

Clearly Shipman is contriving a way to use "valid failures" to "solve the problem created by that information".

Further discussion ensues with Shipman and Stringfellow continuing to blame the PRB .

Later on the same call:

Shipman--- So, you know, if there's anything you need to do to check to make sure the data you have from Paul is correct and valid I would ask that you do that or if you feel very confident that it's correct now I just need to see what I need to do to about striking this statement.

Mosbaugh--- OK. I feel that this is the best, the best data there is and I believe it is accurate. I will verify that with Kochery though and I will pursue trying to get a conversation with the operator.

Shipman---- OK. Jack and I are going to leave here and walk down to Mr. Hairston's office to go over his comments and what we've been able to do with those and try to finish beating out what he wants to do with this thing.

The call ends shortly thereafter.

Clearly Shipman and Stringfellow proceed to inform Hairston of what they have been told by Allen Mosbaugh. Thus, this additional evidence further shows that Hairston knew that the LER was false hours before he signed it.

FALSE STATEMENT NUMBER 3

Specifically SONOPCO's response makes great efforts to blame Allen Mosbaugh for the errors and states on page 4 of their section IIB:

"Not until April 30 1990 does it appear that Mr Mosbaugh articulated for the benefit of his management that the diesel engine start count data contained in the LER was inaccurate"

Clearly the transcript from FALSE STATEMENT NUMBER 2 above with Bill Shipman proves that Allen Mosbaugh articulated for the benefit of his SONOPCO management detailed information on the diesel failures and therefore in the diesel count data statements and that his SONOPCO management recognized the errors contained in the LER before it was signed on 4-19-90.

As such GPC/SONOPCO's underlined statement is blatantly false.

FALSE STATEMENT NUMBER 4

Specifically Georgia Power SONOPCO states on page 4 of IIB of their response:

"To the extent Mr. Mosbaugh had concerns about the substance of the document, he had direct and immediate ability to change the information contained in it. His own actions relative to the LER establish this fact. Indeed, as reflected in PRB comment review sheet for its meeting No.90-59, held on April 18, 1990 Mr. Mosbaugh directed three changes to the draft LER, two of which he directed as "mandatory" word changes. He, therefore, had an opportunity to require any other correction. Similarly on April 19 1990 in a telephone conversation between the site representatives and Corporate Office representatives, he had the opportunity to suggest corrective language but, apparently failed to do so."

And

From page 5--- "If as he now alleges, Mr. Mosbaugh truly had concerns related to the original LER, his inaction on April 18 (at the PRB), in the April 19 telephone conference, and his April 30 assignment from his General Manager to provide revised LER language provided him numerous opportunities to direct revision or to revise the alleged "false statements." This he failed to do.

Again SONOPCO goes to great lengths to accuse Mr. Mosbaugh of insincere motives and to blame him for the errors. Clearly from the transcript from FALSE STATEMENT 3 above it can be seen that on a telephone conversation between site and corporate representatives Mosbaugh, Shipman, and Stringfellow, Allen Mosbaugh caused Mr. Shipman to

conclude that corrective language (ie. complete deletion of the false statement) was in order. Mr. Mosbaugh left with the understanding that the false statement would be struck. He obviously did not have direct and immediate ability to change information in the LER since all corrections had to go thru SONOPCO personnel and only Mr. Hairston would sign the final version.

Another example clearly showing the attempts of Allen Mosbaugh and other site personnel to put SONOPCO on notice of the false statement in the LER and to try to "direct revision to" correct it is contained below from a conversation between site and corporate personnel that occurred earlier on 4-19-90.

Known participants are :

Jack Stringfellow, John Aufdenkampe, Allen Mosbaugh

Stringfellow-- But now you know it just dawned on me about what Allen was saying a minute ago, in other words, "And no failures or problems have occurred on any of these starts" Your saying that's not true.

Aufdenkampe-- Yes. I'm saying that's not true.

Stringfellow-- Oh Wonderful. OK

Aufdenkampe -- Which is also be telling you that--
It's telling you something else I
imagine.

Because you know this has been written to
the NRC once already.

Stringfellow-- Yes I know. That's exactly what I was
thinking.

Here again SONOPCO personnel clearly recognize that both the LER and the Confirmation of Action Response letter signed by Hairston on 4-9-90 are false.

Below in a earlier segment of the same conversation on 4-19-90 with the same participants, John Aufdenkampe (who worked under Allen Mosbaugh) is conveying to SONOPCO licensing the comments from the latest meeting of the Plant Review Board.

Allen Mosbaugh arrived late for the 4-19-90 PRB and missed the discussion of LER 90-006 and as such did not vote on it. If Mosbaugh did indeed have the "direct and immediate ability" to make changes to the LER on behalf of his organization or the PRB, he clearly did so as evidenced by the above reference conversations, and from the additional excerpt contained below.

Aufdenkampe -- The next page. On the 20 starts.

Stringfellow-- Yea Yea Yea

Aufdenkampe--- I'm struggling with that one.

Stringfellow---You struggle with that one.

Aufdenkampe--- I'm struggling with that one.
 I'm trying to verify that still.
 Stringfellow-- Oh, OK, Alright
 Aufdenkampe--- We think that's basically a Material false statement.
 Stringfellow-- Really!
 Aufdenkampe--- Yea, well we know for a fact that the B diesel tripped at least once, after March 20
 Mosbaugh----- Actually it tripped twice after March 20 or it had at least 2 separate problems.
 Stringfellow-- Well do we need to take this more than 20 times each out?
 Aufdenkampe-- That's what we're thinking-----

Again in direct contrast to Georgia Power/SONOPCO statements throughout the underlined paragraph of page 4 and 5 of section IIB of the GPC response it is clearly seen that Allen Mosbaugh personally and using his staff tried (ultimately in vain) to get SONOPCO to correct the false statements in the LER before Mr. Hariston signed it. Again the Site personnel recommend that the false statement should be "taken out" as evidenced by Aufdenkampe's last statement.

SONOPCO ignored these attempts so as not to expose the false statement already made to the NRC in the COAR on 4-9-90 by Mr. Hairston and Mr. Hairston knowingly signed out a LER to the NRC containing false statements.

GPC's reference to the "assignment from his General Manager" occurred only after Allen Mosbaugh provided to Mr. Bockhold a memo in writing exposing the false statements in both the COAR and LER.

Again contrary to the GPC response, Mr. Mosbaugh performed his task of providing a revised LER promptly and accurately and by 5-15-90 a revised LER correcting the false information was PRB approved and in SONOPCO's hands but SONOPCO would never submit it.

A revision with different wording of SONOPCO's choosing which changed the whole basis to "valid starts" would not be submitted until 6 weeks later.

To complete his assignment of "revising the alleged false statements" Mr. Mosbaugh also issued an action item on 5-10-90 to George Bockhold to determine how to correct the COAR. Bockhold closed the action item on 5-24-90 but failed to correct the errors in the COAR until 8-30-90 and then only under pressure from the NRC.

Again as exhaustively detailed above, the sworn statements in the underlined paragraph above signed by Pat McDonald are false by both omission and commission.

FALSE STATEMENT NUMBER 5

Specifically GPC/SONOPCO response III.3 ,IID., page 9

first paragraph (referring to the draft transmittal letter dated 6-29-90 07:55 and 6-29-90 11:42).

"In both instances, the draft transmittal letter explains that if the report had stated "subsequent to the event" rather than "subsequent to the test program," the LER would have been consistent with the April 9 COAR and the "18" and "19" numbers included in the transparencies provided by GPC to the NRC on April 9. This is a correct statement.

This statement is false by omission and/or commission. First as is proven from the draft transmittal letters themselves, the text explains a lot more than "if the report had stated subsequent to the event", the text states "The LER dated April 19 inadvertently stated "Subsequent to this test program, DG1A and DG1B have been started at least 18 times each and no failures or problems have occurred on any of these starts" and "The report should have stated "Subsequent to the event... "rather than "Subsequent to the test program...".

GPC uses this omission to avoid explaining their false claim of an "inadvertent error" in the transmittal letter.

Below is a portion of the transcript from the telephone conference call late in the afternoon of 4-19-90:

Bockhold---- From my numbers that I presented at the at the conference. They were verified correct by Jimmy Paul Cash who went thru the operator logs.

McCoy----- We ought , you ought to use those numbers.

Bockhold---- OK so we'll say greater than those numbers that were used in the conference.

McCoy----- OK and those numbers you used were used in the conference were after they had completed the comprehensive test of the control system on each diesel.

Bockhold---- That is correct. Those numbers were not before that time.

Stringfellow-OK I just want to make sure I'm clear. You want to say that between 3-20 and now DG1A and DG1B have been subjected to a comprehensive test program. Do we want to say that kind of stuff? Or do you want to say--?

Bockhold---- Yes. You can say that.

A moment later:

Shipman----- 18 and 19, What did you have in your presentation George? 17 and 18 or 18 and 19

Bockhold---- 18 and 19

Shipman ---- So if we say greater than 18 we --

Stringfellow-I thought we had more than 18 times.
Bockhold---- Greater than 18 would be good.
McCoy----- It wouldn't be more than 18 on one of
 them it would be 18-----

As shown by the transcript from the above telephone conference call (referenced by GPC's Footnote 3) , the final wording "subsequent to the test program" was not inadvertent, was discussed specifically and in detail as being consistent with April 9, 1990 presentation. Despite the fact that Shipman and Stringfellow had been put on notice by Allen Mosbaugh that the April 9 presentation was false and they had acknowledged that it was false, they and Bockhold and McCoy proceeded to usher in words to the LER that are as false as the April 9 presentation.

FALSE STATEMENT NUMBER 6

Specifically GPC response III.3 page 4, first full paragraph.

At that time, he was assigned, in writing, to correct the NRC documentation (Exhibit 7). He, therefore, was tasked with correcting the inaccuracy which his Technical Support group had created by suppling "more than 20" times" wording to the Corporate Office.

This statement is false. Allen Mosbaugh was not task with correcting any inaccuracy associated with the "more than 20" words because the "more than 20" words were not used in the LER and they were not the basis of the actual "at least 18" statement contained in the LER. As can clearly be seen from the transcript from FALSE STATEMENT NUMBER 5 the basis of the words in the LER was the decision and desire of McCoy, Shipman, Bockhold and Stringfellow as a minimum to use the same false start count as was in the April 9 presentation. The GPC response continuously tries to distract attention from the facts, the truth, and themselves by attempting to focus on and blame Allen Mosbaugh for SONOPCO's lies.

CONCLUSION

This is but a sampling of the false statements contained in GPC/SONOPCO's response to the Mosbaugh/Hobby 2.206 petition, but from these examples alone (the lies of Pat McDonald and the actions of the responsible Officers and senior management of GPC/SONOPCO) the conduct is so dishonest and fundamentally untrustworthy, that they should be removed from authority over any NRC Licensed Nuclear Power activities in GPC/APC/SONOPCO in the interest of public safety.

Allen L. Mosbaugh 5-28-91



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30323

JUN 19 1991

MEMORANDUM FOR: James Y. Vorse, Director
Office of Investigations
Field Office, Region II

FROM: Stewart D. Ebnetter
Regional Administrator

SUBJECT: ADDENDUM TO REGION II REQUEST FOR INVESTIGATION NO. RII-90-12
GEORGIA POWER COMPANY, VOGTLE ELECTRIC GENERATING PLANT

On May 28, 1991, Mr. L. Robinson of your staff provided Mr. O. DeMiranda, Enforcement and Investigation Coordination Staff, a copy of a memorandum dated May 28, 1991, from Mr. Allen L. Mosbaugh entitled "GEORGIA POWER/SONOPCO 2.206 PETITION RESPONSE IS FILLED WITH LIES." On May 31, 1991, a Region II Allegation Review Panel was held to review and evaluate the contents of the memorandum and it was decided that the allegations made in the memorandum would be referred to your office for inclusion in the ongoing investigation being conducted by our staff under case number 2-90-020. Mr. L. Williamson of your staff attended this panel.

On June 7, 1991, Mr. Robinson provided Mr. B. Uryc, Enforcement and Investigation Coordination Staff, a second memorandum from Mr. Mosbaugh entitled "GEORGIA POWER/SONOPCO RESPONSE TO 2.206 PETITION IS LIES, SMOKE, AND MIRRORS." An Allegation Review Panel was held on June 14, 1991, to review and evaluate the contents of this memorandum and it was decided that the allegations in this memorandum would also be referred to your office for inclusion in the above referenced investigation.

Copies of the above memoranda are enclosed and you are requested to review these issues during the course of your investigative activity in connection with case number 2-90-020.

James L. Milhoan
Stewart D. Ebnetter

Enclosures:

1. Memo dtd 5/28/91
2. Memo dtd 6/7/91

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MAY 28 1991

REC'D

ODM

To: The United States Nuclear Regulatory Commission
(attn. Bruno Uric, Allegations Coordinator)
From: Allen L. Mosbaugh

from OI

4/26/91:0907

GEORGIA POWER/SONOPCO 2.206 PETITION RESPONSE IS
FILLED WITH LIES

Among the most serious of the allegations made in the 2.206 Petition filed by myself and Marvin Hobby is the allegation that GPC thru SONOPCO submitted known, false statements to the NRC intended to mislead the NRC about the reliability of the Diesel generators specifically in an LER 90-006 dated 4-19-90. Perhaps the most significant charge is that the Senior Vice President SONOPCO, George Hairston, who signed the LER knowingly submitted false information to the NRC.

Now SONOPCO has answered the 2.206 petition in a sworn statement response signed by Executive Vice President Pat McDonald. The key facts of the response rebutting the above charge provided by SONOPCO to the NRC are blatantly false.

FALSE STATEMENT NUMBER 1

Specifically SONOPCO's response titled "Response to Hobby/Mosbaugh 2.206 Petition" Section II.b" page 3, last paragraph, footnote 3, the first fact presented is blatantly false.

Footnote 3--- "The wording was revised by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe the final draft LER presented to him after the call was accurate and complete."

Originals of tape recordings are in the possession of the NRC made of the telephone conference call referenced in footnote 3. Participants whose voices are clearly identifiable on that tape are:

George Hairston, Ken McCoy, Bill Shipman,
Jack Stringfellow, George Bockhold,
John Aufdenkampe, Allen Mosbaugh

So it is proven by the tapes that Mr. Hairston actively participated in the conference call late on April 19, 1990.

Indeed Mr. Hairston's involvement in the detailed development and wording in the LER was extensive to the point of personally interviewing plant operators, a fact SONOPCO apparently does not want the NRC to know.

Now Pat McDonald sworn statement is another lie.

FALSE STATEMENT NUMBER 2

Specifically the second fact presented in footnote 3 is false as well as the statements in section IIB, page 5 last paragraph.

Footnote 3--- "The wording was revised by corporate and site representatives in a telephone conference call late on April 19, 1990. Although Mr. Hairston was not a participant in that call, he had every reason to believe the final draft LER presented to him after the call was accurate and complete.

AND

Page 5--- "the suggestion that GPC officers or their upper level staffs, who were aware of these efforts, would knowingly provide false information is ludicrous. The converse is the truth:"---

AND

Page 5--- "The allegation that GPC officers would attempt to mislead the NRC with incorrect information is, in a word, absurd."

Mr. Hairston, The Senior Vice President Nuclear, had enumerable indicators and apparently direct knowledge that the information presented to him was suspect if not outright false before he signed the LER. Bill Shipman is an upper level manager, in fact a General manager, who reports to the Vice President Vogtle Project, Ken McCoy.

The following is a segment as stated on recordings of the conference call referenced in footnote 3.

Shipman ----- Lets see, what other questions have we got.
We got the start thing straightened out.
Stringfellow -- The other question we had Bill was---
Hairston ----- We got the starts-- So we didn't have
no, we didn't have no trips?
Shipman ----- No, not not
McCoy ----- let me, I'll testify to that.
Shipman ----- Just disavow.
Shipman ----- What else did we have Jack.

TAPE 58

PG. 12

LINE 4

At this point the conversation shifts rapidly to other

subjects of the LER which Hairston continues to participate in.

Immediately it is apparent that Hairston was well aware of the diesel trips by his question "So we didn't have no, we didn't have no trips?" and therefore the falsehood in the LER.

Next we hear the "SMOKING GUN" evidence.

McCoy states to Mr. Hairston the strategy that he intends to use to deny the false statement they are about to make. McCoy will "testify" that he did not know it was false since Allen Mosbaugh had not talked to him. Shipman will "disavow". Bill Shipman, McCoy's General Manager over licensing, was just put on notice by Allen Mosbaugh (see below transcript), just 2 hours before, of the of numerous details of the diesel trips and he acknowledged the falsehood of both the LER and COAR statements. Realizing the liability of the brief exchange that has just occurred Bill Shipman rapidly shifts the conversation to other topics.

Pat McDonald statements in the Petition response underlined above are outright lies to cover the criminal conduct of Hairston, McCoy, and Shipman.

Near the end of the conference call:

Aufdenkampe-- Hey Bill.

Shipman----- Yea

Aufdenkampe-- This is John. Are these all the changes we're going to make because I don't think there is anything substantial that needs a PRB?

Shipman----- I won't make that guarantee, John.

Aufdenkampe-- But, OK, So I need to keep someone on standby to do that?

Shipman----- Yes sir you sure do.

Aufdenkampe-- OK, I'll have whoever is going to be on standby give Jack a call, in case this thing drags on till 7:00 or 8:00 at night or something like that.

Shipman----- It's not going to be that long.

McCoy----- We'll be done with this in about 30 minutes with the changes and we'll call you back and let you know and you can make a judgment on whether we have to go back to the PRB.

This sets the time frame for the call as just prior to the final signing by Hairston and indeed the one referenced from Footnote 3 of GPC's response.

58

PAGE 13

LINE 14

As further evidence of Hairston's and SONOPCO's prior knowledge of the Diesel trips and failures that made the LER statements false is the following segment of another tape recording, originals of which are in the NRC's possession. This call contains documentation of part of the actions of the "LER coordinator" described in SONOPCO's petition response on page 3 middle paragraph.

Allen Mosbaugh places this call to Bill Shipman on 4-19-90 approximately 2 hours before the above call with Mr. Hairston and puts senior SONOPCO personnel on notice of the false information in the LER. Known participants on this call are Shipman, Mosbaugh, and Stringfellow.

Shipman --- Hello
Mosbaugh--- Yeah This is Allen Mosbaugh.
Shipman --- Hey Allen. This is Bill Shipman.
Mosbaugh--- Say Bill.
Shipman--- Are you where you can talk for a minute.
Mosbaugh--- I am.
Shipman --- Great. I-- Help!
Mosbaugh--- OK
Shipman--- The , uh, LER, uh, we're, we're, you know, we're trying to get, you know, all Mr. Hairston's questions answered.
Mosbaugh--- Right
Shipman --- Uh, there are 2 things, uh, I guess, uh George has ask us to, you know, to find out and I guess you, you were probably at the time talking to Jack----

#57

P 100

L. 15

A discussion proceeds discussing the first Hairston question which regards operator responses when they first arrived at the Diesel generator room.

Below Hairston shows awareness of the start information controversy in that he has ask for assurances on the start data.

Shipman--- OK and of course the other question we have been trying to get an answer to is to reassure George that we had more than 20 valid starts since , you know, since March 20, like we say in the LER.
Mosbaugh--- Yeah, You realize I think there's a problem with the way that's' stated because you know the machine -- we can--,you know, we've got one of the guys trying to find what the total number of valid starts is, but there were failures.
Shipman--- Yeah. The problem that we got, Allen, is that the data that's in the LER is what George wrote and took and told to the--

#57

P. 104

L. 8

Ebnetter last Monday in Atlanta.

Mosbaugh--- Well, you know, if anybody said that there weren't any failures, then, you know, that's just not true.

Shipman--- Well if you look at George's outline that he made to take to Atlanta with him, he says at that time it was like 18 or 19.

Mosbaugh--- Yea.

Shipman--- And without a failure.

Mosbaugh--- Mm.

Shipman--- So you know somebody had given George that information.

Mosbaugh--- On the B--

Shipman--- Have we had a failure since George went to--- ?

Mosbaugh -- No.

Mosbaugh -- On the B---Let me tell you what I know. On the B machine, on the B machine on 3-22 at 12:43 the machine tripped on hi lube oil temperature.

Shipman --- Caused by what?

Mosbaugh--- Caused by the switch that gives you high lube oil temperature probably.

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

Mosbaugh--- I don't believe that a high temperature physical condition existed. I believe---

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

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

Shipman--- You see, because I could, we could solve the problem created by that information by saying "no valid failures".

Mosbaugh---Let me find --- I think we've got one other one. It is on 3-23 at 17:31 , Machine tripped on low-- this is B machine again-- on low jacket water pressure slash low turbo lube oil pressure low.

Shipman --- OK , the first one was on what date did you say?

Mosbaugh--- 3-22

Shipman--- OK , How you know with that data?--- I think this thing has already been thru the PRB a couple of times-- How the world did it get thru the PRB ?

Mosbaugh -- What's that?

Shipman--- The statement.

Mosbaugh--- The LER or--?

Shipman--- Yea the LER.

Mosbaugh--- Well I mean--

Shipman--- Did that data-- was that not available in the PRB?

Mosbaugh--- The previous time that this LER went thru

(FROM
PRICR PAGE

57
STARTING
AT
P 104
L. 8

the PRB, I'm not sure those statements were in there.
Shipman---- Yes, Jack says yes they were.
Mosbaugh--- They were?
Shipman---- Yes.
Stringfellow--In fact , the last PRB added the parenthetical phrase "more than 20 times each". I say the last, not, today but the previous PRB.

(CONT'D)
#57
P 106
ENDING
@ L. 20

Clearly Shipman has been put on notice by Allen Mosbaugh of very specific information that the diesel tripped and that the LER information is false.
Clearly Shipman realizes the COAR was false by his comments about the presentation to "Ebnetter".
Clearly Shipman recognizes that the LER is false by his comment, "How the world did it get thru the PRB"?
Clearly Shipman is contriving a way to use "valid failures" to "solve the problem created by that information".

Further discussion ensues with Shipman and Stringfellow continuing to blame the PRB .

Later on the same call:

Shipman--- So, you know, if there's anything you need to do to check to make sure the data you have from Paul is correct and valid I would ask that you do that or if you feel very confident that it's correct now I just need to see what I need to do to about striking this statement.
Mosbaugh--- OK. I feel that this is the best, the best data there is and I believe it is accurate. I will verify that with Kochery though and I will pursue trying to get a conversation with the operator.
Shipman---- OK. Jack and I are going to leave here and walk down to Mr. Hairston's office to go over his comments and what we've been able to do with those and try to finish beating out what he wants to do with this thing.

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L. 11

The call ends shortly thereafter.

Clearly Shipman and Stringfellow proceed to inform Hairston of what they have been told by Allen Mosbaugh. Thus, this additional evidence further shows that Hairston knew that the LER was false hours before he signed it.

FALSE STATEMENT NUMBER 3

Specifically SONOPCO's response makes great efforts to blame Allen Mosbaugh for the errors and states on page 4 of their section IIB:

"Not until April 30 1990 does it appear that Mr Mosbaugh articulated for the benefit of his management that the diesel engine start count data contained in the LER was inaccurate"

Clearly the transcript from FALSE STATEMENT NUMBER 2 above with Bill Shipman proves that Allen Mosbaugh articulated for the benefit of his SONOPCO management detailed information on the diesel failures and therefore in the diesel count data statements and that his SONOPCO management recognized the errors contained in the LER before it was signed on 4-19-90.

As such GPC/SONOPCO's underlined statement is blatantly false.

FALSE STATEMENT NUMBER 4

Specifically Georgia Power SONOPCO states on page 4 of IIB of their response:

"To the extent Mr. Mosbaugh had concerns about the substance of the document, he had direct and immediate ability to change the information contained in it. His own actions relative to the LER establish this fact. Indeed, as reflected in PRB comment review sheet for its meeting No. 90-59, held on April 18, 1990 Mr. Mosbaugh directed three changes to the draft LER, two of which he directed as "mandatory" word changes. He, therefore, had an opportunity to require any other correction. Similarly on April 19 1990 in a telephone conversation between the site representatives and Corporate Office representatives, he had the opportunity to suggest corrective language but, apparently failed to do so."

And

From page 5--- "If as he now alleges, Mr. Mosbaugh truly had concerns related to the original LER, his inaction on April 18 (at the PRB), in the April 19 telephone conference, and his April 30 assignment from his General Manager to provide revised LER language provided him numerous opportunities to direct revision or to revise the alleged "false statements." This he failed to do.

Again SONOPCO goes to great lengths to accuse Mr. Mosbaugh of insincere motives and to blame him for the errors. Clearly from the transcript from FALSE STATEMENT 3 above it can be seen that on a telephone conversation between site and corporate representatives Mosbaugh, Shipman, and Stringfellow, Allen Mosbaugh caused Mr. Shipman to

conclude that corrective language (ie. complete deletion of the false statement) was in order. Mr. Mosbaugh left with the understanding that the false statement would be struck. He obviously did not have direct and immediate ability to change information in the LER since all corrections had to go thru SONOPCO personnel and only Mr. Hairston would sign the final version.

Another example clearly showing the attempts of Allen Mosbaugh and other site personnel to put SONOPCO on notice of the false statement in the LER and to try to "direct revision to" correct it is contained below from a conversation between site and corporate personnel that occurred earlier on 4-19-90.
Known participants are :

Jack Stringfellow, John Aufdenkampe, Allen Mosbaugh

Stringfellow-- But now you know it just dawned on me about what Allen was saying a minute ago, in other words, "And no failures or problems have occurred on any of these starts" Your saying that's not true.
Aufdenkampe-- Yes. I'm saying that's not true.
Stringfellow-- Oh Wonderful. OK
Aufdenkampe -- Which is also be telling you that-- It's telling you something else I imagine.
Because you know this has been written to the NRC once already.
Stringfellow-- Yes I know. That's exactly what I was thinking.

#57

P. 96

L. 7

Here again SONOPCO personnel clearly recognize that both the LER and the Confirmation of Action Response letter signed by Hairston on 4-9-90 are false.

Below in a earlier segment of the same conversation on 4-19-90 with the same participants, John Aufdenkampe (who worked under Allen Mosbaugh) is conveying to SONOPCO licensing the comments from the latest meeting of the Plant Review Board.

Allen Mosbaugh arrived late for the 4-19-90 PRB and missed the discussion of LER 90-006 and as such did not vote on it. If Mosbaugh did indeed have the "direct and immediate ability" to make changes to the LER on behalf of his organization or the PRB, he clearly did so as evidenced by the above reference conversations, and from the additional excerpt contained below.

Aufdenkampe -- The next page. On the 20 starts.
Stringfellow-- Yea Yea Yea
Aufdenkampe--- I'm struggling with that one.
Stringfellow---You struggle with that one.

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P 90

L. 22

Aufdenkampe--- I'm struggling with that one.
 I'm trying to verify that still.
 Stringfellow-- Oh, OK, Alright
 Aufdenkampe--- We think that's basically a Material false
 statement.
 Stringfellow-- Really!
 Aufdenkampe--- Yea, well we know for a fact that the B
 diesel tripped at least once, after March 20
 Mosbaugh----- Actually it tripped twice after March 20
 or it had at least 2 separate problems.
 Stringfellow-- Well do we need to take this more than 20
 times each out?
 Aufdenkampe-- That's what we're thinking-----

(CONT'D)
 #57
 P 90-9
 ENDING
 @ P 91
 LINE 13

Again in direct contrast to Georgia Power/SONOPCO
 statements throughout the underlined paragraph of page 4 and
 5 of section IIB of the GPC response it is clearly seen that
 Allen Mosbaugh personally and using his staff tried
 (ultimately in vain) to get SONOPCO to correct the false
 statements in the LER before Mr. Hariston signed it.
 Again the Site personnel recommend that the false statement
 should be "taken out" as evidenced by Aufdenkampe's last
 statement.

SONOPCO ignored these attempts so as not to expose the false
 statement already made to the NRC in the COAR on 4-9-90 by
 Mr. Hairston and Mr. Hairston knowingly signed out a LER to
 the NRC containing false statements.

GPC's reference to the "assignment from his General Manager"
 occurred only after Allen Mosbaugh provided to Mr. Bockhold
 a memo in writing exposing the false statements in both the
 COAR and LER.

Again contrary to the GPC response, Mr. Mosbaugh performed
 his task of providing a revised LER promptly and accurately
 and by 5-15-90 a revised LER correcting the false
 information was PRB approved and in SONOPCO's hands but
 SONOPCO would never submit it.

A revision with different wording of SONOPCO's choosing
 which changed the whole basis to "valid starts" would not be
 submitted until 6 weeks later.

To complete his assignment of "revising the alleged false
 statements" Mr. Mosbaugh also issued an action item on
 5-10-90 to George Bockhold to determine how to correct the
 COAR. Bockhold closed the action item on 5-24-90 but failed
 to correct the errors in the COAR until 8-30-90 and then
 only under pressure from the NRC.

Again as exhaustively detailed above, the sworn statements
 in the underlined paragraph above signed by Pat McDonald are
 false by both omission and commission.

FALSE STATEMENT NUMBER 5

Specifically GPC/SONOPCO response III.3 ,IID., page 9

first paragraph (referring to the draft transmittal letter dated 6-29-90 07:55 and 6-29-90 11:42).

"In both instances, the draft transmittal letter explains that if the report had stated "subsequent to the event" rather than "subsequent to the test program," the LER would have been consistent with the April 9 CCAR and the "18" and "19" numbers included in the transparencies provided by GPC to the NRC on April 9. This is a correct statement.

This statement is false by omission and/or commission. First as is proven from the draft transmittal letters themselves, the text explains a lot more than "if the report had stated subsequent to the event"; the text states "The LER dated April 19 inadvertently stated "Subsequent to this test program, DG1A and DG1B have been started at least 18 times each and no failures or problems have occurred on any of these starts" and "The report should have stated "Subsequent to the event... rather than "Subsequent to the test program..."

GPC uses this omission to avoid explaining their false claim of an "inadvertent error" in the transmittal letter.

Below is a portion of the transcript from the telephone conference call late in the afternoon of 4-19-90:

Bockhold---- From my numbers that I presented at the at the conference. They were verified correct by Jimmy Paul Cash who went thru the operator logs.

McCoy----- We ought , you ought to use those numbers.

Bockhold---- OK so we'll say greater than those numbers that were used in the conference.

McCoy----- OK and those numbers you used were used in the conference were after they had completed the comprehensive test of the control system on each diesel.

Bockhold---- That is correct. Those numbers were not before that time.

Stringfellow-OK I just want to make sure I'm clear. You want to say that between 3-20 and now DG1A and DG1B have been subjected to a comprehensive test program. Do we want to say that kind of stuff? Or do you want to say--?

Bockhold---- Yes. You can say that. *p 9, L 11.*

A moment later:

Shipman----- 18 and 19, What did you have in your presentation George? 17 and 18 or 18 and 19

Bockhold---- 18 and 19

Shipman ----- So if we say greater than 18 we --

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L. 22

#58

P. 9.
L. 23

Stringfellow-I thought we had more than 18 times.
Bockhold---- Greater than 18 would be good.
McCoy----- It wouldn't be more than 18 on one of
them it would be 18-----

(CONT'D)
#58
ENDING @
P10 LINE 6

As shown by the transcript from the above telephone conference call (referenced by GPC's Footnote 3); the final wording "subsequent to the test program" was not inadvertent, was discussed specifically and in detail as being consistent with April 9, 1990 presentation. Despite the fact that Shipman and Stringfellow had been put on notice by Allen Mosbaugh that the April 9 presentation was false and they had acknowledged that it was false, they and Bockhold and McCoy proceeded to usher in words to the LER that are as false as the April 9 presentation.

FALSE STATEMENT NUMBER 6

Specifically GPC response III.3 page 4, first full paragraph.

At that time, he was assigned, in writing, to correct the NRC documentation (Exhibit 7). He, therefore, was tasked with correcting the inaccuracy which his Technical Support group had created by suppling "more than 20" times" wording to the Corporate Office.

This statement is false. Allen Mosbaugh was not task with correcting any inaccuracy associated with the "more than 20" words because the "more than 20" words were not used in the LER and they were not the basis of the actual "at least 18" statement contained in the LER. As can clearly be seen from the transcript from FALSE STATEMENT NUMBER 5 the basis of the words in the LER was the decision and desire of McCoy, Shipman, Bockhold and Stringfellow as a minimum to use the same false start count as was in the April 9 presentation. The GPC response continuously tries to distract attention from the facts, the truth, and themselves by attempting to focus on and blame Allen Mosbaugh for SONOPCO's lies.

CONCLUSION

This is but a sampling of the false statements contained in GPC/SONOPCO's response to the Mosbaugh/Hobby 2.206 petition, but from these examples alone (the lies of Pat McDonald and the actions of the responsible Officers and senior management of GPC/SONOPCO) the conduct is so dishonest and fundamentally untrustworthy, that they should be removed from authority over any NRC Licensed Nuclear Power activities in GPC/APC/SONOPCO in the interest of public safety.

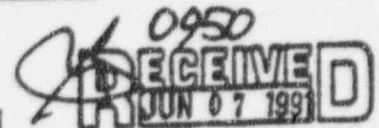
Allen L. Mosbaugh 5-28-91

ORIGINAL GIVEN
TO E1 : RTI
ON 6/7/91
JLR

REC'D FROM
ALLEN MOSBAUGH
6/3/91 @ AUGUSTA, GA
JLR

To: The United States Nuclear Regulatory Commission
(attention Bruno Uric, Allegations Coordinator)
From: Allen L. Mosbaugh

GEORGIA POWER/SONOPCO RESPONSE TO 2.206 PETITION
IS LIES, SMOKE, AND MIRRORS



Georgia Power/SONOPCO's response to the many issues in the 2.206 petition is false, evasive, off the mark, and in many cases tries to "hide behind the NRC's skirt" or tries to involve and implicate the NRC to justify it's actions. Georgia Power/SONOPCO refuses to explain the issues "head on" and accept or admit guilt and responsibility where appropriate. From the point of view presented in the response, every issue is without merit and Georgia Power/SONOPCO can do no wrong.

GPC/SONOPCO fails to make the technical and factual arguments required to support their response and instead the response is filled with fancy legal footwork with wording which states the obvious or the trivial and then tries to make a point with it.

The response also tries its best to blame the Petitioners for the problems or imply that the Petitioners "extrapolated well beyond their personal knowledge" or "were not aware" or are "simply wrong". Well, such is not the case. In most every case the knowledge of the petitioner greatly exceeds that of the response and because of this, the response is challenged below.

Below are the Issues from the 2.206 petition, a common sense and plain language summary of the GPC/SONOPCO response, followed by appropriate questions and comment left unexplained by the Georgia Power/SONOPCO's response.

Section III.3
Diesel Generator Air Quality

GPC/SONOPCO -----
Response Summary

Mr. Mosbaugh's letter (putting us on notice of diesel air quality problems) is dated 4-10-90, after the date of the COAR on 4-9-90, so that proves that we couldn't have known (thru any other channel) about Diesel air quality problems before we sent in the COAR. His memo does not say that air quality was bad the day we sent the NRC the COAR anyway.

Mr Mosbaugh is focused on "historic air quality problems and he doesn't really know about all the technical considerations of the engineers. Finally we think the NRC agrees there is no problem here and they are more aware of the air quality than Mr. Mosbaugh who has only dated information.

The GPC/SONOPCO response is evasive and tries to hid behind the NRC.

GPC seems to admit the historic problems cited by Mr. Mosbaugh. Certainly anyone familiar with instrument and pneumatic control air quality knows that yesterdays "historic air quality and moisture problems" cause "todays" corrosion, particulate, and operability problems especially in pneumatic control systems, such as Vogtle's, that have extremely small orifices in the fluidics devices as small as .006 to .028 inch orifices.

Mr Mosbaugh's knowledge and information is more extensive than GPC states as evidenced by the following transcript of a conversation on 4-11-90 from tape recordings originals of which are in the NRC's possession:

Bockhold--We flapped around with the fact that we got a you know, we got a, on the 29th or so we got a crummy reading and no one knew about it till Milt Hunt picked it up.

Mosbaugh--George, we had a bad reading today, 60 F on 2A diesel.

Bockhold--Ok, the 2A diesel I think has-- we're working on a problem. Isn't that right.

Stokes ---They had left the dryers off, I think, following the PM both dryers the other day.

Horton -- Haven't we had any good readings?

Bockhold--Not on 2A.

Kochery---2A was high. They are trying to drain down the tank and--

Bockhold- I can double check with operations but I think we should be bleeding that tank down.

Kochery-- Cotty's going to do that today.

Bockhold--OK. When I heard about it and I heard about it, I guess yesterday or so, may be the day before yesterday, actually I heard about it just before the meeting with the NRC. He mentioned the possibility and they finally took the readings and I got the information just before they finally took the readings and I think it was 60 F at that point, and I think I told Skip or someone in operations to start the bleed -- feed and bleed on the tank.

#41
P 50
L 16

Clearly the above conversation shows that Bockhold knew of several unsatisfactory air quality readings before the COAR was issued to the NRC on 4-9-90. The COAR was issued later in the day after the verbal presentation made by Bockhold himself. Bockhold assisted in drafting the COAR.

In addition, GPC fails to reveal in their response that (contrary to GPC's extremely narrow (the day of) interpretation of the COAR air quality statement in their Petition response); on 4-9-90, the day the COAR was sent and on other days in or about that period, the air quality was bad (60 F dewpoint). The unacceptably high dew points were caused by operator error (failing to return the dryers to service after the PM) the same kind of maintenance and operations causes that had left the dryers out of service so many times before as evidenced in Mr Mosbaugh's letter to Bockhold of 4-10-90.

The dew point exceeded the dew point of 50 F attested to as acceptance criteria by Mr. Hairston in response to a Generic Letter.

GPC/SONOPCO must explain why they knowingly made the false statement on diesel air quality in the COAR.

GPC/SONOPCO must explain why they continued to have a chronic condition of poor maintenance and dryers out of service in this critical air system.

It is also interesting to note from the transcript that neither Bockhold nor the engineers mention faulty instrumentation as being the cause of the unsatisfactory air quality on the very day the COAR was signed out to the NRC. Faulty instrumentation is what the COAR blamed the initial reports of high dew points on.

Diesel Generator Starts:

* GPC's response is so fictitious and *
* materially false that it is also *
* covered by a separate detailed *
* allegation. *

GPC/SONOPCO ----- The site gave us bad information. We
Response Summary had no idea it was wrong till Allen
Mosbaugh told us on 4-30-90. Mr.
Hairston didn't participate in the
phone call anyway so how could he

have known.

The NRC was on site in large numbers and there were lots of discussions so its "ludicrous" we would have hid anything.

We wrote all those drafts as part of our effort to "improve the accuracy of the transmittal letter". It took from 4-30-90 till 8-30-90 to correct our false statements because counting the starts was so hard.

We can't "divine" the design changes that we had to make to the diesel and the petitioners didn't provide any articulated facts that we knew that the CALCON switches were unreliable so their allegations are all without merit.

With respect to the CALCON switches specifically:

GPC states in their response at II.E, page 10:

"Fourth, the petitioners' allegation that the reliability of "the components" was known to be unreliable for years" is supported by no articulated fact."---

"GPC's knowledge of the components' historic reliability, therefore, has already been considered by the NRC staff. Further review is not appropriate on the basis of a bald, conclusory allegation."

The GPC response is evasive and tries again to hid behind the NRC. Below is a transcript from tape recordings (originals of which are with the NRC) of GPC's formal critique team convened to assess the Site Area Emergency of 3-20-90 which gives a candid picture of what the responsible GPC/Vogtle personnel knew and felt about the CALCON switches on 3-23-90. Despite these opinions and conclusions of the critique team including the I&C supervisor and maintenance superintendent (who had first hand field experience calibrating the CALCON switches at Vogtle) that the switches were unreliable; SONOPCO management intervened and assigned SONOPCO Birmingham personnel to prove the switches reliable and keep the diesel operable. Ultimately this attempt would also fail as even after SONOPCO and Wyle Labs "proved" the switches reliable and revised again the calibration procedures, the switches continued to be unreliable. The Diesels continued to trip and have similar problems as those that caused the Site/Area Emergency and GPC/SONOPCO was forced by events to make the design change to bypass the CALCON Jacket Water Temperature Switches on the diesels.

Speakers are Holmes (critique leader), Briney (I&C supervisor), Mosbaugh, (Asst GM Plant Support) Kochery (engineering supervisor), and Coursey (mechanical Maintenance Superintendent)

Briney---These are the worst temperature switches you ever seen in your life. They're junk.
I don't know if whether we need to advertise that or not, but if you ever looked at the calibration process for these temperature switches you'd say "How the hell can we put this on something like a diesel".

#10
P 23
L 7

Kochery--These CALCON switches have a lot of part 21's on them, you know.

later:

Holmes---Typically when you go out and recalibrate them do they always require recalibration?

Briney---Always require recalibration or replacement.

Holms ---Because they are off.

Mosbaugh-Do you always use this tapping procedure?

Briney---Since the RER came back in 88 , I think we have, we did, we used that tapping procedure. Prior to that, no, we did not because the vendor did not give us that information.

Mosbaugh-In what direction?

Briney---I say to hell with them because they are such junk!

#10
P 27
L 25

and later:

Holmes----But the next time you go back and try to calibrate these things, essentially every time, they require recalibration.

Briney----Especially on Jacket Water.
Especially on jacket water.

#10
P 28
L 19

and later:

Holmes--- So we 've just been living with it.

Briney--- Well we can get them calibrated according to the vendors methodology. Whether they're reliable after that I don't know.

Holmes--- I think that based on the fact that they have failed after they have been calibrated several times, after we go back to recalibrate them we have to recalibrate them or replace; They're never sat. Then I think we have a problem.

#10
P. 33
L. 15

and finally:

Coursey--If they're CALCON, CALCON you know it's going to be off anyway.
 Briney --Chances are. Yea.
 Coursey--What he's saying, he's saying again is what he's got to calibrate out there is a piece of garbage and you know there all going to blow!

#10
 P. 41
 L. 5

As can be seen, the petitioners have more than a "bald faced conclusory allegation, indeed they have the "articulated" comments of the responsible Vogtle Instrument and controls and maintenance staff as well as the Critique Team leader to base their allegation on.

GPC/SONOPCO must explain why the above conversations about the CALCON switches are not indicative of a condition "known to be unreliable for years" that involves a "Maintenance Related Cause" for the failure of the diesel system safety function "when actually called upon to work" that led to Vogtle's Site Area Emergency.

GPC/SONOPCO must explain why the information discussed in the above Critique and the valued opinions of the I&C supervisor, the maintenance superintendent and the Site/Area Emergency Critique leader were not conveyed to the NRC as "Significant Information identified by a licensee".

GPC/SONOPCO must explain why the CALCON switches which later had to be removed from the Diesel control logic were not promptly reported to the NRC as a 10CFR21 since the above conversation shows that GPC had identified a defect in this basic component which could (and did) lead to a substantial safety issue (both diesel trains and both reactor units had the same defect). Since other licensees had these type and manufacture of switches in safety related applications, this information was significant to the Nuclear industry.

Section III.5
 Load sequencers and
 Tech. Spec.
 3.0.3

GPC/SONOPCO

Response Summary

----- Assuming that Tech. Spec. 3.0.3 applies to the sequencer, we have one hour to get ready and 6 additional hours to shutdown the plant. We only have to notify the NRC one hour after we begin to shut down.
 The NRC has reviewed this and said

our practices were only a weakness
so the allegation is without merit.

GPC is again evasive. GPC will not even state head on that Tech Spec 3.0.3 applies to the sequencers. GPC hides behind the NRC once again and uses the OSI review as proof of compliance.

GPC must address the following:

- State that the Tech Specs apply.
- State specifically which Tech Specs apply and which are most limiting (especially auxiliary feedwater channels)
- Identify each interval the sequencers were out of service or otherwise inoperable.
- Show the Tech Spec actions taken or should have been taken in each case.
- Show the NRC notifications made or should have been made in each case.
- Explain why senior licensed personnel did not understand the Tech Spec and functional safety ramifications of a sequencer out of service (especially with respect to its impact on auxiliary feedwater).
- Explain why the training in this area was inadequate.
- Explain why even after engineering personnel identified the errors to operations no prompt actions were taken.
- Explain the actions taken by Tom Green after the lengthy meeting on 6-8-90 with the system engineers who raised the concern.
- Explain why corrective actions were not taken timely by GPC management after the issue was brought up by the system engineers.

Section III.6a
Willful violation
of Tech. Specs.
Dilution valves

GPC/SONOPCO

Response Summary----- The petitioners allegation was already under NRC review, the company got a Tech. Spec. change approved by the NRC, and the allegation has already been adequately addressed by the company so their allegation is without merit.

This dilution valves allegation casts serious doubts on the actions of, the trustworthiness of and the commitment to safety of senior SRO licensed Vogtle management personnel. This can not be dismissed as not "constituting a substantial safety issue" or one not appropriate to the relief requested by the petitioners since those personnel still hold the same Vogtle management positions.

The statement that the allegations of willful violation of Tech. Specs. "are without merit" is at best presumptive on Georgia Powers part and ultimately will be found to be false.

Section III.6b
Dilution valves
Repeat event

GPC/SONOPCO

Response Summary ----

The NRC only gave us a level 4 violation on this historic violation and that's a far cry from the willful violation alleged so the allegation is without merit.
We went and put a locking device on the valve anyway.

Again GPC has missed the point in their response. After being informed of the violation by the NRC the GPC Manager of Technical Support had to argue with the General Manager to get him to comply with the Tech Spec. The General Manager failed to take the "immediate action" required by Tech Specs. and stalled for 5 hours. Since immediate action was knowingly not taken by the General Manager he therefore willfully violated the Tech Spec. Eventually the Technical Manager prevailed and the valve was secured. Locking the small valve was certainly not difficult, expensive or time consuming.

GPC/SONOPCO must explain why the General Manager as well as the Assistant General Manager Operations with full knowledge of the requirements and upon the strong recommendation of the Technical Manager willfully violated Technical Specifications by not taking immediate action as required by technical specifications.

Section III.6c
Shutdown Margin

GPC/SONOPCO

Response Summary -----

GPC admits that they made a calculation error and didn't

write a DC but that's all.
GPC personnel, Bockhold and Green,
can't remember their discussions of
the significance of the near miss.
Green can't remember saying he did
not want to make a big deal over
the event because "it would split
the organization apart".
GPC says no violations of NRC
regulations occurred and the
company took corrective actions to
prevent reoccurrence.

What never happened because no DC was written and no
Critique investigation was ever performed, was to look at
all the other times the operations shifts made calculational
errors due to their lack of understanding of shutdown margin
calculations and procedures. Without this GPC cannot say
that "No violations of NRC regulations occurred" from these
errors. To the contrary, senior operations department
consultants indicated to Allen Mosbaugh that they were aware
of other events where similar errors in shutdown margin
calculations were made.
GPC also fails to address the training inadequacies that
allowed the mistakes by the operations shifts.

SECTION III.6 d
Taking LER's

GPC/SONOPCO

Response Summary ----- Since the NRC had so many people on
site on 3-22-90 we certainly wouldn't
have said that at that time. We don't
know what the petitioners are talking
about and we believe they are being
intentionally vague.
The OSI identified a statement that
was similar to taking LERs but
there's no significance to that
since it was said to a supervisor.

The alleged conversation occurred, as hard as it is for GPC
to admit, on 3-22-90 and as transcribed below:

Speaking are Carter (the OSOS) and Cash (operations
Superintendent) to about 20 shift personnel at the turnover
and work coordination meeting.

Cash ---We have a lot of work to do.

Carter-----It can be done as long as you can take the
LER's

ON TAPE
7 OR 6 ?

This statement in front of the 20 or so subordinates of Carter (OSOS) to whom the Shift supervisors, reactor operators, plant operators as well as all the other department support staff report is, in the words of GPC, "incredible".

SECTION III.6 e
Containment Isolation Valves
Mode Change (5 to 6) Violation
RHR Pump inoperability

GPC/SONOPCO

Response Summary ----- We didn't conceal anything. We reported these events to the NRC except the RHR event because it didn't occur. We explained that to the OSI and Westinghouse said we were right too.

Perhaps the petitioners wording in the petition was insufficient to state the kind of "concealment" alleged. Certainly after the OSI both the NRC and GPC clearly know that what was alleged concealed, was that the Tech Spec violations were made "knowingly". They are examples of "taking LER's" to "get a lot of work done". Nonetheless GPC uses this legal loophole to evade answering for the seriousness of the issue.

Section III.7
Safeguards Documents

Concealment of Problems
AND
Failure to Report

GPC/SONOPCO

Response Summary----- We can't figure out what events the Petitioners are talking about but we have reported several problems. Corporate said they weren't reportable anyway but to please the Security Manager we reported them so he "was not prevented from reporting" as alleged.

Specifically GPC/SONOPCO's response at II.A page 3, last sentence of that section states:

"Notwithstanding these differing opinions,

the events were reported : the events were not concealed, and the Security Manager was not prevented from reporting them."

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This is false. Reporting of loss or compromise (by improper handling or control) of safeguards documents that could "significantly assist" in an "act of radiological sabotage" is required under NRC regulation 10CFR73.71 to be reported to the NRC operations center within 1 hour of the time of discovery. NUREG 1304 further defines "discovery" and "reasonable suspicion" to clarify that a 1 hour notification is required when there "is some logical or factual basis" to believe that significant safeguards documents were lost or compromised.

The security manager was prevented from reporting (Red Phoning) the event on 7-23-90 until 16:13 when he had indeed determined that it was reportable at approximately 10:30 and as such violated the reporting requirements by not placing the call by 11:30 on 7-23-90. His determination of improper control of significant safeguards information at 10:30 is documented by tape recordings originals of which are in the possession of the NRC.

GPC/SONOPCO must explain why they intentionally prevented the Vogtle Security Manager from complying with NRC regulations and reporting within 1 hour the event he deemed reportable at 10:30.

Equally as disturbing is the fact that on 7-19-90 Allen Mosbaugh who was the most knowledgeable individual at Vogtle on NRC security regulations and "safeguards information" requirements (having managed those areas since 1986) put Tom Green, Bill Shipman, and Paul Rushton on notice on 7-19-90 that a Red Phone notification was required for the loss of control of "significant safeguards" documents in Birmingham. They were the responsible management authorities for the event with Tom Green having line authority over security. They took no action and ignored Mr. Mosbaugh's notice. They countered by offering the excuse that Vogtle was under a grace period granted at the 5-22-90 enforcement conference.

Mr. Mosbaugh who had attended the 5-22-90 enforcement conference, stated that no such grace period on Red Phoning was discussed or granted at the enforcement conference. Still they took no action.

Shipman and Rushton stated that the engineer, Amy Streetman, in Birmingham who had notified the site of the safeguards problem was fairly junior and inexperienced and therefore not knowledgeable of the problems. Interestingly enough this is the same engineer GPC/SONOPCO credits with questioning the Security Managers judgment about the significance of the safeguards documents in their response.

#213
P2
L19

GPC states:

"The licensing engineer questioned this conclusion and advised the Security Manager to discuss the matter with his management."

Actually what the licensing engineer said was "Don't call the NRC on this , I'm over here in SCS and there is a problem here" and then "you have to call Shipman or Bailey before you call the NRC."

Since neither Shipman or Bailey was in the Security Managers line Management, one wonders what GPC means. Its fairly clear what the licensing engineer meant, "Don't call the NRC."

The above is documented by tape recordings originals of which are in the possession of the NRC.

GPC/SONOPCO must explain why they intentionally violated NRC regulations for reporting safeguards events after they had been informed of a reportable event by a Vogtle Manager who was an authority on security regulations. They must explain why they did not report the event within 1 hour on 7-19-90.

False Statement at
Enforcement Conference
and concealment of
problems.

GPC/SONOPCO

Response Summary----- Mr. McCoy identified locations of two safeguards containers in Birmingham. He forgot a third location but then corrected himself. He also forgot about a fourth location which was later found to have safeguards documents but did not have any on or before 5-22-90. Mr. Mosbaugh must have been listening in on a conversation on 8-29-90 when we were talking about that and he is simply wrong.

GPC/SONOPCO's response really misses the mark here and goes off on a tangent explaining an irrelevant statement made by McCoy. This must be in an attempt to evade the real issue, the one stated in the petition:

"Moreover the SONOPCO Vice President made false statements about the status of safeguards material in Birmingham, Alabama."

The allegation concern is "status" not the "locations" of the safeguards documents.

GPC/SONOPCO must explain why McCoy stated in the Enforcement Conference that:

"We have reviewed the controls in corporate-- in Birmingham and safeguard documents there are all controlled by document control under a sound program."

when in fact that was not true. The Birmingham controls were less than sound as evidenced by problems reported in the Red Phone notification on 7-23-90, the LER 90-03S, the additional problems admitted in GPC's response to Notice of violation 90-11 as well as security reports 4243-90 and 4159-90, all of which describe the problems of safeguards document controls in Birmingham.

These problems were under Mr. McCoy's area of responsibility and control, problems that occurred before the enforcement conference, problems that had even been discovered, recognized and investigated before the enforcement conference such as the open and unattended SCS safe event which was well known to Bill Ramsey SCS Manager of Vogtle Engineering.

GPC/SONOPCO must explain why Bill Ramsey a high level Manager of Engineering in SCS for Vogtle who was thoroughly familiar with the unattended safeguards safe incident of Nov. 1989 in Birmingham did not assure that it was reported to security at the site and to the NRC as required.

As stated in the Petition, McCoy's assurances on 5-22-90 that the controls in the Birmingham corporate offices "were sound" and therefore the safeguards problem was confined to Vogtle site and to the one significant event, "the Prestifillipo safe", materially affected the NRC's action and the amount of the civil penalty imposed.

On another phone call on or about the period 7-23 to 7-30 the licensing engineer who was continuing to investigate the multitude of safeguards problems in Birmingham stated "It's still unraveling and it's real bad." In a subsequent call in that period with the site on the Birmingham safeguards problems, the SONOPCO Licensing Manager stated "Potential breakdown? It's not potential."

GPC/SONOPCO must also explain why the lack of safeguards controls in SONOPCO Birmingham and the conditions at the design agencies in Birmingham, Gaithersburg, Los Angeles, and Atlanta are not indicative of a Programmatic breakdown of safeguards controls.

GPC/SONOPCO must explain the breakdown of controls at the above locations in relationship to their affect on the other licensed facilities, Hatch and Farley.

GPC/SONOPCO must explain all this instead of "missing the mark" in their response.

SUMMARY:

GPC/SONOPCO characterizes the "safeguards" events as "historic" and fails to address the issue of McCoys false statement. The most important issue here is not "historic". It is the deceptive and untrustworthy nature of GPC/SONOPCO management which contrary to the GPC response does "rise to the level of substantial safety issues" as discussed in 10 CFR2 Appendix C, item V. B&C .

Section III.8
"FAVA" Radwaste system

GPC/SONOPCO-----
Response Summary

The FAVA system was initially installed in 1988 and removed from service after QA found significant problems with it meeting quality requirements. FAVA was then reinstalled under a satisfactory safety evaluation and has now been replaced with a new system that meets all requirements. Applicable accident analysis for the ARB was covered in initial licensing and the SER supplements 3, 4, & 8. George Bockhold did not intimidate the PRB even though one member said so. Bockhold later addressed the PRB and stressed the importance of their independence in voting. The PRB vote didn't matter anyway because they are just an advisor to the General Manager.

GPC/SONOPCO state specifically in their response
page 1 item II fifth paragraph:

"The basis on which this issue can be disposed of is the fact that the temporary FAVA system was taken out of service at Vogtle in August, 1990."-----"Therefore no health and safety issues exist."

GPC can not dispose of this issue so easily. The manager of Chemistry and Health Physics Ron LeGrand (who holds a SRO license) was informed prior to the initial installation of FAVA, that the system did not meet NRC regulations. LeGrand

authorized the installation anyway.

GPC/SONOPCO must explain why Mr. Legrand knowingly and willfully violated NRC regulations.

GPC/SONOPCO state specifically on page 2, item III :

"When the system was returned to service in 1990, its safety evaluations were adequate and its use was recommended by the PRB."

This is a false statement. The safety evaluations were inadequate as exhaustively detailed by technical arguments presented in the numerous quality concerns filed by Mr. Mosbaugh. The inadequacy was also admitted by the SONOPCO manager of engineering and licensing, Paul Rushton to Allen Mosbaugh in March of 1990. Because of the significant inadequacies, the safety evaluations were redone several times and even as late as August 1990 the safety evaluation was so inadequate that it mistakenly assumed that radioactive leakage from the ARB would flow directly into the Savannah River from the "Plant discharge" instead of in the opposite direction thru storm drains leading to Beaver Dam Creek.

Also during the OSI, GPC admitted in discussions and its white paper that the safety evaluations were defective. NRC resident Ron Aiello stated to Allen Mosbaugh in August 1990 that GPC's then current safety evaluation was inadequate.

GPC/SONOPCO must explain why Pat McDonald has made another false statement.

GPC/SONOPCO specifically state on item II, page 2 ,second paragraph:

"As a result, the General Manager addressed all PRB members and reinforced the importance of their independence in voting"

Actually what occurred was Bockhold requested that only full members (no alternates) attend a PRB meeting. Bockhold briefly covered the issue of intimidation with the board, emphasized independence, stated that he had done nothing wrong complying with Vogtle procedures on handling non-unanimous votes, and then stated that he planned to make no changes with his intervention in board meetings.

He then stated that "I know none of you are intimidated by my presence, if any of your alternates have a problem with that then you need to get a new alternate".

With that Bockhold disposed of the intimidation issue and if the members of Board were not intimidated before, they certainly were thereafter.

GPC/SONOPCO must explain why they did not characterize the General Manager's arrogant and intimidation address to the Board in its true light.

GPC/SONOPCO must explain why the inadequacies in the design, procurement, construction, materials, installation and in the contractor services to modify and reinstall FAVA, were not reported under 10CFR21 to the NRC. This is significant as the FAVA company has supplied equipment and services to other NRC licensed facilities including Plant Hatch.

Section III. 9
Taking Risks and
not Investigating
events.

GPC/SONOPCO

Response Summary ----- The petitioners allegation is broad and gives no facts. Recently the NRC said we were doing well in this area so the allegation is without merit.

GPC says there are no facts or examples, well perhaps not in section III.9 but this is a statement of deduction and conclusion from all the examples III.1 thru III.8. Again GPC/SONOPCO has chosen to duck the issue and hide behind the recent NRC reports. Perhaps GPC has improved in recent months (under the pressure of these issues that is not surprising), but this allegation is to the previous period.

With respect to GPC/SONOPCO's statements that:

" Mr. Mosbaugh though stands alone in claiming retaliation as a result of divergent views on a technical matter"

one need only look at recent section 210 cases filed against GPC/SONOPCO to cast that statement a lie.

The record shows that Yonkers/Fusco raised nearly identical technical security issues (improper control of safeguards information) as Mosbaugh in their Section 210 case against GPC for which they claimed retaliation. Their claim was substantiated by the US DOL Wage and Hour investigation. So clearly Mosbaugh does not stand alone.

Moreover in the 1990 Southern Electric System PPP survey (in which employees can answer confidentially) the flavor of fear from retaliation comes out loud and clear.

Question 51---Employees are afraid to voice an opinion that management does not want to hear.

Vogtle Specific response: Of 334 responses 73% of the people agreed with the statement as follows:

30% strongly agreed
22% agreed
16% slightly agreed

13% slightly disagreed
10% disagreed
4% strongly disagreed

Question 65--- I am afraid to voice an opinion that my management does not want to hear.

Vogtle Specific response: Of 331 responses 52% of people agreed with the statement as follows:

16% strongly agreed
16% agreed
20% slightly agreed

12% slightly disagreed
25% disagreed
11% strongly disagreed

GPC/SONOPCO must explain why they continue to make false statements about Mr. Mosbaugh.

SUMMARY: From the 2,206 Petition and the allegations by this petitioner against GPC/SONOPCO's response to our petition are identified the following numbers of examples of extremely serious allegations:

- 14 False Statements made by GPC/SONOPCO Officers in writing to the NRC including statements willfully false.
- 5 Willful Violations of Technical Specifications
- 3 Examples of Failure to properly and timely report safeguards events to the NRC as required by regulations

- 2 Examples of failure to properly and timely report Part 21 defects to the NRC
- 1 Willful Violations of other NRC requirements.
- 1 Example of withholding Significant Information not associated with the above false statements

How many violations does it take of this kind to conclude that this licensee has not "achieved the meticulous attention to detail and the high standard of compliance which the NRC expects" and is a "serious case where the licensee's actions in not correcting or providing information raises questions about its commitment to safety and its fundamental trustworthiness" ?

In cases such as these the full measure of NRC enforcement sanctions and orders as discussed in 10CFR2 Appendix C items V and VI should be applied to modify, suspend or revoke GPC/SONOPCO's license.

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July 8, 1991

Hon. Ivan Selin, Chairman
Mr. James M. Taylor, Executive Director for Operations
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Amendments to Petitioners Marvin Hobby's and
Allen Mosbaugh's September 11, 1990 Petition;
and Response to Georgia Power Company's April
1, 1991 Submission by its Executive Vice
President, Mr. R.P. McDonald

Dear Sirs:

On September 11, 1990, Messrs. Marvin B. Hobby and Allen L. Mosbaugh filed a petition with the United States Nuclear Regulatory Commission (hereinafter "Petition"). The Petition requested that the Commission investigate allegations set out in the Petition and determine, inter alia, whether the Georgia Power Company ("GPC" or "licensee") possessed the requisite "character, competence, fundamental trustworthiness and commitment to safety to operate a nuclear facility."

Pursuant to 10 C.F.R. §2.206, the Petition was referred to the Director of the Office of Nuclear Reactor Regulation. On February 28, 1991, Mr. Steven Varga of the Office of Nuclear Reactor Regulation sent to Mr. W. G. Hairston, Senior Vice President, Nuclear Operations, a Request for Additional Information Regarding the 10 C.F.R. 2.206 Petition. A copy of this letter is appended hereto as Attachment 1. This letter

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requested GPC to submit additional information concerning the Petition "under oath or affirmation" to the Nuclear Regulatory Commission ("NRC") by April 1, 1991. On April 1, 1991, GPC's Executive Vice President, Nuclear Operations, Mr. R.P. McDonald, responded under oath.^{1/}

Unrefutable evidence demonstrates that McDonald's Response contains numerous verifiable material false statements.^{2/} Petitioners have already provided such evidence to the NRC's Office of Investigations ("NRC-OI").^{3/}

Inasmuch as clear and convincing evidence exists that Mr. McDonald made material false statements to the NRC, the question that should be asked is why. Petitioners hereby allege that the material false statements contained in the Response were intended to cover-up intentional wrongdoing on the part of GPC and to otherwise obstruct the NRC's on-going investigations into the

^{1/} The response is entitled "Vogtle Electric Generating Plant Regarding Petition of M.B. Hobby and A.L. Mosbaugh" and is hereinafter referred to as the "Response" or "McDonald's Response"

^{2/} Petitioners adopt the definition of a Material False Statement set out in 10 C.F.R. Ch.1, Supplement VII, A(1), Fn. 15 ("a statement that is false by omission or commission and is relevant to the regulatory process.")

^{3/} NRC-OI staff investigators have notified Petitioners' counsel that the public release of the evidence petitioners have already supplied to NRC-OI would seriously compromise NRC-OI's on-going investigation into the allegation that GPC's Executive Vice President's April 1, 1991 Response contains material false statements. Having cooperated with the NRC in its investigation of GPC and respecting this request, Petitioners, at this time, will not make public the factual basis substantiating this allegation. Nonetheless, Petitioners respectfully request that this information be considered by the Commission when deciding whether to issue a show cause order.

allegations set forth in Petitioners' September 11, 1990 Petition.^{4/}

Given the seriousness of this allegation and the potential safety consequences stemming therefrom, Petitioners believe that the public and the NRC are entitled to a speedy investigation and resolution of the allegation that Mr. McDonald submitted material false statements when responding to Petitioner's September 11, 1990 Petition and that these false statements were made with the intent to derail on-going NRC investigations (i.e., obstruct justice).

Pursuant to 10 C.F.R. §2.206 and §2.202, Petitioners hereby request that the Commission issue an Order to Show Cause why GPC's licenses should not be modified, suspended or revoked for obstructing on-going NRC-OI investigations and for intentionally submitting material false statements to the NRC made under oath by GPC's Executive Vice President. Petitioners believe that immediate action is warranted based on the evidence and documentation already provided to the NRC by petitioners.

In support of Petitioners' allegations, the following information is provided:

^{4/} Intentional obstruction of an NRC investigation by a licensee is a most serious allegation and reverts back to the initial question raised by Petitioner: in the September 11, 1990 Petition (i.e. whether GPC's current management has the requisite character, competence and fundamental trustworthiness needed to operate a nuclear facility in a safe manner). For this reason, Petitioners request that the allegations contained herein be consolidated with the allegations set out in Petitioners' September 11, 1990 Petition.

- I. GPC's Executive Vice President Has submitted material false statements to the NRC when responding to allegations raised by Petitioners in their September 11, 1990 Petition.

1. GPC's Senior Vice President, George Hairston, knew that LER 90-006 contained a material false statement at the time of its submission and GPC's Executive Vice President submitted a material false statement intending to cover-up Mr. Hairston's culpability

[This allegation is not contained in petitioners earlier submissions and should be viewed as an amendment to the September 11, 1990 Petition]

Mr. McDonald's sworn Response defends Mr. Hairston's actions in sending Licensee Event Report ("LER") 90-006 to the NRC by emphatically stating Mr. Hairston did not participate in an April 19, 1990 conference call when the diesel generator start information was discussed prior to the submission of LER 90-006. According to Mr. McDonald's sworn Response: "The wording [of the LER] was revised by corporate and site representatives in a telephone conference call late on April 19, 1990...Mr. Hairston was not a participant in that call." Petitioners have recently submitted information to the NRC's Office of Investigation ("NRC-OI") demonstrating that Mr. McDonald's sworn Response with respect to Mr. Hairston's participation in this April 19, 1990 conference call is absolutely false.

The truth is that Mr. Hairston did participate in the April 19, 1990 conference call and he did have first hand knowledge of the fact that the information regarding the start data of the diesel generators was false and inaccurate at the time LER 90-006

was submitted to the NRC under Mr. Hairston's signature. Mr. McDonald's sworn statement to the contrary constitutes a material false statement made with the intended purpose of derailing ongoing NRC-OI investigations into the submission of false information in LER 90-006. This fact demonstrates that GPC's management does not possess the requisite character, competence, fundamental trustworthiness or commitment to safety to operate a nuclear facility.

2. Mr. McDonald sought to cover-up GPC's culpability by blaming Mr. Mosbaugh for higher management's intentional act of submitting false information to the NRC in LER 90-006

The material false statements contained in Mr. McDonald's sworn Response not only sought to defeat the allegations raised by Petitioners, but were crafted in an insidious manner such as to cast blame on Petitioner Mosbaugh to cover-up the improper conduct of his superiors with respect to the submission of a material false statement to the NRC when GPC submitted LER 90-006. In particular, Mr. McDonald's sworn Response asserts that:

Not until April 30, 1990 does it appear that Mr. Mosbaugh articulated for the benefit of his management that the diesel engine start count data contained in the LER was inaccurate...To the extent Mr. Mosbaugh has concerns about the substance of [LER-90-006]...he had the opportunity [since April 18, 1990] to suggest corrective language but, apparently failed to do so.

* * *

If, as he now alleges, Mr. Mosbaugh truly had concerns related to the original LER, his inaction on April 18 (at the PRB), in the April 19 telephone conference, and his April 30 assignment from his General Manager to

provide revised LER language, provided him numerous opportunities to direct revision or to revise the alleged 'false statements.' This he failed to do.

Response Section IIb at pp. 4-5 (emphasis added).

These assertions are patently false and libelous and GPC knew or should have known they were false and libelous when made. The verifiable truth is that on April 19th, 1990, Mr. Mosbaugh and his staff advised GPC's management that the diesel engine start count data contained in LER 90-006, if submitted, would constitute a material false statement.^{2/}

In conclusion, Mr. McDonald's sworn Response makes a series of false and misleading statements calculated to shift blame for the submission of false information in LER 90-006 from GPC to Petitioner Allen Mosbaugh, and to otherwise cover-up GPC's actual culpability with respect to the submission of a material false statement made in LER 90-006. Mr. McDonald's failure to state in the Response that SONOPCO's highest levels of management were put on notice prior to the submission of LER 90-006 that the start count data contained in said LER was false, and that they received said notice by Mr. Mosbaugh, demonstrate beyond reasonable doubt that Mr. McDonald intentionally submitted false and misleading information under oath to the Commission with the intent of covering up GPC's intentional wrongdoing and derailing

^{2/} Not only did Mr. Mosbaugh identify the fact that a material false statement was about to be submitted in LER 90-006, he and his staff further advised GPC management that the Confirmation of Action Letter ("COAL") sent out under Mr. Hairston's signature on April 9, 1990 also contained a material false statement.

the NRC's investigation into the inclusion of the false diesel start data contained in LER 90-006 -- an investigation initiated by Mr. Mosbaugh.

II. Mr. McDonald provided false testimony under oath during Section 210 proceedings to cover-up intimidation and retaliation against whistleblowers

1. Mr. McDonald Made False Statements Concerning His Knowledge of the Method Used to Select the SONOPCO Project Vice President of Technical Services and Vice President of Administrative Services

[This information is not contained in petitioners earlier submissions and should be viewed as an amendment to the September 11, 1990 Petition]

On December 23, 1988, Mr. McDonald, under oath, gave a deposition in the Fuchko/Yunker Section 210 case and asserted therein that he was not involved in the selection of Mr. Long as the SONOPCO project Vice President of Technical Services or Mr. McCrary as the SONOPCO project Vice President of Administrative Services. In particular, Mr. McDonald testified as follows:

Q: Who selected the administrative and technical services vice-presidents?]

MR. MILLER [Counsel to GPC]: Who, as in a person, or who as in a company?

Q: What person selected those people, the people in those positions?

MR. MILLER: If there is such a person and you know them you may answer.

A: I don't know.

Q: So you did not select them.

A: No.

Q: Who are the vice-presidents for those services?

A: Charles McCrary and Lewis Long.

Q: And Charles McCrary is Vice-President for what?

A: McCrary? Administrative Services.

Q: Okay. How about Lewis Long, is Technical Services?

A: Yes. Now let me qualify my statement, in saying that I don't know. The selection of those people is under the authority and responsibility of the Southern Company Services. I imagine in the normal course of events that selection is officially made by the President of Southern Company Services. There may have been other arrangements that I am not aware of, but I think that that was true.

December 23, 1988 Deposition of R.P McDonald at pp. 12-13

(Emphasis added).^{6/}

Yet, during the course of the Hobby proceedings, Mr. McDonald readily admitted that he was well aware of the arrangements used to select Messrs. Long and McCrary as SONOPCO project vice presidents, and, that it was he, Mr. McDonald, who personally made the request to the Southern Company Services Board of Directors that Messrs. Long and Mr. McCrary be named as SONOPCO project vice presidents:

Q: [By M. Kohn] Were you involved in the selection of Mr. Long as Vice President of Technical Services?

^{6/} Mr. McDonald's false assertion that he did not know who or how the SONOPCO project vice presidents were selected goes hand-in-hand with his false testimony regarding the staffing of the SONOPCO project. See, Section II.2, supra. The fact remains that, just as Mr. McDonald falsely asserted that he played no role filling vacancies at the SONOPCO project, so too did he submit false testimony about his knowledge about how the Vice Presidents of Technical Services and Administrative Services were selected.

A: For that position, yes.

Q: Were you involved in the selection of Mr. McCrary for Administrative Services?

A: Yes.

* * *

Q: Other than the Board of Directors who else are you aware of who had a role in the selection of Mr. Long?

A: No one that I know of.

Q: Just you?

A: Well, I might have discussed it with other people but I was the one who requested that he be considered for that position by the Board of Directors.

Q: And as to Mr. McCrary --

A: Same.

McDonald May 7, 1990 Deposition at pp. 12-13.

As such, Mr. McDonald's testimony during the Yunker/Fuchko proceeding to the effect that he, Mr. McDonald, did not select Messrs. McCrary and Long as SONOPCO vice presidents and that he could only "imagine" that they were selected by the Southern Company Services President,^{1/} stands in absolute contradiction to Mr. McDonald's testimony during the Hobby proceeding that it

^{1/} What is absolutely astounding is that Mr. Farley testified that he was not sure whether Southern Services Company President, Mr. Franklin, played any role in the selection of the Technical Services Vice President, as the following excerpt demonstrates:

Q: Who selected Mr. Long?

A: I would say it was a joint determination by all the people concerned...myself, Mr. [Grady] Baker, Mr. McDonald and I'm not sure whether Mr. Franklin was formally involved from the Services Company or not...

5/7/90 Farley Deposition at p. 43-44.

was he, Mr. McDonald, who personally recommended to the Southern Company Services Board of Directors that Messrs. Long and McCrary be named as SONOPCO project Vice Presidents.

2. Mr. McDonald Made False Statements about the method used to staff the SONOPCO project

When responding to Section III.4 of Petitioner's September 11, 1990 Petition, Mr. McDonald claims that his testimony regarding the selection of the SONOPCO project staff was "general" and "generic" in nature even though he failed to use words such as "generally" or "normally" when testifying.^{8/} Mr.

^{8/} Any attempt, at this late date, for Mr. McDonald to claim that he was only describing a "general" process or a "generic" process and not "the process" rings hollow in face of the actual testimony provided by Mr. McDonald on October 25, 1990 -- after Georgia Power had received the September 11, 1990 Petition containing the allegation that Mr. McDonald had committed perjury with respect to his Yunker/Fuchko testimony regarding the method used to select the SONOPCO project staff. Indeed, even after the Petition was filed, Mr. McDonald testified as follows:

Q: I want to turn your attention to the way people were selected for the SONOPCO project, and it's my understanding that the way that process was done is that the vice presidents were selected, and then they selected the general managers who then selected the managers who then picked their supervisor some sort of tiering effect, is that correct?

A: That's correct...The plan for selecting people for the various jobs was worked out ahead of time with the vice presidents and Mr. Hairston, and that plan was -- we had selected Mr. McCoy as vice president, and then vice presidents were to select the next level under them, and then they would participate and be the key person to make selections in the organizations beneath them, so that each of the managers would select the people who worked for them.

Q: Isn't it true that people got job offers shortly after that meeting between Mr. Beckham, Mr. McCoy and Mr. Hairston?

(continued...)

McDonald goes on to assert that he did not intend to assert that a "lock-step" method was used to fill every SONOPCO staff position because there was "one exception" to this normal tiering process. Mr. McDonald is not telling the truth. A thorough investigation will demonstrate that the tiering process Mr. McDonald testified to on four separate occasions did not occur.^{2/} A thorough investigation will demonstrate that there was effectively no tiering process employed when the Vogtle and Hatch SONOPCO project positions were staffed. In this regard, Mr. McHenry testified during the Hobby hearing that he had first hand knowledge of the selection process used to staff the SONOPCO project and that he was given lists of names of individuals who were selected not in a tiering "top down" manner, but during a two day session attended by four SONOPCO project vice Presidents, Mr. McDonald, Mr. Hairston, Mr. McCoy and Mr. Beckham. Mr. McHenry's testimony is clear with respect to the fact that these

^{2/}(...continued)

A: I don't know which meeting you're referring to.

Q: The two-day planning session that I talked about earlier.

A: I was not part of the detailed planning and selection process. I don't know.

Hobby hearing Tr. at p. 620.

^{2/} The first time Mr. McDonald testified that the SONOPCO project staff was selected in a tiering process occurred when he was deposed prior to the Yunker/Fuchko hearing; the second time occurred during the Yunker/Fuchko hearing itself; the third time occurred at a deposition prior to the Hobby hearing; and the fourth time occurred during the Hobby hearing itself. Transcript excerpts of this testimony can be found as Attachment 2.

four vice presidents met privately and filled in skeleton organizational charts with the names of individuals that they decided would staff the Vogtle and Hatch portions of the SONOPCO project; and that Mr. McHenry was then personally handed lists of the individuals selected by the vice presidents with instruction to present them with job offers (which he did), and that this was the process used to selected essentially the entire SONOPCO staff for the Vogtle and Hatch projects. Hobby Hearing Transcript at pp. 284-287 (a copy of the relevant Hobby hearing transcript pages are appended hereto as Attachment 3). Also see McHenry Affidavit ("...the decisions as to staffing were made by Messrs. George Hairston, Tom Beckhan and Ken McCoy. They met for two days at the 270 Peachtree Street Building, took an organization chart, and filled in names from the top of the organization to the bottom...").^{10/}

^{10/} GPC attempts to make much of the fact that Mr. McHenry was only present for two hours of a two day meeting and that he admitted that one other manager, Mr. Len Gucwa, also attended the meeting. But, the only evidence GPC relies upon to refute the allegation is what could have happened. GPC never admits to what did happen during the two day meeting of the vice presidents. Indeed, the strongest evidence GPC offers is that "Mr. McHenry conceded that the executives could have consulted with the appropriate levels of management concerning personnel evaluation either prior to or during that meeting." Response at p. 3, § III.4. The fact remains that Mr. McHenry watched what did happen during a meeting of these four vice presidents; he observed first hand their filling in skeleton organizational charts and determining who would be offered what jobs. What "could" have happened when he was out of the room is speculative at best. In the face of clear and convincing evidence of what did happen, GPC was in a position to submit the best evidence to resolve this allegation -- sworn statements from Messrs. Hairston, McCoy and Beckham to refute Petitioners' assertion that the staffing was performed as Mr. McDonald testified -- but GPC failed to do so. It
(continued...)

Moreover, Mr. McHenry's testimony was corroborated by testimony given by Mr. Farley after the September 11, 1990 Petition was filed:

Q: Now, Mr. Farley, I'm going to show you a document if you can identify it, please. I'm going to ask you to turn to Page 60 of that document. Could you identify the document?

A: The document is labeled Deposition of Joseph M. Farley, the proceeding is the Civil Action File Number 90-ERA-30, Marvin Hobby, Complainant, Versus Georgia Power Company, Respondent.

Q: Okay. Now, would you read the last question of Page 60 and the answer?

A: That's the question at Line 21?

Q: Yes.

A: Question: "My question is, was there a formal selection process, and whether or not they choose people under them who were already there is not my question. The question is was there a formal selection process where the heads of organizations were selected first, the next tier of the organization was selected by the preceding tier, and so on down the line until the entire SONOPCO project was staffed."

Answer: "No, sir."

Q: And is that a true statement?

MR. JOINER: Your Honor, Mr. Kohn hasn't asked Mr. Farley about this subject matter, and I don't know why he's asking him to read deposition testimony about that subject when he hasn't asked about it in the hearing.

^{10/}(...continued)
is more than appropriate for the NRC to draw an adverse inference from GPC's failure to provide these statements. See J. Wigmore, Evidence, §285 (3d ed. 1940); Rockingham Machine-Lunex v. NLRB, 665 F. 2d 303, 305 (8th Cir. 1981) (if a party has relevant information within his or her control, but fails to produce it, an adverse inference that the evidence that could have been produced is unfavorable to the party who fails to produce it).

JUDGE WILLIAMS: I don't know either. Let's see.

Q: Is that a true statement?

A: As I understood the questions you asked, yes, sir, that's a true statement.

Hobby Hearing Tr. p. 584-585.^{11/}

In sum, Mr. Farley's testimony demonstrates that the SONOPCO project staff stationed in the SONOPCO Birmingham, Alabama offices were not selected by a tiering process, but were selected by Messrs. McCoy, Hairston, Beckham and McDonald.^{12/}

It is clear by the facts on the record -- the sworn testimony of Messrs. Hobby, McHenry, and Farley -- that Mr. McDonald gave false testimony when he testified that a rigid "tiering process" was used to staff the SONOPCO project.

^{11/} During the hearing, GPC had an opportunity to re-question Mr. Farley and clarify the record, but failed to do so. Moreover, GPC failed to call Messrs. Hairston, Beckham and McCoy to refute Mr. McHenry's unequivocal testimony regarding what had occurred during the two day meeting where the staff of the SONOPCO project was chosen.

^{12/} Mr. Farley's deposition testimony specifically notes that, with respect to the SONOPCO staff stationed in Birmingham, Alabama, a tiering process was not employed, as the following excerpt makes clear:

Q: When we have been discussing staffing, we're always talking about the staff being in place. Well, it's my understanding that's correct at the plants themselves but everyone who is moving to Alabama, okay, on the corporate side, you...renovated a building there, correct, and it was now being staffed? How were the people who were moving to Alabama selected...Who chose to make the promotions and to move them around?

A: The appropriate level. Primarily Mr. McCoy and Mr. Beckham with input from Mr. Hairston and Mr. McDonald and from Human Resources.

Farley Depo. at pp. 75-77.

The key aspect behind Mr. McDonald's false testimony is that GPC sought to defend itself against the Section 210 complaints filed by Messrs. Yunker and Fuchko by asserting that they could not have been discriminated against because the managers who would be tasked with staffing the positions Messrs. Yunker and Fuchko could fill had yet to be selected, and, given the tiering process, Messrs. Yunker and Fuchko could not have been offered jobs until after these managers were selected.^{13/}

III. GPC misled the Commission about the chain of command from the Vogtle Project's Plant Manager to its CEO.

GPC's response to the September 11, 1990 Petition allegation that Mr. McDonald misled the Commission during the Plant Vogtle licensing hearings held before the Commission boils down to two assertions: First, that Mr. McDonald's response to a concern raised by then Commissioner Carr during the Plant Vogtle licensing hearings that the chain of command over Plant Vogtle had too many layers between the plant manager and the CEO, was not significant enough matter to have had a material impact on the licensing of Plant Vogtle. Petitioners respectfully submit that, whether misleading the Commission about the chain of

^{13/} Whether or not Messrs. Yunker or Fuchko were, in fact, discriminated against is irrelevant to the present matter. Rather, petitioners are concerned by the fact that GPC's Executive Vice President was willing to -- and did -- manufacture evidence in order to help defeat a Section 210 whistleblower case. At a minimum, Mr. McDonald's conduct would constitute a Severity Level I violation. See 10 C.F.R. Part 2, App. C, Supplement VII Severity Categories A.4 (defining a level I violation as including "Action by senior corporate management in violation of 10 C.F.R. 50.7 or similar regulations against an employee").

command could have had a material impact on the licensing of the plant is not an answer Georgia Power can provide and, with respect, is not a matter for Georgia Power to decide.

Second, GPC states that the staff of the NRC already knew about the GPC organization. While that may be so, it is the Commissioners, and not staff, who must decide and vote on whether to license a plant. A Commissioner expressed "a management concern" over the reporting structure between the Plant Manager at Vogtle and the CEO." Mr. McDonald provided incorrect information to the Commission by leaving out one entire layer of management. Even so, Commissioner Carr responded, "I still have my concern, I guess." See Transcript of March 10, 1989 hearing at pp. 33-35.

The fact remains that during the licensing of Plant Vogtle, Commissioner Carr expressed a management concern that the Plant Manager was a "long way" from CEO, and when questioned about the chain of command by Commissioner Carr, Mr. McDonald provided incorrect information in response to the Commissioner's question. Even if Mr. McDonald's incorrect response was inadvertent, the fact remains that the plant General Manager; Vogtle project Vice President, and GPC's President/CEO stood mute and did not correct the false information Mr. McDonald volunteered to the Commission. The fact remains that GPC choose not to correct the record until after the Commission voted to license Plant Vogtle.

Mr. McDonald's attempt to shift blame to Mr. Hobby by asserting that he should have raised this matter to GPC

management is a decoy. By the time he learned of the fact that Mr. McDonald had misled the Commission about the reporting chain at Plant Vogtle, he was already pursuing an even greater concern regarding who was the CEO responsible for plant Vogtle and the other GPC nuclear power plants. Specifically, Mr. Hobby had made internal allegations to his management that Mr. McDonald was no longer reporting to GPC's President, but had begun reporting directly to a Southern Company Services executive, Mr. Joe Farley. Indeed, Mr. Hobby raised this concern in a confidential memo dated April 27, 1989 -- which was co-signed by a then GPC Senior Vice President. Moreover, by the time Mr. Hobby learned from Oglethorpe Power Corporation ("OPC or Oglethorpe") that Mr. McDonald had misrepresented the chain of command to the NRC, he was already being subjected to retaliation by GPC's and SONOPCO's top executives, as is evident in the contents of a July 8, 1989 letter Mr. Hobby wrote to Admiral E.P. Wilkinson. This letter discusses the events occurring in the April/May 1989 time frame as follows:

About this time, I was going up to George Head's office on the 24th floor and the Executive Vice President for External Affairs saw me and we started talking. His name is Dwight Evans and he is pretty close to Dahlberg. Dwight said that if he were me he would start looking for another job in the company because he had heard that McDonald and Farley were out to get me fired or out of the job I was in.

I reported to George and he said we had to talk to Dahlberg and Grady before they met with Farley. He tried but failed. He then suggested that I might go to Grady and tell him what we had heard and what our concerns were and try to get a meeting with Grady and Dahlberg. I went to see Grady and asked for a meeting. He said it was not necessary. I said something like Grady, the rumor is going around that

McDonald and Farley are after my job. Won't you at least talk to George and me? He jumped up from his chair, threw his arms up high, laughed and continuing to laugh said, "Hobby, what can I say?" And he then walked out of the room."

A copy of the June 8, 1989 letter to Adm. Wilkinson is appended hereto as Attachment 4 (Mr. Baker did not deny the incident when testifying at the Hobby hearing (he rather testified that "It May have happened." Hobby Hearing Tr. at p. 689).^{14/}

^{14/} Another example of the atmosphere of harassment and intimidation (and Mr. Farley's role in managing GPC's nuclear operations) is further underscored by events surrounding Mr. Hobby's role in negotiating a resolution to Oglethorpe Power's objections to the incorporation of SONOPCO (the negotiations were aimed at getting Oglethorpe to withdraw an intervention petition it filed with the Securities and Exchange Commission to block the incorporation of SONOPCO). These negotiations had been ongoing for years, but, by August of 1989 had come to a standstill. In getting permission from the Senior Executive Management of Georgia Power Company to restart the negotiations, Mr. Hobby was told by Mr. Baker that he had to keep the negotiations secret from Mr. Farley and Mr. McDonald as the following testimony of Mr. Baker confirms:

Q: Did you alert Mr. Hobby to the fact that he should not tell SONOPCO that the negotiations had commenced?

A: Yeah, I probably did tell him that.

Q: Why?

A: Well, I think because of, you know, SONOPCO's reaction to Mr. Hobby and that they probably would, you know, probably would have complicated the matter.

(Baker deposition, May 23, 1990, at p. 54).

Mr. Baker's testimony demonstrates that the senior GPC management was well aware of the environment which Mr. Hobby described earlier and would not, or could not, affect any change.

Mr. Hobby's reason for not immediately going to Mr. McDonald for correction of the reporting chain at Vogtle is obvious, but why GPC's President/CEO, Plant Vogtle General Manager, and the Vogtle Project Vice President failed to do so at the hearing before the Commission is not. The onus was on GPC to provide the NRC with sufficient information explaining why GPC had good cause for waiting until after Plant Vogtle was licensed before advising the Commission that Mr. McDonald's statement to the Commission with respect to a concern voiced by Commissioner Carr was in error. This GPC has failed to do.^{15/}

IV. McDonald Made False Statements During a Transcribed January 11, 1991 NRC Staff Proceeding

[This information is not contained in petitioners earlier submissions and should be viewed as an amendment to the September 11, 1990 Petition]

On January 11, 1991 NRC's Office of Nuclear Reactor Regulations, convened a proceeding to discuss the formation of SONOPCO. The transcript of this proceeding demonstrates that Mr. McDonald made the following statement when pointing to an overhead projection handed out just prior to the January 11, 1991

^{15/} This failure is magnified by the concurrent allegations of Petitioners that Mr. McDonald provided false testimony during Section 210 proceedings and with respect to the events surrounding the submission of false information in LER 90-006; in particular the fact that GPC intentionally withheld relevant information regarding the reliability of the diesel generator until after the NRC was briefed about the site area emergency. See September 11, 1990 Petition at Page 11, Section III.3(f) ("SONOPCO intentionally delayed revising the LER until after critical meetings with the NRC and Commission were held on June 8, 1990 (ITT presentation to Commissioners)").

meeting:^{16/}

A month ago today we were sitting here, and the only difference a month ago today is we would erase that line and erase everywhere SONOPCO appears, everywhere SONOPCO appears you would erase it. For all practical purposes there is no difference in the day-to-day operation of the plants... A month ago there was no line here [referring to the red highlighted line of attachment 5]. Mr. Farley was performing his job as a Vice President of the Southern Company. He had no responsibilities for this Administrative Support. That Administrative Support that we had basically was being done, and he was part of a contract -- it was a contract to me from Southern Services for providing essentially much the same support we have here now..."

See January 11, 1991 NRC Tr. at p. 42 (excerpts of which are appended hereto as Attachment 6).

Mr. McDonald's assertion that the operation of the SONOPCO project changed as of a month ago (i.e. December, 1990) is simply false. Rather, since the formation of the SONOPCO project, Mr. McDonald has reported to Mr. Farley on administrative matters. This fact is verified by the May 7, 1990 deposition testimony of Joseph E. Farley. Mr. Farley's description of a "joint office for the administrative side" of the SONOPCO project does not square with Mr. McDonald's assertion that Mr. Farley had "no responsibilities" in the area of administrative support prior to December, 1990.

At that time, some seven months prior to Mr. McDonald's appearance at the NRC meeting on January 11, 1991, Mr. Farley

^{16/} When making the above-quoted statement, Mr. McDonald was pointing to an overhead projector image of a diagram of the SONOPCO organization, a copy of which is appended hereto as Attachment 5. The line Mr. McDonald was pointing at and referring to when he stated that it should be erased is highlighted in red.

testified that "Mr. McDonald and I work together and have a close working relationship. We, in essence, occupy a set of joint responsibilities with the project with which we're involved but ...only in the sense of some administrative matters does he report to me or work with me...." Farley Deposition at Page 11-12 (emphasis added).^{17/} And, the following exchange occurred during the Farley deposition at Page 13-14:

Q: Okay. The question was, in essence then, on paper Mr. McDonald does not technically report to you but he does in an informal sense?

A: On some matters in an informal sense.

Q: Can you tell me which matter on an informal sense?

A: In an informal sense, he and I jointly are what we describe as an office of the chief executive of the project. It is not a corporation. It is a project. In areas such as the selection of a candidate for an accounting job or a job in the non-operating areas. When I say operating, I mean the operating of the power plants themselves. He does not report to me and yet on the other areas, particularly administrative or in governmental affairs which is part of my responsibility, he would report to me in that sense...."

And, on pages 16-17 of the same deposition:

Q: Mr. Farley when the SONOPCO organization is incorporated formally -- will Mr. McDonald report directly to you?

MR. SCHAUDIES: Well, excuse me. I'm going to object to the form of the question on the basis that is hypothetical and it's asking the witness to - -

^{17/} Excerpts of Mr. Farley's deposition are appended hereto as Attachment 7.

MR. KOHN: Let me rephrase it.

MR. SCHAUDIES: Okay.

Q: Is it anticipated that Mr. McDonald will report directly to you?

A: The answer is immediately he would for certain purposes but not for certain other purposes because the incorporation and, by the way, I have to add this caveat. I will have mandatory retirement in approximately two years and five months. So the way things have been moving, I may not even be there at the time it is incorporated. But if it were incorporated tomorrow, he would report to me for administrative matters and for certain purposes of the sort I have described before. In other words, our relationship would not change...." (Emphasis added).

And, on pages 37-38 of the same deposition:

Q: Then there's also an administrative service?

A: Yes. The Vice President of Administrative Services, that's Mr. McCrary. He is a Service Company employee. He reports both to me and to Mr. McDonald. He reports to what I described earlier as a kind of an office of the chief executive for the project on administrative matters, not on technical matters.

Q: Mr. Long and Mr. McCrary report directly to Mr. McDonald and then through there they report directly to you?

A: Mr. Long does not report to me. Now, Mr. McCrary -- because this is a technical area with which I do not exercise direct supervision, I work with that group. They are, in essence, under me in the organization but they do not report to me. They report to Mr. McDonald. In the case of Mr. McCrary, for purposes of this project, there are many things that Mr. McCrary reports to directly to me about the others he reports jointly to me and to Mr. McDonald or to whichever one of us happens to be there. Mr. McDonald and I undertake to be in this transition period of sort of a joint office for the administrative

side...."

Mr. Farley's description of a "joint office for the administrative side" of the SONOPCO project does not square with Mr. McDonald's assertion that Mr. Farley had "no responsibilities" in the area of administrative support prior to December, 1990.

As such, GPC's assertion that the management of SONOPCO under went a change in December of 1990 (i.e. that Mr. McDonald began to report to Mr. Farley with respect to administrative matters) is not accurate. The truth is that ever since the SONOPCO project was created in 1988, Mr. McDonald has reported to Mr. Farley.

The fact remains that from the creation of the SONOPCO Project, GPC's president and other GPC officers had no idea of the actual chain of command or reporting structure of GPC's nuclear operations. This is typified by the following examples:

1) While the SONOPCO Project consists of five departments (Hatch Project, Vogtle Project, Farley Project, Administrative Services and Technical Services), GPC's President, Mr. Dahlberg, was not sure as to whom the Administrative Services and Technical Services groups reported.^{18/}

^{18/} Mr. Dahlberg stated under oath that he "believe[d]" the Vice Presidents of Administrative Services and Technical Services report to Mr. McDonald but that he was "just not sure whether they are officers of both [GPC and SCS] or not..I just don't know." Dahlberg Depo. at p. 22. (Excerpts appended as Attachment 8). Moreover, when asked if the VP of Administrative Services and the
(continued...)

2) Mr. Farley testified that he worked with the VP - Technical Services but did not exercise "direct supervision" over him (he stated Mr. Long reported to Mr. McDonald) but that Mr. McCrary did report directly to both Mr. Farley and Mr. McDonald. (Farley Depo., 5/7/90, p. 37-38).

3) Mr. Dahlberg on October 24, 1990 testified that Joe Farley -- who is not an officer of GPC -- "heads up the formation of SONOPCO and that entity." (Tr. 308 - Dahlberg);

4) Mr. Grady Baker, GPC's former Senior Executive Vice President, stated that he thought Farley was an officer of GPC. Tr. 690-691 (Baker). Also see Baker Depo. p. 16-17 ("The appropriate oversight of SONOPCO exists, in that the chief operating officer, Pat McDonald and the CEO or -- not the CEO because it's not a corporation -- but Farley and McDonald are officers of Georgia Power Company, reporting to the president, Bill Dahlberg");

5) Messrs. Dahlberg and Baker testified that they believed McDonald to be an officer of Southern Company Services (Tr. 304 - Dahlberg; Tr. 633 - McDonald) Yet, McDonald testified that he is not an officer of Southern Company Services (Tr. 633 - McDonald);

6) Mr. Farley -- and not Mr. Dahlberg -- reports to The Southern Company Board of Directors on the performance of Georgia

^{18/}(...continued)
VP of Technical Services report to McDonald who then reports to Dahlberg, Mr. Dahlberg stated that he just "assumed" that Mr. McDonald manages Mr. McCrary and Mr. Long but that he, in fact, did not know if Messrs. McCrary and Mr. Long reported to Mr. McDonald. Dahlberg Depo. at p. 23 (Attachment 8).

Power Company's and Alabama Power Company's nuclear units.

Farley Depo. p. 39-40; and

7) A GPC corporate concern filed by a Plant Hatch employee was referred to Mr. Farley in May of 1989 -- rather than a GPC executive -- for resolution even though Mr. McDonald stated under oath that he (McDonald) was responsible for GPC nuclear matters and not Mr. Farley (who Mr. McDonald asserted had no control over approving any policies, practices, or procedures affecting GPC nuclear employees). McDonald Deposition Continuation, pages 27-28.

Given the break down of corporate oversight at GPC, Mr. McDonald could -- and did -- report directly to Mr. Farley rather than to GPC's president, Mr. Dahlberg, and a thorough investigation by the NRC into these above matters will show that. The Petitioners stand ready to cooperate with the NRC in a this investigation.

10 C.F.R. §50.34(6)(i) requires each applicant for an operating license to submit information concerning facility operation including: "The applicant's organizational structure, allocation or responsibilities and authorities, and personnel qualification requirement." GPC failed to notify the NRC that Mr. McDonald had begun to report to Mr. Farley prior to January 11, 1991. In addition, when GPC finally got around to alerting the NRC to the fact that Mr. McDonald had begun to report to Mr. Farley, Mr. McDonald falsely asserted that he began reporting to Mr. Farley in December of 1990, when, in fact, Mr. Farley had

already testified that Mr. McDonald actually began to report to Mr. Farley with respect to administrative matters since the inception of the SONOPCO project (November, 1988).

Request for Relief

WHEREFORE, Petitioners respectfully request that the Nuclear Regulatory Commission:

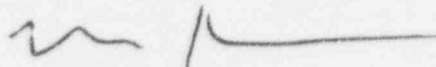
- 1) review the facts in possession of NRC-OI demonstrating that GPC's Executive Vice President, Mr. McDonald, intentionally submitted false and misleading statements under oath to the NRC so as to obstruct the on-going NRC-OI investigation related to GPC's submission of false diesel start data in LER 90-006, and issue a show cause order as to why GPC's licenses should not be revoked, modified or suspended;

- 2) review the facts with respect to GPC's intentionally withholding information until after the Commission took action with respect to the Site Area Emergency and with respect to incorrect statements made by Mr. McDonald during plant Vogtle licensing hearings held before the Commission, and issue a show cause order as to why GPC's licenses should not be revoked, modified or suspended, and to otherwise take immediate steps to determine whether GPC's current management has the requisite character and competence to continue operating a nuclear facility;

3) refer allegations that Mr. McDonald attempted to derail Section 210 cases by resorting to perjury to NRC-OI for further investigation; and

4) take all necessary action to determine whether GPC's current management has the requisite character and competence to continue operating a nuclear facility.

Respectfully submitted,



Michael D. Kohn
KOHN, KOHN & COLAPINTO, P.C.
517 Florida Ave., N.W.
Washington, D.C. 20001

(202) 234-4663

Counsel to Petitioners
Allen Mosbaugh and Marvin Hobby

cc:
Steven A. Varga, Director
Division of Reactor Projects - I/II
Office of Nuclear Regulation

ATTACHMENTS

1. February 29, 1991 letter from Steven Varga to W. G. Hairston, re: Request for Additional Information Regarding the 10 C.F.R. 2.206 Petition
2. Excerpts of McDonald's Deposition and hearing testimony in Yunker/Fuchko and Hobby:
 - a) McDonald 12/23/88 Fuchko/Yunker Depo. Tr. pp. 12-14, 38-44, 61-62, 70, 75-76;
 - b) McDonald 1/4/89 Fuchko/Yunker hearing Tr. pp. 427-429;
 - c) McDonald 5/7/90 Hobby Depo. Tr. pp. 31-35;
 - d) McDonald 10/23/90 Hobby hearing Tr. pp. 620-628, 640.
3. Hobby Hearing Transcript pp. 284-287.
4. June 8, 1989 letter from M. Hobby to Adm. Wilkinson.
5. January 11, 1991 Meeting Handout of SONOPCO organization.
6. January 11, 1991 Nuclear Regulatory Commission Meeting Transcript excerpts, pp. 42-43.
7. Excerpts of 5/7/90 Farley Deposition pp. 11-17, 37-40
8. Excerpts of Dahlberg Deposition, pp. 22-23

Attachment
1



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

February 28, 1991

Docket Nos. 50-424
and 50-425

Mr. W. G. Hairston, III
Senior Vice President -
Nuclear Operations
Georgia Power Company
P.O. Box 1295
Birmingham, Alabama 35201

Dear Mr. Hairston:

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION REGARDING
10 CFR 2.206 PETITION (TACS 79206/79207)

By letter of September 11, 1990, attorney for Messrs. Marvin B. Hobby and Allen L. Mosbaugh submitted to the NRC Chairman a "Request for Proceedings and Imposition of Civil Penalties for Improperly Transferring Control of Georgia Power Company's Licenses to the SONOPCO Project and for the Unsafe and Improper Operation of Georgia Power Company Licensed Facilities" (Petition). Mr. R. P. McDonald of Georgia Power Company (GPC) responded to the Petition September 28, 1990, but noted that GPC's copy of the Petition had been received without attachments. The attachments were forwarded to the NRC Chairman September 21, 1990, and subsequently placed in the NRC's Public Document Room. On October 1, 1990, Petitioner's attorney forwarded "Supplemental Information to the September 11, 1990 Hobby/Mosbaugh Petition Concerning the Illegal Transfer of Control of Georgia Power Company's Licenses to SONOPCO" which has also been placed in the Public Document Room. We have confirmed with Mr. Jim Bailey that you have these documents available to you.

The Petition has been referred to the Director of the Office of Nuclear Reactor Regulation for the preparation of a Director's Decision pursuant to 10 CFR 2.206. Accordingly, we request that you provide, within 30 days from the date of this letter, a response to each of the allegations in the Petition and its supplements. It is not necessary to repeat a prior response where the subsequent information does not affect the validity or completeness of your prior response; a mere statement to this effect will suffice. Your response should be submitted under oath or affirmation.

The reporting and/or recordkeeping requirements contained in this letter affect fewer than 10 respondents, therefore, Office of Management and Budget clearance is not required under P.L. 96-511.

Sincerely,

Steven A. Varga, Director
Division of Reactor Projects - 1/II
Office of Nuclear Reactor Regulation

cc: See next page

4103040387
78 pp.

ATTachment

2 (a)

JOHN M. FUCHKO, GARY ALLEN YUNKER,)
)
 PLAINTIFFS,)
)
 VS.) 89-ERA-9
) 89-ERA-10
 GEORGIA POWER COMPANY,)
)
 DEFENDANT.)

IT IS STIPULATED AND AGREED, by and between the parties through their respective counsel, that the deposition of ROBERT PATRICK McDONALD may be taken before Charles S. Barrington, Commissioner and Certified Shorthand Reporter, at the law offices of Balch & Bingham, Financial Center Office, Suite 700, 505 North 20th Street, Birmingham, Alabama, on the 23rd day of December, 1988, commencing at 9:00 a.m., Central Standard Time.

DEPOSITION OF ROBERT PATRICK McDONALD

1 Department of Southern Company Services.

2 Q Do you have any authority over those
3 departments? What is your relationship with those?

4 MR. MILLER: Which question do you want him
5 to answer?

6 MS. FOWLER: What was my first question?

7 (First question read.)

8 A I am in a position of authority over the
9 Hatch, Vogtle and Farley Projects.

10 Q What is your position of authority regarding
11 the other two projects?

12 A The other two projects are each headed up
13 by officers of the Southern Company Services.
14 Southern Company Services is providing services to
15 Georgia Power Company and Alabama Power Company
16 individually for those projects. So those two
17 departments are providing us services for the
18 support groups.

19 Q Who selected the administrative and technical
20 services vice-presidents?

21 MR. MILLER: Who, as in a person, or who
22 as in a company?

23 Q What person selected those people, the people

1
2 in those positions?

3 MR. MILLER: If there is such a person and
4 you know them you may answer.

5 A I don't know. ||

6 Q So you did not select them? ||

7 A No.

8 Q Who are the vice-presidents for those
9 services?

10 A Charles McCrary and Lewis Long.

11 Q And Charles McCrary is the Vice-President for
12 what?

13 A McCrary? Administrative Services.

14 Q Okay. How about Lewis Long, is Technical
15 Services?

16 A Yes. Now let me qualify my statement, in
17 saying that I don't know. The selection of those
18 people is under the authority and responsibility
19 of the Southern Company Services. I imagine in
20 the normal course of events that selection is
21 officially made by the President of Southern Company
22 Services. There may have been other arrangements
23 that I am not aware of, but I think that that was
true.

1 Q Who is the President of Southern Company
2 Services?

3 A Alan Franklin.

4 Q And so the Administrative Department and
5 the Technical Services Department provide services
6 to your projects, the Farley, Hatch, and Vogtle
7 Projects?

8 A Correct.

9 Q Okay. You are the Executive Vice-President
10 of Georgia Power Company for Nuclear Operations.

11 A Yes.

12 Q What does that title entail in the way of
13 duties?

14 A It essentially involves responsibilities for
15 all the plant operations. And the support that
16 it requires, which may be performed by other entities
17 on an agreement or a contract basis; it involves
18 the corporate support for the plant. I will stop
19 there.

20 Q Are there any other things?

21 A Well, to exercise direct line responsibilities
22 for the operation and the associated activities
23 of the plants.

1 MR. MILLER: You want to take a break?

2 THE DEPONENT: Well I am not --

3 MS. FOWLER: Well, I have a lot to find out,
4 and I am going to take it how I can get it.

5 MR. MILLER: You are the master of the questions.
6 We can't give an answer until you ask the questions.

7 Q Okay. Explain to me, would you, sir, the
8 concept for staffing SONOPCO.

9 A The concept for staffing SONOPCO? The
10 concept was and is that these -- one, when I
11 say SONOPCO, and let me understand when you say
12 SONOPCO you don't mean the final company, you mean
13 these five organizations which we are talking about?

14 Q Yes, sir.

15 A The concept for staffing those was that
16 each organization was to be staffed by the people
17 in charge of them from resources available within
18 the Southern system, and in as much as possible
19 within the originating company. Now that --
20 okay, that is the concept.

21 Q And which would be the originating company
22 in case of the Administrative Department?

23 A Southern Company Services.

1 Q And how about in the area of Technical
2 Services Department?

3 A Southern Company Services.

4 Q Now when you say Southern Company Services --

5 A Yes.

6 Q -- does that include Georgia Power and
7 Alabama Power?

8 A No.

9 Q Okay.

10 A Now the question you asked, does Southern
11 Company Services include Georgia and Alabama;
12 Southern Company Services is a separate company
13 and entity within itself. Now what is the question
14 about Southern Company Services that you asked?

15 Q Okay. You said that an effort was made to
16 staff each of these departments, as I understand,
17 from the results available in the Southern system.
18 Right?

19 A Yes. Southern system. I misstated it;
20 I misstated it to some degree. The concept was
21 to staff one of these five organizations to the
22 maximum extent possible from within the Southern
23 system; and for Alabama and Georgia, those three

1 for each of them to the maximum extent possible
2 from the originating company. That is, Alabama
3 from Alabama, and Georgia from Georgia. For
4 Southern Company Services, that organization,
5 technical organization, was, most of the people
6 in it were already established as service organi-
7 zations with Southern Company Services. That is,
8 the nuclear fuels, some testing, and quality
9 assurance, they were already existing organizations
10 in almost the same form previously in Southern
11 Company Services, but not collected together in
12 one department.

13 Q So they fall under the Technical Services
14 Department?

15 A Yes.

16 Q Okay.

17 A They were taken and put into a department,
18 which had not existed before. And you might say
19 as postulated would become a part of SONOPCO.
20 Some of them never moved, they stayed in the same
21 offices. And some of them maintained the same
22 managerial relationships, like the nuclear fuel,
23 and so they were merely a, basically relocating

1 from one building in some cases to another
2 building, and in some cases staying there.

3 The Administrative Services Department was
4 a new organization, that essentially had no
5 basis. That was to be formed from a candidate
6 in the Southern system, not merely from Southern
7 Company Services. Okay.

8 Q So the Southern system includes Georgia
9 Power Company and Alabama Power Company.

10 A Yes.

11 Q Okay.

12 (Whereupon, at this time the
13 proceedings were in recess
14 from 10:00 a.m. until 10:03 a.m.
15 at which time proceedings
16 were resumed as follows:)

17 MR. MILLER: All right. Let's press here.

18 EXAMINATION BY MS. FOWLER: (Resumed)

19 Q Do you know my clients, John Fuchko and
20 Gary Yunker?

21 A Yes.

22 Q When did you first meet them?

23 A The first time that I met them face to
face in an individual situation other than as

1 a group was when they came to see me in the
2 May-June time frame.

3 Q Do you know why the petitioners weren't
4 offered a job at any of these five projects that
5 hopefully will eventually become SONOPCO?

6 MR. MILLER: Petitioners, who is that?

7 Q My clients, Mr. Fuchko, and Mr. Yunker.

8 A Yes.

9 MR. MILLER: Wait.

10 A Now I want to back up. I know why they
11 weren't offered a job in any of these three nuclear
12 projects.

13 Q Why weren't they offered a job at any of
14 the nuclear projects?

15 A Because each job was being filled by individuals
16 particularly qualified for that job based upon
17 education, training, experience and demonstrated
18 performance in that area of expertise.

19 The three projects, the two Georgia projects
20 that were being restructured and realigned, in
21 the restructured and realignment configuration,
22 there were no jobs that included their special
23 areas of qualification.

1 Q What are their areas of special qualifications?

2 A Their areas of special qualification involves
3 the nuclear security functions as characterized
4 by the installations and operations and procedures
5 of a nuclear plant on site.

6 Q Do you know how candidates for jobs in those
7 three projects were evaluated for the jobs?

8 MR. MILLER: Excuse me, but I guess I ought
9 to object to that, because how candidates for
10 those jobs in those three projects could literally
11 mean hundreds of candidates, hundreds of jobs.

12 Q I mean, in general, do you know what the
13 process was, the evaluation process?

14 MR. MILLER: A general generic question?

15 Q Yes.

16 A The generic question was starting at the
17 top of the organization in each one of those,
18 the persons that head the organizations were
19 selected first. In that case they were Tom Beckham,
20 and Ken McCoy. And then they together in management
21 teams, and in their individual organizations
22 selected the next tier of management based upon
23 knowledge, training, experience and demonstrated

1 performance in the area required for the new
2 realigned job. And that continued down to each
3 layer; they reviewed, and then the selection was
4 proposed by let's say a middle level manager;
5 reviewed by a higher level manager; and approved
6 by the Vice-President in charge of that project.

7 Q Do you know if Morris Howard has been on --
8 is he a part of the Vogtle Project?

9 A No.

10 Q Is he a part of any project?

11 A No.

12 Q Do you know what his position is?

13 A He is no longer with the company.

14 Q Was he asked to join the project?

15 A No.

16 Q Was he offered a job?

17 A No.

18 Q Why wasn't he offered a job?

19 A He resigned.

20 Q When did he resign?

21 A Last summer.

22 Q Was he asked to resign?

23 A No.

1 A Yes.

2 Q Do you know if he was asked to evaluate
3 on potential nominees?

4 A No.

5 Q You don't know whether he was?

6 A No.

7 Q Do you know why my clients weren't offered
8 positions in the nuclear, in the Corporate
9 Security Department? Not in the nuclear, in the
10 Corporate Security Department. I am talking
11 about --

12 MR. MILLER: You see, now I am really
13 confused, because I thought that your guys did
14 work for Corporate Security.

15 MS. FOWLER: No. From what I understand --

16 MR. MILLER: Isn't that right --

17 MS. FOWLER:--there is no Corporate Security
18 Department. They work in Georgia Power Corporate
19 Security Department.

20 MR. MILLER: Ah, okay. All right.

21 A So you are talking about the Southern Company
22 Services Administrative Department, why they
23 weren't offered jobs?

1 Q Right.

2 A I know this: That the normal process which
3 I have described to you for the selection of
4 people --

5 Q Uh-huh.

6 A -- started always at the top. You
7 pick the man in charge, and he is the one
8 responsible for selecting the people who works
9 for him.

10 Q Uh-huh.

11 A Because you don't assign people to work
12 for somebody. That is not the practice anywhere
13 within our business. The person who works for
14 somebody selects the people he works for.

15 Q So, is what you are saying that because
16 there is no Corporate Security manager that is
17 why?

18 A I am saying that that is a logical reason
19 why no one has been selected for any jobs within
20 that department.

21 Q Okay. Do you know why Mr. Fuchko has
22 not been considered for the position of Corporate
23 Security manager?

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Q What jobs did you all talk about?

A We had no jobs that they could go into within those, Hatch and Vogtle Projects. So we talked about the possibility of going into Corporate Security jobs from where they had been.

Q Corporate Security in Georgia Power Company?

A Yes.

Q Did you discuss whether they were qualified for any jobs in the Administrative Services Department?

A No.

Q Why didn't you?

A At the time that we were trying to realign people in the organization, the Administrative Services organization had not been staffed. It had no manager of security. When in essence there was no way to select people for those jobs.

Q But aren't there other jobs in Administrative support besides in the Corporate Security Department?

A Certainly.

Q Okay. The Corporate Security Department, I

1 were trying to ask were specifically about
2 Georgia Power Company.

3 Q Okay.

4 A Now, if you could state that again maybe
5 I can get it related.

6 Q Okay. In your efforts to reorganize were
7 you trying to place Georgia Power folks in the
8 nuclear operating department, or division?

9 A I was trying to place the Georgia Power
10 Company employees within the nuclear department
11 organization, into a realigned organization; which
12 consists of the Hatch Project and the Vogtle Project.

13 Q Okay. If you were not able to put them in
14 one of those two areas was there any attempt to
15 put them in the Administrative Services Department,
16 if they had the qualifications?

17 MR. MILLER: The Administrative Services
18 Department of Southern Company Services?

19 Q Yes.

20 MR. MILLER: All right.

21 A In this case it never came up, because at
22 that time the top jobs had not been selected by
23 Southern Company Services. And as far as I know

1 Southern Company Services had not requested from
2 the nuclear organization, no nuclear organization,
3 any nominees for those top tier jobs. If they had
4 of requested nominees for those top tier jobs,
5 controllers, and resources and security, they would
6 have gone to those similar organizations in other
7 companies. Nuclear organizations did not contain
8 that type of experienced expertise that they would
9 be looking for.

10 Q Okay. You said that you discussed with
11 Mr. Hairston whether or not to allow my clients
12 to change jobs into the Administrative Services
13 Department.

14 A Negative. I didn't say that. I said I
15 discussed with Mr. Hairston and Mr. McHenry and
16 possibly others, the change of jobs by your
17 clients.

18 Q Okay. What did you discuss with Mr. Hairston,
19 what was your conversation regarding?

20 A I discussed -- I discussed with him the fact
21 that he had not found, and no one had found comparable
22 type jobs in the Hatch or Vogtle Project for your
23 clients. I discussed that fact.

ATTachment
2b

BEFORE THE
U. S. DEPARTMENT OF LABOR

RECEIVED

JAN 09 1989

OFFICE OF
ADMINISTRATIVE LAW JUDGES
HAMPTON, VIRGINIA

In the Matter of:

JOHN M. FUCHKO and
GARY A. YUNKER

Complainants

versus

GEORGIA POWER COMPANY

Respondent

Case No. 89-ERA-9
89-ERA-10

Room 113
1371 Peachtree Street
Atlanta, Georgia
Wednesday, January 4, 1989

The above-entitled matter convened for hearing
pursuant to adjournment, at 9:00 a.m.

BEFORE:

DANIEL SARNO, Administrative Law Judge

APPEARANCES:

On behalf of the Complainant

LAURIE FOWLER, Attorney
Route 2, Box 186
Alto, Georgia 30510

SANDRA MICHAELS, Attorney
Suite 1720, 40 Marietta Street
Atlanta, Georgia 30303

BRIAN SPEARS, Attorney
Suite 400, 233 Mitchell Street
Atlanta, Georgia 30303

1 done in anticipation of that concept is to co-locate the
2 corporate nuclear organizations of three of the Southern
3 companies together in the same building. Those three
4 companies are Georgia Power Company, Alabama Power Company and
5 Southern Company Services.

6 They are co-located in the same building, there are
7 five different divisions, two of them Georgia Power manned by
8 Georgia Power employees totally; two of them by Southern
9 Company Services by Southern Company Services; and one by
10 Alabama Power with all Alabama Power Company employees. So
11 they are co-located in the same building.

12 Q What is the area that has the security department,
13 the corporate security department?

14 A There is not yet a corporate security department
15 among those. It is scheduled to be a part of the
16 administrative division, which is a part at this time of
17 Southern Company Services.

18 In the future we expect a corporate security
19 organization, a small corporate security organization.

20 Q And the individuals in that administrative division
21 are employees of Southern Company Services?

22 A If they were at this time they would be.

23 Q Do you know how decisions were made to man
24 positions, those positions that have been manned within the
25 administrative division?

1 A Yes. In order to answer that, however, I would
2 probably need to preface it by describing how the divisions
3 for the Hatch and Vogtle plants have been made.

4 Q All right, if that's necessary.

5 A When the Georgia Power nuclear operations
6 organization was reconfigured as a precursor -- well, first as
7 a stand-alone reorganization in Atlanta, then as a part of the
8 SONOPCO concept, reconfigured from a single combined
9 organization which covered both Plant Hatch and Plant Vogtle
10 to two organizations, one specifically for Plant Hatch headed
11 up by a vice president, and one specifically for Plant Vogtle
12 headed up by a vice president.

13 We did that in order to promote this concept of
14 support and to provide identity to each of those plants, so
15 each plant not only has its plant management, but it has a
16 corporate support group that supports it.

17 When we moved into the SONOPCO configuration from
18 Atlanta we underwent an organizational change to the two
19 organizations, so the people who were in the combined nuclear
20 organization were then placed in each one of those two
21 organizations, principally all of them.

22 And then the people who were not a part of those two
23 organizations were placed as possible in other places.

24 Q So what were the criteria that were utilized for
25 trying to determine who to select?

1 A Well, in terms of who to select for the two, the
2 Plant Vogtle organization and the Plant Hatch organization,
3 the criteria that we took for each job as we selected people
4 was really were they qualified to do that job, and the
5 qualification being they had the necessary education,
6 training, experience and demonstrated performance in that
7 position, and they were selected and put in those jobs -- the
8 best people were selected and we filled them from the top
9 down.

10 Q That is you filled the vice presidential positions,
11 then --

12 A We filled the vice presidential positions, and after
13 that the vice president would then get with the managers, and
14 the managers would participate in the selection of the
15 supervisors, and the supervisors would participate in the
16 selection of the people that worked for them, so that they
17 were all a part of the management selection process for doing
18 this.

19 Q What do you envision to be the future role of the
20 security department in the administrative division?

21 A In order to answer that I think I have to go back to
22 the concept of security in the nuclear operations organization
23 in Georgia Power.

24 When I came to Georgia Power, and the day I came and
25 announced that we were going to shift from an oversight role

ATTachment
2 C

COPY

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,)
4 Complainant,) CIVIL ACTION
5 vs.) FILE NO.
6 GEORGIA POWER COMPANY,) 90-ERA-30
7 Respondent.)

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13 - - -
14 DEPOSITION OF
15 ROBERT PATRICK MCDONALD
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

BULL & ASSOCIATES

1 Georgia Power -- at the Georgia Hatch plant.
2 Mr. McCoy was made Vice President by the Board
3 of Directors of Georgia Power Company to be in
4 charge of the Vogtle plant for Georgia Power.

5 Q There was a move of the Georgia
6 Power Company employees from Atlanta to
7 Birmingham; correct?

8 A Right.

9 Q And what was the purpose of that
10 move?

11 A The purpose of that move was to
12 co-locate all Southern Company organizations
13 directly involved in the direct support and
14 operation of its plants to learn its essential
15 location.

16 Q When it was decided that the
17 co-location would occur, were there changes in
18 title and staffing?

19 A Prior to the time that the
20 co-location took place there was in process a
21 reorganization of the Georgia corporate staff
22 and it went through several stages. Some of
23 them are not clearly defined. So one final
24 stage that exists today that it went to was at
25 the time that the move was made because there

1 were some people that didn't want to make the
2 move and so we arranged for people to say
3 whether they wanted to make the move or whether
4 they wanted to take a job and so forth in an
5 organization that was concurrent with the move.

6 Q Okay. Who determined which
7 individuals would ultimately be moved to the
8 building where the SONOPCO Project is located?

9 A It was -- as far as individuals the
10 structural organization was separated by the
11 Hatch and Vogtle Projects and in those projects
12 the vice presidents were the key people in
13 making decisions of who would be in their
14 project and in the general sense they started
15 with the top level of management selections and
16 then it involved them in the selections beneath
17 them and all the people who were on the staff
18 at that time had been offered a job and had to
19 decide whether they would move or not move and
20 so forth.

21 Q I'm trying to figure out the best
22 way to explain this. Was it like a tiering
23 process where the top -- where the managers
24 were selected by --

25 A Let me go over it again. The

1 reorganization of the individuals and the f
2 organization for those two projects was the
3 responsibility of the vice presidents working
4 with their Senior Vice President, George
5 Hairston. The general approach they had was to
6 select the top managers first and after those
7 top managers were selected then they selected
8 their staffs in the jobs they thought who they
9 wanted.

10 Q You were not involved in selecting
11 the staffs?

12 A No.

13 Q Were you involved in selecting the
14 staffs in the technical services area?

15 A No.

16 Q In the administrative services
17 area?

18 A I was involved in an advisory way.
19 In the projects, for example, people : pt me
20 informed of what they had in mind and gave me a
21 chance to say something about it. It was not
22 submitted to me for approval or disapproval and
23 I did not approve or disapprove any of those
24 selections.

25 Q I don't recall if I asked. Did you

1 select Mr. McCoy and Mr. Beckham?

2 A Mr. McCoy and Mr. Beckham were
3 selected as officers by Georgia Power Company.
4 I recommended that Mr. McCoy be elected for
5 Vice President. I recommended that to Mr.
6 Dahlberg who brought it up before to Mr. Sheer
7 who brought it before the Board of Directors.
8 I believe it was Mr. Sheer.

9 Q And then did Mr. McCoy and Beckham
10 select the next lower level of management?

11 A They did that in working with their
12 Senior Vice President, George Hairston.

13 Q And then did the next level of
14 management select the middle level management?

15 A They did that in conjunction with
16 their Vice President; again Mr. Hairston.

17 Q But it wasn't a fait accompli. You
18 didn't sit down in the offices of 270 Peachtree
19 with Mr. Beckham and Mr. McCoy and Mr. McHenry
20 and fill the entire SONOPCO Project
21 organization?

22 A I did not.

23 Q Are you aware that certain
24 individuals at Georgia Power Company believed
25 that that's what happened? That you sat down

1 at 270 Peachtree with Mr. Beckham, Mr. McCoy
2 and McHenry to some degree and filled the
3 entire SONOPCO Project staff?

4 A I'm not aware of that.

5 Q Do you recall a meeting held on
6 January 2nd, 1989?

7 A No.

8 Q Do you recall preparing for the
9 Yunker and Fuchko proceedings?

10 A In general?

11 Q Do you recall a large meeting where,
12 say, 30 individuals got together?

13 A 30 individuals got together?

14 Q Yeah.

15 A For what purpose?

16 Q To discuss the defense Georgia Power
17 Company would use to defend itself against Mr.
18 Yunker's and Mr. Fuchko's Section 210 case?

19 A I don't believe any meeting of 30
20 individuals ever got together on that.

21 Q 20 individuals?

22 A I don't remember any meeting at all
23 of any sizable proportions.

24 Q Do you remember any meeting in
25 preparing for the Yunker and Fuchko proceeding?

Attachment

2 d

BEFORE THE
UNITED STATES DEPARTMENT OF LABOR

MARVIN B. HOBBY, :
 :
Complainant, : VOLUME III
 :
vs. : Case No. 90-ERA-30
 :
GEORGIA POWER COMPANY, :
 :
Respondent. :
 :

Courtroom 901,
DeKalb County Courthouse,
556 N. McDonough Street,
Decatur, Georgia

Thursday, October 25, 1990

The above-entitled matter came on for hearing,
pursuant to Adjournment, at 9:00 a.m.

BEFORE:

HON. JOEL R. WILLIAMS, Administrative Law Judge

APPEARANCES:

MICHAEL D. KOHN, Attorney,
DAVID K. COLAPINTO, Attorney,
Kohn, Kohn & Colapinto,
517 Florida Avenue, N.W.,
Washington, D.C. 20001;
Appearing on behalf of the Complainant.

JAMES JOINER, Attorney,
WILLIAM N. WITHROW, Attorney,
Troutman, Sanders, Lockerman & Ashmore,
1400 Candler Building,
Atlanta, Georgia 30303-1810;
Appearing on behalf of the Respondent.

1 Q. Did you have a meeting with Mr. Bob Edwards around
2 that time frame?

3 A. I might have.

4 Q. And what would the purpose have been for that
5 meeting?

6 A. The purpose of that would be to work upon the
7 wording of the proposed contract for SONOPCO's relationship
8 with the co-owners of the nuclear power plants.

9 Q. And do you recall also meeting with Mr. Williams
10 around that time?

11 A. I might have, I don't recall.

12 Q. But that's something that might have happened in
13 that time period?

14 A. It might have.

15 Q. I want to turn your attention to the way people
16 were selected for the SONOPCO project, and it's my
17 understanding that the way that process was done is that the
18 vice presidents were selected, and then they selected the
19 general managers who then selected the managers who then
20 picked their supervisor in some sort of tiering effect; is
21 that correct?

22 A. That's correct.

23 Q. And you also gave similar testimony in the
24 Fuchko/Yunker proceedings when you were asked how the SONOPCO
25 project personnel were picked?

1 A. I don't recall.

2 Q. I want to show you a document, and can you tell me
3 if this is your deposition in the Fuchko and Yunker case.

4 A. Yes.

5 Q. And I'd like to turn your attention to Page 43, and
6 can you read from Line either 12 or 13, it appears to be in
7 the middle, and can you read from there to the bottom of --
8 well, on the next page over to the bottom of Line 7?

9 A. Line 12, question: "I mean in general do you know
10 what the process was, the evaluation process?"

11 "Mr. Miller: A general generic question.

12 Question: "Yes."

13 Answer: "A generic question, well, starting at the
14 top of the organization and each one of those, the person to
15 head the organizations were selected first. In that case
16 they were Tom Beckham and Ken McCoy, and then they together
17 with management teams in their individual organizations
18 selected the next tier of management based upon knowledge,
19 training, experience, demonstrated performance in the area
20 required for the new realigned job, and that continued down
21 to each layer, and they reviewed and then the selection was
22 proposed by let's say a mid level manager reviewed by a high
23 level manager and approved by the vice president in charge of
24 that project."

25 Q. Do you recall giving that testimony in the --

1 A. I do now, yes.

2 Q. Okay. And did that involve the selection of
3 personnel for the SONOPCO project?

4 A. That involved the selection of personnel for
5 Georgia Power's realigned staff organization that was part of
6 the SONOPCO project.

7 Q. Now, do you know Mr. Tom McHenry?

8 A. Yes, I do.

9 Q. And who is Mr. McHenry?

10 A. Mr. McHenry was a part of the staff organization at
11 the time that the selections in question were being made.

12 Q. And would Mr. McHenry have provided valuable
13 information to the selection process?

14 A. He might have provided some information.

15 Q. Would Mr. McHenry have known how the selection
16 process was done?

17 A. He might have. He might not have known the
18 definite because he was not one of the managers who was going
19 to be a part of that team, and therefore involved in the
20 actual selection process itself.

21 Q. Do you recall -- Well, tell me a little bit more
22 about Mr. McHenry. He reported to you on a regular basis?

23 A. Yes.

24 Q. And what was his position?

25 A. I can't recall his exact position, but he provided

1 administrative help.

2 Q. Was he at one time your assistant?

3 A. I don't think I ever had a position that was called
4 my assistant.

5 Q. Isn't it true that Mr. McHenry assisted you on a
6 regular basis during the Phase 2 planning sessions?

7 The Phase 2 task force, does that make it any
8 easier?

9 A. I don't know what you mean by Phase 2 planning
10 session.

11 Q. What about Phase 2 task force or planning group.

12 A. I now recall. Separate and apart from the SONOPCO
13 phased formation, the steps which I described earlier, there
14 was a planning stage called a Phase 1 and a Phase 2, and Mr.
15 McHenry did work with me during that period of time. He was
16 an employee of Georgia Power Company, at that time I was
17 solely an employee of Alabama Power Company.

18 Q. Just so the record is clear, Mr. McHenry worked
19 with you during Phase 2, the Phase 2 planning stage?

20 A. That was Phase 2 planning of the planning prior to
21 the Phase 1 of the movement toward the SONOPCO organization.

22 Q. Now, Mr. McHenry worked with you quite extensively
23 on that, didn't he?

24 A. Yes, he did.

25 Q. And he continued to work extensively with you until

1 he left the company some time in the fall of 1988; isn't that
2 correct?

3 A. Yes, he did.

4 Q. And in fact Mr. McHenry was one of the most
5 knowledgeable people at Georgia Power Company regarding this
6 transition into the SONOPCO project; isn't that true?

7 A. He was up to a certain time, but when he chose not
8 to be a part of the final group he was not part of the
9 management structure that made the selections in the
10 selection process.

11 Q. Do you recall in a meeting at the 270 Peachtree
12 Street building that you met with Mr. Hairston, Mr. Beckham
13 and Mr. McCoy regarding staffing SONOPCO positions?

14 A. I remember meeting with them in that building on
15 some other matters, and we might have included some
16 discussions about staffing at that time.

17 Q. Do you recall whether that meeting that you're
18 referring to involved a two-day session to look over
19 personnel decisions for filling the SONOPCO project
20 organization chart?

21 A. No.

22 Q. Did you ever meet with Mr. Hairston, Mr. Beckham or
23 Mr. McCoy regarding organization charts or filling staff
24 positions in SONOPCO at 270 Peachtree Street?

25 A. I met with them I believe at some time about

1 starting the process. The process had been turned over to
2 Mr. Hairston and the vice presidents, and they made the
3 detailed reviews and selections.

4 Q. And do you recall Mr. McHenry coming into the room
5 where you were meeting with Mr. Hairston and Mr. Beckham and
6 Mr. McCoy?

7 A. I don't remember it, but he might have.

8 Q. And were the meeting participants in the process of
9 filling out organization charts?

10 A. Not part of the meeting that I was in, no.

11 Q. But you're aware that the other individuals were
12 going to do that, fill out organization charts?

13 A. The plan for selecting people for the various jobs
14 was worked out ahead of time with the vice presidents and Mr.
15 Hairston, and that plan was -- we had selected Mr. McCoy as a
16 vice president, and then vice presidents were to select the
17 next level under them, and then they would participate and be
18 the key person to make selections in the organizations
19 beneath them, so that each of the managers would select the
20 people who worked for them.

21 Q. Isn't it true that people got job offers shortly
22 after that meeting between Mr. Beckham, Mr. McCoy and Mr.
23 Hairston?

24 A. I don't know which meeting you're referring to.

25 Q. The two-day planning session that I talked about

1 earlier.

2 A. I was not part of the detailed planning and
3 selection process. I don't know.

4 Q. But you did have knowledge of how the selections
5 were going to occur, didn't you?

6 A. As I stated before, the process was to take place
7 and we got it started by selecting the vice presidents. then
8 they would select the people who reported to them going down
9 the tier, so that each level would have a hand in selecting
10 the people what was to work for him directly.

11 Q. And do you have firsthand knowledge of that, sir?

12 A. I gave the directions, and I had the reports back
13 that that's what was done.

14 Q. Who is the vice president of administrative
15 services at SONOPCO?

16 A. Charles McCreary.

17 Q. And did you select Mr. McCreary?

18 A. No, I did not.

19 Q. Did you play any role in selecting Mr. McCreary?

20 A. I had an advisory role in it, yes.

21 Q. And who is the vice president of technical
22 services?

23 A. Mr. Long.

24 Q. And did you select Mr. Long?

25 A. No. I had an advisory role.

1 Q. You had an advisory role in both situations?

2 A. Correct.

3 Q. I want to show you again your deposition testimony
4 from the Fuchko/Yunker proceedings, and if you could start
5 actually on the prior page, on Page 12 at the bottom, the
6 last line, and just read on to the next page.

7 A. How far?

8 Q. Right down to here.

9 A. Okay. Line 23, Page 12, question: "What persons
10 selected those people, the people in those positions?"

11 "Mr. Miller: If there is such a person and you
12 know them, you may answer."

13 Answer: "I don't know."

14 Question: "So you did not select them?"

15 Answer: "No."

16 Question: "Who are the vice presidents of those
17 services?"

18 Answer: "Charles McCreary and Louis Long."

19 Question: "And Charles McCreary is the vice
20 president for what?"

21 Answer: "McCreary, administrative services."

22 Question: "Okay. How about Louis Long, he's
23 technical services?"

24 Answer: "Yes. Now let me qualify my statement in
25 saying that I don't know. The selection of those people is

1 under the authority and responsibility of Southern Company
2 Services. I imagine in the normal course of events that
3 selection is officially made by the president of Southern
4 Company Services. There may have been other arrangements
5 that I'm not aware of, but I think that was true."

6 MR. WITHROW: Is there a question?

7 BY MR. COLAPINTO:

8 Q. That was your testimony in the Fuchko/Yunker
9 proceeding?

10 A. Correct.

11 Q. Now, you knew Mr. Hobby when he was at Georgia
12 Power Company?

13 A. Yes.

14 Q. Now, I believe you stated when Mr. Joiner was
15 asking you questions that you remembered meeting in January
16 of 1989 regarding the Fuchko/Yunker case, the preparation
17 meeting?

18 A. Yes.

19 Q. Can you tell me what your recollection is of that
20 meeting?

21 A. There was only two things that I clearly remember.
22 One that I now remember there was a meeting; the other one I
23 remember a man who sat with us in the meeting named Lukehart,
24 I remember the lawyers being there, but I remember very
25 little else about the meeting.

1 an advisory one?

2 A. I am not an officer or a member of the Southern
3 Company Services organization. Therefore, I have no position
4 to make a selection.

5 Q. Does anyone at Georgia Power Company think that you
6 are a member of that group?

7 A. Not that I know of.

8 Q. Do you know if there's any confusion that people
9 would believe that you are employed by that group?

10 A. Not that I know of.

11 Q. Isn't it true that you requested the board of
12 directors to consider Mr. McCreary for the position?

13 A. I advised the presidents, the CEO of Alabama, the
14 CEO of Georgia and the CEO of Southern Company Services that
15 I thought those individuals would be good and could
16 adequately fill those positions.

17 Q. Isn't it true that you were the only one who
18 requested that Mr. McCreary be selected to that position?

19 A. I don't know.

20 Q. How about Mr. Long's position?

21 A. I don't know.

22 MR. COLAPINTO: Thank you.

23 We have no further questions, your Honor.

24 JUDGE WILLIAMS: Any redirect?

25 MR. JOINER: No, your Honor.

Attachment
3

**UNITED STATES
DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:)	
MARVIN B. HOBBY,)	
Complainant,)	Case No. 90-ERA-30
vs.)	
GEORGIA POWER COMPANY,)	
Respondent.)	

Pages: 272 through 541
Place: Decatur, Georgia
Date: October 24, 1990

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 600
Washington, D.C. 20005
(202) 628-4888

1 made for staffing corporate positions in the SONOPCO project
2 for the Hatch and Vogtle sites?

3 A. Yes.

4 Q. And what was your role in that?

5 A. Well, as part of the Phase 2 task force that I was
6 on there were organizations, structures created for what the
7 new organization would look like.

8 Once those structures were created, then there was
9 a process of -- there was a series of phases I guess as we
10 referred to them, transitional phases to get from two
11 companies to one company, and toward the end of 1988 that
12 process had proceeded to the point where it actually came
13 down to filling jobs, to selecting people to fill the
14 organization that had been designed.

15 Q. And do you know how the positions were actually
16 filled?

17 A. Well, the process was, the decisionmaking process
18 as I recall it was done over a period of a couple of days.
19 There was a meeting of senior management consisting of Mr.
20 McDonald, Mr. McCoy, Mr. Hairston, Mr. Beckham -- that's the
21 group -- and that group of individuals met privately in a
22 separate, in fact in a separate building for a couple of days
23 and worked out the selection, and sort of working through the
24 organization picking the people that would go into various
25 slots in the new organization.

1 Q. And at some point during those two days were you
2 called into that meeting?

3 A. Yes.

4 Q. And can you tell us how they were filling the slots
5 when you were in the meeting?

6 A. Well, my involvement in the meeting was to -- you
7 know, I was asked to come into the meeting to provide some
8 insight I guess on some individuals that people in the room
9 were not familiar with, you know, about their qualifications,
10 about their background, about their performance.

11 You know, basically there were organization charts,
12 and there were names. You know, these were blank
13 organization charts that were skeletons showing titles, and
14 the organization charts were being filled out, you know,
15 names were being put in these slots.

16 Q. And how soon -- Well, after this two-day period
17 where this meeting was taking place with the senior
18 management, did you have any further involvement in the
19 selection process?

20 A. Well, I was heavily involved in the, not
21 necessarily the selection process, but the continuation of
22 the selection process in terms of actually working with
23 salary administration developing the work sheets or whatever
24 they were called to come up with the offers basically, the
25 job offers.

1 Then I was involved in ensuring that those job
2 offers got disseminated to the right people and the job
3 offers were made, and tracking whether people accepted the
4 job offers or whether they declined those job offers.

5 Q. Were you provided the names of the individuals who
6 were put into those slots?

7 A. Yes.

8 Q. And who provided you those names? Was it from the
9 group?

10 A. It was from the group. Specifically I don't know
11 who actually handed me the documents. I think it may have
12 been Mr. Hairston that handed me the documents.

13 Q. And how soon after this two-day meeting that you've
14 described did you receive that information from the senior
15 management?

16 A. Essentially immediately.

17 Q. Now, do you know if people were selected at the
18 Hatch site who were placed in positions without supervisors
19 being chosen yet?

20 A. Well, there were holes in the organization, so,
21 yes, there were vacancies in the organization. There were
22 cases where supervisors or managers had not been picked, and
23 necessarily they had to go down and fill out the rest of the
24 organization.

25 Q. Okay. And who had selected the people who were

1 underneath the vacant spots?

2 A. Well, essentially this committee selected everyone.
3 I mean this committee I referred to, this group of executives
4 selected everyone. I was brought in for advice on some
5 individuals, and I believe maybe Len Casewa was brought in
6 for advice but, you know, by and large it was a small group
7 of people.

8 Q. Now I want to direct your attention to the
9 Fuchko/Yunker case. Do you know what I'm talking about when
10 I say the Fuchko/Yunker case?

11 A. Yes.

12 Q. And do you recall what that was, just briefly what
13 is was?

14 A. It's hard to brief on the Fuchko/Yunker case, but I
15 guess briefly they eventually alleged that there were
16 problems identified at, that they identified at Plant Vogtle
17 that management was not responsive to, and ultimately they
18 were terminated because of that identification. That is the
19 crux of it, I guess.

20 Q. Did there come a point in time when you became
21 aware that Mr. Fuchko and Mr. Yunker were about to go trial
22 against the company?

23 A. Oh, yes, because I was asked to provide a statement
24 to the Georgia Power attorneys. That was after I left the
25 company.

Attachment
4

June 8, 1989

Dennis:

I promised you in the earlier letter that I would discuss a little of what is going on at Georgia Power. You have read several accounts that I have sent you related to the IRS investigations, FBI investigations, political campaign contributions, etc. There is, to my knowledge, no progress in these areas and I am told that these investigations will be going on for years. There is a lot of speculation as to whether Mr. Addison will be able to weather the storm - after all, he was the CEO of Gulf Power when many of these allegations occurred. The situation in the company - - throughout Southern Company - - is horrible.

I will get more specific about my situation in a moment. But, I must admit that I am grateful to have worked at Georgia Power when Mr. Miller was President. He was a no nonsense guy, hard working, competent, inquisitive, honorable, and he worked for the Company. He lived, breathed, and exited for Georgia Power. The man could lead. He asked questions. He asked for input. When people disagreed with him, that was fine. It seemed it was only an opportunity for him to ask more questions and he would admit when he learned something. Even though he was President, he was not afraid to learn something or hear a new idea. He was not afraid to say he didn't know. He wasn't afraid to say he didn't understand something. He wasn't afraid to ask for advice. He didn't mind people challenging him - - not personally but on an issue.

Mr. Miller had integrity. He gave us guidance and direction and his message to us was clear. He also held you accountable for your performance. As one lower level supervisor in building services said to me in lamenting Mr. Miller's retirement, "We are really going to miss him. You may not always agree with the direction he gives you, but you always know where you are going." She was right.

Mr. Miller also focused his attention on where the company should be headed and what was required to get there. He really took an emotional interest in the 15,000 employees we had and he wanted them to perform. And, if they performed, he took care of them whether he liked them or not. It was not essential that Mr. Miller like you because he judged each employee on performance and what they were doing for Georgia Power.

Mr. Miller could make a decision. Sometimes he would make a snap judgement based upon his technical knowledge, his experience, his managerial ability, or just his hunch. But, when a decision was made, that was the end. Everybody jumped. He also protected the company. There were several examples where the System wanted Georgia Power to change what they were doing although what we were doing was turning out the profits. But, the bureaucrats at Southern, who wanted to increase their power, demanded that all operating companies abide by the same set of rules. Mr. Miller said no that he was in charge of operating Georgia Power and, although some people at Southern got bent out of shape, Mr. Miller's decision ruled the day.

Mr. Miller would not let that happen and Mr. Miller and George Head were on the same side. After Mr. Miller left, Grady tried to get on Mr. Addison's good side by agreeing to everything Southern Services wanted to do. George disagreed but Southern is gradually taking over.

Now, however, we are left with another poor situation. Elmer Harris is named President of Alabama, Bill Dahlberg at Georgia, and Allen Franklin at Southern Company Services. Each one of them is running for Addison's job. It appears that it is not so important that each one of them does his present job properly as it is that each stays on good terms with Mr. Addison. Southern is now run by a management council of all the CEOs. It is run by consensus. There are not disagreements. As a matter of fact, each CEO makes it his business to agree with what they think Mr. Addison wants to do. A rumor can start that Mr. Addison wants something done and all the CEOs break their necks to agree to it even if Mr. Addison knows nothing about it. We are in a heavily political arena here and right means little.

Into this situation enter one R. Patrick McDonald. This atmosphere is made for him; he excels in it. He is either 61 or 62, knows he is not going further in the Company, has retirement from the Navy, makes good money, and recognizes a vacuum in the leadership of the Company. He does what he wants to do, regardless of what any one else says, explains it without sticking to the truth, and, in general, is enjoying life. He gets along very well with Mr. Farley partly because he lies to Farley and partly because Mr. Farley hates Georgia Power Company. Pat can get away with anything by badmouthing Georgia Power. Farley is Executive Vice President of Southern for Nuclear and reports to Mr. Addison.

When the decision was made to bring Pat into Georgia Power (he is Executive Vice President of Georgia Power and Alabama Power) and to move our nuclear operations group to Birmingham, I decided after my experience with him to not go. I went to Grady and told him that I didn't want to go and I recommended that we establish a contract administration group to protect Georgia Power - - not to manage SONOPCO - - but to advise GPC's senior management on how our performance was. Grady agreed to that and said he would talk to Dahlberg. I specifically remember him saying that whoever got the job as General Manager of his group would have a tough time trying to deal with Mr. Farley and Mr. McDonald. (Incidentally, everyone in senior management at Georgia Power that I have talked to: George Head, Grady, Elmer, Dwight Evans, and I have been told Dahlberg hates Pat McDonald. They think he is bordering on crazy, and he doesn't tell the truth).

Grady took his proposal to Dahlberg and at some point Grady and George Head talked to Dahlberg. They decided we did need such a group and it would be reporting to George Head. Dahlberg asked George who would head the group and George told him me. He said I was the only one in the Company left with nuclear experience, except George.

I was given the job on December 27. A copy of Dahlberg's memo announcing the promotion is enclosed. Prior to the memo going out, George asked me how I would structure the group. A copy of my memo to George on that subject is also enclosed.

Early in January, Pat McDonald came over to Georgia Power and told me to do something. I told him I would be glad to but that I needed to inform George Head since I now worked for him. Pat went livid. He asked what I was talking about and I went and got a copy of the memo for him. He got very made and said he opposed the creation of such a group. He said when the time came for such a group, he would set up the group, decide what it would do, and he would pick the head of it. He said he would not have any of this. I reported this to George.

From January until the end of April when George retired, I worked as well as I could to do the job assigned to me by the President. Unfortunately, Pat McDonald would not cooperate and would not let his people in Birmingham cooperate. I will not go into details except to say that Pat has refused to let his people in Birmingham even talk to me.

During this period, I told George we needed help from Dahlberg. I must have requested a meeting with Dahlberg 50 times. George asked for many, many meetings. He had maybe 4 or 5. Each time, Dahlberg would say he supported us, wanted us to do our job, and was behind us. But, he did nothing. Pat still would not cooperate. Finally, George asked me to call McDonald and set up a meeting between McDonald, Head, and me. McDonald would not set up the meeting.

Then George announced he was retiring. Dahlberg asked him to reconsider and remain with GPC but George refused. One of the reasons George refused was that he felt we did not have a leader at Georgia Power and that Bill would not make a decision and would not stand up for Georgia Power.

Throughout all of this, I have continued to remind people that Pat McDonald reported to Bill Dahlberg and, by NRC regulations, had better. I told Grady, George, Dwight Evans (EVP of External Affairs and a good friend of Dahlberg's), Chuck Whitney (Asst to Dahlberg), Fred Williams (of Bulk Power), and the attorneys that I thought we had a problem. I told them that, in my opinion, Pat McDonald worked only for Joe Farley, now CEO of The Southern Company, and if that were true we were in violation of our license and the NRC could shut our plants down. Several people shared my concern but would not agree or disagree. George Head agreed. Fred Williams said all we had to do was show the NRC the organization chart. I said Fred that won't cut it.

I talked to the lawyers. They were concerned and even went so far as to tell Hairston that if he were ever asked who he reported to he was to say McDonald who reports to Dahlberg. For the license on Unit 2 at Vogtle, the people were coached as to how to answer that question.

Finally, George has decided to retire and he went to Dahlberg and said there was one matter he wanted to get settled before he retired and that was our relationship with SONOPCO. Dahlberg responded that he knew there was a problem and he was going to meet with Farley and see if they could straighten it out. When George told me that, I said something like if McDonald report to Dahlberg why in the hell can't Bill just tell him who to do and why does Bill have to go and straighten it out with Joe Farley. George said, "Well, I guess we have just got the answer as to who McDonald reports to." George also said that Dahlberg said it was a waste

When we learned that Grady and Dahlberg were going to meet with Farley, I told George that they shouldn't go talk to Farley without talking to him and me first about what problems we were having. He agreed and tried to set up a meeting with Dahlberg. Dahlberg wouldn't meet with us.

About this time, I was going up to George Head's office on the 24th floor and the Executive Vice President for External Affairs saw me and we started talking. His name is Dwight Evans and he is pretty close to Dahlberg. Dwight said that if he were me he would start looking for another job in the company because he had heard that McDonald and Farley were out to get me fired or out of the job I was in.

I reported this to George and he said we had to talk to Dahlberg and Grady before they met with Farley. He tried but failed. He then suggested that I might go to Grady and tell him what we had heard and what our concerns were and try to get a meeting with Grady and Dahlberg. I went to see Grady and asked for a meeting. He said it was not necessary. I said something like Grady, the rumor is going around that McDonald and Farley are after my job. Won't you at least talk to George and me? He jumped up from his chair, threw his arms up high, laughed and continuing to laugh said, "Hobby, what can I say?" And, he then walked out of the room.

I told George. He got mad and said he was leaving the Company, wanted to get away from those people, and he basically apologized that the Company did not have a backbone and would not stand up for what was right. He said we did not have anyone in senior management at GPC "worth a shit" and that McDonald would win because no one at GPC would dare tackle Farley.

About the same time, I got a call from Fred Williams, VP of Bulk Power. He is the guy that really deals with most with the joint owners. He said he had been asked by Dahlberg and Grady to go to Birmingham to see if we could work out the problems between SONOPCO, GPC, and the joint owners. He asked me to write down the major problems I had in dealing with McDonald. He said he would not show it to McDonald but he would give it to Grady and Dahlberg for their meeting with Farley.

I wrote the memo (which is enclosed) and before giving it to Fred I showed it George Head. George agreed with the memo and felt so strongly about what I had said, he said he wanted to sign the memo with me. I had the original memo at home with my and George's signature. I took the memo to Fred Williams. He read it. He told me to destroy the memo because we did not want something like that in our files. He said the joint owners had been fussing about McDonald and who McDonald reported to and he said that my memo showed that McDonald reported to Farley and we could not have this memo in our files because it would prove Oglethorpe's argument.

I told Fred that this was a regulatory concern. I told him that the way he reacted indicated that we did have a problem and that we ought to fix the problem before we got into trouble with the NRC. I told him we ought to concentrate on fixing the problem not worrying about some memo. I further said if he did not have a problem, then the memo meant nothing.

(6)

It only meant something if McDonald did not actually report to Dahlberg but to Farley. I told him I thought we were going to get in trouble with the NRC. He said there was not a problem that if the NRC ever asked about the issue we would just show them an organization chart. Then he said, you must destroy this memo. He also said he was going to keep a copy of the memo but he would not let Grady and Dahlberg see it. It was because of that that I went to see George and later to see Grady.

I talked to George and we agreed that I would not destroy the memo. I do not have a copy at the office. I do elsewhere.

In my conversation with Fred Williams, I asked him why Dahlberg just didn't tell Pat McDonald what to do and the whole issue would be behind us. He said Bill did not have the clout to do that. He said McDonald was very close to Farley and if Bill gave Pat McDonald an order and Farley did not agree with it, the matter could wind up before Ed Addison. I asked well, doesn't Dahlberg have enough clout with Addison to win the argument. Fred said that wasn't the issue. He said Addison did not have enough clout to tell Farley what to do. He said the Southern Board was divided and that Addison did not have enough votes to do something if Farley disagreed and that Farley did not have enough votes if Addison disagreed. He said the Southern Board is at a stalemate and we have to make do the best we can. And, the one thing Dahlberg could not afford to do was raise an issue between Dahlberg and Farley that would require Addison to make a decision because, if push came to shove, Addison was not guaranteed that the Board would support him over Farley. Therefore, no major disagreements were to be brought to Addison.

Bottom line: Dahlberg wants to replace Addison. Dahlberg is not going to make something an issue that will require Addison to decide between Dahlberg and Farley. No one is in control at Southern. It is shared responsibility. Farley can do what he likes. Farley lets McDonald do what he likes. And, nobody can stop him.

I shared what Fred told me with Paul Rice and Paul said that was pretty much the truth. He said Addison is working to gain a majority of the Board's support but he does not have it now.

After George retired, Kerry Adams, who knows nothing about nuclear, was named to replace him. Grady told him he was not sure who I would eventually wind up reporting to, but that I was to hire no new people.

I believe that the outcome will be that my job will be greatly reduced including a reduction in pay and I will be asked to report to Fred Williams. Or, I could be asked to resign. I don't know. But, I do know this, I have tried to do a good job and have been prohibited from doing a job by Pat McDonald. I got excellent support from George Head. I have received no support -- except lip service -- from Grady or Dahlberg. Everybody is protecting their own position in the company.

I don't know what will happen. It is my opinion that GPC and Alabama Power Company are in violation of our NRC licenses. McDonald reports to Joe Farley, I don't care what the organization chart says. I have pointed out over and over to management that I was concerned that we were

②

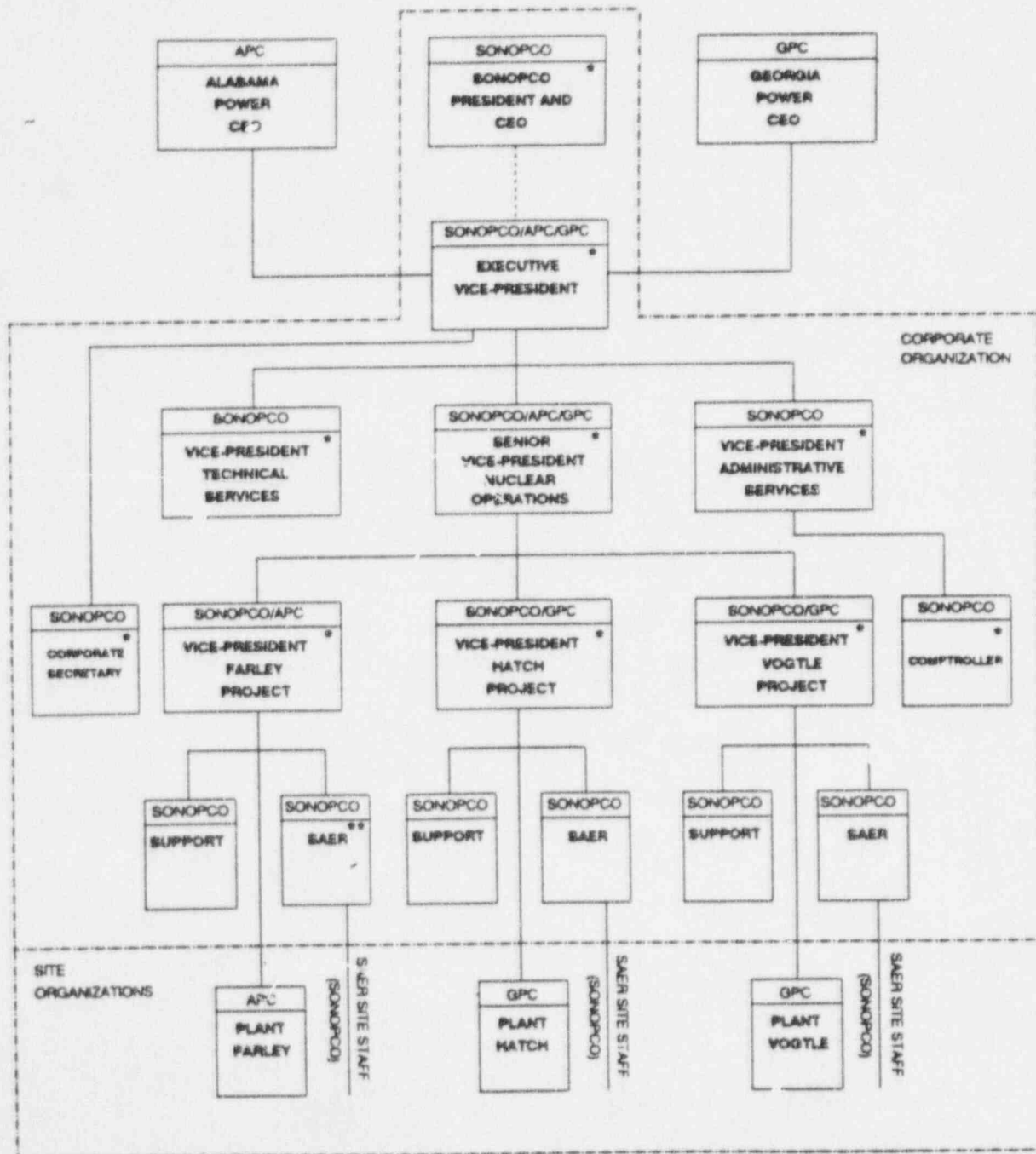
violating Federal law. But, the answer is time and time again, "We'll show them an organization chart."

Maybe you and I can talk about this on Sunday.

Attachment

5

ATTACHMENT SONOPCO ORGANIZATION



----- DENOTES ADMINISTRATIVE REPORTING

* SONOPCO OFFICERS

** MANAGER SAER WILL ALSO BE AN APC EMPLOYEE

ATTACHMENT
6

ORIGINAL

OFFICIAL TRANSCRIPT OF PROCEEDINGS

Agency: Nuclear Regulatory Commission
Office of Nuclear Reactor Regulations

Title: Implementation of Southern Nuclear
Operating Company

Docket No. 50-348, 50-364, 50-425, 50-321, 50-366

LOCATION: Rockville, Maryland

DATE: Friday, January 11, 1991

PAGES: 1 - 49

ANN RILEY & ASSOCIATES, LTD.

1612 K St. N.W., Suite 300
Washington, D.C. 20006
(202) 293-3950

1 meetings and timing of reviews. It has nothing to do at
2 this time that I know of, of anything --

3 MR. VARGA: Are you experiencing resistance from
4 the other owners?

5 MR. MCDONALD: We have experienced encouragement
6 from others. Dan's company for example, has encouraged us
7 to proceed on as efficiently as we can.

8 MS. ADENSAM: Do you have any contingency if these
9 issues don't get resolved and you are not in a position to
10 transfer licenses?

11 MR. MCDONALD: Well, any contingency if they don't
12 get resolved?

13 MS. ADENSAM: Would you --

14 MR. MCDONALD: A month ago today we were sitting
15 here, and the only difference a month ago today is we would
16 erase that line and erase everywhere SONOPCO appears,
17 everywhere SONOPCO appears you would erase it. For all
18 practical purposes there is no difference in the day-to-day
19 operation of the plants.

20 MS. ADENSAM: You are continuing as of a month ago
21 then?

22 MR. MCDONALD: Yes. A month ago there was no line
23 here. Mr. Farley was performing his job as a Vice President
24 of the Southern Company. He had no responsibilities for
25 this administrative support. That administrative support

1 that we had basically was being done, and he was a part of a
2 contract -- it was a contract to me from Southern Services
3 for providing essentially much the same support we have here
4 now.

5 This group, for example, was a Southern Company
6 services organization that was under contract -- inter-
7 company contract essentially by me -- providing the same
8 thing that they are doing after the company is formed. It
9 is no different.

10 MS. ADENSAM: I have one other question, a little
11 different shift. I heard you earlier say that Mr.
12 Garlington in the support organization was working with the
13 same procedures and practices and so forth that he did
14 before.

15 MR. MCDONALD: Yes.

16 MS. ADENSAM: Now, I would assume that the
17 gentlemen for the Hatch Project -- or ladies, as the case
18 may be -- for the Hatch Project and Vogtle project are doing
19 the same thing. My question is, are they working with the
20 same procedures as each other, or the same procedures as
21 they had before?

22 MR. MCDONALD: The business in each of these
23 projects is being carried on under the name of Georgia or
24 Alabama Power Company. The communications that you will
25 see, the internal and external, will be in the name of

Attachment

7

COPY

1 UNITED STATES OF AMERICA
2 BEFORE THE U.S. DEPARTMENT OF LABOR

3 MARVIN B. HOBBY,)
4 Complainant,) CIVIL ACTION
5 vs.) FILE NO.
6 GEORGIA POWER COMPANY,) 90-ERA-30
7 Respondent.)

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14 DEPOSITION OF
15 JOSEPH M. FARLEY
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23 BULL & ASSOCIATES
24 COURT AND DEPOSITION REPORTERS
25 4651 Roswell Road, N.E., Suite F-504
Atlanta, Georgia 30342
(404) 256-2886

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1 Deposition of JOSEPH M. FARLEY,
2 taken on behalf of the Complainant,
3 for the purpose of discovery, upon
4 cross-examination, before Susan E.
5 Reynolds, Registered Professional
6 Reporter, Certified Court Reporter
7 and Notary Public, at the Candler
8 Building, 127 Peachtree Street,
9 N.E., Suite 1400, Atlanta, Georgia,
10 commencing at approximately
11 2:30 p.m., May 7, 1990.

1 any executive on any of those?

2 A No. I do not believe they are.

3 Q Who do you report to? Well, first
4 there's the Southern Company Services; is that
5 correct?

6 A Yes.

7 Q Who do you report to there?

8 A The President and the Chief
9 Executive Officer of that company, Mr. Alan
10 Franklin, and for certain purposes I report to
11 him. Basically, however, my reporting is to
12 Mr. Edward L. Addison who is President and CEO
13 of the Southern Company. As I mentioned, I am
14 an officer of the Southern Company but both Mr.
15 Addison and I are paid by Southern Company
16 Services. The SEC does not basically allow
17 the holding company to maintain a separate
18 payroll. So we are employees of the Service
19 Company for pay purposes but my basic reporting
20 responsibility is to Mr. Addison.

21 Q At Southern Company you report to
22 Mr. Addison?

23 A Yes.

24 Q Does Mr. McDonald report to you?

25 A Mr. McDonald and I work together and

1 have a close working relationship. We, in
2 essence, occupy a set of joint responsibilities
3 with the project with which we're involved but
4 he does not, for most purposes, report to me.

5 Q But he does for some purposes?

6 A We have a close relationship as we
7 have had for many years but our
8 responsibilities are different and only in the
9 sense of some administrative matters does he
10 report to me or work with me. Our relationship
11 is more informal than simply reporting.

12 Q So on paper he does not necessarily
13 report to you but informally he does report to
14 you?

15 A He does not --

16 MR. SCHAUDIES: Excuse me,
17 Mr. Farley. Let me just register an
18 objection here and that is to the
19 extent that this deposition isn't
20 trying to inquire into the reporting
21 relationship between Mr. McDonald or
22 Mr. Farley or whoever else which was
23 part of the allegations I realize
24 that were raised by Mr. Hobby. I
25 don't believe that that is relevant

1 to the issue of whether he was
2 retaliated against for raising those
3 allegations. I would like to make a
4 standing objection to this line of
5 inquiry and allow the witness to go
6 ahead and proceed in the interests of
7 full disclosure and toward expediting
8 the deposition but, if I may, it will
9 just be a standing objection to the
10 entire line of inquiry.

11 MR. KOHN: You may certainly
12 have that.

13 MR. SCHAUDIES: So if you can
14 remember the question, which I'm
15 afraid I can't, you can answer it.

16 THE WITNESS: I'm sorry. I
17 can't.

18 Q (By Mr. Kohn) Okay. The question
19 was, in essence then, on paper Mr. McDonald
20 does not technically report to you but he does
21 in an informal sense?

22 A On some matters in an informal
23 sense.

24 Q Can you tell me which matters on an
25 informal sense?

1 A In an informal sense, he and I
2 jointly are what we describe as an office of
3 the chief executive of the project. It is not
4 a corporation. It is a project. In areas such
5 as the selection of a candidate for an
6 accounting job or a job in the non-operating
7 areas. When I say operating, I mean the
8 operating of the power plants themselves. He
9 does not report to me and yet on the other
10 areas, particularly administrative or in
11 governmental affairs which is part of my
12 responsibility, he would report to me in that
13 sense. If he were asked about volunteering to
14 be a witness in a congressional proceeding
15 having to do with advanced light water
16 reactors, he would ask me about it before he
17 would accept that. That relationship, however,
18 does not apply when it comes to Plant Vogtle,
19 Plant Hatch or Plant Farley where he does not
20 report to me but reports to the chief executive
21 officer of Georgia Power Company or Alabama
22 Power Company respectively.

23 Q He reports to those individuals?

24 A Yes.

25 Q But does he discuss the operation of

1 maybe three days week and I would usually see
2 him during those days.

3 Q When the SONOPCO organization is
4 incorporated formally --

5 A Yes.

6 Q -- will Mr. McDonald report
7 directly to you?

8 MR. SCHAUDIES: Well, excuse
9 me. I'm going to object to the form
10 of the question on the basis that it
11 is hypothetical and it's asking the
12 witness to --

13 MR. KOHN: Let me rephrase it.

14 MR. SCHAUDIES: Okay.

15 Q (By Mr. Kohn) Is it anticipated
16 that Mr. McDonald will report directly to you?

17 A The answer is immediately he would
18 for certain purposes but not for certain other
19 purposes because the incorporation and, by the
20 way, I have to add this caveat. I will have
21 mandatory retirement in approximately two years
22 and five months. So the way things have been
23 moving, I may not even be there at the time it
24 is incorporated. But if it were incorporated
25 tomorrow, he would report to me for

1 administrative matters and for certain purposes
2 of the sort I have described before. In other
3 words, our relationship would not change but he
4 would still remain an officer of both Georgia
5 Power Company and Alabama Power Company and
6 report as Executive Vice President of both
7 those companies to their Chief Executive
8 Officers and through that to those Boards of
9 Directors. Ultimately, there would be another
10 stage we would hope to pass through in which
11 the licenses might be transferred but that may
12 or may not ever take place. So I would be
13 sheer speculating on that.

14 Q It's my understanding at some point
15 the transfer from the SONOPCO Project to
16 SONOPCO Incorporated was anticipated to take
17 120 days; is that correct?

18 A I am not sure anticipated is the
19 correct word. It was hoped that it would take
20 a relatively short time for the first phase of
21 the incorporation and the getting underway to
22 take place.

23 Q Are you aware of whether or not
24 Oglethorpe Power has asked any questions of
25 anyone of the Southern System as to whom Mr.

1 they operate under contract to support -- to
2 report to him.

3 Q Is that a Mr. Long?

4 A Yes, Mr. Lou Long; Louis Long.

5 Q And he is the Vice President of
6 Technical Services?

7 A Yes; and he is a Southern Company
8 Services employee.

9 Q Then there's also an administrative
10 services?

11 A Yes. The Vice President of
12 Administrative Services, that's Mr. McCrary.
13 He is a Service Company employee. He reports
14 both to me and to Mr. McDonald. He reports to
15 what I described earlier as a kind of an office
16 of the chief executive for the project on
17 administrative matters, not on technical
18 matters.

19 Q Mr. Long and Mr. McCrary report
20 directly to Mr. McDonald and then through there
21 they report directly to you?

22 A Mr. Long does not report to me.
23 Now, Mr. McCrary -- because this is a technical
24 area with which I do not exercise direct
25 supervision, I work with that group. They are,

1 in essence, under me in the organization but
2 they do not report to me. They report to Mr.
3 McDonald. In the case of Mr. McCrary, for
4 purposes of this project, there are many things
5 that Mr. McCrary reports to directly to me
6 about and others he reports jointly to me and
7 to Mr. McDonald or to whichever one of us
8 happens to be there. Mr. McDonald and I
9 undertake to be in this transition period of
10 sort of a joint office for the administrative
11 side. I can furnish you that organization
12 chart if you want it. It's the same chart
13 that's a record with the SEC that we have
14 furnished.

15 Q I would appreciate that.

16 A Fine.

17 (Brief pause.)

18 Q (By Mr. Kohn) Is there a document
19 which sets up the structure and function of the
20 SONOPCO Project?

21 MR. SCHAUDIES: At what point
22 in time?

23 MR. KOHN: Currently or one
24 that is still in effect.

25 A The initial filing with the SEC

1 describes this o some extent. We have -- I
2 will be honest with you, I am not sure that we
3 have such a single document that describes
4 this. As you may know, we had anticipated that
5 we would arrive at a corporate stage fairly
6 soon which it has turned out not to be the
7 case. We have had many descriptions given of
8 what we are doing but as to a single document,
9 I would have to review it to find out if we
10 have such a document.

11 Q (By Mr. Kohn) Was there a document
12 presented to the Southern Company Board of
13 Directors regarding the structure of SONOPCO
14 and/or the SONOPCO Project?

15 A I report to the Southern Board
16 quarterly on the status of the organization in
17 what we're doing. Again, when we received or
18 when they approved the concept they did not
19 actually give -- they have no authority to
20 actually approve anything other than the filing
21 with the Securities and Exchange Commission.
22 The structure is that that filing has to
23 precede their approval. But since that time I
24 do not think they have received a document
25 other than just the current report from me

1 quarterly on the progress and performance.

2 Q Quarterly report on the progress of
3 formation of the SONOPCO Corporation?

4 A Of the performance of the units and
5 the progress toward our ultimate organization
6 and that's a verbal report.

7 Q And where do you obtain your
8 information to advise the Board of the status?

9 A I know the information. I receive
10 of course (as everyone else does) reports from
11 the people with whom I work. I receive reports
12 from Mr. McDonald, Mr. Hairston, Mr. McCoy, Mr.
13 Long, Mr. McCrary and I have put together a
14 format, in my own mind, of what I think is
15 important which always includes "where are we"
16 in our negotiations toward the creation of the
17 corporate entity which then would be much
18 easier for everyone to understand.

19 Q And these are oral?

20 A Yes.

21 Q Are the meetings transcribed?

22 A The usual minutes simply include Mr.
23 Farley reporting on nuclear performance and the
24 status of SONOPCO.

25 Q Were you apprised of the

ATTACHMENT
8

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1 you?

2 A There is a clear line for McDonald
3 to me, yes.

4 Q Well, then does it then go Mr.
5 McCrory, Mr. McDonald, Mr. Dahlberg? We've
6 already established that Mr. McCrory reports to
7 Mr. McDonald. Therefore, I assume because Mr.
8 McDonald reports directly to you then that's
9 the chain of command; is that correct?

10 A I think that would be correct if it
11 is true that Mr. McCrory and Mr. Long -- and I
12 said I thought that was true -- report to Mr.
13 McDonald and he reported to me, yes, that would
14 be the chain of command. What I'm also saying
15 though is for the Administrative part of the
16 business, for the Technical Service part of the
17 business I assume Mr. McDonald manages that.
18 The things that he talks to me about are the
19 budget, the performance, the operation of the
20 plant which would be in the operating side of
21 the business. I'm more familiar with that.

22 Q So you have seated to Mr. McDonald
23 all control of Administrative Services and
24 Technical Services and only expect Mr. McDonald
25 to bring problems to your attention that he