

APPENDIX E

**Jeanne Hunt, Office of Investigation,
to James C. McKnight, IRM/RMB,
May 11, 1994.**



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

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NOTE TO: James C. McKnight
IRM/RMB

FROM: Jeanne Hunt
Office of Investigations *Jeanne Hunt*

SUBJECT: PLACEMENT IN PUBLIC DOCUMENT ROOM (PDR) OF
OFFICE OF INVESTIGATIONS REPORT OF INVESTIGATION
2-90-020R - VOGTLE ELECTRIC GENERATING PLANT:
ALLEGED FALSE STATEMENTS REGARDING TEST RESULTS OF
EMERGENCY DIESEL GENERATORS

Please place the following document in the PDR:

OI REPORT OF INVESTIGATIONS 2-90-020R
VOGTLE ELECTRIC GENERATING PLANT: ALLEGED
FALSE STATEMENTS REGARDING TEST RESULTS OF
EMERGENCY DIESEL GENERATORS

An advance copy of ROI has been sent to the PDR for immediate placement in the PDR, this date.

Thank you.

Enclosure:
As stated

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SYNOPSIS

On November 1, 1990, the Regional Administrator, U.S. Nuclear Regulatory Commission (NRC), Region II, requested that an investigation be initiated by the NRC Office of Investigations (OI) concerning alleged material false statements made to the NRC by senior officials of Georgia Power Company (GPC) regarding the reliability of the emergency diesel generators (EDGs) at the Vogtle Electric Generating Plant (VEGP), Waynesboro, GA.

The OI investigation substantiated that, on April 9, 1990, the general manager (GM), VEGP, deliberately presented incomplete and inaccurate information to NRC regarding the testing of the VEGP Unit 1 EDGs conducted subsequent to a March 20, 1990, site area emergency (SAE) at VEGP. This occurred at NRC Region II offices, Atlanta, GA, during a GPC oral presentation in support of their request to return VEGP Unit 1 to power operations.

The investigation also substantiated that, on April 9, 1990, in a letter to NRC captioned VOGTLE ELECTRIC GENERATING PLANT CONFIRMATION OF ACTION LETTER, the senior vice president (VP) of Nuclear Operations (Nuc Ops), GPC, presented a misleading, incomplete, and inaccurate statement of diesel test results, which was based upon the incomplete, inaccurate information in the aforementioned oral presentation. The submission of this statement is considered deliberate, because the GM, VEGP, reviewed the statement in this letter and approved it for signature by the senior VP.

* The investigation substantiated that, on April 19, 1990, the senior VP, Nuc Ops, GPC, with, at a minimum of careless disregard, submitted a false statement of diesel test results to the NRC in Licensee Event Report (LER) No. 90-006, which pertained to the SAE. This false statement was submitted as a direct result of deliberate actions, on April 19, 1990, by a group of GPC senior managers, including the senior VP, Nuc Ops, the Vogtle Project VP, the Corporate GM of Plant Support, and the VEGP GM. These senior managers reworded an existing statement of diesel testing in a draft LER, after the GM of Plant Support had been told by VEGP site personnel that this draft LER statement and the corresponding statement in the April 9 letter (upon which the draft LER statement was based) were false. However, the GPC senior management efforts to make the rewording similar to the April 9 statement, combined with their knowledge that the new statement could not have been definitively verified prior to the issuance of the LER, resulted in the reworded statement being false.

The OI investigation substantiated that the senior VP, Nuc Ops, GPC, again, with, at a minimum, careless disregard, submitted a false statement to NRC in the letter of transmittal of a revision to LER 90-006, dated June 29, 1990. This false statement pertained to the reasons for the difference in the GPC statement of diesel testing in the original LER 90-006 versus the statement of diesel starts in the transmittal letter of the revision.

The investigation substantiated that the VP, Vogtle Project, GPC, with, at a minimum of careless disregard, submitted both a false and a misleading statement in the GPC clarification of Confirmation of Action response letter to NRC dated August 30, 1990. These false and misleading statements pertained

to the reasons why the statement of diesel testing in the GPC Confirmation of Action response letter, dated April 9, 1990, was inaccurate.

The OI investigation substantiated that VEGP GM had knowledge, at the time of his oral presentation to NRC on April 9, 1990, that there continued to be out of tolerance dewpoint readings on the control air of the VEGP Unit 2 EDGs as recently as the day before his presentation. In addition, he knew that GPC, as part of the justification for restart of Unit 1, was claiming that EDG air quality was satisfactory, and that GPC was attributing bad dewpoint readings to faulty instrumentation. The VEGP GM deliberately withheld, from NRC, his knowledge of the relevant material information regarding bad dewpoint readings on Unit 2, and permitted the GPC claims of satisfactory air quality and faulty instrumentation to be issued in the GPC April 9, 1990, letter of response to the NRC Confirmation of Action.

The OI investigation substantiated that the GPC executive VP for Nuc Ops, as the sworn signatory of the GPC response to 2.206, dated April 1, 1991, provided inaccurate information to NRC when the response stated that the GPC senior VP, Nuc Ops, was not a participant in the late afternoon conference call on April 19, 1990, in which the wording of LER 90-006 was revised by corporate and site representatives. The audio tape of that conference call establishes that the senior VP, Nuc Ops, was not only a participant in a portion of that call, but that he addressed the issue of EDG starts and "trips." There was insufficient evidence developed during the investigation to substantiate that the GPC executive VP for Nuc Ops, knowingly and deliberately provided this inaccurate information to the NRC.

It is also concluded from the combination of the above findings, and the overall review, by OI, NRC, of the numerous audio tape recordings of internal GPC conversations regarding their communications with the NRC on a range of issues, that, at least in the March-August 1990 time frame, there was evidence of a closed, deceptive, adversarial attitude toward NRC on the part of GPC senior management. This attitude fostered a noticeable degree of frustration on the part of various GPC Technical Support and Engineering personnel with respect to the GPC provision of information, not known to NRC, that had the potential of resulting in NRC enforcement action.

DETAILS OF INVESTIGATION

Purpose of Investigation

This investigation was initiated by the Office of Investigations (OI), U.S. Nuclear Regulatory Commission (NRC) at the request of Stewart D. EBNETER, the Regional Administrator (RA), Region II (RII), NRC, dated November 1, 1990 (Exhibit 1), to determine whether senior managers of Georgia Power Company (GPC) provided incomplete and inaccurate information to NRC regarding the results of emergency diesel generator (EDG) testing at the Vogtle Electric Generating Plant (VEGP) subsequent to a March 20, 1990, site area emergency (SAE) at VEGP. Also, the investigation was to determine, if such incomplete and inaccurate information was provided, whether the provision was deliberate.

By letter dated June 19, 1991 (Exhibit 2), the RA, RII, requested that additional investigation be conducted, as part of this ongoing investigation, to determine whether the GPC executive vice president (VP) of Nuclear Operations (Nuc Ops) had made false statements to NRC regarding the participation of the GPC senior VP, Nuc Ops, in an April 19, 1990, telephone call in which the wording of the GPC Licensee Event Report (LER) on the SAE was revised.

Background

On March 20, 1990, VEGP, Unit 1, was in a refueling outage in Mode 6 (Cold Shutdown), with one of its two EDGs disassembled for maintenance. A truck accident in the switchyard caused a loss of offsite power, and the operable EDG tripped twice and failed to perform its intended safety function until it was started, in the manual emergency mode, 36 minutes after the loss of power. During this 36 minute period the temperature of the Reactor Coolant System rose approximately 46 degrees fahrenheit.

GPC declared this SAE after they were unable to restore power within 16 minutes, and the NRC subsequently dispatched an Augmented Inspection Team (AIT) to the VEGP Site, which was soon upgraded to an Incident Investigation Team (IIT). This IIT was on site at VEGP conducting their investigation until April 2, 1990. NRC, RII maintained liaison with the IIT, as well as conducting their own inspection activities at VEGP associated with the SAE.

The immediate effort by GPC at the VEGP site, with respect to the EDGs, was to return the EDG that was off line for maintenance (the 1B EDG) to an operable status, so that the 1A EDG could be taken off line to be analyzed for the cause of its failure. The 1B EDG was declared operable on March 28, 1990.

On March 23, 1990, EBNETER issued a Confirmation of Action Letter to GPC (Exhibit 4), which put a hold on the return of VEGP Unit 1 to criticality, "...until the Regional Administrator is satisfied that appropriate corrective action has been taken and the plant can safely return to operation."

At about the same time as this SAE, the alleder in this case, Allen L. MOSBAUGH, the VEGP Acting Assistant General Manager (GM), Plant Support, who reported directly to George BOCKHOLD, the VEGP GM, on his own initiative, without any GPC or NRC knowledge, was tape recording internal GPC

conversations to which he was a party. MOSBAUGH advised OI that he did this taping to obtain evidence of anticipated adverse action against him by GPC for reporting safety concerns to NRC (he has a separate proceeding with the Department of Labor [DOL] regarding discrimination issues), and to obtain evidence of anticipated wrongdoing on the part of GPC. MOSBAUGH's taping continued until early September 1990, when his taping became known to GPC during the course of a DOL proceeding between MOSBAUGH and GPC. MOSBAUGH was immediately suspended by GPC. On September 12, 1990, MOSBAUGH, through his attorney, made OI aware of the tapes and that they potentially contained evidence of wrongdoing on the part of GPC. OI took possession of the tapes as evidence on September 13, 1990. MOSBAUGH's employment with GPC was terminated on October 8, 1990.

In January 1990, MOSBAUGH had anonymously provided NRC with a written allegation of a deliberate violation of a plant technical specification by GPC personnel at VEGP. This allegation was investigated by OI (Case No. 2-90-001) and substantiated. On June 13, 1990, MOSBAUGH came forward, was granted confidentiality by OI, and started providing additional written allegations that were initially addressed in an NRC Operational Special Inspection (OSI) at VEGP during August 6-17, 1990. In preparation for this OSI, on July 18 and 19, 1990, MOSBAUGH was interviewed by OI and RII NRC personnel regarding additional details of his allegations.

In early September 1990, when MOSBAUGH's taping was revealed, and he was suspended by GPC, he filed a 2.206 Petition with NRC, jointly with Marvin HOBBY, another former GPC employee, in which he publicly restated his allegations. By mutual agreement between OI and MOSBAUGH, his confidentiality agreement was subsequently rescinded. As a result of this 2.206 Petition, and the results of the OSI, this Request for Investigation was prompted.

Interview of Allegor (Allen L. MOSBAUGH)

OI first contacted MOSBAUGH as a known allegor on June 13, 1990 (he had submitted his January 1990 allegation anonymously). At this time, he was granted confidentiality, and he provided a detailed written document (Exhibit 4) setting forth his allegations of false statements by GPC regarding the results of EDG testing at VEGP after the SAE. During the subsequent weeks, MOSBAUGH provided additional written allegations to NRC regarding various other issues at VEGP. NRC staff decided that these allegations would be addressed in an OSI at VEGP. MOSBAUGH was interviewed by OI and a RII inspector on July 18 and 19, 1990 (Exhibit 5), to obtain additional details regarding these allegations. The OSI was conducted during the period August 6-17, 1990.

Throughout the conduct of this investigation, numerous contacts have occurred between OI and MOSBAUGH for purposes of identification of speakers on his tape recordings, receipt of additional allegations, and further clarification of known allegations. MOSBAUGH was again interviewed formally by OI on November 4, 1993 (Exhibit 6), specifically regarding the issues in this investigation.

INVESTIGATOR'S NOTE: This investigation focuses on MOSBAUGH's specific allegations of Material False Statements by GPC senior management regarding EDG testing at VEGP after the SAE. However, MOSBAUGH's

continuing overriding concern is his observation, as a mid-level manager in the GPC Nuclear organization from August 1984 until his termination by GPC in October 1990, was that in 1988, when the upper level management of GPC's two nuclear plants (VEGP and Plant Hatch) was reassigned from J. P. O'REILLY to R. P. McDONALD and his subordinate VPs, there was a noticeable change in the overall nuclear operating philosophy from one of conservative, strict adherence to NRC regulations and technical specifications (tech specs), to one of a liberal, loose adherence to, and interpretation of, these regulations and tech specs, to the point of, in MOSBAUGH's estimation, compromising the safe operation of VEGP. MOSBAUGH's numerous allegations, as stated in his original, anonymous allegation in January 1990, and in Exhibits 5 and 6, are his examples of GPC actions and decisions resulting from this change in philosophy.

As evidenced by MOSBAUGH's subsequent 1991 allegations, which prompted the supplemental Request for Investigation (Exhibit 2), he is also deeply concerned that certain members of the senior management of Southern Nuclear Company, who are also GPC senior Nuc Ops managers, currently continue to cover up their direct involvement in the creation of a false statement of EDG testing in GPC LER 90-006, dated April 19, 1990. MOSBAUGH is also concerned that these senior managers, after being put on notice by their subordinates, of regulatory violations or reportable events, would make extremely unrealistic interpretations in an effort to turn these issues into non-violations or nonreportable events.

Coordination with the NRC Staff

The written allegations received by OI from MOSBAUGH starting on June 13, 1990, up to, and including the dates of his joint OI/RII staff interview on July 18 and 19, 1990, were provided to the RII Enforcement and Investigation Coordination Staff (EICS) for evaluation. These allegations, to include the issues in this case, were addressed as part of the OSI during the period August 6-17, 1990. The OSI report on the portion of the inspection that addressed the allegations is Exhibit 56.

Senior NRC staff were briefed by OI, at NRC Headquarters, on the status of this investigation on December 19, 1991, and August 17, 1993. The NRC Commissioners were briefed by OI on February 5, 1992.

Since September 1993, OI has provided assistance and documentation to an NRC Coordinating Team, composed of representatives of NRR, OE, OGC, and RII staff, in their independent analysis of evidence in this investigation.

Coordination with NRC Office of General Counsel (OGC)

On September 4, 1991, OI coordinated with OGC staff, NRC Headquarters, regarding parties to be permitted to be present during the OI interviews of GPC employees.

In view of the fact that the subject matter of this investigation parallels an issue presently before the Atomic Safety Licensing Board, involving the requested transfer of GPC's Nuclear Operating License to the Southern Nuclear

