



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

August 30, 2007

Mr. Jim Warren
Executive Director
North Carolina Waste Awareness
and Reduction Network
P.O. Box 61051
Durham, N.C. 27715-1051

SUBJECT: NRC ALLEGATION REPORT RII-2005-A-0165

Gentlemen:

This is in reference to our letter of March 22, 2006, which discussed the results of our review of 16 of the 19 discrete issues we identified in your joint letter of December 13, 2005, to the Nuclear Regulatory Commission's (NRC) Offices of Inspector General and Nuclear Security and Incident Response, the North Carolina Attorney General and the Supervisory Special Agent, Federal Bureau of Investigation regarding security activities at the Shearon Harris Nuclear Plant.

With the issuance of our March 22, 2006, letter, the NRC considered all of your concerns closed with the exception of Concerns 1, 6, and 19. With respect to these remaining issues, Concern 1, related to alleged cheating on annual tests, was investigated by the NRC's Office of Investigations, (OI) Region II and was substantiated. Enforcement actions have been taken consistent with the agency's enforcement policies. Concern 6, related to alleged expectations that workers not report workplace injuries and reprisals being carried out against those who do, was reviewed by the NRC staff and could not be substantiated. Concern 19, related to plant workers being threatened for talking to UCS, NCWARN or the media, was also reviewed by the NRC and not substantiated. The results of our review of these remaining issues are documented in the Allegation Evaluation Report (AER) which is provided as an enclosure to this letter.

In addition, during our teleconference of May 17, 2007, Mr. Warren discussed two individual examples he suggested might constitute actions involving people who were injured on the job. Mr. Warren indicated that the individuals were not allowed to go to the doctor but rather, were disciplined in some fashion, including possible termination. The name of one Securitas officer was provided. We have reviewed our files and were unable to locate any documentation regarding that individual. Without additional information, or contact by this individual, we will not be able to pursue this matter further.

Thank you for notifying us of your concerns. We believe our actions in this matter have been responsive to your concerns. We take our safety responsibilities to the public very seriously and will continue to do so within the bounds of our lawful authority. Unless we receive additional information that suggests our conclusions should be altered, we plan no further action on the concerns discussed in the AER.

Should you have any additional questions, or if I can be of further assistance in this matter, you may contact me at 404-562-4600 or by mail at P.O. Box 845, Atlanta, Georgia 30301.

Sincerely,

/RA/

Joseph W. Shea, Director
Division of Reactor Safety

Enclosure: As stated

CERTIFIED MAIL NO. P 257 835 894
RETURN RECEIPT REQUESTED

cc w/encl:
Mr. David Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, N.W., Suite 600
Washington, D.C. 20006-3962

ALLEGATION EVALUATION REPORT

ALLEGATION NO. RII-2005-A-0165

SHEARON HARRIS NUCLEAR PLANT, UNIT 1

DOCKET NO. 50-400

CONCERN 1

It is widely known among the Harris security force personnel (SFP) that Securitas/Progress tries to force SFP to cheat on annual testing for state certification required by the NC private protection services board (PPSB), part of the NC Dept. Of Justice. Passing this AOJ test (Ability, opportunity, and jeopardy) is crucial to determining whether an individual is qualified to defend the plant. Recertification is required annually.

When SFP take[s] the tests, which Securitas is allowed to administer itself at the plant, they are forced by Securitas supervisors to take the answer keys into the testing area. Many SFP do not use the answers, but they are still required to accept the answer keys. The SFP whistleblowers believe the cheating is forced because Securitas is short on guards and cannot afford to lose anyone who might fail the exam.

The reason they get away with this is because the superintendent, OPSEC1 of Progress Energy started the cheating years ago, giving a female guard the answers to her Board tests.

DISCUSSION:

An investigation of this concern was completed on September 27, 2006 by the Region II Office of Investigations (OI) which found that certain individuals failed to properly administer written re-qualification tests to contract security officers by providing answers during the administration of the testing.

CONCLUSION:

This concern was substantiated. Enforcement actions have been taken consistent with the agency's enforcement policies.

CONCERN 6

It is widely known among plant safety and security personnel that Progress Energy and security contractor Securitas expect workers not to report workplace injuries, and that they aggressively carry out reprisals against those who do file injury reports. Most of the direct examples included here involve armed guards, but there are indications of similar patterns with the plant's non-security personnel.

In addition, the well-established pattern of reprisals for reporting injuries has the ominous consequence of instilling a "chilling effect" preventing the free and unfettered reporting of nuclear safety and security concerns.

Enclosure

DISCUSSION:

None of the security officers interviewed by an NRC on-site inspection team during the week of January 9, 2006 indicated that Progress Energy carried out reprisals against those who filed injury reports. Additionally, none of the security officers interviewed by the NRC has indicated that they would not report nuclear safety and security concerns.

This concern was also referred to Progress Energy for additional information and they initiated an independent investigation to review and evaluate the allegation.

An NRC inspector subsequently reviewed the Progress Energy response and conducted additional interviews of Progress Energy personnel on December 6-7, 2006, including the Harris Site Corporate Human Resources Representative, the Harris Employee Concerns Coordinator, the Harris Senior Occupational Health and Safety Specialist, the Chairman of Safety Council #5 (administrative personnel), and the Chairman of Safety Council #2 (maintenance and contract personnel). No information was collected that would indicate the licensee expected workers not to report workplace injuries or that the licensee carried out reprisals against those who filed injury reports.

The NRC inspector also reviewed the performance elements of the licensee's performance appraisal system. The NRC inspector noted that a corporate goal of less than or equal to one personnel injury on site is addressed on each employee's appraisal as a performance element. This could possibly be construed by an individual to mean that a person may have their performance appraisal adversely affected should they report an injury. However, the Harris Employee Concerns Coordinator stated that she had never received any employee concerns related to reporting workplace injuries and she was not aware of any problems regarding licensee personnel reporting workplace injuries. Progress Energy's independent investigation included interviews of 49 nuclear security officers. Overall the majority of those interviewed indicated that they would report injuries to supervision and did not feel as though there would be reprisal for doing so. A small number indicated that they would only report those injuries that were extremely serious and they felt there would be some form of reprisal, although they didn't elaborate as to what that might entail.

Lastly, an inspection was conducted in July and August 2007, and the inspectors concluded that based on interviews of a number of security officers, in general, the safety conscious work environment at the site appeared to be adequate, where people felt free to raise issues without fear of retaliation. The inspectors interviewed approximately 20 officers regarding their willingness to raise issues to their management, and to use the corrective action program (CAP) and the employee concerns program (ECP). All interviewed stated that they felt free to raise issues and would do so without fear of retaliation. None of the security officers interviewed by the NRC inspection team indicated that they had been threatened or harassed for bringing allegations or concerns forward. The inspectors concluded that employees felt comfortable bringing up issues with management, and were aware of the other venues available for reporting safety concerns, such as the ECP. In addition, the inspectors determined that licensee management encouraged employees to promptly identify nonconforming conditions. Specifically, it was noted that the security organization had implemented an excellence plan which emphasized the importance of a safety conscious work environment through staff training and other actions. Additionally, the NRC has not received any information from any individuals at the site to substantiate this concern.

Enclosure

CONCLUSION:

The concern could not be substantiated. The NRC has not received any information during multiple on-site activities or from any concerned individuals to substantiate the concern. There were no violations or deviations of regulatory requirements.

CONCERN 19

“...separate reports we received from two sources alleging that Harris plant workers are being threatened against talking to us or the media following yesterday’s complaint about allegations of compromised security and threats against the plant.

We have been told that Progress Energy and Securitas are aggressively seeking the identities of armed guards who might have complained in the past to NRC and to state agencies, and who brought information to us upon which we based our complaint..

We are concerned that the reports we received following yesterday’s complaint suggest a reinforcement of an apparent “kill the messenger” approach at your facility. We have heard many reports about security force personnel raising issues at Harris, only to receive reprisals and abuse for having done so.

In addition, we are told that the security force was warned that if the ‘leaking’ problem is not corrected, it is possible the entire armed guard force might have to be replaced.”

DISCUSSION:

None of the security officers interviewed by an NRC on-site inspection team during the week of January 9, 2006 indicated that they had been threatened or harassed for bringing allegations or concerns to the news media or any other external organization. Many did state however, that Progress Energy security management had attended shift briefings to advise that the disclosure of safeguards information to unauthorized persons was a violation of federal law that could subject violators to prosecution. The officers’ statements in this regard are consistent with information provided to agency managers who contacted Progress Energy in response to this concern to discuss whether there was, in fact, an effort underway to identify individuals who raised concerns with external organizations.

The NRC has not received any information during subsequent on-site activities or from any concerned individuals to substantiate this concern.

CONCLUSION:

The concern could not be substantiated. There were no violations or deviations of regulatory requirements. This concern is considered closed.

Enclosure

Should you have any additional questions, or if I can be of further assistance in this matter, you may contact me at 404-562-4600 or by mail at P.O. Box 845, Atlanta, Georgia 30301.

Sincerely,

/RA/

Joseph W. Shea, Director
Division of Reactor Safety

Enclosure: As stated

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cc w/encl:
Mr. David Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, N.W., Suite 600
Washington, D.C. 20006-3962

PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE NON-SENSITIVE

ADAMS: Yes ACCESSION NUMBER: _____

OFFICE	RII:DRS	RII:DRS	RII:EICS	RII:DRP			
SIGNATURE	/RA/	/RA/	/RA/	/RA/			
NAME	J. Munday	J. Shea	C. Evans	R. Musser			
DATE	8/29/07	8/30/07	8/29/07	8/29/07	8/ /2007	8/ /2007	8/ /2007
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: C:\FileNet\ML072420255.wpd

Enclosure