



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

April 16, 2007

(b)(7)c

SUBJECT: ALLEGATION NO. RIV-2006-A-0033

Dear (b)(7)c

This refers to my May 11, 2006, letter which acknowledged receipt of your concerns regarding the Callaway Plant. My letter advised you that the NRC would initiate actions to address whether a (b)(7)c was less than fully attentive and to your assertion that you were subjected to discrimination for having raised this concern.

Your concerns were addressed by the NRC Office of Investigations (OI), Region IV Field Office and by inspections by the NRC Region IV Operations Branch inspectors. Enclosure 1, "Resolution of Concerns," documents each of your concerns and summarizes the NRC resolution. Enclosure 2, "Callaway Plant - NRC Inspection Report 05000483/2006010," provides you a copy of the NRC's followup on a number of technical issues associated with operator requalifications. In summary, the investigation and inspection were not able to substantiate that the (b)(7)c was inattentive nor that you were subjected to discrimination for having raised this as a concern. An unsubstantiated finding does not mean that the information that you provided was untrue, it only means that we did not find sufficient information/evidence during our inspection/review to support your statements.

Thank you for informing us of your concerns. We believe that 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 the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action and we consider this case closed.

Should you have any additional questions regarding our resolution, please contact Mr. Anthony Gody, Chief, Operations Branch, at 800-952-9677, extension 159, or you can call me at 800-952-9677, extension 245, Monday - Friday between 8:00 a.m. and 4:30 p.m. Central time.

Sincerely,

Harry A. Freeman
Senior Allegation Coordinator

Enclosure:

- 1. Resolution of Concerns
- 2. NRC Inspection Report 05000483/2006010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Information in this record was deleted in accordance with the Freedom of Information Act. Exemptions 7C FOIA/PA 2009-127

C/S

RESOLUTION OF CONCERNS

RIV-2006-A-0033

Concern 1

An operations (b)(7)c was not attentive to his duties for months.

NRC Resolution

OI initiated an investigation to determine if an operations (b)(7)c was not attentive to his duties. The investigator interviewed various people and reviewed procedures and other documentary evidence, including Licensed Operator Continuing Training (LOCT) Evaluation summary Reports and Fitness-for-Duty records.

Based on the information developed during the investigation, the NRC staff concluded that there was not sufficient evidence to substantiate the concern that the operations (b)(7)c was not attentive to his duties.

This concern was not substantiated.

Concern 2

You and the (b)(7)c old licensee management about the problem but management took no action to address the issue until they were forced to by an Employee Concerns Program investigation.

NRC Resolution

The OI investigation included a review to determine if Callaway management willfully failed to take appropriate action regarding an operations (b)(7)c who was not attentive to his duties for months. The investigator interviewed various people and reviewed procedures and other documentary evidence, including LOCT Evaluation Summary Reports and Fitness-for-Duty records.

Based on the information developed during the investigation, the NRC staff concluded that Callaway management personnel followed AmerenUE's procedures and conducted the Behavioral Observation Program Evaluations of the operations (b)(7)c after they were notified by the (b)(7)c

This concern was not substantiated.

Concern 3

You were subjected to retaliation for reporting this fitness-for-duty problem to the Employee Concerns Program in that you did (b)(7)c

NRC Resolution

OI initiated a separate investigation to determine whether you were subjected to employment discrimination by AmerenUE for raising safety concerns. The investigator interviewed various people and reviewed documentary evidence which showed that Callaway managers were challenged to raise the performance evaluation standards and that the evaluations of several supervisors were affected as a result. Of the four supervisors rated in the same category as you, three had ratings higher than you in 2004. Your supervisor rated you based upon input from other

ENCLOSURE 1

managers and the level of performance he believe that you had maintained. Your supervisor stated that while he was aware of a report that an operations (b)(7)(c) was not attentive to his duties, he was not aware that you had raised the concern.

The investigator also reviewed documentary evidence concerning the AmerenUE bonus program. This evidence indicated that the program had two elements: (1) the business line performance, and (2) the individual's performance. The business line performance is weighted at 50 percent and the remaining 50 percent is placed in a pool and used to award individual performance on a discretionary basis. The records showed that, of the supervisors receiving performance evaluations similar to your's, you received the largest bonus.

Based on the evidence developed during the investigation, your concern of discrimination for raising safety concerns was not substantiated.

Concern 4

The operations crew may have been "carrying" the inattentive operations (b)(7)(c) during licensed operator requalification in that the shift crew had to compensate for the (b)(7)(c) inadequacies and the grading standard was relaxed in order for the crew to pass. (b)(7)(c) told you that this was not a regulatory issue since the exam still met the NRC threshold.

NRC Resolution

The NRC inspected the concern during an inspection conducted on July 13, 2006. The entire set of 2005 annual operating test scenarios was reviewed to verify that the examination was developed and administered in accordance with NUREG 1021, Revision 9, "Operator Licensing Examination Standards for Power Reactors." Specifically, the inspector reviewed 16 operating scenarios used in the 2005 annual operating test against the guidance contained in NUREG 1021, ES-604, "Dynamic Simulator Requalification Examinations," to ascertain if each scenario was adequate for use in the NRC annual operating tests. Other aspects of licensed operator requalification were reviewed such as: (1) the administration, grading, and construction of the entire body of scenarios to determine if the operating test was equitable for all the Callaway Plant operators; (2) operators and instructors were interviewed to ensure that scenarios were graded properly and consistently; and (3) various licensee operations management were interviewed to understand the expectations associated with team building. The inspectors also reviewed the remediation of a crew, which had failed their first operating test and the retest of that crew.

The inspectors found the 2005 annual operating test to be both equitable and consistent as required by 10 CFR 55.49, "Integrity of Examinations and Tests." The inspectors also found that the licensee implemented effective remedial training for those operators who failed their first annual operating test prior to returning them to shift duties.

The NRC staff has concluded that the 2005 annual operating test was developed, administered, and graded in accordance with NUREG-1021. The 2005 annual operating test was equitable and consistent as required by 10 CFR 55.49, "Integrity of Examinations and Tests." Additionally, the NRC staff concluded that the licensee implemented effective remedial training for those operators who failed their first annual operating test prior to returning them to shift duties. These conclusions were based on the inspector completing an in-depth evaluation of 100 percent of the

operating test against the guidance contained in NUREG 1021 ES-604, and a review of the remediation and testing of the crew that failed their initial test.

This concern was not substantiated.

Concern 5

Based upon your concerns, the NRC inspected an additional concern that although the allegedly inattentive operations (b)(7)c was purportedly removed from shift duties, the licensee had not terminated his SRO license and therefore, the individual may be placed on shift as needed.

NRC Resolution

Based on the OI investigator not being able to substantiate the concern that the operations (b)(7)c was inattentive during the performance of licensed duties, there is no legal basis for the NRC to require the licensee to terminate the individual's SRO license.

NRC management discussed the status of the subject operations (b)(7)c license with licensee management who indicated that the subject (b)(7)c was not performing licensed duties at that time.

Concern 6

You believe that there was a failure of the licensee's fitness-for-duty program in that 20 to 30 individuals had regular contact with the (b)(7)c but did not pursue resolution of his lack-of-attention to duties.

NRC Resolution

The OI investigation included a review to determine if there was a failure of the licensee's Fitness-for-Duty Program.

Based on the information developed during the investigation, the NRC staff concluded that Callaway personnel, including management, followed AmerenUE's procedures and policies, including conduct of the Behavioral Observation Program Evaluations regarding the operations (b)(7)c

This concern was not substantiated.

Concern 7

On more than one occasion, an on-shift operations (b)(7)c left the control room area for 4 to 5 hours. During these absences, the shift crew could not contact the (b)(7)c by any communications method. The operations (b)(7)c may not have designated another individual to assume the control room command function during these absences.

NRC Resolution

OI initiated an investigation to determine if an on-shift operations (b)(7)c left the control room area for extended periods of time, was unable to be contacted by the shift crew during these periods of time, and did not designate another individual to assume the control room command function during these absences. The investigator interviewed various people and reviewed procedures and other documentary evidence, including control room logs and reader transaction records for the control room for May and June 2005. The investigator found only one instance of the on-shift operations (b)(7)c being absent from the control for a period of more than 2 hours. Records indicate that he was involved in official work for the licensee which kept him out of the control room for this time frame.

Based on the results of the investigation, the NRC was unable to substantiate your concern that an on-shift operations (b)(7)c left the control room area for 4 to 5 hours, and that during these absences the shift crew could not contact the (b)(7)c by any communications method. However, the NRC will be following up on the one instance where the on-shift operations (b)(7)c was absent from the control room for a period of more than 2 hours for official work. The NRC plans to inspect this during a future inspection to ensure that compliance with applicable regulations was maintained.

This concern was not substantiated.