

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION
 OFFICE OF NUCLEAR REACTOR REGULATION

J. E. Dyer, Director

In the Matter of)	Docket Nos. 50-498 and 50-499
)	
STP NUCLEAR OPERATING COMPANY)	License Nos. NPF-76 and NPF-80
)	
South Texas Project, Units 1 and 2)	

DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. Introduction

By letter dated May 16, 2006, as supplemented on June 26, 2006, Mr. Glenn Adler of Service Employees International Union (hereinafter Petitioner) filed a petition pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206. The Petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) take certain enforcement action.

A. Actions Requested

The Petitioner requested that NRC issue a demand for information (DFI) to require STP Nuclear Operating Company (STPNOC), the licensee for South Texas Project Electric Generating Station (STP), to provide the following information:

1. any assessments of the safety-conscious work environment (SCWE) at STP conducted since January 1, 2004;
2. summaries of any associated action plans and the results of any efforts to remedy problems revealed by these assessments, including the following

documents mentioned at an August 2005 meeting, apparently convened to discuss the plant's SCWE:

- (a) strengths, weaknesses, opportunities, and threats analysis to assess the issues and actions required and follow-up on these actions to improve station alignment,
 - (b) outsourcing lessons learned, and
 - (c) an evaluation of information technology, supply chain, technical training, and Wackenhut Corporation to assess the issues and recommended actions;
3. summaries of any associated action plans and the results of efforts to remedy problems revealed by such assessments in 2001 and 2003; and
 4. all correspondence between the NRC, STPNOC, and Wackenhut concerning the 2001, 2003, and 2005 comprehensive cultural assessments (CCAs).

B. Petitioner's Bases for the Requested Actions

The Petitioner stated that in 1998, the NRC found that STP had violated Federal law by subjecting four employees to a "hostile work environment" after the employees raised safety concerns. As a basis for the request, the Petitioner noted that the NRC issued an order requiring STP to hire an independent contractor to conduct periodic CCAs.

The Petitioner stated that Wackenhut took over security at STP in July 2001, after winning a 3-year contract for security, with an option for 2 additional years. The Petitioner further noted that in the 2001 and 2003 CCAs, Wackenhut scored poorly on independent surveys assessing the STPNOC nuclear safety culture, SCWE, general culture and work environment, leadership, management, and supervisory skills and practices.

The Petitioner stated that despite apparently repeated efforts by STPNOC to remedy the poor performance of Wackenhut, a more recent survey revealed that Wackenhut's performance problems continued, as indicated in the 2005 CCA, and that the STPNOC action plans apparently were not successful with respect to Wackenhut and other entities. The Petitioner requested that the NRC scrutinize the steps taken by STPNOC to rectify problems identified in the 2001, 2003, and 2005 CCAs.

The Petitioner asserted that by obtaining the requested documents, the NRC will be better informed about improvement in the licensee's SCWE at STPNOC, and will be better able to assess the effectiveness of the steps taken to remedy persistent problems regarding Wackenhut and other entities.

C. NRC Petition Review Board's Meeting with the Petitioner

The Petitioner met with the Office of Nuclear Reactor Regulation's petition review board (PRB) on June 27, 2006, to clarify the bases for the petition. The transcript of this meeting was included in the PRB meeting summary, treated as a supplement to the petition, and is available in the Agencywide Documents Access and Management System (ADAMS) for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr@nrc.gov.

The NRC staff sent a copy of the proposed director's decision to the Petitioner and STPNOC for comment by letters dated November 22, 2006. At the request of the Petitioner,

the NRC extended the end of the comment period from December 21, 2006, to January 12, 2007. The NRC staff did not receive any comments on the proposed director's decision.

II. Discussion

The Petitioner raised issues related to the SCWE and the general work environment at STP, and requested enforcement action in the form of a DFI that would require STPNOC to provide certain information to the NRC. The Petitioner stated that the information would allow the NRC to be better informed and to better assess the effectiveness of previous steps taken with Wackenhut and other entities which have persistent problems.

To address these issues, the NRC staff reviewed its oversight of STPNOC since June 9, 1998, when the NRC staff issued a Confirmatory Order Modifying License (Effective Immediately), EA 97-341, to STPNOC. The Order confirmed STPNOC's agreement to improve the handling of safety concerns brought to management by workers. The Order required STPNOC to use an independent contractor to periodically survey its employees, supervisors, management, and contractors about their concerns regarding SCWE through 2002 and report the results of each survey to the NRC. The final CCA required by the Order was performed in January 2003. The NRC reviewed this CCA as documented in Inspection Report ID 50-498/03-09 and 50-499/03-09. This inspection closed the Order. NRC Inspection Report ID 50-498/03-09 and 50-499/03-09 is publicly available on the NRC Web site via ADAMS at Accession No. ML031920509.

The Petitioner requested that any assessments of the SCWE at STP conducted since January 1, 2004, be provided to the NRC and docketed to enable the NRC to provide better oversight. The NRC staff's review identified the following three assessments of the SCWE at STP, which were conducted since January 1, 2004:

1. The NRC assessed the SCWE at STP, as documented in NRC Problem Identification and Resolution Inspection Report ID 05000498/2004011 and 05000499/2004011, using

the guidance in Inspection Procedure 71152B, "Identification and Resolution of Problems," revised September 8, 2003. NRC Inspection Report ID 05000498/2004011 and 05000499/2004011 is publicly available via ADAMS at Accession No. ML050040481.

2. The licensee contracted with Management Insight Technologies to perform a sitewide culture assessment in May 2005. The survey evaluated general worker morale and the SCWE at the STP site. In September 2006, the NRC reviewed the assessment as it related to the STP SCWE, using the guidance of Inspection Procedure 71152B, "Identification and Resolution of Problems," revised June 22, 2006. This review is documented in NRC Problem Identification and Resolution Inspection Report, ID 05000498/2006009 and 05000499/2006009, and is publicly available via ADAMS at Accession No. ML063200197. The NRC reviewed the May 2005 CCA, while on site and does not have a copy of the contractor's assessment.
3. In September 2006, the NRC initiated a security inspection at STP that addressed SCWE issues and other general culture and work environment issues. The agency summarized the results of this inspection in "Summary of NRC's Review of the Recent Security Issues at the South Texas Nuclear Power Plant," publicly available on the NRC Web site via ADAMS at Accession No. ML063310469 as well as in a "For the Record" entry dated November 27, 2006, at <http://www.nrc.gov/reading-rm/doc-collections/for-the-record/2006/south-texas-project.pdf>.

Based on the referenced assessments and associated NRC inspection reports, the NRC determined that overall a positive SCWE currently exists at STP. Nonetheless, some general culture issues were identified at STP that, if not corrected, may have the potential to impact SCWE. The NRC therefore will continue to monitor the SCWE at STP, during the next Security baseline inspection scheduled for early 2007.

The Petitioner requested that the NRC issue a DFI, that would require STPNOC to provide summaries of any action plans and the results of any efforts to remedy problems associated with the assessments of the SCWE at STP conducted since January 1, 2004. The Petitioner requested that this information be docketed to enable the NRC to provide better oversight. The NRC staff has reviewed several of the documents and continues to have access while on site to all of the information requested by the Petitioner.

Pursuant to 10 CFR 2.204, the NRC may issue DFIs to NRC licensees for the purpose of determining whether an order under 10 CFR 2.202 should be issued, or whether other actions should be taken. In addition, the NRC Enforcement Manual (available on the NRC Web site at <http://www.nrc.gov/what-we-do/regulatory/enforcement/guidance.html>) states, "A DFI is a significant action. It should be used only when it is likely that an inadequate response will result in an Order or other enforcement action."

Since the NRC has reviewed and has ready access to all of the information for which Petitioner has requested a DFI, NRC would not obtain any additional information by issuing the requested DFI. As a result, issuance of the requested DFI to STPNOC would not result in an order or other action and is not warranted. Accordingly, your request for a DFI is denied. The NRC has also denied your request to docket the documents for which you requested DFI. The NRC will docket only documents which are submitted to the NRC. However, the NRC is denying your request for a DFI, and NRC did not require submission of the documents in its Confirmatory Order Modifying License (Effective Immediately) of June 9, 1998. Instead, STPNOC maintains the documents for ready access by the NRC at the site.

II. Conclusion

The Petitioner raised issues related to the SCWE at STP. The NRC has determined that overall a positive SCWE currently exists at STP. The Petitioner raised issues related to the general work environment at STP as these conditions affect the SCWE. Some general culture

issues were identified at STP during the recent security inspection. The NRC will continue to monitor the SCWE at STP and as part of the next security baseline inspection scheduled for early 2007.

The Petitioner requested that NRC issue a DFI to obtain information in order to be better informed and to better assess the effectiveness of steps taken by STPNOC regarding Wackenhut and other entities who have had persistent problems. Since the NRC already has reviewed and has ready access to all of the information requested by the Petitioner, issuance of the requested DFI to STPNOC would not result in an Order or other action and is not warranted. Since the requested material was not required by the NRC Order and was not submitted to the NRC, and is maintained at the licensee's facility and readily accessible to the NRC staff, docketing the requested information is unwarranted. Accordingly, the NRC denies the Petitioner's requests to issue a DFI to STPNOC, and to docket the documents for which a DFI was requested.

As provided in 10 CFR 2.206(c), a copy of this director's decision will be filed with the Secretary of the Commission for the Commission to review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 24th day of February 2007.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

J. E. Dyer, Director
Office of Nuclear Reactor Regulation