



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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

January 22, 2008

EA-07-111,114,117

Wackenhut Nuclear Services
ATTN: Mr. Eric Wilson, President
4200 WNS Drive
Palm Beach Gardens, FL 33410

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2006-012]

Dear Mr. Wilson:

The enclosed Confirmatory Order is being issued to Wackenhut Nuclear Services (WNS) as a result of a successful alternative dispute resolution (ADR) session on August 27, 2007. The enclosed commitments were made by WNS as part of a settlement agreement concerning three apparent violations involving WNS employees who were providing security-related services at Florida Power and Light Company's (FPL) Turkey Point Nuclear Plant in 2004 and 2005.

In a letter dated May 25, 2007, the NRC provided WNS with the results of an investigation completed by the NRC's Office of Investigations (OI). The NRC reached a preliminary conclusion that WNS security personnel deliberately removed and broke a firing pin from a contingency response weapon, and deliberately removed the firing pins from two other contingency response weapons, rendering the weapons non-functional. In addition, the NRC preliminarily determined that a WNS security project manager deliberately provided FPL with information in a Condition Report related to a damaged firing pin event, that he knew was incomplete or inaccurate.

Our letter of May 25, 2007, offered WNS a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, WNS requested ADR to resolve any differences with the NRC concerning the apparent violations, and to discuss corrective actions. An ADR mediation session was held on August 27, 2007, at which a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order. Consistent with the purposes of ADR, WNS and the NRC acknowledged that the session was not for the purposes of reaching any conclusions regarding any facts or circumstances as discussed in the NRC's letter of May 25, 2007.

As part of the ADR settlement agreement, WNS agreed to a continuation of several initiatives to achieve sustained enhancements in security, as discussed in the enclosed Confirmatory Order. WNS also agreed to periodic communications with the NRC to discuss the status and effectiveness of these initiatives.

The NRC is satisfied that its concerns will be addressed by making your commitments legally binding through the enclosed Confirmatory Order. Therefore, the NRC has agreed not to pursue any further enforcement action in connection with the issues described in our May 25, 2007, letter to you.

During the ADR session of August 27, 2007, WNS agreed to submit additional information related to one of the matters discussed at the session, and the NRC agreed to review and consider this information as part of the Agency's deliberations. WNS subsequently submitted this information by letter dated September 5, 2007, and the results of the Agency's review are reflected in the issuance of the attached Confirmatory Order and other related Agency documents.

We have enclosed a Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated January 17, 2008, you agreed to issuance of this Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, because this issue involves security-related information and disclosure to unauthorized individuals could present a security vulnerability, if you choose to respond, you must mark your entire response "Proprietary Information in accordance with 10 CFR 2.390(d)(1)" and follow the instructions for withholding in 10 CFR 2.390(b)(1). If you choose to provide a response, please provide your response to NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street SW Suite 23T85, Atlanta, Georgia 30303-8931, within 30 days. In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the attached Confirmatory Order, at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>; then select **Significant Enforcement Actions**.

Your response to the Confirmatory Order will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS).

Questions or comments concerning this letter and Confirmatory Order should be addressed to Ms. Carolyn Evans, Enforcement Officer and Regional Counsel, Region II, at 404-562-4414.

Sincerely,

/RA/

Victor M. McCree
Acting Regional Administrator

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc:

Arthur Dombay
Troutman Sanders, LLP
Bank of America Plaza
Suite 5200
600 Peachtree Street, N.E.
Atlanta, Georgia 30308-2216

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X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE NON-SENSITIVE
 ADAMS: Yes ACCESSION NUMBER: _____

OFFICE	RII COUNSEL	RII:DRS	RII:DRS	RII:ORA	RII:ORA	
SIGNATURE		/RA/	/RA/	/RA/	/RA/	
NAME		JMUNDAY	JSHEA	CCASTO	VMCCREE	
DATE						
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OGC	NSIR	OE			
SIGNATURE	/RA via email/	Vie /RA via email/	/RA via email/			
NAME	M. Clark	R. Correia	N. Hilton			
DATE	1/16/2008	1/16/2008	1/16/2008			
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YESNO	YESNO

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Wackenhut Nuclear Services, Inc.) EA-07-111,114,117
)

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Wackenhut Nuclear Services, Inc. (WNS) provides security related services to the Turkey Point Nuclear Plant (Turkey Point), operated by Florida Power & Light Company (FPL or Licensee). FPL holds License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR Part 50. The license authorizes the operation of Turkey Point, Units 3 and 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

On February 24, 2006, the Nuclear Regulatory Commission (NRC) completed an on-site inspection of security-related matters at FPL's Turkey Point Nuclear Plant. During the inspection, an investigation was initiated by the NRC's Office of Investigations (OI), which was subsequently completed on August 23, 2006. The purpose of the investigation was to determine whether WNS security personnel rendered contingency response weapons non-functional and whether information in FPL documents was inaccurate or incomplete in some respect material to the Commission. The results of the OI investigation and additional in-office

inspection activity were documented in a letter to WNS dated May 25, 2007, which identified three apparent violations involving the activities of WNS employees. The three apparent violations included:

- A. In August 2005, a broken firing pin from a contingency response weapon was discovered at FPL's Turkey Point facility. Based on an investigation, the NRC's OI determined that a WNS security officer deliberately removed and broke a firing pin from a contingency response weapon, rendering the weapon non-functional. This activity caused FPL's Turkey Point Nuclear Plant to be in apparent violation of its Physical Security Plan, Sections 4.1 and 5.4, Revision 0b, and Security Force Instruction (SFI) 2404, Section 2.3, Revision 21, and caused WNS to be in apparent violation of 10 CFR 50.5.
- B. In April of 2004, a WNS employee deliberately removed the firing pins from two contingency response weapons, rendering the weapons non-functional. These actions caused FPL to be in apparent violation of a February 25, 2002, NRC Order and Interim Compensatory Measures, Section B.4(f) , and caused WNS to be in apparent violation of 10 CFR 50.5.
- C. On or about October 2004, the WNS Project Manager assigned to FPL's Turkey Point Nuclear Plant, provided the licensee with information in Condition Report (CR) 2004-13573, related to a damaged firing pin event, which was not complete or accurate in some respect material to the NRC. The CR was provided by FPL to NRC inspectors during a February 2006 inspection at Turkey Point, and was used to inform the NRC's inquiry regarding additional actions necessary to address serious security concerns. The NRC preliminarily concluded that the WNS security project manager engaged in deliberate misconduct in apparent violation of 10 CFR 50.5, in that he was aware at the time that the information documented in the CR was not

complete or accurate. As a result, the WNS security project manager's actions caused FPL to be in apparent violation of 10 CFR 50.9, and caused WNS to be in apparent violation of 10 CFR 50.5.

III

The results of the NRC's preliminary conclusions, as discussed in Section II, were provided to WNS by NRC letter dated May 25, 2007. The NRC's letter informed WNS that the NRC was considering the apparent violations for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered WNS a choice to: (1) attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, WNS requested ADR to resolve the matter. WNS and the NRC participated in an ADR session in Atlanta, Georgia, on August 27, 2007. As a result of the ADR session, WNS and the NRC reached an Agreement in Principle, which consisted of the following elements:

1. WNS agrees to the underlying facts which give rise to apparent violations (A) and (B) as discussed in Section II. Regarding violation (C), WNS agreed to provide, within 10 business days of the date of the Agreement in Principle, subject to 10 CFR 2.390, information on the docket to support its view that the subject violation did not occur. NRC agrees to review and consider this information during the course of its deliberations in this and related matters prior to the issuance of a Confirmatory Order.
2. During the ADR, WNS described its implementation of enhanced employment selection programs, many of which are intended to address professionalism and high standards of integrity that exceed regulatory requirements. NRC and WNS reached a preliminary

agreement that WNS will continue its initiatives in the following areas to achieve sustained enhancements in security:

1. WNS New Hire/Recruitment Policy; WNS 102, "New Hire Recruitment Policy";
 2. Site Enhancement Plan related to the Turkey Point facility;
 3. Development of an enhanced program for leadership development and WNS' desire to be "best in class";
 4. Benchmarking to include audits, self-assessments, and Safety Conscious Work Environment;
 5. Ideal Facility Performance Indicators for Turkey Point;
 6. Continual Behavior Observation Program will include "one-on-one" discussions between supervisors and their direct reports to discuss behaviors that are adverse to security, and the obligation of officers to report adverse behavior and other actions which could jeopardize the safety and security of the plant;
 7. Communications with the NRC, to include the following: Development and submittal to the NRC of an initial report detailing specific information on the above actions, within approximately three months of issuance of the Confirmatory Order. Subsequent status reports will be submitted to the NRC approximately every six months, for a period of two years (four reports in total). At the end of this period (approximately 27 months following issuance of the Confirmatory Order), a management meeting between the NRC and WNS will occur. The process will be completed after 27 months unless reasonable cause exists for continuing with required reporting;
3. The NRC and WNS agreed that the above elements will be incorporated into issuance of a Confirmatory Order.
 4. The NRC and WNS agreed that the elements as discussed at the ADR meeting of

5. August 27, 2007, are subject to change based on WNS operational, management or industry considerations and with prior notice to the NRC.

IV

Because WNS has agreed to take actions to address the NRC's concerns, as set forth in Section II above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that WNS' commitments set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that WNS' commitments be confirmed by this Order. Based on the above and WNS' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

WNS will continue its initiatives in the following areas to achieve sustained enhancements in security, including:

1. A WNS New Hire/Recruitment Policy; WNS 102, "New Hire Recruitment Policy";
2. A Site Enhancement Plan related to the Turkey Point facility;

3. Development of an enhanced program for leadership development and WNS' desire to be "best in class";
4. Benchmarking to include audits, self-assessments, and Safety Conscious Work Environment;
5. Ideal Facility Performance Indicators for Turkey Point;
6. Continual Behavior Observation Program will include "one-on-one" discussions between supervisors and their direct reports to discuss behaviors that are adverse to security, and the obligation of officers to report adverse behavior and other actions which could jeopardize the safety and security of the plant;
7. Communications with the NRC, to include the following: Development and submittal to the NRC of an initial report detailing specific information on the above actions, within approximately three months of issuance of the Confirmatory Order. Subsequent status reports will be submitted to the NRC approximately every six months, for a period of two years (four reports in total). At the end of this period (approximately 27 months following issuance of the Confirmatory Order), a management meeting between the NRC and WNS will occur. The process will be completed after 27 months unless reasonable cause exists for continuing with required reporting;

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by WNS of good cause.

Any person adversely affected by this Confirmatory Order, other than WNS, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street SW Suite 23T85, Atlanta, GA, 30303-8931; and to WNS. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than WNS requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Victor M. McCree
Acting Regional Administrator

Dated this 22nd day of January 2008