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Randall K. Edington  
Vice President, Operations

September 21, 2000

U.S. Nuclear Regulatory Commission  
ATTENTION: Document Control Desk  
Washington, DC 20555

Subject: Response to an Apparent Violation of Employee Protection  
Requirements in NRC Investigation Report 4-2000-017A, EA 00-190  
River Bend Station - Unit I  
License No. NPF-47  
Docket No. 50-458

File Nos.: G9.5, G15.4.1

RBG-45499  
RBEXEC-00-033  
RBF1-00-0203

Ladies and Gentlemen:

The Nuclear Regulatory Commission (NRC) Region IV letter of August 24, 2000, notified Entergy Operations Inc. (EOI) River Bend Station (RBS) of an Apparent Violation of 10 CFR 50.7, "Employee Protection," identified in NRC Investigation Report 4-2000-017A. Entergy Operations, Inc. (EOI) was given a choice to either respond to the apparent violation in writing or request a pre-decisional enforcement conference. EOI elected to provide a written response and informed the NRC Region IV in a telephone conversation with Mr. Ronald Kopriva. This correspondence is EOI's written response.

EOI evaluated this apparent violation regarding discrimination in accordance with NRC Enforcement Policy, NUREG-1600, dated May 1, 2000, Sections IV.A.1 through IV.A.4 and Section IV.B. EOI's investigation concluded that comments were made by the Superintendent, Plant Security and that the comments were perceived by some individuals as intimidating and threatening. Additionally, EOI concluded from its investigation that this perception by workers could potentially generate an adverse effect if allowed to persist. Therefore, RBS agrees that an apparent violation of 10 CFR 50.7 occurred.

IE14  
public per  
Greg Gallucci

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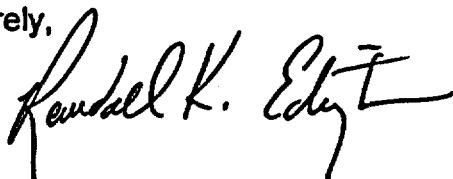
EOI determined that, as a result of the rapid, decisive and broad immediate corrective actions taken to address the issue, no actual discrimination occurred or was identified, no actual safety consequence resulted and the potential for adverse safety consequences was minimal. EOI considers our actions related to this issue as prompt, broadly focused and effective. Additionally, these actions were taken at the earliest possible opportunity.

Further, the event itself is not representative of the working environment that has otherwise been free of similar events at RBS. EOI proposes that credit for both identification and corrective action are warranted in this matter, as described in the attachment. Additionally, it is our conclusion that no civil penalty should be imposed. This determination is consistent with NRC policy regarding escalated enforcement in regards to 10 CFR 50.7 matters. Details supporting our conclusions are provided in the attached information.

Should you or your staff have any questions or require additional information, please contact Mr. Joseph Leavines of my staff at (225) 381-4642.

Affirmation: Pursuant to 28 U.S.C.A. Section 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21<sup>st</sup> day of September 2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall K. Edgely". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

RKE/RLB/DLM

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attachments

cc:

U. S Nuclear Regulatory Commission  
Region IV  
611 Ryan Plaza Drive, Suite 400  
Arlington, TX 76011

NRR Project Manager, Jeffery Harold  
U.S. Nuclear Regulatory Commission  
M/S 0 7D1  
Washington, D.C. 20555

NRC Sr. Resident Inspector  
P.O. Box 1050  
St. Francisville, LA 70775

Director Office of Enforcement  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

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**REPLY TO NOTICE OF APPARENT VIOLATION EA 00-190**  
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**Apparent Violation:**

In NRC Letter dated August 24, 2000, an apparent violation of NRC requirements was identified:

An apparent violation of the requirements of 10CFR50.7, Employee Protection, occurred, in that, remarks made by the River Bend Station (RBS) Superintendent, Plant Security directed at members of the Security Force at a shift turnover meeting on March 3 or 4, 2000 and again during a conversation with Security officers on March 4 and/or 5, 2000, constituted discrimination.

**Discussion:**

Entergy Operations, Inc., (EOI) is committed to its responsibility to ensure the safety of nuclear operations and believes that the freedom provided to employees to identify and communicate concerns is an integral part of this responsibility. Immediately upon notification by the NRC of an allegation that the Superintendent, Plant Security had made potentially threatening remarks, EOI conducted an independent investigation of the incident. This investigation was very thorough and was conducted with the utmost priority. EOI's investigation concluded that the Superintendent, Plant Security had made certain comments, though not directed at a particular individual, that the comments were perceived by some individuals as intimidating and threatening. Additionally, EOI's investigation concluded that this perception by workers could potentially generate an adverse effect if allowed to persist. Therefore, EOI does not contest the violation of 10 CFR 50.7.

We recognize NRC guidance and enforcement precedents would include instances of intimidation or harassment and the resulting potential for an adverse effect. However, it is our belief that no actual act of discrimination occurred. In support of this conclusion, EOI determined that no adverse action was taken against any employee nor was any loss of benefits or employment opportunity realized. Any adverse action remained only a "potential" action and as such did not constitute the act of discrimination. Nevertheless, EOI management believes that the remarks and conduct of the Superintendent, Plant Security were unwarranted, unacceptable and had the potential to impose a reluctance on the part of the Security Force to raise concerns. If such conduct had been allowed to persist, it could have potentially impacted the RBS Security Department safety conscious work environment. EOI finds this behavior and its potential effects inappropriate.

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**Discussion (continued):**

Consequently, the swiftness and breadth of EOI's corrective actions are consistent with Management's beliefs.

**Enforcement Considerations:**

EOI evaluated this apparent violation regarding discrimination in accordance with NRC Enforcement Policy NUREG-1600 dated May 1, 2000, Sections IV.A.1 through IV.A.4 and Section IV.B. EOI determined that as a result of the rapid, decisive, and broad immediate corrective actions taken to address the issue that no actual safety consequence resulted and the potential for adverse safety consequence or adverse impact on the work environment at RBS was minimal. The incident was an isolated event in that it had a limited scope of influence (i.e. addressed a single Security Force crew), which was promptly corrected by EOI management upon identification.

EOI employs a contract Security Force at RBS supervised by the Superintendent, Plant Security. During a turnover meeting, the Superintendent made unacceptable comments and subsequently, informed the employees that they had the right to communicate their concerns to the NRC. Nevertheless, the manner and tone of the Superintendent's comments to the Security Force resulted in some individuals feeling intimidated (as validated by interviews).

Any potential impact on the safety conscious work environment would not be appreciable or lasting because of the swiftness and decisiveness of corrective actions taken. Additionally, the remarks were made to one of four Security Force crews, which effectively restricted the direct scope of influence to a limited group.

Beginning on March 14, 2000, following notification by the NRC of an allegation regarding the Superintendent's remarks, EOI Management acted to rapidly reinforce EOI's expectations within the Security Force regarding employee rights to raise concerns both to their own management and to the NRC without fear of retaliation. Senior plant management met with each crew of the Security Force and reinforced EOI's commitment to a safety conscious work environment. Within forty-eight hours of the identification of the issue, EOI had interviewed a number of members of the Security Force, chartered an independent investigation, and issued a memorandum from the RBS site Vice President to all RBS personnel emphasizing expectations for problem identification and resolution of concerns. The Superintendent, Plant Security was separated from

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**Enforcement Considerations (continued):**

his position on March 17, 2000, and the Supervisor, Fitness-for-Duty was appointed as the Acting Superintendent, Plant Security. An overview of the event, which led up to the removal of the Superintendent, Plant Security, was also communicated to site management. Management then communicated that this action (i.e., the removal of the Superintendent from his position) was necessary because of alleged statements made to employees that could have discouraged them from raising concerns to Management or to the NRC.

NUREG 1600, Section IV B says, "Severity Level III violations are cause for significant regulatory concern. Severity Level IV violations are less serious but are of more than minor concern. Violations at Severity Level IV ...are not considered significant based on risk." Due to the limited scope of influence of the inappropriate remarks and the thorough, comprehensive and effective corrective actions employed, EOI believes that consideration should be given to assigning a Severity Level IV to this matter. If the NRC determines, nevertheless, that a higher Severity Level should be considered, no higher than a Severity Level III should apply. EOI recognizes that any violation is significant in some regard and should be treated as such. In this case, the immediate and thorough actions by EOI Management clearly demonstrated a commitment to a safety conscious work environment and mitigated any potential for adverse effects in the workplace.

**Mitigation Assessment:**

EOI evaluated the incident with consideration of the four relevant enforcement decisional points:

- Previous escalated enforcement
- Whether corrective actions are prompt and comprehensive
- Credit for actions related to identification
- Whether the matter requires the exercise of discretion

EOI/RBS was subject to escalated enforcement within the previous two years prior to this incident. With this perspective, the decision process becomes two pronged—corrective action credit and identification credit.

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**Mitigation Assessment (continued):**

EOI believes that the corrective actions were prompt and comprehensive in that, on our own initiative, rapid actions were implemented (within hours and days) to address both the broader environment for raising safety concerns in the workplace (independent investigation, surveys, expectations, etc.) and to provide a swift remedy for the particular case.

Within three days of notification, a new Superintendent, Plant Security was appointed. Senior Management communicated to RBS site management issues related to the event and expectations regarding open, free and candid communication of concerns to EOI Management or to the NRC. The promptness and rigor of the investigation was communicated to NRC Region IV in a telephone call on March 17, 2000.

Later, EOI was further notified of the allegation by mail in a letter dated March 28, 2000. Subsequently, EOI submitted a response to that letter on April 27, 2000. The following actions were taken to correct the apparent violation and influence work group culture to continue supporting a safety conscious work environment. The most significant corrective actions taken were:

- Superintendent, Plant Security was immediately relieved of his duties.
- Supervisor, Fitness for Duty (a fully qualified and experienced security professional) was temporarily assigned as acting Superintendent, Plant Security.
- Senior Plant Management met with each Security Force crew to discuss actions taken and reinforce Management's expectations for open, free and candid communication of concerns.
- Supervisor, Fitness for Duty interviewed the Security Force and surveyed safety culture— i.e., a willingness to raise concerns and whether concerns lingered from the incident.
- EOI chartered an independent investigation to investigate the allegation and interview the Security Force.
- RBS site Vice President issued a memorandum to all personnel emphasizing expectations regarding problem identification and safety conscious work environment.
- RBS site Vice President met with the Security Force and directly communicated his expectations for a safety conscious work environment and open format for problem identification/resolution.

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**Mitigation Assessment (continued):**

- EOI Employee Concerns Program (ECP) Coordinator met with Security and communicated EOI's expectations regarding concerns and use of the ECP.
- One-on-one interviews were conducted with a majority of the Security Force to gauge the status of the safety conscious work environment.
- Planned follow-up interviews with Security Force personnel have been recently conducted and have verified that cultural changes initiated after the incident have been maintained and are healthy.
- New Superintendent, Plant Security was appointed—on a permanent basis.
- Random interviews were conducted at two other EOI sites to determine if safety conscious work environments existed—The results indicated that employees feel free to raise concerns.
- A follow-up safety culture survey of the Security Force was recently conducted. The results indicated a good safety culture existed.
- Training was provided for RBS supervisors and above concerning workplace environment as well as employee protection sensitivity training.

To prevent recurrence, corrective actions including some actions above such as a new Superintendent, communication sessions and culture surveys were performed. In addition, corrective actions providing supervisory skills and 50.7 specific training for Contractor Security Force Supervisors and workplace environment and employee protection sensitivity training (10 CFR 50.7) for RBS supervisors will be performed. An additional follow-up safety culture survey will be performed during 2001 to continue monitoring a healthy safety conscious work environment. These actions are consistent with EOI's letter dated April 27, 2000, which provided a response to the allegation.

According to NUREG 1600, Enforcement Policy, corrective action for violations involving discrimination should normally be considered comprehensive if prompt, comprehensive corrective actions are taken to address the broader environment for raising safety concerns in the workplace and provide a remedy for the discrimination at issue. EOI's review of the corrective actions determined that these actions satisfy the above criteria.

Identification credit requires the consideration of various factors. In discussing credit for identification, NUREG 1600, Section VI. C.2.b, requires consideration of "whether prior opportunities existed to identify the problem..." and "for NRC-identified issues, whether the licensee should have identified the issue (and



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**Mitigation Assessment and Actions Taken (continued):**

taken action) earlier...." Furthermore, this section notes that "If the NRC identifies the violation but concludes that, under the circumstances, the licensee's actions related to the *Identification* were not unreasonable, the matter would be treated as licensee-identified for the purposes of assessing the civil penalty." EOI's position is that Management could not have reasonably been expected to identify a problem earlier because EOI Management was not aware that any individual was concerned during the time frame it occurred, and the details on the comments made in the meeting were not discussed with EOI Management. A contract Security Force person notified the Senior Resident Inspector (SRI) of a concern. The NRC notified EOI of the concern on March 14, 2000. This event is considered isolated since no other similar conditions have been identified. This condition does not represent a pervasive atmosphere at RBS. Additionally, RBS has consistently maintained a strong Security program with good overall performance. Considering the timeliness and thoroughness of corrective actions, the station's actions related to identification should not be considered unreasonable. EOI concludes that credit for problem identification should be given and the matter treated as licensee-identified for the purpose of civil penalty assessment.

**Conclusion:**

Although an inappropriate remark with discriminatory or adverse potential was made, no actual act of discrimination occurred. The apparent violation was a verbal act that did not result in any loss to an individual of benefits or employment opportunity. RBS promotes an atmosphere of problem identification and resolution. EOI Management took decisive and effective actions to remedy the potential adverse impacts of the inappropriate remarks. The incident was an isolated event in that it had a limited scope of influence (i.e. addressed a single Security Force crew). Prompt corrective actions prevented the incident from influencing other crews or other groups in a discriminatory manner, thus the safety and regulatory significance of the event was low and should be considered for a Severity Level IV violation. If the NRC determines, nevertheless, that a higher Severity Level should be considered, no higher than a Severity Level III should apply. The following factors mitigate the need for imposition of a civil penalty.

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**Conclusion (continued):**

The immediate and follow-up actions taken were broad and effective in addressing the potential negative impact of the incident. The affected Superintendent was removed expeditiously. Senior RBS Management immediately met with Security Force crews and began an independent investigation. Additionally, every Security officer has been contacted through a survey interview or a management meeting.

A recent follow-up survey from the Security Force serves as an effectiveness review and indicates that the measures implemented to address the potential impacts of this event have been effective. A safety conscious work environment did and does exist at RBS.

RBS maintains a strong Security program. The Security program receives a high level of management support and attention. Several modifications and equipment upgrades have been implemented, which have continued to maintain a positive morale in the Security Force.

EOI's position is that credit for both identification and corrective action is warranted in this matter. According to NRC guidance, "Civil penalties are used to encourage prompt identification and prompt and comprehensive correction of violations, to emphasize compliance in a manner that deters future violations, and to serve to focus licensees' attention on significant violations." EOI fully recognized the potential significance of the event and was clearly very prompt and comprehensive in its response to the NRC notification of the apparent violation. Therefore, EOI concludes that the above factors mitigate the need to impose a civil penalty. EOI requests that serious consideration be given to a Severity Level IV violation due to the limited scope of influence and the effective corrective action taken.

EOI regrets that the incident occurred, but is committed to continue fostering and maintaining a safety conscious work environment. Violations of 10 CFR 50.7 are not tolerated and are handled with serious concern as has been demonstrated by the response to this apparent violation.

**ATTACHMENT 2**  
**COMMITMENT IDENTIFICATION FORM**  
**50-458/4-2000-017A, EA 00-190**  
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**Apparent Violation 50/458/4-2000-017A, EA 00-190**

<b>COMMITMENT</b>	<b>ONE- TIME ACTION</b>	<b>CONTINUING COMPLIANCE</b>
River Bend Station will schedule and complete supervisory skills training for contract supervision in Security.	X	
A follow-up safety culture survey will be performed in 2001.	X	
Supervisors at River Bend Station will be provided additional training on 10 CFR 50.7 "Employee Protection" to emphasize a safety conscious work environment.	X	