

EDO Principal Correspondence Control

FROM: DUE: 05/29/01

EDO CONTROL: G20010159
DOC DT: 04/24/01
FINAL REPLY:

David A. Lochbaum
Union of Concerned Scientists

TO:

Travers, EDO

FOR SIGNATURE OF :

** GRN **

CRC NO:

Travers, EDO

DESC:

2.206 -- Nuclear Power Plants with Security
Provided by Wackenhut Corporation

ROUTING:

Travers
Paperiello
Kane
Norry
Reiter
Craig
Burns
Cyr, OGC
Subbarathnam, NRR
Goldberg, OGC

DATE: 04/25/01

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:



Union of Concerned Scientists

April 24, 2001

Dr. William D. Travers
Executive Director for Operations
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: PETITION PURSUANT TO 10 CFR 2.206 REGARDING NUCLEAR POWER PLANTS WITH SECURITY PROVIDED BY WACKENHUT CORPORATION

Dear Dr. Travers:

Request for Enforcement-Related Action

Pursuant to 10 CFR 2.206, I hereby petition the Nuclear Regulatory Commission to issue a Demand for Information (DFI) to each of the licensees listed below requiring each licensee to provide a docketed response with how it complies with 10 CFR 26.10 and 10 CFR 26.20, specifically the requirements that:

Licenseses "Provide reasonable measures for the early detection of persons who are not fit to perform activities within the scope of this part" [10 CFR 26.10]

"Licensee policy should also address other factors that could affect fitness for duty such as mental stress, fatigue and illness." [10 CFR 26.20]

The DFI should require each licensee to generally describe its policy for the aforementioned factors and should specifically require each licensee to explicitly describe its policy for these factors as applied to security personnel supplied by the Wackenhut Corporation.

The licensees covered by this petition are:

- Arkansas Nuclear One
- Braidwood Nuclear Power Station
- Byron Nuclear Power Station
- Callaway
- Clinton Power Station
- Dresden Nuclear Power Station
- Ginna Nuclear Power Plant
- Grand Gulf Nuclear Station
- Indian Point Station Units 2 and 3
- Kewaunee Nuclear Power Plant
- LaSalle County Nuclear Power Station

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Limerick Generating Station
Monticello Nuclear Generating Plant
Peach Bottom Atomic Power Station
Point Beach Nuclear Plant
Prairie Island Nuclear Plant
Quad Cities Nuclear Power Station
River Bend Nuclear Station
Salem/Hope Creek Generating Station
St. Lucie Nuclear Power Plant
Three Mile Island (TMI) Unit 1
Turkey Point Nuclear Power Plant
V.C. Summer Nuclear Station
Vermont Yankee Nuclear Power Station
Waterford 3
Zion Nuclear Power Station¹

Although the Wackenhut Corporation is the common denominator linking these licensees with respect to this petition, the requested actions are for each licensee to respond rather than for Wackenhut to respond on their behalf. The licensees, not Wackenhut, are ultimately responsible for conforming with the requirements of 10 CFR Part 26.

Facts that Constitute Bases for Requested Action

An individual employed by Wackenhut Corporation and assigned duties as a security officer at Indian Nuclear Unit 2 was fired on June 26, 2000, (enclosure 1). The individual had worked five straight 12-hour shifts and declined to report for a sixth straight 12-hour shift because he reported to his management—in writing—that it would be "physically and mentally exhausting" (enclosure 2). The individual reported to his management—in writing—that he was fully aware of his condition and "would not want to be negligent in performing [his] duties as a security officer."

The security officer had unescorted access to Indian Point 2 (enclosure 3) and thus was covered by 10 CFR Part 26 as specified in Section 26.2:

The provisions of the fitness-for-duty program must apply to all persons granted unescorted access to nuclear power plant protected areas.

The licensee for Indian Point Unit 2 stated in a letter dated March 29, 2001, to Mr. Brian Holian of the NRC Region I staff that:

The Project Manager noted that the Officers are required by the terms of their employment application, Collective Bargaining Agreement, and the Security Officer Handbook to report to work when directed.

Thus, a worker employed by Wackenhut Corporation at an NRC-licensed facility reported to his management that he felt unfit for duty, declined to report for mandated overtime, and was terminated.

10 CFR 26.20 requires all licensees to have formal policy and written procedures for factors that could render plant workers unfit for duty. Fatigue is specifically mentioned in 10 CFR 26.20.

¹ From a listing conveniently posted by Wackenhut Corporation on the internet at <http://www.wackenhut.com/nuclear/facilit.htm>

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The response by the Indian Point 2 licensee documented that Wackenhut Corporation apparently has the contractual right to fire security officers who decline to report for mandated overtime. This contractual right conflicts with the federal regulation stated in 10 CFR Part 26.10 that licensees:

(a) Provide reasonable assurance that nuclear power plant personnel, transporter personnel, and personnel of licensees authorized to possess or use formula quantities of SSNM, will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties;

(b) Provide reasonable measures for the early detection of persons who are not fit to perform activities within the scope of this part

In the subject case, the individual essentially provided "reasonable measures for the early detection" of a condition rendering him unfit to perform activities within the scope of Part 26—he informed his management in writing that he felt it would be exhaustive to work beyond 60 hours in a 7-day period and provided his reasons for that conclusion. Rather than respect the individual's judgement or seek another opinion by a Medical Review Officer or other health care professional, Wackenhut Corporation fired him.

Lack of Other NRC Proceeding Available

There is a proposed rulemaking before the NRC that seeks to develop and apply consistent, enforceable working hour limits at nuclear power plants. Even if the NRC elects to promulgate a regulation in response to the proposed rulemaking, it would not resolve the concerns raised in this petition. Fatigue can affect an individual working less than a 40-hour week or less than an 8-hour day if that individual has been awake for an extended period due to a family crisis or other reason. Thus, the actions requested in this petition are warranted independent of the final outcome of the proposed rulemaking on working hours.

Some of the plants included on the list are undergoing license transfer proceedings before the NRC. Those proceedings are not proper forums for raising and resolving the concerns in this petitions for many reasons, including (1) not all of the licensees are currently involved in such proceedings and (2) the concerns within this petition are not alleviated or exacerbated by the proposed license transfers and thus are really not germane to those proceedings.

Therefore, UCS feels that the only avenue available for resolution of the concerns is this 2.206 petition.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer
Washington Office

Enclosure 1

WACKENHUT

SECURITY SYSTEMS AND SERVICES THROUGHOUT THE WORLD

✓
June 26, 2000

THE WACKENHUT CORPORATION
INDIAN POINT STATION
BROADWAY & BLEAKLEY AVENUE
BUCHANAN NY 10511

(814) 737-4208
(814) 734-5707

Mr. Vincent Giambalvo
20 Bloomer Rd.
Mahopac, NY 10541

Mr. Giambalvo:

On Saturday, June 17, 2000 a manpower shortage occurred at IP-2 that required the Lieutenant Shift Supervisor to mandate additional coverage.

You were ordered to report for work on Sunday June 18, 2000 at 0600 hrs. You advised the Shift Supervisor that you would not work the mandated time as directed. Under the terms of your employment you are required to work when needed to provide coverage to our client.

As a result of your refusal to work when directed your employment with The Wackenhut Corporation has been terminated.

Sincerely,



Jerry L. Worrall
Manager
Nuclear Operations

ENCLOSURE 2



INFORMATION REPORT

1 OF 2

DATE: 6-17-2000
 TO: LT MITCHELL
 FROM: S/O GIAMBALVO
 SUBJECT: O.T. / SAFETY CONCERN

AT APPROXIMATELY 10:00 AM TODAY 06/17/2000 I WAS MANDATED TO WORK AN ADDITIONAL 12 HOURS OVERTIME ON SUNDAY 06-18-2000, I JUST COMPLETED 5 STRAIGHT DAYS 12 HRS EACH DAY FOR A TOTAL OF 60 HRS. FOR ME TO WORK AN ADDITIONAL 12 HRS RESULTING IN 6 DAYS STRAIGHT (12 HOURS) WOULD BE PHYSICALLY AND MENTALLY EXHAUSTING AND WOULD NOT ALLOW ME TO COMPLETELY FULFILL MY DUTIES AS A SECURITY OFFICER WHO CARRIES A FIREARM, THEREFORE, I AM REFUSING THIS MANDATORY OVERTIME BECAUSE I AM FULLY AWARE OF MY PHYSICAL AND MENTAL STATUS AND WOULD NOT WANT TO BE NEGLIGENT IN PERFORMING MY DUTIES AS A SECURITY OFFICER. CON-EDISON AND WACKENHUT IN THE LAST SEVEN YEARS HAD A POLICY THAT SECURITY OFFICERS WILL NOT WORK 60 HOURS OR MORE A WEEK UNLESS IT IS AN EMERGENCY. THIS IS NOT AN EMERGENCY. THE WACKENHUT CORPORATION OVER THE LAST SEVERAL WEEKS HAS BULLIED

S/O GIAMBALVO
 (SIGNATURE)



 ENCLOSURE 2
 (CONTINUED)

20F2

INFORMATION REPORT

 DATE: 6-17-2000
 TO: LT MITCHELL
 FROM: S/O GAMBALUS
 SUBJECT: O.T. / SAFETY CONCERN

THEIR SECURITY OFFICERS INTO WORKING MANDATORY
 OVERTIME ABOVE 60 HOURS EVEN THOUGH THIS
 CORPORATION IS FULLY AWARE OF THE PHYSICAL
 AND MENTAL FATIGUE OF THEIR EMPLOYEES,
 THE SECURITY OFFICERS HAD NO RECOURSE BUT
 TO COMPLY FOR FEAR OF LOSING THEIR JOBS. AS A
 RESULT OF THE PHYSICAL AND MENTAL ABUSE
 MANY OFFICERS ARE GOING SICK MAKING STAFFING
~~BEVEN~~ EVEN MORE UNBEARABLE. IF YOU REFUSE
 THEIR BIDDING THEY WILL HARASS YOU AND
 THREATEN TO ZERO ACCESS YOU, THIS IS THE
 REASON MANY SECURITY OFFICERS WORK DESPITE
 THEIR FATIGUE. I WILL BE SENDING A COPY OF THIS
 LETTER TO M.R.C STATING THAT THE WACKENHUT CORPORATION
 DOESN'T CARE FOR THE SAFETY OF THEIR STAFF AND
 FACILITY, THEY ARE MORE CONCERNED WITH FILLING A POST
 WITH A WARM BODY THAT IS PHYSICALLY AND MENTALLY DRAINED
 AND SLOW TO RESPOND WHEN NEEDED, THAN SCHEDULING
 THEIR STAFF IN MORE ORGANIZED MANNER


 (SIGNATURE)

ENCLOSURE 3

MEMORANDUM

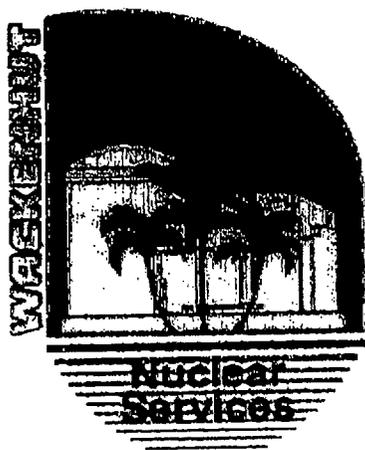
Date: 17 June, 2000
To: Security Officer Vincent Giambalvo
From: Lieutenant David Mitchell
Subj: Mandatory Overtime

As Per Gerald Worrall, Project Manager

This notice is to advise you that you are mandated to work on Sunday 18 June, 2000 from 0600 to 1800. Your failure to report to work for mandatory overtime constitutes an absence without leave and may result in revocation of your access to Indian Point 2 and termination of employment.

cc: Worrall
Alterio

Current List of Nuclear Facilities



The following list contains the nuclear facilities serviced by the Wackenhut Nuclear Services Division:

- Arkansas Nuclear One
- Braidwood Nuclear Power Station
- Byron Nuclear Power Station
- Callaway Plant
- Clinton Power Station
- Dresden Nuclear Power Station
- Ginna Nuclear Power Plant
- Grand Gulf Nuclear Station
- Indian Point Station
- Kewaunee Nuclear Power Plant
- LaSalle County Nuclear Power Station
- Limerick Generating Station
- Monticello Nuclear Generating Plant
- Peach Bottom Atomic Power Station
- Point Beach Nuclear Plant
- Prairie Island Nuclear Plant
- Quad Cities Nuclear Power Station
- River Bend Nuclear Station
- Salem/Hope Creek Generating Station
- St. Lucie Nuclear Power Plant
- Three Mile Island (TMI) Unit 1
- Turkey Point Nuclear Power Plant
- V.C. Summer Nuclear Station
- Vermont Yankee Nuclear Power Station
- Waterford 3, SES
- Zion Nuclear Power Station

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Need to Reach Us?

Wackenhut Nuclear Services Division
4200 Wackenhut Drive
Palm Beach Gardens, FL 33410-4243

Tel.: 1-800-683-6853
Fax: 561-691-6795
Email: Nuclear@Wackenhut.com

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Union of Concerned Scientists

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Phone: 202-223-6133

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To: DR. TRAVERS

Date: 4-24-2001

Fax #: _____

From: DAVE LOCHBAUM

Pages (including cover): 9

Comments:

Hard copy to follow via regular mail.