UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

JUN 2 4 2002

EA-02-036

Paul D. Hinnenkamp, Vice President - Operations
River Bend Station
Entergy Operations, Inc.
P.O. Box 220
St. Francisville, Louisiana 70775

SUBJECT: REGULATORY CONFERENCE WITH ENTERGY OPERATIONS, INC. (RIVER BEND STATION)

Dear: Mr. Hinnenkamp:

This refers to the regulatory conference conducted in the Nuclear Regulatory Commission Region IV office on June 3, 2002. This public meeting was conducted to discuss findings with preliminary safety significance of greater than green (very low safety significance) and associated apparent violations of 10 CFR 50.54(q). The apparent violations involved failures to adequately maintain your emergency plan and implementing procedures to meet the standards in: (1) 10 CFR 50.47(b)(10) for the development of a range of protective actions for the public, (2) 10 CFR 50.47(b)(7) for dissemination of emergency information to the public, and (3) 10 CFR 50 Appendix E, Section IV.G for review and revision of your emergency plan following changes in use of the owner controlled area. The attendance list, presentation slides, your position paper dated May 31, 2002, and your letter of June 7, 2002, are enclosed with this summary.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at http://www.nrc.gov/reading-rm/adams.html (the Public Electronic Reading Room).

We will inform you of our final regulatory decision in this matter in separate correspondence. Should you have any questions concerning this matter, we will be pleased to discuss them with you.

Sincerely,

Gregory Pick, Chief
Plant Support Branch
Division of Reactor Safety

Docket: 50-458
License: NPF-47

Enclosures:
1. Attendance List
2. Licensee Presentation
3. License Position Paper, dated May 31, 2002
4. Licensee Letter, dated June 7, 2002

cc with Enclosure 1:

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ATTACHMENT 1

Regulatory Conference
June 3, 2002

Meeting Attendance

Name	Title	Organization
Robert Biggs	Coordinator NSA	EOI / River Bend Station
Joseph W. Leavines	Manager, Licensing	EOI / River Bend Station
Rick J. King	Director, Nuclear Safety Assurance	EOI / River Bend Station
Paul D. Hinnencamp	Vice President	EOI / River Bend Station
Dwight Mims	Station Manager	EOI / River Bend Station
Barry S. Allen	Manager, Emergency Preparedness	EOI / River Bend Station
Kimberly A. Aiken	Senior Lead Security Coordinator	EOI / River Bend Station
Andre S. James	Supervisor, Security Operations	EOI / River Bend Station
Michael N. Bakarich	Superintendent, Security	EOI / River Bend Station
Fred Hurst	Senior Emergency Planner	EOI / River Bend Station
Mike Krupa	NS&L Director	Entergy
Claudia Parker	Manager, Security	Entergy
Ellis Merschoff	Regional Administrator	NRC Region IV
Elmo Collins	Acting Director, Division of Reactor Safety	NRC Region IV
Karla Smith	Regional Counsel	NRC Region IV
Greg Pick	Acting Chief, Plant Support Branch	NRC Region IV
David Graves	Chief, Project Branch B	NRC Region IV
Peter Alter	Senior Resident Inspector	NRC Region IV
Paul Elkmann	Emergency Preparedness Inspector	NRC Region IV
Gary Sanborn	Enforcement Officer	NRC Region IV
J. Blair Nicholas	Senior Health Physicist	NRC Region IV
Bill Maier	Regional State Liaison Officer	NRC Region IV

ATTACHMENT 1

Regulatory Conference
June 3, 2002

Meeting Attendance, continued

Name	Title	Organization
Breck Henderson	Public Affairs Officer	NRC Region IV
Geoff Miller	Reactor Inspector	NRC Region IV
Jeff Moreno	Engineering Associate	NRC Region IV
Thomas Klug	Security Inspector	NRC Region IV
Jesse L. Means	Director	West Feliciana Parish, Louisiana, Department of Emergency Preparedess

ATTACHMENT 2

Regulatory Conference
June 3, 2002

Licensee Presentation

1. Licensee Slides
2. EIP-2-002, "Classification Actions," Revision 21
3. EIP-2-018, "Technical Support Center," Revision 23
4. SPI-30, "Security Motor Patrol"

ATTACHMENT 2

RBS Owner Controlled Area Evacuation Regulatory Conference

June 3, 2002

1

Introduction

Rick King

Director Nuclear Safety Assurance

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Agenda

• Introduction	R. King
• Overview	P. Hinnenkamp
• Site Orientation	R. King
• RBS Licensing Basis	J. Leavines
• ERO Implementation	B. Allen
Break (15 minutes)	
• Security Implementation	C. Parker
• Radiological Monitoring	B. Allen
• Significance	B. Biggs
• Generic Considerations	R. King
• RBS Position Summary	D. Mims
• Closing Remarks	P. Hinnenkamp

3

Overview

Paul Hinnenkamp

Site Vice President

River Bend Station

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Site Orientation

Rick King

Director, Nuclear Safety Assurance

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Emergency Planning Area/Occupants

- Emergency Planning Zone (EPZ)
  - 10 Miles
    - Members of the public
- *Owner Controlled Area (NUREG 0654,Section J)*
  - *Property Boundary*
    - *Employees (Non-emergency)*
    - *Visitors*
    - *Contractors*
    - *Transients*
- Exclusion/Protected Area
    - Employees
    - Contractors

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Owner Controlled Area Evacuation

- The withdrawal of all non-essential personnel, visitors, and contractor personnel (excluding security) from the entire Owner Controlled Area. Non-essential personnel are defined as all station personnel not performing emergency organization duties. The Owner Controlled Area, which includes the Protected Area, is all land owned and controlled by River Bend Station, an area from the Mississippi River to U. S. Hwy. 61, and from West Feliciana Parish (WFP) 7 (Powell Station Road/State Highway 965) on the South to the North boundary of the River Bend Site property.

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RBS Licensing Basis for OCA Evacuation and Notifications

Joe Leavines

Manager, Licensing

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Message

- RBS licensing basis for E-Plan methodology is clear
- RBS has acted consistent with our licensing basis
- NRC issues represent a change in position

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Emergency Preparedness Regulatory Hierarchy

- 10 CFR 50.54(q)
  - Broadly stated regulatory requirements
- 10 CFR 50.47 Emergency Plans
  - (a) NRC Obligations
  - (b) Planning Standards
  - NUREG 0654
- RBS Emergency Plan
  - SER issued 5/84
- Inspection Manual Chapter 609 B
  - E-Plan is commitment for meeting planning standards and may be different from NUREG 0654
  - E-Plan approved by NRC

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NRC Obligations

- 10 CFR 50.47 (a)(1) NRC finding of reasonable assurance of adequate protective measures for radiological emergency
- 10 CFR 50.47 (a)(2) NRC bases (a)(1) finding on reasonable assurance that FEMA plan and Licensee plan are adequate and can be implemented

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RBS Licensing Basis

- NRC reviewed and inspected RBS plan prior to SER (NUREG 0989, 5/84).
  - RBS E-Plan regulatory requirements in SER
  - Preoperational inspection required prior to OL issuance (IR 84-35, 12/84)
  - Deviations from NUREG-0654 acknowledged in question & answers and inspection
- No changes in RBS fundamental approach since original licensing

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10 CFR 50.47 (b)(10) finding

- Means and time not established
- Evacuation and routes not provided
- Radiological monitoring for evacuees not provided

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RBS Licensing Basis Means and Time

Question 810.48—The time required to warn or notify onsite personnel is not given [J.1].

- River Bend Station addressed this question by revised section 13.3.5.4.1.1.1.

"...security vehicles, assigned to external patrol and equipped with public address systems, will patrol the owner controlled area to advise of necessary protective measures to be taken by persons within the owner controlled area. This action will be taken immediately upon notification by the Emergency Director."

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RBS Licensing Basis Means and Time

- Response to question 810.48 notified NRC of use of Security patrols to notify "...persons within the OCA." of protective measures
- Emergency Implementing Procedures (EIP's) were reviewed by NRC in IR 84-35
- RBS does not agree with the observation in section A.1.a, regarding level of detail.

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RBS Licensing Basis Means and time

Question 810.50—The plan does not discuss the means or time required to warn or advise individuals who may be in the owner controlled area but outside the protected area [J.1.d].

- The response to this question was provided by River Bend Station by revising EPlan section 13.3.5.4.1.1.1.

"...security vehicles, assigned to external patrol and equipped with public address systems, will patrol the owner controlled area to advise of necessary protective measures to be taken by persons within the owner controlled area. This action will be taken *immediately* upon notification by the Emergency Director."

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RBS Licensing Basis Means and time

- Response to question 810.50
  - Established the time required to warn or advise
  - Established overall evacuation time in response to question 810.52
    - 30-60 minutes is the estimated time from warning to evacuation
- The security patrols will advise of necessary protective measures *immediately* upon notification by the Emergency Director (ED).
- RBS does not draw the same conclusions as A.1.b, regarding notification time.

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RBS Licensing Basis Means and Time Summary

- No specific time is required for each sequential action in the OCA evacuation process (e.g. warning or notification).
  - Implied level of detail not part of RBS licensing basis or regulation
- 32 NRC 395 (1990) (ASLAB) "...there is no regulatory requirement establishing a specific timeframe for...notification to begin... following declaration..."
- 47 NRC 390 (1998)(Dir. NRR) " ...NRC regulations do not specify minimum evacuation times..."
- NRC initial licensing reviews of EP activities applies a standard of reasonableness for protection of public health and safety.

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10 CFR 50.47 (b)(10) finding

- Means and time not established
- Evacuation and routes not provided
- Radiological monitoring for evacuees not provided

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RBS Licensing Basis Evacuation and Routes

Question 810.51—Transportation (e.g., company owned, private) for evacuation of onsite individuals is not discussed. The Plan does not make provision for alternate offsite evacuation locations in the event of inclement weather, high traffic density, and specific radiological conditions [J.2].

- The station responded by identifying alternates in EPlan section 13.3.5.4.1.1.3. This section stated that private vehicles were to be used to proceed to one of the designated assembly areas dependent on the weather, traffic or specific radiological conditions.

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RBS Licensing Basis Evacuation and Routes

- Response to question 810.51 established that routes would be selected based on existing conditions at the time of the event.
- Security patrols "warn or advise" persons of the necessary protective measures (ref. 810.50).
  - Private vehicles are used
  - Multiple Assembly Area locations are provided

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RBS Licensing Basis Evacuation and Routes

- E-Plan Section 13.3.7.1.2.3.7, "Owner Controlled Area Evacuation and Accountability Drill"
  - "An evacuation drill, of the protected area portion only, is conducted annually to ensure that protected area accountability can be performed in the required time."
  - Consistent with NUREG 0654 and industry practice
  - Program accepted since licensing (1985)

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RBS Licensing Basis Evacuation and Routes Summary

- NRC previously approved methodology without detailed instructions and messages.
  - Inspection observations imply pre-scripted instructions are required.
- Plan and procedures specify the Emergency Director determines the routes and assembly areas for an OCA evacuation.
- E-Plan requires drills for PA only.
- RBS does not reach the same conclusion in section A.2, regarding evacuation routes and transportation.

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10 CFR 50.47 (b)(10) finding

- Means and time not established
- Evacuation and routes not provided
- Radiological monitoring for evacuees not provided

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RBS Licensing Basis Radiological Monitoring

Question 810.52—The plan does not indicate that onsite non-essential personnel will be evacuated in the event of a Site Area or General Emergency. The...Plan does not specify the location of the decontamination station for evacuated non-essential personnel [J.4].

- The response to this request was provided in revised section 13.3.5.4.1.1.3, 13.3.5.4.1.1.4 and 13.3.5.4.1.1.5.
  - "...An owner controlled area evacuation will be considered if personnel beyond the protected area and within the owner controlled area ...all non-essential personnel will be directed to Primary...Alternate Evacuation Point...be accounted for...proceed via private automobile to the Evacuation Assembly Area [all described]...estimated elapsed times, measured from the time of initial warning to persons required to evacuate identified areas of the site, are...Owner Controlled Area Evacuation (30 to 60 min) – This is considered a realistic time to evacuate...facilities are available at the EOF for decontaminating evacuated...personnel...monitoring equipment and extra clothing are maintained at this facility."

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RBS Licensing Basis Radiological Monitoring

- Response to question 810.52 established the location of decontamination facilities
  - Additional facilities are available off site.
- E. Plan Sections 13.3.5.4.1.1.3,4,5 provide this information.
- Preoperational inspection (IR 84-35) reviewed Alternate Assembly area with no staged equipment.
- NRC approved the RBS methodology.
- RBS is in compliance with its' approved plan and procedures regarding assembly area equipment (A.3.c).

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RBS Licensing Basis Radiological Monitoring

- Inspection (IR 02-05) observations :
  - "significant delays" to complete decontamination
  - a requirement for detailed advance information to transient population regarding decontamination and locations of facilities.
  - Alternate Assembly Area pre-staged equipment
- Regulations do not require a specific process rate within these facilities or for RBS to provide *advance* information to transient public regarding decontamination on site.

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RBS Licensing Basis Radiological Monitoring

- 31 NRC 197 (1990) (Commission) "Our emergency planning requirements do not require that an adequate plan achieve a present minimum radiation dose saving or minimum evacuation time...."

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RBS Licensing Basis Radiological Monitoring

- RBS does not reach the same conclusion as A.3.a and b regarding advance information to onsite public.
  - The RBS E-Plan has Security warn and advise persons about evacuation, decontamination and route information for members of the public in the OCA.
  - Direct sweeping of buildings within the OCA by Security is the approved and accepted warning method.

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10 CFR 50.47 (b)(10)Summary

- The RBS E-Plan is the NRC approved Licensing Basis.
- EIP's were reviewed by the NRC prior to OL issuance.
- No changes in RBS fundamental approach since original licensing.
- Precedence supports a conclusion of effective implementation of the RBS E-Plan.
- Level of detail implied in the inspection is a new standard and is not required to meet the planning standards.
- RBS Licensing Basis is consistent with regulations and provides measures to protect the health and safety of the public.

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10 CFR 50.47 (b)(7) Finding

- Advance notification of OCA public not provided

31

10 CFR 50.47 (b)(7) finding

- Finding implies the same standard for transients as for permanent residents.
  - NUREG 0654 provides guidance for written material to be provided to permanent residents.
  - NUREG 0654 provides guidance for "...signs or other measures..." for transients.
- NUREG 0654 differentiates transients from permanent residents.

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Definition of Terms

- NUREG-0654 defines **permanent residents** as those that reside inside the 10 mile EPZ (live inside and therefore should receive mailings).
- NUREG-0654 G– " The public information program shall provide...**transient adult population** within the plume exposure EPZ an adequate opportunity to become aware of the information...Signs or other measures (e.g., decals, posted notices or other means, placed in hotels, motels, gasoline stations, and phone booths) shall be used to disseminate...information that would be helpful..."

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RBS Licensing Basis Warning and Advising

- E-Plan Section 13.3.5.4.1.2.2 addresses periodic dissemination of written information to **permanent residents** within the 10 mile EPZ.
- E-Plan Section 13.3.5.4.1.1.1 provides for the evacuation information to be supplied by Security to **transient** public in the OCA.

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Transient Public Notification/Information

- E-Plan credits Security for notification of public in the OCA.
  - Security Officers conduct building-by-building notification and evacuation.
  - Security Officers sweep outlying areas to notify and evacuate.
- RBS does not reach the same conclusions as B.1, regarding advance information to public in the OCA.

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(b)(10) & (b)(7) Summary

- RBS has demonstrated a clearly documented licensing basis.
- RBS has complied with this licensing basis.
- NRC position is inconsistent with RBS licensing basis.
- RBS meets a standard of reasonableness and best effort per NUREG 0654 (100 % is the goal).
- This issue is a change in position which constitutes a new and different standard of performance - a new level of detail in procedures is now being required. (subject to provisions of the backfit rule)

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ERO Implementation

Barry Allen
Manager, Emergency Preparedness

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Message

- RBS can accomplish timely notification and OCA evacuation.
- RBS has provided the required radiological monitoring and decontamination protective measures.
- Appropriate public information has and is being provided.

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OCA Evacuation

- Command and Control
- Evacuation and Route Determination
- Established Means and Time
- Radiological Monitoring

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ERO Command and Control

- ED Key Responsibilities
  - EAL Classification
  - Offsite Notifications
  - Protective Measures
  - Defined in EIP 2-002 Classification Actions and EIP 2-018 Technical Support Center
- RBS does not agree with A.2.a regarding lack of ERO position responsibilities.
- ED is not trained on Security details of OCA evacuation
- RBS disagrees that the ED must be trained on Security details of OCA evacuation to order an evacuation (A.1.a.v).

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OCA Evacuation

- Command and Control
- Evacuation and Route Determination
- Established Means and Time
- Radiological Monitoring

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Emergency Director OCA Evacuation

- At SAE/GE, implements OCA Evacuation Checklist of EIP 2-018 Attachment 1
  - Considers Radiological Release / Wind Direction
  - Selects evacuation point
  - Designates assembly area
- Directs RP Techs to assembly area as required
- Requests LOEP provide transportation for evacuees as necessary
- Directs Security to complete OCA Evacuation of personnel per Attachment 12
- RBS does not reach the same conclusion as A.2 regarding establishment of responsibility for evacuation instructions and selection of routing.

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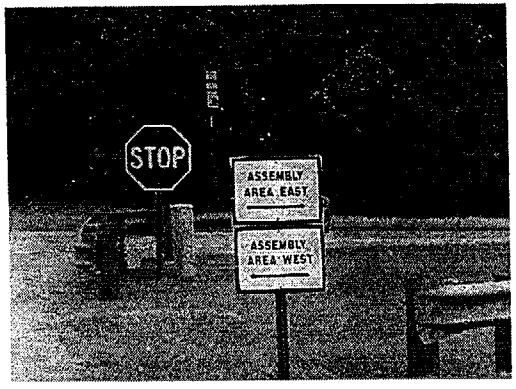
Routing Aids



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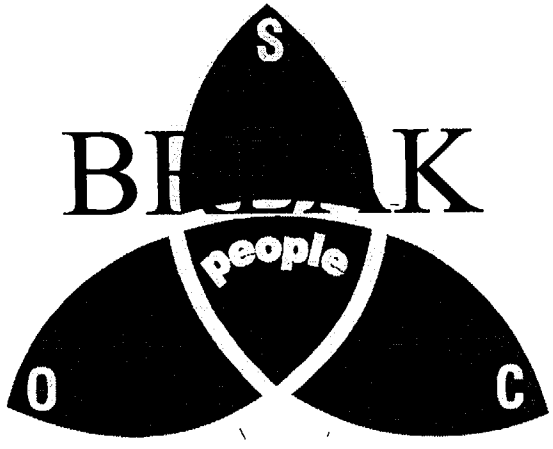

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Security Implementation

Claudia Parker
Manager Security Operations
Entergy Nuclear South

Message

- Security is confident that RBS can conduct a timely OCA evacuation and has demonstrated this capability.
  - Appropriate numbers of qualified Security Officers
  - Properly trained
  - Sufficiently detailed procedures
  - Adequate Equipment
- Two successful drills conducted

OCA Evacuation

- Command and Control
- Evacuation and Route Determination
- Established Means and Time
- Radiological Monitoring

Security Actions Means and Time

- Immediately upon notification by Emergency Director
  - Security Coordinator/Security Shift Supervisor briefs and dispatches officers
  - Officers sweep the OCA to notify and evacuate personnel
- RBS lesson plans do not contain specific warning time
- RBS does not draw the same conclusions as A.1.b, regarding notification time.

Loudspeaker Equipment Means and Time

- 2 in PAP, 1 spare on site
- Inventoried each shift
- No functional failures
- No NRC guidance for maintenance program
- No formal RBS maintenance program
- RBS does not reach the same conclusion as A.1.c, regarding functionality of loudspeaker equipment.

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Resources Means and Time

- Manpower
  - Minimum of 2 per shift
- Equipment
  - Building/Gate Keys
    - Carried by Officers on duty
- Vehicles
    - Assigned to Security
    - Security shift personnel have keys to site vehicles

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Procedures Means and Time

- EIP-2-002, Classification Actions
- EIP-2-018, Technical Support Center
- SPI-30 (Security Position Instruction), Motor Patrol
- RBS disagrees that the information in section A.1.a.i supports a conclusion that security sweeps of the OCA are not completely effective for members of the public.

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EIP Procedures Means and Time

- Security Shift Supervisor
  - Directs security officers to evacuate Owner Controlled Areas outside of the protected area to ensure personnel are aware of the evacuation order
  - Ensures that security officers receive a briefing on potential hazards and any protective measures required
- Security Officers
  - Perform duties as directed
  - Enter **each** building and announce the evacuation and designated Assembly area, if applicable
  - Direct **all personnel** to evacuate

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Security Procedures
Means and Time

- When instructed to make an evacuation notice, start at a designated point after being briefed
- During an OCA evacuation, perform the following activities:
  - Enter **each** building.
  - Announce the evacuation and the designated assembly area, if applicable.
  - Ensure that **all personnel** evacuate.
- Report completion

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Training
Means and Time

- Emergency Planning Lesson Plan ETT-091-5, Emergency Preparedness Training for Security Personnel
- Security Lesson Plan 4002, Advanced Security Skills, Responding to Plant Emergencies

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Training
EP Lesson Plan

- Section 6.3 – OCA Evacuation
  - 6.3.1 Withdrawal of all non-essential personnel from the entire OCA (includes protected area)
  - 6.3.2 Conducted at SAE or at discretion of the Emergency Director
  - 6.3.3 An announcement and alarm will indicate this evacuation
  - 6.3.4 Assembly areas will be announced as well as evacuation routes
  - NOTE: During OCA evacuations, Security will be required to perform sweeps of the areas outside of the Protected Area. As per procedure, they will be making announcements to alert employees of the need to evacuate the OCA. Officers performing this function will be briefed prior to dispatch on what announcements to make as well as potential hazards...

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Training
Security Lesson Plan

- Responsibilities During Emergencies
  - Section D.3.b – "Respond to safeguards contingencies"
  - Event E-1 – "Emergency Evacuation" is one of several events in the Safeguards Contingency Plan
  - Therefore, RBS disagrees that evacuation is not among the security responsibilities in the lesson plan (A.1.a.vi).
- Section F – Security Operations
  - F.1.a.2 Conduct searches of Owner Controlled Area as required, to ensure **all personnel** have received notification to evacuate. Direct **visitors** to the appropriate assembly area.

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Training Summary Means and Time

- Recognize inconsistent use of terms
- A standard of reasonableness must be applied to "personnel".
- RBS disagrees that the information in sections A.1.a.ii and A.1.a.iv support a conclusion that security would evacuate employees but not members of the public.
- RBS disagrees that evacuation is not among the responsibilities in the security lesson plan (A.1.a.vi).

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Skills Set for OCA Evacuation Means and Time

- Command and Control
- Communications
- Patrols
- Response to Emergencies

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Skills Set for OCA Evacuation Command and Control

– Security Officer Training (Initial/Requalification)

- Direct Response Force Activities (Task 19)
- Team Exercises

– Security Related Tasks

- Alarm Station Activities
- PAP Access Control

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Skills Set for OCA Evacuation Communications

– Security Officer Training (Initial/Requalification)

- Use of Radios (Task 1)
- Response to Contingency Events (Task 18)
- Direct Response Force Activities (Task 19)
- Preliminary Investigations (Task 8)
- Respond to Alarms (Task 14)

– Security Related Tasks

- Radio Communications (Primary Method)
- Alarm Dispatch/Assessment/Reporting Information
- Shift and Position Turnover

- RBS disagrees that the information in section A.1.a.iii supports a conclusion that security officers would not

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Skills Set for OCA Evacuation Patrols

- Security Officer Training (Initial/Requalification)
  - Vital Area and Protected Area Patrols (Task 13)
- Security Related Tasks
  - Protected Area Patrols
  - Vital Area Patrols
  - OCA Patrols
  - Unlocking Barriers/Portals

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Skills Set for OCA Evacuation Response to Plant Emergencies

- Security Officer Training (Initial/Requalification)
  - Response to Contingency Events (Task 18) (Event E-1 is Emergency Evacuation)
  - Force-on-Force Exercises
- Security Related Tasks
  - Limited/Building/PA Evacuation
  - Reaction to Unusual/Suspicious Events
  - Severe Weather Procedure Implementation

- RBS disagrees that security personnel do not demonstrate essential skills related to an OCA evacuation (A.1.a.vii).

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Validation Means and Time

- Successful validation in January 2002
  - Pre-2002 procedures used
  - No additional training given
  - List of buildings made available
- Full OCA evacuation drill not performed
  - Not required by E-Plan
  - PA accountability performed
- RBS disagrees that a test or validation of the OCA evacuation process is required; furthermore, first time validation was successful with existing procedures, process, and training

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Summary Means and Time

- RBS has means and provisions to conduct a timely OCA evacuation
  - Demonstrated skills
  - Validated capability
- Adequate resources are available
- Task is not complex
- Security Force is well trained

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Radiological Monitoring

Barry Allen
Manager, Emergency Preparedness

OCA Evacuation

- Command and Control
- Evacuation and Route Determination
- Established Means and Time
- Radiological Monitoring

Message
Radiological Monitoring

- RBS is confident that we have sufficiently provided for monitoring of evacuees.
- Decontamination facilities have been appropriately provided--use of offsite capability would be expected in some circumstances.
- RBS is in compliance with its' approved plan and procedures regarding assembly area equipment (A.3.c).

Monitoring

- Qualified RP Technicians utilized
- RP Technicians dispatched to designated assembly area as required
- Equipment is pre-staged at OSC, East, and West Assembly Areas
- RP Technicians monitor all personnel

Decontamination

- Qualified RP Technicians assess need for decontamination
- RBS capabilities
  - Primary Assembly Areas
- Offsite capabilities
  - LOEP transportation
  - Local capabilities
  - East Baton Rouge Parish – LSU & Centroplex
- RBS is in compliance with its' approved plan and procedures regarding assembly area equipment (A.3.c).

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Summary

- Command and Control Responsibilities Defined
- ED Determines Evacuation and Route
- Security has the Means to Effect a Timely OCA Evacuation
- Adequate Radiological Monitoring and Decontamination Capability

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Significance

Bob Biggs
Licensing Coordinator

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Message

- NRC finding does not constitute a violation of the RBS Licensing Basis.
- EP SDP philosophy is complex and conservative.
- Additional risk insights are necessary to avoid false positives.
- OCA public evacuation process is precautionary.
- No substantial/adverse safety significance to public health and safety exists.

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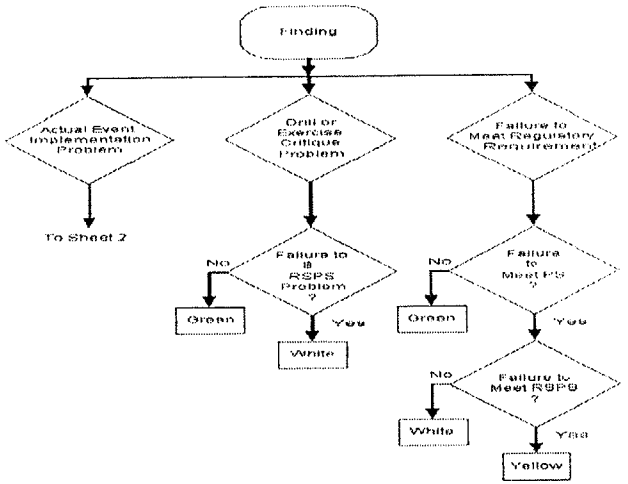
Significance Findings

- NRC identified a failure to meet risk significant planning standard 10CFR50.47(b)(10), "A range of protective actions has been developed…"
- Additionally, NRC identified a failure to meet planning standard 10CFR50.47(b)(7), "Information to the public…"

73

SDP Process



Significance Criteria

- "A failure to **meet…connection to regulation** must be established for issue to be considered as failure to meet…in case of PS, the **measure…is the regulation…taking into consideration any deviations…that** were approved by NRC…Failure of one or a few Plan elements …with a given PS may occur and yet the licensee still comply with the PS…failure to implement a PS during a drill is a performance problem…not a failure to implement a PS as the term is used in this SDP…The licensee has failed to identify in a critique of a drill or exercise…(this would constitute a failure)"
- Actual event –Plan commitments that implement a PS were not fulfilled. Failure to implement during a drill is a performance problem—not a failure to meet.

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Significance "Cautions"

- "…it must be noted that the design of the EP SDP ensures no false negative results, but **can result in false positive results**, i.e., a finding placed in context through SDP can **result in a risk significance level (color) that exceeds the actual impact on public health and safety.**"
- The Plan is the licensee's commitment for meeting the PS. The Plan may have been approved with processes that differ from the guidance of NUREG-0654, but which appeared to meet the regulatory requirements.
- In the case of a PS, the measure of program compliance is the regulation, and its articulation in NUREG-0654, ***taking into consideration any deviations from NUREG-0654 (and the compensating program elements) that were approved by NRC.***

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Significance
SDP Under Review

- NRC and industry agree that existing SDP is conservative—process is being changed.
- It is recognized by SDP process that additional risk insights must be used to reach a more informed conclusion as to actual risk.
- Industry, NEI and NRC—ongoing discussions

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Significance
Public Evacuation Comparison

- RBS practice is conservative and precautionary
- Offsite general public adjacent to exclusion area
- No substantive safety significance to the public

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Significance
Probabilistic Perspective

- Loss of offsite power events (SBO) are dominant in events that result in LERF.
- Probability of public being on OCA during LERF 2.43E-8/yr (event probability dominates).
- When compared to reactor safety SDP, the risk associated with this issue would be no more than GREEN.
- No substantive safety significance to the public.
- IMC 609, "It would be inappropriate to issue a risk significant finding due to a non-compliance that appears to meet the criteria but has little impact on cornerstone..."

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Significance Summary

- IMC609 Appendix B
  - Regulatory requirements path of process
    - Connection to requirements not made (EPlan)
    - E-Plan satisfies 10CFR50.47 (b)
    - Implementation mirrors plan requirements
  - Implemented E-Plan as approved
  - No failure to meet regulatory requirement (PS)
  - Improvement opportunities exist
  - No substantial safety significance to the public

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Generic Considerations

Rick King
Director, Nuclear Safety Assurance

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Initial Review of Industry Issue

- Initial Review Performed 12/2001
  - EP Region IV Group Meeting 11/28-30/01 verbal briefing by Gail Good
  - CR initiated 12/5/01 (LO-OPX-2001-00243)
  - RBS performed review based on understanding of issue with leasees within Exclusion Area Boundary
    - Contacted EP Manager at affected plant
    - Reviewed E-Plan and procedures for applicability to OCA evacuation and leasees within the Exclusion Area
- No permanent residences or leasees exist within RBS Exclusion Area
- E-Plan and procedures address entire OCA evacuation by Security sweeps at a SAE/GE
- NRC letter on affected plant issued 12/28/01

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Industry Survey

- Anonymous Survey of Industry Conducted through NEI
- Questions Addressed:
  - OCA Drills
  - State Involvement
  - Timing
  - Methods/Tools
- Results are consistent with RBS Approved Plan

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Survey Results

- Level of procedure detail similar to RBS
- Security used in most cases for OCA evacuations of buildings
- Evacuation times are either absent or estimated
- A majority have never conducted an OCA evacuation. Some do Exclusion Area evacuations. Most do only PA evacuations similar to RBS.

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Generic Applicability Conclusions

- RBS performed initial review of industry issue
- NRC written information provided after RBS inspection
- Industry implementation is consistent with RBS E-Plan implementation
- Inspecting to new and different performance standards is a change in NRC policy

Position Summary

Dwight Mims
General Manager

Closing Remarks

Paul Hinnenkamp
Site Vice President

ATTACHMENT 3

Regulatory Conference
June 3, 2002

Licensee Position Paper

Owner Controlled Area Public Notification

ATTACHMENT 3

May 31, 2002

Ellis W. Merschoff
Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

Subject: Owner Controlled Area Public Notification
River Bend Station - Unit I
License No. NPF-47
Docket No. 50-458

File Nos.: G9.5, G15.4.1

RBG-45972

RBF1-02-0095

Dear Mr. Merschoff:

In an April 18, 2002, NRC Inspection Report for River Bend Station (RBS), the NRC identified a finding with a preliminary significance level of Yellow. Specific NRC concerns related to the means and time to provide protective actions and disseminate information to members of the public who may be in the owner-controlled area during an emergency, and updating of the emergency plan to reflect changes in the activities conducted within the owner-controlled area.

EOI is continually looking for opportunities to improve our programs and processes. While EOI agrees that enhancements or improvements could be made in some of the processes used to evacuate members of the public from the owner controlled area in an emergency, EOI disagrees with the preliminary conclusions of the inspection report. The established standard for judging the adequacy of emergency plans and procedures is a standard of reasonableness. We contend that both the 10CFR50.47 (b)(10) and (b)(7) findings are not violations. We have reviewed our program controls and procedures and firmly believe that River Bend Station has the means and provisions to conduct an owner controlled area evacuation of the public. However, EOI does not contest the apparent violation of 10CFR50.54(q) relating to the evaluation and updating of the emergency plan or implementing procedures with respect to additional facilities used by the public within the owner controlled area. This violation would have no

greater significance than Green in accordance with NRC Inspection Manual Chapter 0609, Appendix B.

Consistent with your request in the April 18 letter, RBS is providing a summary of our evaluation and any differences with the NRC evaluation of this matter for your review in advance of the June 3, 2002 regulatory conference. Our position focuses on:

- Emergency planning practices at RBS were approved by the NRC during the licensing process
- Emergency Response Organization position responsibilities are defined in procedures
- Security Officers are properly trained with sufficient procedures and adequate equipment
- Monitoring and decontamination capabilities are provided for and exist (A.3.c)

These key activities have not fundamentally changed since approval. Requiring the level of detail in emergency planning implementing procedures that is implied in the inspection is a new and different performance standard that is not consistent with the regulations, guidance, or RBS licensing basis. We conclude that the NRC is applying a new and different interpretation of the regulatory requirements for emergency planning through the inspection process without following the provisions of the backfitting rule (10 C.F.R. § 50.109) and the Administrative Procedure Act ("APA") requirements for rulemaking.

The June 3, 2002 regulatory conference will provide Entergy the opportunity to discuss further details of our position, which is summarized in Attachment 1. Should you have any questions regarding the attached information, please contact Mr. Joe Leavines of my staff at (225) 381-4642.

Sincerely,

RJK/rlb
attachment

cc: Gail Good, Branch Chief
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Attachment 1
EOI's Reply to Inspection Report 50-458/02-05
EOI's Position Regarding
Emergency Planning Preliminary Yellow Finding at RBS

Executive Summary

Entergy Operations, Inc. ("EOI") takes seriously its emergency planning responsibilities. The River Bend Station emergency planning program provides reasonable assurance that protective measures can and will be taken to protect the health and safety of the public. EOI methodologies for satisfying emergency planning regulations were provided to the NRC prior to initial licensing. The NRC reviewed those methodologies, questions were asked and resolved, a pre-operating license inspection was conducted (IR84-35) and a River Bend Station Operating License was issued which allowed the plant to implement its approach to evacuation of personnel from the Owner Controlled Area in procedures and programs. Consequently, the NRC approved the RBS Emergency Plan and any deviations from regulatory guidance contained in NUREG-0654, which established the basis for compliance with NRC regulations for emergency planning.

The NRC also reviewed emergency planning implementing procedures prior to initial plant licensing. During 1984, the NRC required that a preoperational inspection be performed to verify the adequate state of emergency preparedness at River Bend Station prior to the determination for issuance of an operating license. The objectives of the inspection were to evaluate the overall adequacy and effectiveness of emergency preparedness at River Bend Station by reviewing the emergency plan and implementing procedures, facilities and equipment. No violations from the inspection were identified. Those areas required to be addressed were resolved during issuance of an Operating License at River Bend Station.

Regulations and guidance used by the NRC to approve RBS processes have not fundamentally changed since this initial review. Moreover, RBS processes and programs have not decreased the level of effectiveness of the plans, and continue to meet the standards of 10CFR50.47(b) since that time. In sum, RBS met the emergency planning regulatory requirements delineated in the planning standards consistent with the flexibility of the implementing guidance in NUREG-0654. Therefore, RBS has maintained the protective measures to assure the health and safety of the public within the owner-controlled area.

RBS has operated in accordance with the Plan for approximately 17 years. The NRC has provided oversight through reviews and evaluations of the Plan (and its changes) throughout this period. EOI maintains that the subject finding is based on a new and different performance standard regarding the level of detail in emergency procedures as to the means and methods of warning and evacuating members of the public from the owner-controlled area. A NRC conclusion of a yellow finding on this matter would be a staff interpretation of the Commission rules in a new and different manner from that previously established. Therefore, if this position were taken by the staff, EOI

strongly believes the issue would be subject to the provisions of the backfit rule (10 C.F.R. § 50.109) since this issue would be a change that does not contain any substantial safety significance concerning the overall protection of the public health and safety. EOI further maintains that it is inappropriate for the NRC to use inspection and enforcement to establish new policy for the industry.

EOI is continually looking for opportunities to improve our programs and processes. While EOI agrees that enhancements or improvements could be made in some of the processes used to evacuate members of the public from the owner-controlled area in an emergency, EOI disagrees with the preliminary conclusions of the inspection report. We contend that both the 10CFR50.47 (b)(10) and (b)(7) findings are not violations. However, EOI does not contest the apparent violation of 10CFR50.54(q) relating to the evaluation and updating of the emergency plan or implementing procedures with respect to additional facilities used by the public within the owner controlled area. This violation should have no greater significance than Green in accordance with NRC Inspection Manual Chapter 0609, Appendix B.

I. Introduction

In Inspection Report 50-458/02-05,[1] the NRC identified a finding related to the adequacy of emergency preparedness at River Bend Station ("RBS"). The NRC assessed the finding using the Emergency Preparedness Significance Determination Process ("SDP") and assigned a preliminary significance level of "Yellow." The NRC also indicated in its inspection report that the finding appeared to involve three apparent violations of 10 C.F.R. § 50.54(q), citing 10 C.F.R § 50.47(b)(10), 10 C.F.R § 50.47(b)(7), and 10 C.F.R. Part 50, Appendix E, Section IV(G), and that these violations were being considered for escalated enforcement action. The three apparent violations involve the following issues:

- A range of protective actions were not developed and maintained for members of the public who routinely used facilities located in the River Bend Station ("RBS") owner-controlled area (10 C.F.R. § 50.47(b)(10));

- Emergency response information was not periodically made available to members of the public who routinely used facilities located in the RBS owner-controlled area (10 C.F.R. § 50.47(b)(7)); and

- The RBS emergency plan was not reviewed and updated as members of the public were given access to facilities located in the owner-controlled area (10 C.F.R. Part 50, Appendix E, Section IV(G)).

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1 NRC Inspection Report 50-458/02-05, "Preliminary Yellow Finding," April 18, 2002.

The following sections discuss the regulatory history of the NRC's emergency preparedness regulations and implementing guidance, and how the NRC has interpreted its requirements in decisions regarding the adequacy of emergency planning at nuclear power plants. Next, the plant-specific history of emergency planning is discussed as it relates to commitments associated with the owner-controlled area at RBS and EOI's position regarding compliance with the NRC's requirements. Bases are provided regarding why EOI concludes that the NRC's finding represents a new and different interpretation of the required the level of detail in emergency planning procedures, training and the timeliness relating to the warning and evacuation of the members of the public in the owner-controlled area in the event of an emergency. Finally, our perspective of the significance and the generic implications concerning the issue are also addressed.

II. Regulatory History

This section discusses our review of the history of regulatory requirements and agency guidance upon which the NRC has based its proposed enforcement action. Based on our review of the regulations and agency guidance, EOI concludes that 10 C.F.R. § 50.47 and Appendix E to Part 50 represent the full extent of applicable regulatory requirements and that EOI complies with these requirements. Additional interpretive documents such as NUREG-0654 provide, but one methodology for implementing these regulations. Further, NUREG-0654 does not prescribe specific methods for compliance as the inspection report would appear to indicate in the bases for its conclusions.

A. Rulemaking

The NRC issued a final rule revising the emergency planning requirements (including 10 C.F.R. § 50.54(q)), effective November 3, 1980.[2] In addition to establishing more formal interactions between licensees and offsite authorities for emergency planning, the revised rules required that a licensee or applicant submit its emergency plan to the NRC. The NRC would review the plan and make a finding as to whether the proposed onsite and offsite emergency preparedness would provide reasonable assurance that adequate protective measures would be taken in the event of a radiological emergency.

The 1980 rulemaking also added emergency planning standards for both onsite and offsite emergency response plans. These planning standards were set forth in 10 C.F.R. § 50.47(b) and were intended to be used by the NRC in making its determination of the adequacy of emergency plans under the requirements set forth in the final

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[2] 45 Fed. Reg. 55,402 (Aug. 19, 1980).

regulation.[3] The relevant planning standards published in 1980, and unchanged since that time, are:

- 10 C.F.R. § 50.47(b)(7): Information is made available to the public on a periodic basis on how they will be notified and what their initial actions should be in an emergency (e.g., listening to a local broadcast station and remaining indoors), the principal points of contact with the news media for dissemination of information during an emergency (including the physical location or locations) are established in advance, and procedures for coordinated dissemination of information to the public are established.

- 10 C.F.R. § 50.47(10): A range of protective actions have been developed for the plume exposure pathway EPZ [emergency planning zone] for emergency workers and the public. Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

10 C.F.R. Part 50, Appendix E, Section IV, "Content of Emergency Plans," specifies the type of information that is to be included in a nuclear power plant's emergency plan. Section IV(G), "Maintaining Emergency Preparedness," requires "provisions to be employed to ensure that the emergency plan, its implementing and procedures, and emergency equipment and supplies are maintained up to date shall be described [in the emergency plan]."

B. Statement of Considerations

The Statement of Considerations for the 1980 rulemaking states that the NRC would use the planning standards in 10 C.F.R. § 50.47 in making its determinations concerning the adequacy of emergency plans.[4] The NRC would make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC would base its finding on a review of Federal Emergency Management Agency ("FEMA") findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC's assessment as to whether the applicant's/licensee's emergency plans are adequate and capable of being implemented.

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3 45 Fed. Reg. 55,402 (Aug. 19, 1980).

4 45 Fed. Reg. 55,402 (Aug. 19, 1980).

C. NRC and FEMA Guidance for Implementing Regulatory Requirements

The NRC has authority over a licensee's onsite emergency planning, while the FEMA, in conjunction with State and local authorities, has authority over offsite emergency planning. Consistent with this approach, the NRC and FEMA issued jointly created guidance for use by licensees and regulatory agencies when developing or assessing onsite and offsite emergency planning activities.

Such a joint document was referenced in the 1980 rulemaking, where the NRC explained that the planning objectives from NUREG-0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants – For Interim Use and Comment," January 1980, formed the basis for the regulatory requirements in 10 C.F.R. § 50.47(b).[5] Thus, the NRC distinguished between what elements of NUREG-0654 are required versus the portion that remained guidance. The NRC further explained that it had received public comments on the draft NUREG-0654 and that the objectives were largely based on NUREG-75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities," and its supplement, which had been in use for some time.[6] Initially, the rule included a footnote to the planning standards that stated:

> These standards are addressed by specific criteria in NUREG-0654: FEMA-REP-1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants – For Interim Use and Comment," January 1980.[7]

The NRC revised the rule in 1984 and deleted the footnote.[8] In addressing a public comment concerning such deletion, the NRC provided the following rationale:

> The [deletion] of a reference to NUREG-0654 will not affect its use as a guidance document for emergency planning. In the 1980 rulemaking, the Commission included this reference as a means of formally approving the use of NUREG-0654. See 45 FR 55402, 55406 (August 19, 1980). NUREG-0654 is endorsed by Regulatory Guide 1.101, and will continue to be used by reviewers in evaluating the adequacy of emergency preparedness at nuclear power reactor sites.

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5 45 Fed. Reg. 55,402, at 55,406 (Aug. 19, 1980). Note that the NRC did not "incorporate by reference" NUREG-0654, but extracted the objectives from NUREG-0654 as the planning standards in the regulations (*i.e.,* 10 C.F.R. § 50.47(b)).

6 45 Fed. Reg. 55,402, at 55,406 (Aug. 19, 1980).

7 45 Fed. Reg. 55,402, at 55,409 (Aug. 19, 1980).

8 49 Fed. Reg. 27,733 (July 6, 1984).

These statements clearly indicate that *the NRC did not consider guidance in NUREG-0654 to be regulatory requirements.* This position is bolstered by Regulatory Guide 1.101, "Emergency Planning and Preparedness for Nuclear Power Reactors," (Revision 2, October 1981), which references the final version of NUREG-0654/FEMA-REP-1, published in November 1980 as Revision 1. Regulatory Guide 1.101 states in relevant part:

> The criteria and recommendations contained in Revision 1 of NUREG-0654/FEMA-REP-1 are considered by the NRC staff to be generally acceptable methods for complying with the standards in § 50.47 of 10 CFR Part 50 that must be met in onsite and offsite emergency response plans. Furthermore, FEMA, NRC, and other involved Federal agencies intend to use the guidance contained in Revision 1 of NUREG-0654/FEMA-REP-1 in their individual and joint reviews of the radiological emergency response plans and preparedness of applicants for and holders of a license to operate a nuclear power plant.

NUREG-0800, "Standard Review Plan," Section 13.3, "Emergency Planning," delineates the review process and guidance for assessing an applicant's level of adequacy for emergency preparedness. The document lists relevant regulations and implementing guidance in NUREG-0654 as standards for review. NUREG-0800 states that the reviewer should recognize:

> [T]hat the detailed application of the acceptance criteria will in many instances require the exercise of judgment on the part of the reviewer. The reasonableness and adequacy of the factors involved should be viewed in the light of general emergency planning and response experience, bearing in mind that the broad objective of radiological emergency plans is to protect the public by mitigating the potential health and safety consequences of radiation exposure. Ideally, such plans would assure neither an over reaction nor an under reaction to unexpected events.

D. NRC Decisions Interpreting Emergency Preparedness Regulations

The NRC inspection report includes a listing of specific issues that form the basis for the finding and two apparent violations associated with informing, warning, and evacuating members of the public from the owner-controlled area. The underlying concern manifested in the issues, and the overarching concern expressed during the NRC inspection at the initial briefing meeting (Feb. 1, 2002) is that members of the public within the owner-controlled area may not have been made aware of an emergency event in a timely manner.

Because the underlying concern relates to areas for improvement in procedures that may impact the timeliness of warning, and evacuation of members of the public in the

owner-controlled area when an emergency occurs, it is instructive to review NRC past decisions that relate to this issue. Of course, the goal is to ensure that 100% of persons who may be in the owner-controlled area when an emergency occurs are aware of measures that must be taken. However, that goal is not a regulatory requirement. Reasonableness must be applied in that there may be circumstances that result in less than 100% effectiveness. NRC precedents give insight into the degree of assurance needed in the treatment of members of the public within the owner-controlled area.

The NRC points out in the inspection report several examples of details that it considers are inadequately addressed in RBS emergency procedures and training (A.1). EOI maintains that the procedures contain adequate guidance for establishing the means and methods for warning members of the public and evacuating the owner-controlled area.

In discussing a contention that evacuation plans were not sufficiently detailed, a past Director of the Office of Nuclear Reactor Regulation stated that "[t]he NRC has no requirements that specify the precise means and methods to be used in carrying out prompt protective actions for the public, including evacuation, in the event of a radiological emergency." *General Public Utilities Nuclear Corporation* (Three Mile Island Nuclear Station, Unit 1), DD-94-3, 39 N.R.C. 163, 175 (1994). The RBS issues are relevant to this statement in that the NRC appears to be imposing a single view of the means and methods for implementing protective actions for the public. In addition, the NRC has recognized that emergency plans may not be perfect. For example, in a decision of the Director of the Office of Nuclear Reactor Regulation denying a petition to reconsider its "reasonable assurance" finding regarding emergency preparedness at the Pilgrim Nuclear Power Station, the Director discussed the NRC's review standard for emergency planning. The Director concluded that when the NRC reviews emergency plans, "the question is not whether the plan is perfect, but whether it provides for 'reasonable assurance of adequate protection of the public health and safety.'" *Boston Edison Company* (Pilgrim Nuclear Power Station), DD-93-17, 38 N.R.C. 264, 269 (1993). As discussed herein, the RBS Emergency Plan provided reasonable assurance of adequate protection of public health and safety.

In the inspection report, the NRC maintains that certain areas for improvement in the RBS emergency planning process represent a failure to meet the cited planning standards; however, the NRC has previously recognized that areas for improvement may exist without representing a failure to comply with the emergency planning requirements. In responding to two separate petitions opposing restart of the Davis-Besse Nuclear Power Station because of concerns regarding emergency planning, the Director of the Office of Inspection and Enforcement concluded that the emergency preparedness planning for the facility was adequate. The Director noted that, while there must be substantial compliance with the regulations, "[t]he Commission recognizes that there can be deficiencies in the emergency planning and preparedness associated with a nuclear facility. ... In practice, radiological emergency response plans are rarely if ever perfect and complete. ... While all deficiencies are expected to be

corrected, not all will change a finding of reasonable assurance by the NRC." *General Public Utilities Nuclear Corporation* (Three Mile Island Nuclear Station, Unit 1), DD-86-17, 24 N.R.C. 753, 758 (1986). The proposed NRC enforcement action does not appear to be consistent with this overarching statement.

In regard to evacuation timing, the NRC does not appear to believe that the RBS estimate of 30 to 60 minutes is achievable for completing an evacuation of the owner-controlled area. This value is an estimate as stated in the RBS emergency plan, not a regulatory requirement. Neither the regulations nor the implementing guidance require that an evacuation occur within a prescribed time limit. In discussing the evacuation times for inmates at a correctional facility, the Atomic Safety and Licensing Appeal Board stated that the "Commission's emergency planning regulations require an evacuation time estimate (ETE) for 'various sectors and distances within the plume exposure pathway [emergency planning zone] for transient and permanent populations.' 10 C.F.R. Part 50, Appendix E, § IV. No particular time limits are established for an evacuation; rather, the analysis is intended to reflect a realistic time for completing an evacuation. Thus, by using the ETE, emergency coordinators can then decide what protective actions (e.g., sheltering or evacuation) are warranted in the circumstances, if a radiological emergency occurs." *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), ALAB-845, 24 N.R.C. 220, 244 (1986).

Again, regarding the timeliness of evacuation in the event of an emergency, the Commission addressed a certified question from the Atomic Safety and Licensing Appeal Board seeking guidance on whether testimony concerning particular accident scenarios and their projected dose consequences is admissible for purposes of judging the adequacy of an emergency plan, determining that such testimony is inadmissible. In its decision, the Commission also addressed whether a minimum evacuation time for the emergency planning zone is required by the regulations. The Commission stated that the NRC's "emergency planning requirements do not require that an adequate plan achieve a preset minimum radiation dose saving *or a minimum evacuation time for the plume exposure pathway emergency planning zone* in the event of a serious accident. Rather, they attempt to achieve reasonable and feasible dose reduction under the circumstances." (Emphasis added.) *Public Service Company of New Hampshire* (Seabrook Station, Units 1 and 2), CLI-90-02, 31 N.R.C. 197, 216 (1990).

As a comparison, the NRC has reviewed the notification of members of the public within the emergency planning zone ("EPZ") and determined that the standard of reasonableness is not 100% but rather a "best effort." The Atomic Safety and Licensing Board addressed a number of contentions concerning the adequacy of emergency planning features during licensing of the Catawba Nuclear Station. *Duke Power Company* (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. 933 (1984). Regarding public notification, interveners alleged that not all affected citizens would hear the emergency sirens due to, *e.g.,* hearing impairments, weather conditions, and distance from sirens. The Board concluded that the NRC and FEMA requirements for sirens (*e.g.,* decibel levels) were not intended as a guarantee that 100% of the population in the EPZ will actually hear the sirens in an emergency, but rather, were

meant to establish a design objective for the siren system, and that individuals who do not actually hear the sirens can receive notification by other means (*e.g.,* word of mouth, emergency broadcast messages or radios and TV, tone alert radios, routing alert). *Id.,* at 973. Comparing this to the RBS alerting of members of the public within the owner-controlled area, 100% effectiveness is the goal for reasonable assurance, but is not the regulatory test for regulatory compliance.

These decisions support EOI's position that the RBS procedures and training need not contain the level of detail suggested by the NRC's inspection finding. We believe that the decisions also support EOI's position that informing, warning, and evacuating members of the public in the owner-controlled area at the time of an emergency within an estimated 30 – 60 minutes from the time an evacuation is directed complies with the regulations.

III. Plant-Specific History for Emergency Planning

A. River Bend Station Emergency Plan

As stated in Section 13.3.1, "Scope and Applicability," the RBS Emergency Plan was developed consistent with the guidance in NUREG-0654. The original RBS Emergency Plan was part of the RBS Final Safety Analysis Report ("FSAR").

Amendments 8 through 11 of the FSAR constitute the original emergency planning licensing basis for RBS.[9] The relevant portions of the RBS Emergency Plan and responses to NRC questions as to the subject inspection finding are discussed below. It is clear that issues similar or identical to those currently being raised by the NRC as deficiencies have been previously addressed by EOI and agreed to by the NRC.

Amendment 8 contained responses to NRC questions regarding emergency planning and control over individuals in the owner-controlled area, specific to certain of the criteria cited in the NRC inspection report finding discussed herein (referenced sections, or portions thereof, are quoted below the RBS response):

Question 810.48 – The time required to warn or notify onsite personnel is not given. (J.1).[10]

Response: The response to this request is provided in revised Section 13.3.5.4.1.1.1.

13.3.5.4.1.1.1 Notification

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9 FSAR Amendment 8 (May 13, 1983) and Amendment 11 (February 16, 1984) are referenced in the NRC's Safety Evaluation and Supplemental Safety Evaluation (*see* Section III.B below).

10 The NRC referenced the specific NUREG-0654 criterion for each question.

Notification of onsite personnel, both internal and external, will be accomplished immediately upon classification of or escalation/de-escalation of an accident via the plant PA system. The actuation of fire alarms, radiation alarms, telephone calls, and public address announcements, as applicable, will alert onsite personnel to hazardous conditions and to actions they must take. Such actions may be to assemble in emergency teams, to report to accountability stations, to evacuate specific areas within the site, and/or to evacuate the site. GSU security vehicles, assigned to external patrol and equipped with public address systems, will patrol the owner controlled area to advise of necessary protective measures to be taken by persons within the owner controlled area. This action will be taken immediately upon notification by the Emergency Director.

The response states that Security patrols will be used to notify persons within the OCA of protective measures. In addition, the NRC in a preoperational inspection documented in report 84-35 reviewed details of procedural controls. RBS does not agree with the observation in the NRC's inspection report 50-458/02-05, section A.1.a regarding the level of detail in procedures.

Question 810.49 – Actions by or responsibility for visitors and contractor/construction personnel are not addressed. (J.1.b and c).

Response: The response to this request is provided in revised Section 13.3.5.4.1.1.2.

13.3.5.4.1.1.2 Site Access Control

At the announcement of any plant emergency, escorts shall return escorted visitors to the Primary Access Point for exit processing. Unescorted visitors or contractor/construction personnel are trained in their required actions prior to being granted unescorted access.

Question 810.50 – The Plan does not discuss the means or time required to warn or advise individuals who may be in the owner-controlled area but outside the protected area. (J.1.d).

Response: The response to this request is provided in revised Section 13.3.5.4.1.1.1.

13.3.5.4.1.1.1 Notification

Notification of onsite personnel, both internal and external, will be accomplished immediately upon classification of or escalation/de-escalation of an accident via the plant PA system. The actuation of fire alarms, radiation alarms, telephone calls, and public address announcements, as applicable, will alert onsite personnel to hazardous conditions and to actions they must take. Such actions may be to assemble in emergency teams, to report to accountability stations, to evacuate specific areas within the site, and/or to evacuate the site. GSU security vehicles, assigned to external patrol and equipped with public address systems,

will patrol the owner controlled area to advise of necessary protective measures to be taken by persons within the owner controlled area. This action will be taken immediately upon notification by the Emergency Director.

The response states that Security patrols advise of necessary protective measures immediately upon notification by the Emergency Director (ED). RBS does not draw the same conclusions as in the NRC's inspection report 50-458/02-05, section A.1.b regarding notification time.

Question 810.51 – Transportation (e.g., company owner, private) for evacuation of onsite individuals is not discussed. The Plan does not make provision for alternate offsite evacuation locations in the event of inclement weather, high traffic density, and specific radiological conditions. (J.2).

Response: Three alternates for assembly offsite are identified in Section 13.3.5.4.1.1.3. This section has been revised to indicate that onsite individuals proceed via private vehicle to one of the designated assembly locations dependent on the weather conditions, traffic density or specific radiological conditions.

13.3.5.4.1.1.3 Onsite Evacuation and Relocation

Onsite evacuations, depending on the nature of the emergency and the extent of the area affected, have been defined as Limited, Building, Protected Area and Owner Controlled Area Evacuations. The Emergency Director or his designee will be responsible for ordering evacuations. ... Owner Controlled Area Evacuation ... When a protected area or owner controlled area evacuation is ordered, the Station Security Force will take action in accordance with the Security Plan to verify that an orderly, safe withdrawal of all nonessential personnel within the affected areas takes place. They will be responsible for personnel notification of areas within the protected area and the owner controlled area not covered by the public address system.

The NRC previously approved the methodology for evacuation and routes without detailed instructions and messages. The RBS emergency plan and implementing procedures specify the ED determines the routes and assembly areas for an OCA evacuation. In addition, the RBS emergency plan section 13.3.7.1.2.3.7 requires drills for the protected area only. RBS does not reach the same conclusion as the NRC's inspection report 50-458/02-05, section A.2 regarding evacuation routes and transportation.

Question 810.52 – The Plan does not indicate that onsite non-essential personnel will be evacuated in the event of a Site Area or General Emergency. The criteria for a Plant Evacuation and Protected Area Evacuation (i.e., radiation levels that exceed 2 mrem/hr above background), as discussed in Section 13.3.5.4.1.1.3, appear to be the same. The Plan does not specify the location of the decontamination station for evacuated non-essential personnel. (J.4).

Response: The response to this request is provided in revised Sections 13.3.5.4.1.1.3, 13.3.5.4.1.1.4, and 13.3.5.4.1.1.5.

13.3.5.4.1.1.3 Onsite Evacuation and Relocation

Onsite evacuations, depending on the nature of the emergency and the extent of the area affected, have been defined as Limited, Building, Protected Area and Owner Controlled Area Evacuations. The Emergency Director or his designee will be responsible for ordering evacuations. ... Building Evacuation ... Personnel evacuated during a building evacuation will proceed to the dining area in the Services Building for accountability and radiation monitoring. ... Protected Area Evacuation ... [Personnel will proceed to the assembly area or alternate assembly] for radiation monitoring...Owner Controlled Area Evacuation ... Personnel monitoring will be performed at the designated assembly area.

13.3.5.4.1.1.4 Evacuation Times

Owner Controlled Area Evacuation (30 to 60 min) – This is considered a realistic time to evacuate nonessential personnel within the protected area and the owner controlled area.[11]

13.3.5.4.1.1.5 Monitoring Evacuees

Facilities are available at the EOF [Emergency Operations Facility] for decontaminating evacuated, non-essential personnel. A decontamination room, located in the EOF, contains the facilities and the equipment needed for decontaminating personnel. Appendix E lists the decontamination supplies and equipment, personnel monitoring equipment and extra clothing maintained at this facility.

The response establishes the location of decontamination facilities with recognition that additional facilities are available off site (A.3.c). In addition, the NRC's preoperational inspection (report 84-35) reviewed the Alternate Assembly area recognizing there was not any staged equipment. The NRC approved the methodology. Therefore, RBS is in

[11] Amendment 11 of the RBS Emergency Plan (which incorporated Amendments 9 and 10) provided the results of evacuation time modeling. For the 0-2 mile radius (which includes the owner-controlled area), the evacuation estimates for peak season normal weather were (1) 1 hour 32 minutes at night and (2) 2 hours 35 minutes during the day, with slightly longer times for adverse weather conditions. (RBS Final Safety Analysis Report, Amendment 10, Section 13.3, "Emergency Planning," Appendix D, at D-2.) The estimates for evacuating the owner-controlled area in the current RBS Emergency Plan (30 – 60 minutes) are encompassed within these time periods.

compliance with its' approved plan and procedures regarding assembly area equipment (NRC's inspection report 50-458/02-05, section A.3.c).

The Emergency Plan also addresses dissemination of information to the public in Section 13.3.5.4.1.2.2, in conformance with guidance in NUREG-0654, Section G.4.c. This section indicated that RBS would provide information to the permanent and transient adult population within the EPZ concerning the appropriate response to emergency events. This section also described the prompt notification system and indicated that it met regulatory requirements, and that the state authorities would control sounding of the sirens based on the recommendation of RBS.

The current RBS Emergency Plan contains essentially the same elements associated with evacuating the owner-controlled area as to evacuation time estimates, responsibility for notifying individuals in the owner-controlled area outside the protected area, and the means for accomplishing the warning and evacuation. Perhaps more importantly, the guidelines and regulations used by the NRC when evaluating RBS emergency responses are substantially the same as today. Therefore, as further discussed below, NRC modification of its position at this time regarding what is necessary to comply with 10 C.F.R. § 50.47(b) appears to require analysis pursuant to 10 C.F.R. § 50.109.

B. NRC SER/SSER-2 - Acceptance of River Bend Station Emergency Plan

River Bend Station ("RBS") received its operating license on November 20, 1985, well after the NRC's rulemaking that added the emergency planning standards in 10 C.F.R. § 50.47(b) and, as noted above, the RBS Emergency Plan was developed to the criteria in NUREG-0654. The NRC, therefore, reviewed the RBS Emergency Plan according to the criteria in NUREG-0654, and according to the review process delineated in NUREG-0800, "Standard Review Plan," Section 13.3, "Emergency Planning." In the initial Safety Evaluation Report ("SER") for RBS,[12] the NRC's review of the notification methods and procedures concluded that the Plan described the means for alerting, notifying, and mobilizing RBS personnel on the site (*see* SER Section 13.3.2.5). The NRC also discusses the protective action decision-making process (onsite and offsite) and evacuation time estimates in Section 13.3.2.5 of Supplement 2 to the SER (hereinafter "SSER-2").[13]

In SER Section 13.3.2.7, "Public Information," the NRC's SER discussed plans for public information dissemination to members of the public within the plume emergency planning zone, including a public education program, training for news media personnel, and establishing a communications center adjacent to the emergency operations facility. The NRC reviewed the program for ensuring that the transient population within the plume emergency planning zone would have an opportunity to

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12 NUREG-0989, "Safety Evaluation Report Related to the Operation of River Bend Station," May 1984.

13 NUREG-0989, Supplement No. 2, August 1985.

become aware of the information. The NRC noted that the public information brochure and its use would be reviewed later. In SSER-2, Section 13.3.2.7, the NRC stated it's finding that the brochure was adequate.

As to the onsite protective response, in SER Section 13.3.2.10, the NRC stated that:

> The Plan establishes guides for determining when protective actions are required on the site, to include limited, building, protected area, or owner-controlled area evacuations. The Plan provides for the evacuation of nonessential personnel in the event of the declaration of a Site Area or General Emergency by the Emergency Director or his designee. ... The actuation of fire alarms, radiation alarms, telephone calls, and public address announcements, as applicable, will immediately alert employees, visitors, contractors, and other onsite personnel to hazardous conditions and the actions they must take. Such actions may be to assemble in emergency teams, report to accountability stations, evacuate specific areas within the site, or evacuate the site. Security personnel, under the direction of the Emergency Director, will perform an external patrol with vehicles equipped with public address systems to notify persons within the owner-controlled area. Monitoring and decontamination of onsite evacuees will be conducted at the designated assembly area. ... The Plan contains time estimates for evacuation within the plume EPZ.

RBS does not reach the same conclusion as the NRC's inspection report 50-458/02-05, sections A.3.a and b and B.1 regarding advance information to onsite public. The RBS emergency plan has security warn and advise persons about evacuation, decontamination and route information for members of the public within the OCA. Direct sweeping of the buildings within the OCA by Security is the approved and accepted warning method.

These descriptions discussed the provisions of the RBS Emergency Plan for meeting the criteria in NUREG-0654 for implementing planning standards 10 C.F.R. § 50.47(b) ¶¶ (7) and (10) and constitute the extent to which the NRC discussed the responsibilities for the owner-controlled area for planning standards 10 C.F.R. § 50.47(b) ¶¶ (7) and (10) in its safety evaluation report, and supplement, for licensing RBS. In sum, the currently proposed NRC enforcement action appears to be inconsistent with the previously established NRC position.

C. Changes in Use of Owner-Controlled Area Since Initial Licensing of RBS and the Impact on Emergency Planning

In its inspection report, the NRC lists areas and facilities within the RBS owner-controlled area to which the public is allowed access: West Feliciana Community Development Foundation ("WFCDF"); security firing range, activity center, outage recreational vehicle campground, Sportsman's Association base camp; alternate

assembly areas; river access road (hunting and fishing access).[14] Since original licensing, the use of these facilities within the owner-controlled area has changed.' One such use is the building just inside the owner-controlled area used by the WFCDF. The WFCDF is used by approximately four individuals. The remaining allowed uses for facilities are for limited periods of time. This difference does not alone provide adequate justification for the proposed Yellow finding.

We note that a permanent residence located adjacent to the WFCDF building is closer to the reactor, but is outside the owner-controlled area (OCA) and would not likely be evacuated prior to completion of an OCA evacuation. This speaks to the fact that no substantial or adverse safety significance to public health and safety must exist.

Even though the uses within the owner-controlled area have changed since original licensing of RBS, the principal means of notifying persons within the owner-controlled area, which is the principal NRC issue, has remained the same – external patrols by security personnel using vehicles equipped with public address systems. The evaluation criteria in NUREG-0654 for the "means and time require to warn or advise onsite individuals and individuals who may be in areas controlled by the operator"[15] was addressed and accepted in the NRC's SER/SSER (quoted above).

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[14] The NRC recognized the original purpose of the sportsman's club in the Final Environmental Statement for licensing RBS (NUREG-1073, "Final Environmental Statement Related to the Operation of River Bend," January 1985). Section 4.3.4.1, "Terrestrial Resources," states "The applicant will manage many areas on the site in cooperation with university, state, and Federal forestry and wildlife specialist...management of unharvested deer herds...."RBS license commitment 2868 regarding the deer management stated "...The RBS Sportsman Club Charter and Addendums [sic], LA Department of Wildlife and Fisheries Letter dated 7/31/90 and participation in the LA Deer Management Assistance Program have been included in closure of this commitment...herds are being controlled partially by bow hunting...reforestation programs are...reviewed...as verification of this effort." The RBS Sportsman Club was established to address this environmental necessity.

[15] NUREG-0654, Section II.J, "Protective Response," at 59.