D. NRC Knowledge and Acceptance of Emergency Response Techniques for Owner-Controlled Areas Used by the Public

The NRC 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 prior to issuance of an Operating License. In addition, the NRC has been aware of RBS's approach to emergency response regarding owner-controlled areas used by the public throughout the RBS operating history. For example, the NRC has conducted emergency planning inspections of RBS since 1985. Assuming that the NRC inspection was thorough, it would have assessed the adequacy of these key program attributes. Also, a pre-license full participation exercise of the original RBS Emergency Plan was conducted at the site on January 16, 1985, to test the capabilities of the onsite and offsite emergency support organizations to respond to a simulated accident scenario resulting in a major radioactive release.[16] For this exercise, the NRC SSER-2 for RBS indicates that "the applicant demonstrated an adequate state of onsite emergency preparedness." (SSER-2, at 13-6). The 1985 inspection report does not specifically discuss evacuation of the owner-controlled area, but does state that the NRC reviewed the exercise scenario to verify that "all the major elements of emergency response would be exercised in accordance with the requirements of 10 CFR 50.47(b), 10 CFR 50, Appendix E, paragraph IV.F, and the guidance criteria in NUREG-0654, Section II.N."[17] Full participation exercises have been conducted periodically since licensing. The NRC should not discount its prior acceptance to facilitate enforcement at this time.

IV. EOI's Position as to Compliance with Regulatory Requirements

EOI is always looking for opportunities to improve in the Emergency Plan and implementing procedures. At the time of the subject inspection, improvement areas as to control over members of the public within the owner-controlled area in regards to provisions for evacuation, protective actions, and information were identified. It is important to recognize, however, that the original means (still in effect) for evacuating the owner-controlled area was approved by the NRC in the original licensing of RBS. EOI maintains that, in spite of the areas for improvement, the means and estimated times approved by the NRC were acceptable and have remained in effect throughout the licensed period (*i.e.,* 1985 to present). There were no failures of the planning standards specified in the regulations that would lead to a determination of either a

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16 *See* NRC to Gulf States Utilities, Inspection Report, March 19, 1985.

17 *See* NRC to Gulf States Utilities, Inspection Report, March 19, 1985, at 4.

yellow or white finding in the Significance Determination Process. EOI bases its position on the points discussed below.

EOI points out that there is no specific regulatory requirement that all actions identified in NUREG-0654 must be proceduralized. To require proceduralization of actions at the discretion of an inspection activity is inappropriate. EOI maintains that the security officers who conduct the alerting and evacuation of the owner-controlled area undergo significant training and that evacuation training is but one of the many basic skills taught. Security procedures instruct officers to "enter each building" and "direct all personnel to evacuate" after announcing the evacuation and the designated assembly area, if applicable. Additionally, the emergency response organization management individuals are trained in emergency planning response and the emergency plan implementing procedures provide direction such that an evacuation of the owner-controlled area would be effective and timely. Evacuation responsibilities are contained in lesson plans for Security. A standard of reasonableness must be applied to the term "personnel". It is not reasonable to assume that Security Officers would perform an evacuation and only inform employees in each building while segregating members of the public from the notification and information during an emergency evacuation.

Therefore, RBS disagrees that the information NRC inspection report 50-458/02-05, sections A.1.a.ii and A.1.a.iv support a conclusion that Security would evacuate employees but not members of the public. In addition, RBS disagrees that evacuation is not among the responsibilities in the Security lesson plan (section A.1.a.vi).

A. Appropriate Standard

The NRC's inspection report cites a number of reasons the security sweeps would not be "completely effective" in warning, advising, and evacuating members of the public in the owner-controlled area at the time of an emergency condition, and that information concerning emergencies was not included in information given to members of the public entering the owner-controlled area (A.1.a).[18] The NRC's finding is largely based on the fact that procedures did not specifically include all the steps that would be taken to accomplish an owner-controlled area evacuation. From a regulatory perspective, these prescriptive steps are not required. EOI maintains that it is reasonable to rely on the competence of trained personnel. The NRC is holding the RBS Emergency Plan and implementing procedures to a new and different standard (i.e. level of detail) that is

18 *See* NRC Inspection Report (footnote 1) at pages 5-9.

beyond that necessary for accomplishing an evacuation of the owner-controlled area, and beyond that necessary to fulfill regulatory requirements.[19]

EOI maintains that the NRC is not applying the appropriate standard in judging the emergency planning areas for improvement. The appropriate standard for judging the adequacy of emergency plans and procedures is a standard of reasonableness – *i.e.*, "that adequate protective measures can and will be taken in the event of a radiological emergency."[20] Further in support of EOI's position, the NRC has stated the standard for reviewing emergency plans, stating that "[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."[21] The NRC inspector, in an inspection debrief (February 1, 2002), commented that, in spite of the procedure areas for improvement, he agreed with EOI that generally the evacuation and protective action measures could be accomplished (i.e. means and time).

B. RBS Has Satisfied 10 C.F.R. § 50.47 ¶¶ (b)(7) and (b)(10)

Alerting and Evacuating Members of the Public in the OCA

RBS Emergency Plan implementing procedures and security bulletins have contained information regarding the means of assuring the evacuation of the owner-controlled area since RBS was first licensed. The procedures in effect and reviewed during the inspection establish requirements that would have ensured adequate warning, advising, and evacuating of personnel and members of the public from the owner-controlled area in the event of an emergency. A matrix of the implementing methodologies related to the guidance in NUREG-0654 is provided in Table 1. The relevant portions of procedures are as follows:

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19 While the procedures may have areas for improvement, there is no evidence that, in the event an actual emergency, an evacuation of the owner-controlled area could not have been accomplished with the procedural controls that existed and the skill of the emergency response organization and security force through the roving patrols and area sweeps that would have been directed in accordance with the emergency planning requirements that had been in place since initial licensing of the plant. The means for accomplishing the evacuation and the estimated evacuation times were approved by the NRC during the initial licensing of RBS.

20 *See, e.g., Toledo Edison Co.* (Davis-Besse Nuclear Power Station, Unit 1), DD-86-17, 24 N.R.C. 753, 758 (1986).

21 *See* footnote 21.

EIP-2-002, "Classification Actions," Revision 21 (April 17, 2001):

> Defined "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 (Power Station Road/State Highway 965) on the South to the North boundary of the River Bend Site property.[22]

- Defined the two assembly areas, primary and alternative evacuation points, and "Search and Rescue Team."

- Step 6.3 specified that for a site area emergency or general emergency, the Recovery Manager and Emergency Director should use Attachment 3 as a guideline.

- Attachment 3, Step 6, directed evacuation of the owner-controlled area in accordance with Attachment 6.

- Attachment 6 provided instructions for owner-controlled area evacuation. Security was directed to evacuate the owner-controlled area outside of the protected area after being briefed on potential hazards and protective measures. Security Officers were directed to enter each building and announce the evacuation and designated assembly area (if applicable) and to direct all personnel to evacuate.

EIP-2-018, "Technical Support Center," Revision 23 (November 12, 2001), provided instructions for the activation, operation, and deactivation of the Technical Support Center.

- Step 6.12 directed the Security Coordinator to use Attachment 12 as a guideline for his/her responsibilities.

- Attachment 12 included instruction for conducting an owner-controlled area evacuation, including a step to sweep the owner-

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22 Note that several procedures use the term "personnel" to refer to individuals in the owner-controlled area. This term is generally used to refer to all individuals (*e.g.,* employees, visitors, contractors, other persons) within the owner-controlled area.

controlled area outside of the protected area after being briefed on potential hazards and any protective measures required.

RBS does not reach the same conclusion as the NRC's inspection report 50-458/02-05, sections A.1.b regarding notification time. 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. EOI maintains that these procedure provisions, while not containing all of the specifics called for by the NRC's inspection finding (*e.g.,* list of all specific facilities where members of public might be; direct how message was to be delivered), would have been adequate to warn, advise, and evacuate individuals within the owner-controlled area. Additionally, these provisions would have ensured that the evacuation would be completed within about 30 – 60 minutes, as estimated in the RBS Emergency Plan.

Dissemination of Information

NRC's regulations and guidance regarding dissemination of information to the public clearly address the public within the emergency planning zone. RBS provides information in accordance with the Emergency Plan, consistent with NRC guidance and industry practice, in the offsite area within the ten-mile emergency planning zone. EOI maintains that the same regulatory requirements do not apply to the owner-controlled area. Section 13.3.5.4.1.1.3 of the RBS Emergency Plan addresses how RBS will provide information to members of the public within the owner-controlled area for alerting and evacuation. Section 13.3.5.4.1.2.2 of the RBS Emergency Plan addresses the dissemination of information to the offsite public within the emergency planning zone.

The disseminating information to members of the public when entering the owner-controlled area, providing specific information to every member of the public concerning actions to take in the event of an emergency as each individual enters the owner-controlled area is not required. Instead, EOI meets the regulatory requirements for control over the activities within the owner-controlled area by taking responsibility for personally warning each individual through security implemented seek-and-warn protocols implemented through the RBS Emergency Plan and procedural controls if an emergency occurs. Accordingly, there was no need for a procedure directing the dissemination of information to each member of the public who entered the owner-controlled area (and none is required by regulations)—security patrols accomplish this task.[23]

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23 *See* NUREG-0654, Section II.G, "Public Education and Information" (referenced in the NRC April 18, 2002, inspection report), which contains no specific guidance concerning public information that addresses the owner-controlled area.

EOI maintains that a standard of reasonableness, not a new and different interpretation through inspection (B.1), must be applied when considering transients within the owner-controlled area and the appropriate treatment for informing, alerting, and evacuating these individuals in the event of an emergency. For permanent residence of the public within the emergency planning zone, an annual brochure, various signs, area decals, area notices, and other information are examples of the means used to inform of actions to take in the event of an emergency. The RBS OCA does not contain any permanent residence of the public.

Security Training for Evacuations and Security Procedures

Initial training for the Security Officers that conduct the alerting and evacuation of the owner-controlled area is performed in accordance with Lesson Plan ETT-091-5, "Emergency Preparedness Training for Security Personnel." Thereafter, annual training is provided in accordance with the Security Lesson Plan "Advanced Security Skills, Security Response to Plant Emergencies." As an example, the annual training states: "Conduct searches of the OCA as required, ensuring all personnel have received notification to evacuate. Direct visitors to appropriate assembly areas." In addition, EOI has conducted table-top drills that "exercise" elements of the evacuation plan, though the evacuations were simulated during drills and exercises. Examples of the security procedures and instructions that address evacuation are as follows:

- Procedure SPI-30, "Security Instructions for Motor Patrols," requires that during an OCA evacuation officers are to:

    - Enter each building.
    - Announce the evacuation and the designated assembly area (as applicable).
    - Ensure all personnel evacuate.
    - Follow Instructions as directed by the Security Shift Supervisor.

- RBS Security Bulletin 519 (latest revision dated April 30, 2001) directs assignments of a security officer for notifying personnel in outlying buildings during an owner-controlled area evacuation, listing several examples of buildings to enter (main administration, field administration, warehouse, training center, old human resources building). The listing is not stated as a complete listing. EOI reasonably expects that the Security Officers will make a sweep of the entire owner-controlled area, and, therefore, does not limit the procedural instructions to a specific list of areas. In fact, flexibility, depending on the circumstances is necessary in this instant. To prescribe exactly what steps a security officer must take as suggested by the NRC, even when circumstances dictate other actions based on experience and training would actually be a decrease in the effectiveness of the emergency planning program.

- At a Site Area Emergency or General Emergency, in accordance with EIP-2-002, the Emergency Director, who has responsibility for protective actions on the site,

notifies the Security Shift Supervisor (or Security Coordinator if the Technical Support Center is operational) to conduct an owner-controlled area evacuation.[24]

- The Security Shift Supervisor then instructs one or more officers (depending on the circumstances) to patrol the owner-controlled area (using SPI-30 and Bulletin 519 as guidance) and advise individuals of the appropriate protective actions as directed by the Emergency Director according to the situation (*e.g.*, evacuate; proceed to the designated assembly area[25]). It should be noted that the Emergency Director's responsibilities are defined in EIP 2-002 and 2-018. The Emergency Director is not required to be trained on Security details of the OCA evacuation. Therefore, RBS disagrees that the Emergency Director must be trained on Security details of an OCA evacuation to order an evacuation (NRC inspection report 50-458/02-05, section A.1.a.v).

- To conduct the evacuation, the Security Officer obtains a vehicle and a loudspeaker, which are readily available to security personnel, and conducts the evacuation in a timely manner, recognizing that the estimated time is approximately 30-60 minutes, but that there is no requirement to complete the evacuation in a specified time period (as noted in Section II.D above). Therefore, the Security Officer takes whatever action, in his judgment, is necessary to ensure that all individuals within the owner-controlled area are alerted and provided protective action recommendations. In addition to entering each building, the Security Officers would patrol for cars, trailers, parking areas for the sportsman's club members, and other signs that members of the public may be within the owner-controlled area.

RBS disagrees that a test or validation of the OCA evacuation process is required; furthermore, first time validation in January, 2002 was successful with existing procedures, process, and training (NRC inspection report 50-458/02-05, section A.1.a.viii).

Security Officers receive Initial/Requalification training in addition to Security related tasks. Several key skill sets are:

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24 In addition to the security patrols in the owner-controlled area, other means of notifying individuals on the site include area alarms, telephones, and Gaitronics announcements, as well as the sounding of emergency sirens at a General Emergency (sirens can be heard throughout most of the owner-controlled area, with helicopter coverage of a selected portion). These means are described in Section 13.5.4.1.1 of the Emergency Plan.

25 Personnel monitoring and decontamination (including any contaminated individuals within the owner-controlled area) will be accomplished at the Emergency Operations Facility and the RBS Activity Center, which are stocked with the necessary equipment and extra clothing.

1. Command and control
2. Communications
3. Patrols
4. Response to emergencies

Regarding command and control, officers are trained in direct response force activities and team exercises. Also, they have related tasks such as alarm station activities and Primary Access Point access control. Communications training consists of the use of radios, direct response force activities, preliminary investigations and response to alarms. Other related tasks are radio communications, alarm dispatch/assessment/reporting information, and shift position turnover. Patrols are performed in vital areas, protected areas, and owner controlled areas. These patrols include unlocking barriers and portals. Officers are trained in responding to plant emergencies. Security officers are trained in response to contingency events, emergency evacuation and force-on-force exercises. Related emergency response tasks are limited/building/Protected Area evacuations, reactions to unusual events or suspicious events, and severe weather procedure implementation.

Based on this level of training and related tasks, RBS does agree that the information in the NRC's inspection report 50-458/02-05, sections A.1.a.iii supports a conclusion that Security officers would not effectively deliver an evacuation message. In addition, RBS disagrees that Security personnel do not demonstrate essential skills related to an OCA evacuation (section A.1.a.vii).

V. The NRC's Finding Represents a New Staff Position

The planning standards applicable to the NRC's finding are 10 C.F.R. § 50.47(b)(7) and 10 C.F.R. § 50.47(10), which are quoted above in Section II.A). The NRC Staff is interpreting these planning standards (and the applicable implementing guidance sections in NUREG-0654) as requiring that information be disseminated to all members of the public entering the RBS owner-controlled area and as requiring that procedures, training, and drills specifically address all steps in achieving an owner-controlled area evacuation, rather than relying on instructions (*see* procedure steps discussed above in Section IV.B).

The regulatory requirements for disseminating information to the public are not so prescriptive as to specifically require information to be provided to members of the public that temporarily and occasionally use facilities within the owner-controlled area. Neither do the evaluation criteria include a requirement for disseminating information specifically to all members of the public who enter into the owner-controlled area. In the case of RBS, the NRC accepted the original emergency planning provisions, still in place today, for the owner to control the warning and evacuation of members of the public within the owner-controlled area through the use of security patrols.[26]

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[26] The estimated owner-controlled area evacuation time of 30 – 60 minutes does not represent a time limit, but is useful in determining the protective actions for a

The Staff's action in the preliminary characterization of this finding represents a new and different interpretation of the regulations, which should not be retroactively applied to the situation at hand. The NRC has not previously established positions that require specific means and methods regarding the exercise of control by an owner over members of the public who may be in the owner-controlled area in the event of an emergency. The current actions go beyond regulatory requirements in that the NRC's regulatory scheme has provided licensees with the necessary flexibility in the means, methods, and timeliness necessary to address various situations and circumstances. Further, the NRC's actions are beyond what was originally contemplated in the rule in that the emergency planning requirements do not prohibit public access to the area,[27] nor are they specific as to the responsibilities of the owner/licensee in the event of an emergency other than the responsibilities in maintaining authority for controlling activities within the area.[28]

By concluding that areas for improvement in the RBS emergency plan and implementing procedures represent a failure of the planning standards, the NRC is imposing a new level of expectations and detail for the planning standards, emergency plan, and implementing procedures as to information disseminated to members of the public entering and the means and time to accomplish an evacuation of the owner-controlled area. This interpretation removes the present flexibility in the NRC's regulations (and implementing guidance) for an owner's control over the activities within the property boundaries and imposes an unknown previously not articulated regulatory standard. In accordance with the NRC's previous interpretation of the planning standards (as evidenced through the cited NRC decisions, safety evaluations, and past inspection activities), the NRC's conclusions should not represent deficiencies in the program (*i.e,.* a failure of a planning standard) warranting enforcement, but merely

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specific emergency situation. *See* NRC decisions discussing the purposes for estimating evacuation times, *e.g., see* Section II.D above, quoting *Philadelphia Electric Company* (Limerick Generating Station, Units 1 and 2), ALAB-845, 24 N.R.C. 220, 244 (1986).

27 *E.g., see* NRC NUREG-0625, "Report of the Siting Policy Task Force," Aug. 1979, which states in Section 2.1.2.4: "A variety of plant unrelated activities such as visitor centers, camps, and industrial, facilities are present within the exclusion areas of many sites. Staff practice is to determine whether such activities are a potential hazard to the plant, and whether individuals involved in such activities can be evacuated before receiving a dose in excess of the values given in Part 100. Staff practice has been neither to discourage nor to encourage unrelated activities within the exclusion area."

28 In comparison, the NRC's definition of "exclusion area" includes provisions for various activities unrelated to operation of the reactor, as long as the reactor licensee "has the authority to determine all activities including exclusion or removal of personnel and property from the area," and "provided that no significant hazards to the public health and safety will result." 10 C.F.R. § 100.3.

represent areas for improvement in the plan and procedures that should be considered for correction but which do not result in a finding that the health and safety of the public is not assured.

Consistent with the above, 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. EOI's conclusion is based on the following points:

⇒ The NRC provided no notice of its new interpretation of emergency planning requirements regarding expectations associated with the treatment of members of the public in the owner-controlled area. The regulations do not specifically address the issues cited in the NRC's finding. Courts have held that where a regulation is not sufficiently clear to warn a party about what is expected of it, an agency may not issue a violation and impose a fine.[29] Even though no fine is presently being imposed for the NRC's finding (the NRC inspection report notes that the apparent violations are being considered for escalated enforcement action), the same principle should apply when the NRC is citing a violation of regulatory requirements. Further, if the NRC revised the regulation to include specific provisions associated with the owner's control over the owner-controlled area and its responsibilities to members of the public allowed within the area, the rule would be subject to the notice and comment requirements in the Administrative Procedure Act. 5 U.S.C. § 553.

⇒ The new Staff positions are subject to the backfitting rule (10 C.F.R. § 50.109). The findings establish a new staff position and expectation concerning the means for maintaining authority and control over the RBS owner-controlled area. Whereas the original emergency plan established that in the event of an emergency the members of the public within the owner-controlled area would be notified of protective actions and evacuated through various means, including security patrols, the NRC implies that EOI is required to establish a prescriptive and documented means of informing members of the public of actions to take in the event of an emergency upon entry into the owner-controlled area (even when no emergency condition exists). While EOI agrees with the NRC that certain procedures could be enhanced, EOI maintains that the NRC is inspecting to a rising standard of acceptability without an attendant modification of either the regulations or of the implementing guidance. Furthermore, EOI maintains that flexibility must be maintained during an emergency in that based on past industry events, developing situations may not be predictable. Over-prescription could be detrimental to public health and safety if anticipated bases for detailed proceduralized responses do not materialize.

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29 *See, e.g., General Electric Co. v. U.S. Environmental Protection Agency,* 53 F.3d 1324, 1328 (D.C.Cir. 1995).

As the NRC states in NUREG-1409, in response to questions concerning backfitting through the inspection process:

> Discussion or comments by the NRC staff identifying deficiencies or weaknesses, whether in meetings or written reports, do not constitute backfits. Definitive statements to the licensee directing a specific action to satisfy staff positions are backfits *unless the action is consistent with an explicit regulatory staff position applicable to that facility.* ... Inspectors are expected to look beyond mere compliance with regulations and to focus on the safety implications and margins at each facility. As a result, licensees may be encouraged to consider program enhancements and other actions. Licensees are expected to evaluate such suggestions and recommendations and make a decision on implementation; however, such informal requests are not requirements or staff positions. Further, such suggestions or recommendations are not within the scope of the backfit process. *The staff should be questioned regarding the safety significance, authority, or justification of any recommendations whenever the basis is not clear.* Licensees shall not be penalized by the staff for such questioning.[30]

While EOI does not dispute the NRC's responsibilities for identifying deficiencies and areas for improvement and suggesting improvements, EOI maintains that the current action of issuing a safety-significant finding for the identified areas for improvement has the effect of imposing new requirements beyond the commitments in the NRC-approved emergency plan provisions for the means and time for notifying and informing of protective actions members of the public within the owner-controlled area. The backfitting rule provides that "[i]f there are two or more ways to achieve compliance with a license or the rules or orders of the Commission, or with written licensee commitments, or there are two or more ways to reach a level of protection which is adequate, then ordinarily the applicant or licensee is free to choose the way which best suits its purposes." 10 C.F.R. § 50.109(a)(7). In the RBS case, the NRC previously reviewed and concurred with the adequacy of the means used at RBS and the level of detail regarding compliance with the regulatory requirements through its approval of the RBS Emergency Plan. While certain other uses of the owner-controlled area have changed since the original emergency plan was approved, the means for maintaining the authority over the activities conducted and the members of the public within the owner-controlled area remains the same as that originally approved by the NRC.

The NRC Staff cannot unilaterally change its interpretation of the regulatory requirements for past events through the Reactor Oversight Process. While it is recognized that in the normal course of inspecting whether a licensee's activities are being conducted safely, inspectors may make findings in specific areas where prior

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30 *See* NUREG-1409, "Backfitting Guidelines," at 16 (emphasis added).

NRC positions and licensee commitments do not exist, as is the case discussed herein. However, if an inspection activity indicates that certain actions must be taken, and such actions are not consistent with an applicable regulatory position, then the inspection activities are a backfit.[31] In this instance, the inspection findings imply that without certain specific details, where NRC regulations are general and NRC guidance is flexible, there has been a failure to meet regulatory requirements. By issuing a safety-significant finding, the NRC is indicating that certain actions must be taken to correct identified areas for improvement, and thus imposes a backfit.

VI. Risk-Informed Perspectives

The NRC's Emergency Preparedness SDP (Manual Chapter 0609, Appendix B) indicates that its process may overestimate the risk significance of a particular finding. Accordingly, it is appropriate to evaluate additional risk insights to reach a more informed conclusion as to the actual risk of emergency planning findings. Risk insights applicable to the RBS finding demonstrate that the SDP has overestimated the risk in this case.

The RBS baseline core damage frequency ("CDF") is 9.45E-6/year. The probability of core damage from a large break loss-of-coolant accident is less than 1.0E-9/year. The largest contributor to risk for RBS is the set of loss-of-offsite power events. Additionally, about 85% of events that contribute to a Large Early Release Fraction ("LERF") are also due to loss-of-offsite power events. A large portion of the loss-of-offsite power events occur as a result of adverse weather conditions. The probability of a member of the public being within the owner-controlled area based on a LERF is 2.43E-8/year. These risk insights demonstrate the low risk-significance of the finding.

VII. Generic Implications

EOI conducted an industry survey to determine how other licensees control the activities within the owner-controlled area and how they would alert and evacuate members of the public who may be in the owner-controlled area during an emergency condition. Questions in the survey related to drills and exercises, involvement of the State, timing of alerting and evacuation, and methods and means of conducting the evacuation. The results indicate that many plants have provisions similar to RBS. For example, security sweeps are used to conduct the evacuation; no specific time is required to complete the evacuation; most have never conducted an owner-controlled area drill or exercise; and most conduct only an evacuation of the Protected Area during drills or exercises, similar to RBS. Accordingly, EOI maintains that the NRC's concerns are generic and should not be imposed on licensees through the inspection and enforcement process on a plant-by-plant basis. Further, related to the NRC's concerns identified at another nuclear station (*see* NRC letter to Energy Northwest dated December 28, 2001), there are no permanent residences or lessees within the RBS

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31 *See* NUREG-1409, "Backfitting Guidelines," at 16.

owner-controlled area, and RBS conservatively initiates an evacuation of the owner-controlled area at a Site Area Emergency.

VIII. Conclusion

Based on the historical basis of these regulations, agency guidance, and NRC decisions interpreting these requirements, EOI complies with the regulatory requirements and the RBS emergency planning procedures substantially meet the guidance. Further, EOI meets its commitments in the RBS emergency plan as to maintaining authority and control over the members of the public in the owner-controlled area for informing, warning, and evacuating these individuals in a timely manner. While there may be areas for improvement in the emergency procedures and training, these do not represent program deficiencies that would result in a failure to provide a standard of reasonableness that a timely evacuation could be accomplished. Accordingly, EOI complies with the cited planning standards. However, EOI does not dispute that it did not evaluate the possible impact to and update the emergency plan to reflect changes in the uses of the owner-controlled area since original licensing of the plant.

We submit that the NRC has been aware of the changes in the use of the RBS owner-controlled area and has accepted the emergency response techniques. Accordingly, NRC's preliminary finding and apparent violations represent a new and different interpretation of the regulations concerning emergency planning in that the applicable regulations (10 C.F.R. § 50.47 ¶¶ (b)(7) and (b)(10)) have not previously been interpreted to require specific means, methods, and times for taking actions associated with members of the public within the owner-controlled area. Therefore, NRC may not take enforcement actions retroactively and must comply with the provisions in 10 C.F.R. § 50.109 and the Administrative Procedure Act for applying its new interpretation in the future.

Table 1
NUREG-0654 Implementing Methodologies

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
NUREG-0654, J.1. Each licensee shall establish the means and time required to warn or advise onsite individuals and individuals who may be in areas controlled by the operator, including: a. Employees not having emergency assignments; b. Visitors; c. Contractor and construction personnel; and d. Other persons who may be in the public access areas on or passing through the site or within the owner controlled area. (Applicable to Licensee Plan.)	13.3.5.4.1.1.1, "Notification," describes the means for notification of onsite personnel (plant Gaitronics system, supplemented by flashing beacons in high noise areas). Notification will be accomplished immediately upon classification, escalation or termination of an accident. 13.3.5.4.1.1.2, "Site Access Control," indicates that escorts are to return escorted visitors to the access control or evacuation point for exit processing. Unescorted visitors and contractor/construction personnel are trained prior to access. During emergencies, site access will be limited and controlled by security.	**EIP-2-002, Section 3.8: Owner Controlled Area Evacuation – The withdrawal of all nonessential 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.**

Table 1 (cont.)
NUREG-0654 Implementing Methodologies

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
NUREG-0654, J.1 (cont'd)	13.3.5.4.1.1.3, "Onsite Evacuation and Relocation," lists three different levels of evacuation: limited evacuation (e.g., single area within a building); building evacuation (e.g., when a larger area is affected or an unexpected exposure rate is indicated); owner-controlled area (when hazards exist substantially beyond the protected area into the owner controlled area; anytime a site area emergency is declared).	**EIP-2-002, Attachment 6 (Page 3), Owner Controlled Area Evacuation checklist** **Security Shift Supervisor** **Step 1. Call West Feliciana Sheriff's Office to request traffic/access control assistance.** **Step 6. Direct security officers to evacuate Owner Controlled Areas outside of the protected area to ensure personnel are aware of the evacuation order.** **Step 7. Ensure that security officers receive a briefing on potential hazards and any protective measures required.** **Step 8. Establish controls to prevent persons from entering evacuated areas.**

NUREG-0654 Implementing Methodologies (cont.)

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
NUREG-0654, J.1 (cont'd)	13.3.5.4.1.1.4, "Evacuation Times," provides the estimated times for evacuation from the time of initial warning to persons required to evacuate as follows: limited evacuation (1 to 10 minutes); building evacuation (10 to 20 minutes); and owner controlled area evacuation (30 to 60 minutes). 13.3.5.4.1.2, "Offsite Protective Actions," describes a dedicated radio system and the Emergency Support Package computer-based system that RBS can use to notify the five parishes in the 10-mile EPZ and to notify the Louisiana and Mississippi officials of any emergency classification and any recommended protective responses in a protective action section for the public within 15 minutes of declaring an emergency or making a decision on protective action recommendations.	**Security Officers** **Step 1. Perform duties as directed.** **Step 2. During Owner Controlled Area evacuations, perform the following activities for areas outside the Protected Area:** **a. Enter each building and announce the evacuation and designated Assembly area, if applicable.** **b. Direct all personnel to evacuate.**

Table 1 (cont.)
NUREG-0654 Implementing Methodologies

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
Protective Actions and Evacuation		
NUREG-0654, J.2. Each licensee shall make provisions for evacuation routes and transportation for onsite individuals to some suitable offsite location, including alternatives for inclement weather, high traffic density and specific radiological conditions. (Applicable to Licensee, State, and Local Plans.)	13.3.5.4.1.2, "Offsite Protective Actions," indicates that State officials are responsible for offsite radiological emergency procedures. RBS coordinates with both the Louisiana and Mississippi officials.	**EIP-2-007, "Protective Action Recommendation Guidelines," is used as a guide by the Shift Manager/Recovery Manager to determine the appropriate protective action recommendations to recommend to State and local authorities during an emergency. Specific Protective Action Recommendations are included in the procedure, appropriate for the emergency action level, dose projection, wind direction, affected sectors, etc.**

Table 1 (cont.)
NUREG-0654 Implementing Methodologies

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
Protective Actions and Evacuation		
NUREG-0654, J.2. (cont'd)	13.3.5.4.1.1.3, "Onsite Evacuation and Relocation," lists three different levels of evacuation: limited evacuation (e.g., single area within a building); building evacuation (e.g., when a larger area is affected or an unexpected exposure rate is indicated); owner-controlled area (when hazards exist substantially beyond the protected area into the owner controlled area; anytime a site area emergency is declared).	**EIP-2-002, "Classification Actions," includes the following:** **3.2 Alternate Evacuation Point – The alternate egress point that may be used if necessary during the Owner Controlled Area Evacuations. It is sometimes referred to as the "South Train Gate". This is the Evacuation Point used for proceeding to the Alternate Evacuation Assembly Area.**

Table 1 (cont.)
NUREG-0654 Implementing Methodologies

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
Protective Actions and Evacuation		
NUREG-0654, J.2 (cont'd)	13.3.5.4.1.1.3, Item 3, states: "If a radiological release has occurred, is occurring, or is imminent, all nonessential personnel will be directed to proceed via private automobile, where possible, to the appropriate Evacuation Assembly Area. Personnel will be monitored for radiation and released, if necessary, or proceed directly off-site."	**3.9 Primary Evacuation Point – For the protected area, the PAP is used. This is the Evacuation Point used for proceeding to the Evacuation Assembly Areas East or West.** **Attachment 3 includes a SA/GE Checklist: Step 6: Evacuate the Owner Controlled Area in accordance with Attachment 6. Attachment 6, Step 7, states: "If the Alternate Assembly Area is being used, personnel shall walk to the Alternate Assembly Area. Contact LOEP and request that they provide transportation for evacuees as necessary." This step is essentially repeated in EIP-2-018, "Technical Support Center," Attachment 1 checklist for the emergency director, step 7.**

NUREG-0654 Implementing Methodologies (cont.)

Applicable Regulatory Guidance	River Bend Station Emergency Plan	River Bend Station EP Implementing Procedures
Protective Actions and Evacuation		
NUREG-0654, J.3 Each licensee shall provide for radiological monitoring of people evacuated from the site. (Applicable to Licensee Plan.)	13.3.5.4.1.1.5, "Monitoring Evacuees," discusses the provisions for personal dosimetry, monitoring at the evacuation assembly areas, and monitoring at the emergency operations facility and RBS activity center (for decontaminating evacuated, non-essential personnel).	**EIP-2-002, Attachment 6, Step 4, and EIP-2-018, Attachment 1, Step 4, direct that, upon OCA evacuation, the Operations Shift Manager will dispatch Radiation Protection Technicians to the selected assembly area to monitor and decontaminate evacuees as necessary.**

ATTACHMENT 4

Regulatory Conference
June 3, 2002

Licensee Letter of June 7, 2002

June 7, 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-45976

RBF1-02-0099

Dear Mr. Merschoff:

Entergy Operations, Incorporated (EOI) River Bend Station (RBS), is providing this letter as a supplement to our May 31, 2002 submittal regarding the preliminary yellow finding associated with owner controlled area evacuation issues at RBS. This supplement provides clarification points on issues discussed at the June 3, 2002 regulatory conference in Arlington, Texas.

Attachment 1 addresses several of the key points discussed in the June 3, 2002 meeting regarding an OCA evacuation of the public by security and the RBS conclusion of reasonable assurance that an entire OCA evacuation would occur. Attachment 2 summarizes our understanding of the context of our Licensing Basis and the standard of reasonableness applied by the regulations. Attachment 3 provides correction to a typographical error in our May 31st letter. We will provide further information requested relative to the industry survey referenced in our May 31st letter and discussed in our presentation at the June 3rd meeting, in the near future.

The clarifying information provided in this letter further substantiates a conclusion of no adverse impact on public health and safety, as stated in our May 31st letter. If the NRC decision were to conclude that this issue warrants a yellow or white finding on these matters, EOI continues to believe the issue would then be subject to the provisions of the backfit rule.

I hope this information helps to provide further clarification regarding the RBS position on the subject finding. Should you have any questions regarding the attached information, please contact Mr. Joe Leavines of my staff at (225) 381-4642.

Sincerely,

RJK/rlb
attachments

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Attachment 1

River Bend Station (RBS)
Key OCA Evacuation Points

Introduction

During the Regulatory Conference held June 3, 2002, EOI discussed the procedures, training and skill sets of the Security Officers and ERO members relative to successful completion of an Owner Controlled Area (OCA) evacuation.

We presented the skills and training of our security officers in great detail. We believe, however, that we did not clearly convey the simple nature of physically conducting a security sweep of the OCA that would be performed during an evacuation of the entire OCA. Information relative to this activity is contained in SPI-30 "Security Motor Patrol", which was included as a part of the June 3, 2002 presentation package.

We are confident that RBS has always had the capability to perform an effective sweep and evacuation of the entire OCA. We will briefly summarize the training, procedure requirements, and skills and then describe the daily activities applicable to the task and the conduct of an OCA sweep.

Summary

The River Bend Emergency Implementing Procedures (EIP's) define an OCA Evacuation[1] such that the Emergency Response Organization is clear on the area boundaries to be evacuated, and that the evacuation instructions include every person in the OCA. Roles and responsibilities are also defined in the EIP's.

An Owner Controlled Area evacuation is initiated at a SAE/GE when the Emergency Director issues an instruction to Security to evacuate the entire OCA. The Security Coordinator/Security Shift Supervisor then directs security officers to evacuate the OCA. Security officers are directed to start at a designated point after being briefed, to ensure that the sweep is coordinated and comprehensive.

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[1] "**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 [emphasis added], 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."

The officers proceed around the circular road net and along the branch roads looking for nonessential personnel, members of the public and parked vehicles and checking buildings. Visitor parking at the station is limited to parking lots and designated parking stations adjacent to the station road network. Each building is entered and the evacuation message given. Directions to travel for evacuation are simple, owing to the simple layout of the roads through the OCA.

The Security officers are completely familiar with the roads, buildings, and parking areas in the OCA. They have conducted motor patrols on the same roads either continuously or on a multiple time per shift basis for the life of the plant. This is a 7-day per week duty. Officers are detailed from each shift to perform this duty and are likely to be the ones conducting the evacuation, if required. Patrolling the entire OCA road network is a routine task frequently performed by security officers, utilizing SPI-30 on a daily basis, which requires the patrols to proactively discover, evaluate and report:

- Groupings of personnel or vehicles
- Vehicles, personnel or objects in the vicinity of security fencing, alarm zones or PA buildings
- Erratic behavior or driving
- Abandoned, unattended, or illegally parked vehicles
- Changes in the condition of facilities located in the OCA

The officers direct removal of personnel from the property as required.

SPI-30 also stipulates security officer response to individuals engaged in various activities on the property. This would include individuals trespassing for hunting or fishing in the OCA. Security officers on patrol can readily see vehicles and are knowledgeable of public activities and locations in the OCA. Security officer ongoing awareness of where sportsmen are located in the woods has even led to security officers offering to help tag and transport harvested deer to the roadside.

Therefore, the Security officers are exposed on a daily basis to the buildings and locations where members of the public may be found. They are required to interact with members of the public encountered during these patrols on the property. In the event of an OCA evacuation, the security officers on patrol are already familiar with the locations of buildings and vehicle-parking areas occasionally used by members of the public. It is not only true that officers would be aware of the locations where public may generally be found; it is likely they would know the particular location of public through patrol observations performed just prior to the evacuation order.

Security officers interact every day with the public in and around the OCA as they investigate, evaluate, initiate removal of public when warranted, and provide assistance to the public when necessary.

In addition, various site facilities have been utilized for public use since original licensing of the station, which is reflected in the original Emergency Implementing Procedure, EIP-2-026, "Evacuation".

Visitor parking at the station is limited to parking lots and designated parking stations adjacent to the station road network. The site is heavily wooded and there are limited locations where vehicles can park along the road adjacent to the wooded areas.

Discussion

The River Bend OCA evacuation strategy has remained unchanged since initial approval. The original revision of Emergency Implementing Procedure EIP-2-026, "Evacuation", defined an Owner Controlled Area evacuation as "...the withdrawal of all non-essential ***personnel*** from the entire owner controlled area." Instructions for the Emergency Director (ED) required the ED to "Request that Security Officers make a tour of the Owner Controlled Area....to warn ***anyone*** present in the Area to evacuate immediately." Security Officers assigned to evacuate the OCA were directed to "Traverse the Owner Controlled Area as directed....making announcements concerning the emergency and directing ***individuals*** to leave the area immediately." It is clear that from the initial procedure reviewed at the time of licensing, that various terms such as people, personnel, anyone, and individuals have been used interchangeably to mean all persons inside the OCA.

The initial revision of procedure EIP-2-026, "Evacuation", did not list any buildings on the site. Therefore, the subsequent partial building listings in EIP-2-018, "Technical Support Center", are an enhancement to the original approved evacuation procedure. The partial building listings were provided in the Security Coordinator OCA Evacuation instructions as an improvement to remind security officers not to assume the gaitronics Public Address (PA) system would notify people in buildings. The Security Coordinator is directed to "Direct security officers to sweep the Owner Controlled Area outside of the protected area to ensure personnel are aware of the evacuation order. Some areas such as the warehouse, MA-1/2, Field Administration, and Training Center may not hear the evacuation order on the gaitronics." It is apparent that the partial listing within the instruction was not intended to definitively list buildings to be evacuated, rather the instruction as a whole was added as an enhancement to remind security they are responsible for ensuring evacuation of all buildings and that crediting the gaitronics PA system for evacuation notification is not acceptable.

In addition to entering buildings, security officers drive along the site road network to warn and evacuate everyone encountered. They have been trained to repeat their sweep to assure people have evacuated. From October 1990 until November 2001, there was the possibility that members of the Sportsman's Club could be on the OCA property. The OCA property is posted to limit access to club members. Members of the Sportsman's Club abided by the club charter. The charter required members to abide by the following rules:

- Members are limited to full-time or retired Entergy employees. The club President and Vice-President are required to be River Bend employees.
- Check-in and check-out procedures are required and include:
    - A logbook is kept to maintain a record of all personnel entering company property on Club business.
    - The logbook must have the time entering the woods recorded and the map must be appropriately pinned for hunting, fishing, scouting, club work or any other activity. When returning, the time must be logged when exiting the woods and the pin removed from the map at that time.
    - The logbook shall be located in a prominent place at all times.
- All members must have a River Bend Sportsman's Club (RBSC) ID card in their possession and a visible RBSC window decal/brightly colored sign on their vehicle.
- All members are required to park in pre-designated areas (along and adjacent to the routinely patrolled road network).

Security officers can readily determine sportsmen's location(s) during sweeps by noting vehicles parked along the roadways in the designated parking area(s). As vehicles are encountered, security officers stop and make announcements utilizing loudspeaker equipment. Security officers have available, as an additional tool, the logbook and pinned map in the Sportsman's Club that shows locations of sportsmen in the woods.

Security Officers are directed to sweep the OCA in EIP-2-018, "Technical Support Center", to complete the OCA evacuation. Sweeping is a very simple process carried out by traversing the site road network, which simply consists of a roughly circular main road network around the station. The network is composed of the Plant Access Road (Power Station Road) and Highway 965 (Powell Station Road) which intersect Highway 61. Other roads in the OCA, such as the River Access Road, all connect to the circular road network. Security traverses the road network to implement an evacuation by stopping at all buildings, vehicles, and persons encountered as they sweep the area along the road network. Routine patrols of the OCA road network have been performed at a minimum frequency of several times per shift since initial licensing. RBS security officers are highly knowledgeable of the OCA. They have been in RBS Security for an average of 10 years. They have performed rotating assignments that include OCA patrolling per SPI-30 and are very familiar with the OCA.

In addition, the overall size of the non-essential personnel population on the property, which would include the public, has significantly decreased since original licensing. In 1985, upon initial licensing, there were over 3000 utility and contract workers on site, whereas there are approximately 800 (approximately 600 EOI and 200 contract) today. Overall, there has been a dramatic reduction in the number of people who would require notification and evacuation under fundamentally the same OCA evacuation program.

Facility changes have occurred since original construction as well. Numerous construction trailers and lay-down work areas in service during the early days of the

plant have been removed. Some of the buildings that remain, such as the West Feliciana Community Development Center, have been occupied by individuals from Human Resources, other utility employees or the public over the years. The current Activity Center was initially called the Energy Center and was designated for public access and education. The Energy Center was originally utilized for public use and visitation when the station was licensed, and is shown on Figure 1 of EIP-2-026, Revision 0. The notification and OCA evacuation strategy for the facilities remains unchanged regardless of the specifics of the individual occupancy.

In ERO drills, Joint Information Center (JIC) personnel field drill questions from the public and the media. One of the pre-scripted questions available for selection from the Controller Notebook by the JIC phone team controller states "My brother is out hunting somewhere around the River Bend plant, can someone go find him and get him out of there before he gets hurt?" This question and others related to the public have been used for years to train station ERO personnel. Posing this question to JIC personnel would cause the information request to be relayed to the TSC Security Coordinator in order for Protective Actions to be taken for the affected public. Inclusion of the questions in the database and drills indicates a historical site awareness of required actions regarding members of the public in the OCA.

A January 2002 drill was used to validate existing processes and procedures without providing additional training to security officers in this area. Security successfully accomplished the following drill objectives:

- ✓ Demonstrate the capability to alert and fully mobilize personnel required to conduct an OCA evacuation.
- ✓ Demonstrate the capability to communicate with all appropriate emergency personnel.
- ✓ Demonstrate the adequacy of vehicles, equipment, and procedures for evacuating the OCA.
- ✓ Demonstrate the capability to notify non-essential personnel in the OCA of the need to evacuate in a timely manner.
- ✓ Demonstrate the ability to manage and control personnel response, directing response actions as necessary, and performing actions in accordance with appropriate procedures and instructions.

<u>Conclusion</u>

- Security officers sweep the River Bend Owner Controlled Area road network to evacuate the entire Owner Controlled Area. Security traverses the road network to implement an evacuation by stopping at all buildings, vehicles, and persons encountered as they systematically sweep along the road network.
- Sweeping the OCA is performed by traversing the road network surrounding the station.

- SPI-30 stipulates security officer response to individuals engaged in various activities on the property. This would include sweeps of the OCA road network. Security officers are assigned this duty on each shift, every day of the week.
- A redundant system is available as a tool to locate sportsmen in wooded areas.
- River Bend has used terms such as *personnel, anyone,* and *individuals* interchangeably to refer to all persons in the OCA since approved by the NRC during initial licensing.
- The partial building list in EIP-2-018 was added as an enhancement to the original procedures to ensure security sweeps are utilized for notification and evacuation rather than crediting the gaitronics system for notification.
- The potential numbers of current evacuees (persons) and building/trailer locations are dramatically less than when the station was originally licensed.
- Facilities in the OCA, such as the Activity Center/Energy Center, have been utilized by the public since initial licensing, and public presence was reflected in the original evacuation procedure.
- Drills have trained ERO members by simulating scenarios where protective actions would have to be developed for members of the public in the OCA.
- A successful drill was performed in January 2002 to validate existing processes and procedures without providing additional training to security officers performing the OCA sweep.

Sweeping the OCA to proactively seek out the locations of all individuals on the property is a routine task performed by security officers. Awareness of, and interfacing with, the public on the OCA property is a repetitive function performed by patrolling security officers on every shift. Patrolling officers seek out, monitor and remain aware of individuals and activities within the OCA. Routine OCA patrols which are performed frequently, if not continuously, traverse the OCA road network. Patrolling activities closely mimic the sweeping actions that would be required in an evacuation.

River Bend procedures, training, skills, and routine patrol activities demonstrate the station has always possessed the means to effectively warn, advise and evacuate all individuals in the entire Owner Controlled Area.

Attachment 2

Regulatory Basis Context - Standard of Reasonableness

When the NRC reviewed the RBS emergency plan, a standard of reasonableness was applied as discussed in NUREG 0654 that resulted in approval of the plan as issued in the NRC's Safety Evaluation Report in NUREG-0989, dated May 1985. Therefore, the RBS licensing basis was approved based on a standard of reasonableness and the plan met that standard. This perspective is further reinforced by the requirements of 10CFR50.54 (q) that requires all changes to emergency plans be reviewed to determine if the change decreases the effectiveness of the plan. This review requires the evaluator to establish the basis for the original condition and use the licensing basis as a measure of any decrease in effectiveness for the subject change. Since the approved licensing basis was established based on a standard of reasonableness, this established the basis for effectiveness to judge any potential decreases per 10CFR50.54 (q). Therefore, the level of detail required in procedures was established at initial licensing of RBS by the use of this standard of reasonableness.

During an inspection or while performing changes under 10CFR50.54(q), one must rely on not only NRC regulations and guidance but, the licensing basis of the plant to establish what was considered *effective* at initial licensing. RBS believes the NRC's preliminary conclusions go beyond the reasonableness standard and are closer to a standard of excellence which is beyond the regulations and licensing basis. This provides the basis for EOI's conclusion that the NRC's preliminary finding is based on a new and different performance standard regarding the level of detail in emergency procedures.

Attachment 3

Correction of Typographical Error in RBF1-02-0095 Dated May 31, 2002

Change page 26 of 38, paragraph 3 to read:

"Based on this level of training and related tasks, RBS does **not** agree that the information in the NRC's inspection report 50-458/02-05, sections A.1.a.iii supports a conclusion that Security officers would not effectively deliver an evacuation message. In addition, RBS disagrees that Security personnel do not demonstrate essential skills related to an OCA evacuation (section A.1.a.vii)."