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August 30, 2002

U.S. Nuclear Regulatory Commission (NRC)  
ATTN: Document Control Desk  
Washington, DC 20555

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

File Nos.: G9.5, G15.4.1

RBG-46009

RBF1-02-0131

Entergy Operations, Inc. (EOI) River Bend Station (RBS) is providing a reply to Notice of Violation (NOV), EA 02-036 pursuant to the provisions of 10 CFR 2.201 and a Non-cited Violation (NCV) 50-458/0205-02.

First, concerning the notice of violation of 10CFR 50.47 (b)(7), Public Information, NRC maintains that River Bend Station's (RBS) program as implemented did not meet the regulatory requirements and constituted a violation with a significance color of White.

Second, the NRC stated in their letter that RBS had decreased the effectiveness of our Emergency Plan (EPlan) when the station failed to evaluate the impact of changes related to the use of the owner controlled area (OCA) by members of the public and the process of warning members of the public in the OCA of an evacuation order. This was assigned a significance color of Green.

At the June 3, 2002, Regulatory Conference, RBS addressed the regulatory aspects of each violation and sought to understand the NRC's position that a non-compliance with the regulations and the RBS Licensing Basis existed.

RBS agrees that enhancements to public information processes can be made. In fact, a number of enhancements have been implemented. We have reviewed the areas related to the Green NCV and have concluded that no decrease in the effectiveness of the EPlan existed.

EOI is not going to pursue further deliberations regarding the 10 CFR 50.47 (b)(7) White violation. Actions that would address the NRC's notice of violation have already been implemented.

IEOI

With respect to the 10 CFR 50.54 (q) Green NCV, we differ with the conclusion that a decrease in the effectiveness of the RBS EPlan existed. We agree that we did not appropriately document the changes in question and do not contest the Green NCV with respect to that aspect of the finding. We request that the characterization of the NCV revert to its' former state as a Green NCV without reference to a reduction in the effectiveness of the plan.

Our position on the two violations is stated in Attachment 1 and 2. Attachment 3 provides a summary of our commitments on both matters.

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

cc:

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**Attachment 1**  
to  
50-458/0205 - EA 02-036  
White Notice of Violation Response

**Notice of Violation**

During a NRC inspection conducted January 28, 2002 through February 1, 2002, a violation of NRC requirements was identified:

10 CFR 50.54(q) states, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b). 10 CFR 50.47(b)(7) requires that onsite emergency response plans for nuclear power reactors meet the following standard, which states, in part: "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..."

Contrary to the above, between 1985 and February 1, 2002, the licensee's emergency plan was not adequate to assure that information was made available to members of the public using River Bend Station's owner controlled area regarding how members of the public would be notified of an evacuation order and what their initial actions should be in an emergency. Specifically, the licensee had not provided information to members of the public using the West Feliciana Community Development Foundation, the security firing range, the activity center, the outage campground, the Sportsman's Association base camp, and adjacent hunting and fishing areas in the licensee's owner controlled area about: (1) the process used to notify the public of an emergency, (2) circumstances under which the public in the licensee's owner controlled area would be directed to assembly and radiological monitoring stations, (3) the predetermined locations of the assembly and radiological monitoring stations, (4) evacuation routes to the predetermined assembly and radiological monitoring stations, and (5) the radiological monitoring and decontamination process.

**Response**

EOI will not pursue further deliberations relative to the White NOV cited in the referenced letter. RBS has implemented several improvements to the Emergency Preparedness Program and processes in response to the inspection and dialogue between EOI, RBS and NRC staff. These improvements in conjunction with the pre-existing processes and procedures have raised the standard of performance at RBS and are believed to exceed any known regulatory requirement that EOI and RBS are aware of, including the amplifications provided in NRC's letter of July 31, 2002. EOI believes that NRC has with its letter of July 31, 2002, provided precedence that clearly raises the standards of acceptable performance for RBS and the industry as a whole.

The NOV recognizes that some members of the public in the OCA may "...*appropriately be characterized as transients...*" Presumably, this is intended to convey NRC

**Attachment 1**  
to  
50-458/0205 - EA 02-036  
White Notice of Violation Response

concurrency with EOI's method of providing information to transients, which is to use signs (located within the Emergency Planning Zone, EPZ) and Security officers to supply that information in the event of an emergency. However, the statement seems to indicate that there is another class of public in the OCA at RBS that are neither transients nor permanent residents. RBS believes that NUREG-0654 guidance distinguishes between "*members of the public*" and "*other persons who may be in the public access areas in or passing through the site or within the owner controlled area.*" Additionally, it provides two distinct categories—resident public and transient public. No permanent residences are located within the OCA at RBS. Based on our review, no special regulatory based category of public within the OCA can be identified. The definitions in the regulations and associated guidance apply to the EPZ, which includes the OCA. There is not an identified difference in the definition of public within the OCA other than the EPZ. Therefore, RBS will be working with the industry to request clarification from the Commission on this matter.

RBS had implemented the approved EPlan and believed that the station had always been in compliance with 10 CFR 50.47 (b)(7). The NRC's letter of July 31, 2002, issued a violation of 10 CFR 50.47(b)(7) which challenged our previous understanding of what was needed to satisfy compliance to this planning standard. RBS has implemented improvements to address the subject violation.

### **Corrective Action**

RBS has implemented a number of improvements to our Emergency Preparedness processes, procedures, and signage. Some of those considered most relevant to public information and 10 CFR 50.47(b)(7) are:

- In late December 2001, temporary information signs were placed at locations where public were allowed access within the OCA
- Informational briefs were provided to appropriate individuals (security, emergency directors, etc.)
- New large signs have been installed at entrances to our OCA
- Informational signage has been strategically placed at locations such as the shooting range, sportsman club, etc.

**Attachment 1**  
to  
50-458/0205 - EA 02-036  
White Notice of Violation Response

**Actions to Prevent Future Occurrences**

- EPlan processes and procedures have been upgraded to institutionalize the experience gained from this issue (White NOV)

**Date Full Compliance Was Achieved**

The site is in full compliance with known regulatory requirements.

**Attachment 2**  
To  
50-458/0205-02  
Green Non Cited Violation Response

**Non-cited Violation**

10 CFR 50.54(q) states, in part, that a nuclear power reactor licensee shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b) and the requirements in 10 CFR Part 50, Appendix E. A licensee may make changes to its emergency plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of 10 CFR 50.47(b) and the requirements of 10 CFR Part 50, Appendix E, Section IV.G. Contrary to the above, between 1985 and January 2002, River Bend Station failed to review the impact on the station emergency plan when it: (1) changed from the use of security vehicles equipped with permanently-mounted public address systems to the use of vehicles without such systems, and relied on portable public address systems stored onsite (approximately 1994), (2) canceled emergency plan implementing procedure EIP-2-026, "Evacuation, Personnel Accountability, and Search and Rescue," Revision 11 (approximately 1997), and (3) permitted several changes in the public's use of the River Bend Station owner controlled area. As a result, the time required to implement the process of notifying members of the public in the owner controlled area of an evacuation order was significantly increased, resulting in a decrease in effectiveness of the emergency plan.

The resulting decrease in effectiveness of the emergency plan resulting from the failure to evaluate changes in the station owner controlled area, changes to emergency plan implementing procedures, and changes in emergency notification methods used by security officers, was a performance deficiency. The finding was more than minor because it was associated with one of the Emergency Preparedness cornerstone attributes (Plan Changes) and affected the associated cornerstone objective. Using the Emergency Preparedness Significance Determination Process, the NRC determined that the finding had very low risk significance because the finding did not constitute a failure to meet an emergency planning standard as defined by 10 CFR 50.47(b). Because of the very low safety significance and because EOI included the finding in its corrective action program as Condition Report 2002-0183, this finding is being treated as a non cited violation (50-458/0205-02) in accordance with Section VI.A of the NRC Enforcement Policy.

**Response**

EOI agrees that this non cited violation is appropriately characterized within the significance determination process as green. We do not however, agree that any of the changes decreased the effectiveness of the EPlan as approved. Additionally, we do not believe that prior NRC approval should have been requested with respect to those changes. We hold that any formal changes in the EPlan that did occur over time

**Attachment 2**  
To  
50-458/0205-02  
Green Non Cited Violation Response

were appropriately reviewed and approved by NRC through routine submittals and inspection activities. This process is not unlike that used when submitting 10 CFR 50.59 summary reports.

In the preliminary finding letter (April 18, 2002, Merschoff to Hinnenkamp) it was stated that the Green NCV was a *"...failure to maintain the River Bend Station Emergency Plan and implementing procedures up to date following the establishment of facilities in the owner controlled area which were routinely used by members of the public..."* There was no mention of a reduction in the effectiveness of the EPlan in the NCV.

The most recent communication (July 31, 2002, Merschoff to Hinnenkamp) stated that *"...River Bend Station failed to review the impact on the station emergency plan of several changes related to the process for warning members of the public in the owner controlled area of an evacuation order, and that these failures decreased the effectiveness of the emergency plan."*

EOI takes exception to this most recent characterization and revision to the NCV, in that we do not agree that a reduction in the effectiveness of the EPlan occurred as a result of the omission/documentation of these reviews. Recent evaluations pursuant to 10CFR50.54 were performed and did not result in a conclusion of a decrease in effectiveness of the EPlan.

As mentioned in your letter of July 31, 2002, EOI stated at the regulatory conference held on June 3, 2002, that a violation of NRC requirements had occurred in that changes were made to the emergency preparedness processes that were not evaluated for impact. We further stated that the changes did not impact effectiveness in that no additional levels of effort or changes to the methods were necessary to adequately address those changes. Additionally, it was provided that larger numbers of personnel that would need to be addressed in any public information or evacuation effort were within the OCA prior to the changes (i.e., at the time of initial licensing and EPlan approval). However, EOI believes that the revised characterization of the issues discussed in the Green NCV as a reduction in the effectiveness of the EPlan is not appropriate. RBS's position on the NRC characterization of this NCV follows.

- (1) RBS Changed from the use of security vehicles equipped with permanently-mounted public address systems to the use of vehicles without such systems, and relied on portable public address systems stored onsite
  - RBS security changed to portable handheld "bullhorns" when new vehicles were obtained. Consideration was given to the effectiveness of the installed PA systems and availability during vehicle maintenance vs

**Attachment 2**  
To  
50-458/0205-02  
Green Non Cited Violation Response

the handheld flexibility (the handhelds could be used in any vehicle). The handheld bullhorns provide effectively the same range and are inherently more directional [able to be aimed]. The ability to aim the message makes this method more appropriate to the task. Audible testing of the bullhorns compared to a current model of a Waylen PA system resulted in similar, if not greater, audible decibel levels on the handheld bullhorns. Therefore, no decrease in effectiveness of the EPlan existed. This change was made using the station procedure change process and is considered appropriate.

- (2) RBS canceled Emergency Implementing Procedure EIP-2-026, "Evacuation, Personnel Accountability, and Search and Rescue," Revision 11
  - The cancellation of this procedure was accomplished using the station's procedure revision process. When it was cancelled, the key elements were relocated or already were addressed in other appropriate station procedures. This was determined to not be a decrease in effectiveness.
  - In addition, the NRC EPPOS dated November 19, 1998, seems to support that this procedure change could not be considered a reduction in effectiveness since the level of detail in the EPlan is not impacted. The EPPOS essentially states: In response to a request for legal advice as to whether Emergency Plan Implementing procedures (EIPs) are a part of the emergency plan and therefore would receive the same level of review and determination under 50.54(q), the Office of General Counsel concluded that EIPs or procedures that implement the Emergency Plan are not part of the Emergency Plan and therefore the changes to these procedures are not subject to 50.54(q) review. RBS contends that the level of detail of the EPlan was unchanged by the deletion of this implementing procedure and therefore would not have impacted the effectiveness of the EPlan.
- (3) Permitted several changes in the public's use of the RBS owner controlled area.

The RBS position that these changes resulted in no decrease in the EPlan effectiveness is supported by the following:

- Changes made to the uses within the OCA did not affect the effectiveness of the EPlan. No additional resources, equipment or methods needed to be addressed to effectively implement the station EPlan. Additionally, as provided during the regulatory conference and in subsequent docketed

**Attachment 2**  
To  
50-458/0205-02  
Green Non Cited Violation Response

correspondence, the number of personnel within the OCA is now much lower than at initial licensing and approval of the EPlan. Recording of the public use facilities in the EPlan is administrative in nature and does not impact the effectiveness of EPlan implementation. Below is pertinent precedence that would support our conclusion that no decrease in the effectiveness of our EPlan exists.

- o The NRC provides additional guidance supporting the RBS position in RIS 2001-16, Updating of Evacuation Time Estimates: “the estimated times for evacuation of the public could increase or decrease. Longer or shorter evacuation times in turn affect decisions about evacuating the public in the event of a radiological emergency...decision makers may need updated estimates of how long it would take to evacuate the public...time estimates would not be considered a decrease in the effectiveness of the emergency plan under Section 10 CFR 50.54(q) and licensees may update the estimates without prior Commission approval.”
  
- o In the Matter of Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), 31 NRC 197 (1990) (Commission): “Our emergency planning requirements do not require that an adequate plan achieve a present 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.”

**Attachment 3**  
In the matter of  
50-458/0205 – EA-02-036

**COMMITMENT IDENTIFICATION FORM**

**Violation 50/458/**

<b>COMMITMENT</b>	<b>ONE- TIME ACTION</b>	<b>CONTINUING COMPLIANCE</b>
River Bend Station has installed updated signage and information at appropriate locations to make appropriate information available to the public accessing the Owner Controlled Area	X	