UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

October 30, 2007

EA-07-256

Wackenhut Nuclear Services
ATTN: Mr. Eric Wilson, President
4200 Wackenhut Drive
Palm Beach Gardens, FL 33410

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-2006-013 - TURKEY POINT NUCLEAR PLANT

Dear Mr. Wilson:

This refers to an investigation completed by the NRC's Office of Investigations (OI) initiated on December 13, 2006. The purpose of the investigation was to determine if security officers employed with The Wackenhut Corporation (Wackenhut) at the Turkey Point Nuclear Plant (Turkey Point) were willfully inattentive to duty (sleeping) during 2004 – 2006. Enclosure 1 contains a factual summary of the OI investigation.

Based on the results of the OI investigation, apparent violations of NRC requirements were identified, including an apparent violation of 10 CFR 50.5, Deliberate Misconduct, and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The apparent violations involved the actions of multiple security officers employed by Wackenhut Corporation at Florida Power and Light Company's Turkey Point Nuclear Plant in 2004-2006. In this case, security officers were willfully inattentive to duty or served as lookouts such that other security officers could be inattentive while on duty. These actions caused Wackenhut to be in violation of 10 CFR 50.5, and caused the facility (Turkey Point) to be in violation of 10 CFR 73.55(f)(1), because these officers were unable to maintain continuous communication with an individual in each continuously manned alarm station.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violations within 30 days of the date of this letter or (2) request a predecisional enforcement conference. If a conference is held, it will be closed to public observation in accordance with the NRC Enforcement Policy because the findings are based on an NRC Office of Investigations report that has not been publicly disclosed. Please contact Mr. Joel T. Munday, Chief, Plant Support Branch 2, Division of Reactor Safety, at (404) 562-4560, within 10 days of the date of this letter to notify the NRC of your intended response.

If you choose to request a predecisional enforcement conference, please be prepared to discuss the corrective actions you have taken to correct these inattentiveness issues and prevent recurrence.

If you choose to provide a written response, it should clearly be marked as a “Response to Apparent Violation EA-07-256" and should include: (1) the reason for the apparent violations, or, if contested, the basis for disputing the apparent violations; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your corrective actions will be considered in assessing any civil penalty for the apparent violation. Your response should be submitted under oath or affirmation and it may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

In lieu of a predecisional enforcement conference, you may also request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. Alternative Dispute Resolution is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the investigative findings at this time. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC’s document system (ADAMS), accessible from the NRC Web site at www.nrc.gov/reading-rm/pdr.html www.nrc.gov/reading-rm/adams.html. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In addition, please be advised that the number and characterization of the apparent violations described in this letter may change as a result of further NRC review.

If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Should you have any questions concerning this letter, please contact me at (404)-562-4600 or Mr. Joel T. Munday at (404) 562-4560.

Sincerely,

/RA/

Joseph W. Shea, Director
Division of Reactor Safety

Enclosures: 1. Factual Summary to OI Report No. 2-2006-013
2. NUREG/BR-0317

FACTUAL SUMMARY
Office of Investigations Report No. 2-2006-013

On March 8, 2006, the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), initiated an investigation to determine if security officers employed with The Wackenhut Corporation (Wackenhut) at the Turkey Point Nuclear Plant (Turkey Point) were willfully inattentive to duty (sleeping) at times during 2004 through 2006.

Five security officers admitted that, at times during 2004 through 2006, they were inattentive to duty on separate occasions. Although specific dates of inattentiveness could not be established, one of these five security officers was observed by other security officers to be inattentive to duty on several occasions.

One security officer admitted that, on at least one occasion during 2004-2006, he stood lookout for two other security officers such that they could be inattentive to duties without risk of being caught.

One security officer stated that, on at least one occasion during 2004-2006, two security guards stood as lookouts for him such that he was able to be inattentive to duties without risk of being caught.

One security officer was observed by an NRC inspector to be inattentive to duties on April 6, 2006, while standing duty on a vital area compensatory post.

The Nuclear Regulatory Commission's

POST-INVESTIGATION ADR PROGRAM

Alternative Dispute Resolution

Administered by
Cornell University's

Institute on Conflict Resolution

Enclosure 2

What is ADR?

- The U.S. Nuclear Regulatory Commission is using alternative dispute resolution (ADR) to promote improved effectiveness of the enforcement program through efficient, timely, and amicable resolution of investigation findings.
- ADR includes a variety of processes that emphasize creative, cooperative approaches to handling conflicts in lieu of adversarial procedures.
- Parties in ADR remain in control of the decision on whether to participate in the process and whether to agree to any resolution. In other words, **the process is completely voluntary and any party may withdraw from the negotiation at any time.**

The Post-Investigation ADR Program

- Post-Investigation ADR occurs after the NRC Office of Investigations (OI) has completed its investigation of the case and an enforcement panel concludes that pursuit of an enforcement action appears warranted.
- Post-Investigation ADR may be used to resolve both discrimination and other wrongdoing cases apparently in violation of the NRC's regulations at three distinct points:
  - prior to the predecisional enforcement conference,
  - after the initial enforcement action is taken, and
  - after imposition of a civil penalty and prior to a hearing request.
- Post-Investigation ADR *may* resolve: whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions for the violation(s).
- Terms of the ADR settlement agreement will be confirmed by order.

Who can use Post-Investigation ADR?

- After OI has completed its investigation of the case and an enforcement panel concludes that pursuit of an enforcement

action appears warranted; the licensee (or contractor) will typically be offered a chance to participate in ADR with the NRC.

- The NRC's program administrator can advise and assist the licensee in determining ADR potential for their case.
- After the licensee and the NRC agree to participate, the program administrator will help them appoint a neutral mediator and get started.

Why use Post-Investigation ADR?

- It allows people to develop solutions quickly to assist in resolving the case.
- Post-Investigation ADR will benefit both parties by bringing about more effective, efficient, and timely resolution of enforcement concerns.

What is mediation?

- Mediation is the ADR process normally used in the Post-Investigation ADR Program.
- It is an informal process in which a trained neutral (the "mediator") works with the parties to help them reach resolution.

- The mediator, who has no stake in the outcome and no power to make decisions, uses consensus-building skills and knowledge of negotiation to help parties find creative solutions.

How does mediation work in the Post-Investigation ADR Program?

- The mediator guides the parties through an informal process to develop solutions to resolve the case.
- The mediator helps the parties work together to reach an agreement that meets their needs without conforming strictly to their original positions.
- The mediator will usually give each party an opportunity to explain the issues. Often, the mediator will meet privately with each party (where they are more likely to speak freely)

to understand the parties' situations better and explore and assess options.

- The mediator may ask questions that will aid parties in assessing the merits of their positions, identify potential settlement options, and probe participants' realistic alternatives.
- A settlement agreement in Post-Investigation ADR will not become binding until both parties agree to it and a confirmatory order is issued.

Who serves as neutrals in ADR?

- To ensure a source of skilled, unbiased neutrals, the NRC uses Cornell University's Institute on Conflict Resolution (ICR) to select and oversee a roster of experienced mediators and administer the Post-Investigation ADR program's operations.
- Parties may jointly select the mediator for their case from among a panel of three furnished by ICR.
- Parties preferring to locate their own mediator may do so by mutual consent.

What does ADR cost me?

- The licensee requesting Post-Investigation ADR pays half the mediator's fees and the NRC, subject to availability of funds, will pay half.

Where do Post-Investigation ADR sessions take place?

- The session will typically occur at or near the licensed facility, or at NRC's Headquarters or Regional Office depending on site availability and party desires.

How long do sessions take?

- Many Post-Investigation ADR cases will be completed in one meeting that lasts several hours. Some could require a few additional sessions.

Is ADR confidential?

- Yes. With limited exception, the proceedings are private and the ADR neutral is generally prohibited from discussing the mediation with outsiders.
- To obtain additional details on confidentiality in Post-Investigation ADR, see the NRC's web site at **http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html.**

Who administers the ADR Program?

- Cornell University's Institute on Conflict Resolution (ICR) is the neutral program administrator for the Post-Investigation ADR program's day-to-day operation, including working with parties to identify appropriate mediators.

- ICR embraces a network of independent dispute resolution practitioners who work on a regional, national, and international basis.
- ICR works in partnership with companies, unions, and government to help resolve conflicts and evaluate the efficacy of conflict resolution methods.

How do I obtain additional information?

Further information on participating in the Post-Investigation ADR program (besides this brochure's overview of the Post-Investigation ADR program) is available from:

- The NRC ADR Program Administrator (ICR: Catherwood Library Tower, Ives Hall, Cornell University, Ithaca, NY 14853; Phone: (877) 733-9415)
- The NRC's Enforcement ADR Pilot Program on its web site: **http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html**.

NUREG/BR-0317

January 2005

Enclosure 2