

Marc h 24, 2008

Lynne Bernabei, Esq.
David M. Wachtel, Esq.
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1775 T Street, N.W.
Washington, D.C. 20009-7174

Dear Ms. Bernabei and Mr. Wachtel:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 7, 2007, to NRC Chairman Dale E. Klein concerning your client, Mr. Kerry Beal, the Wackenhut Nuclear Services (Wackenhut) employee who videotaped security officers inattentive to duty at the Peach Bottom Atomic Power Station (Peach Bottom). Your letter raises a number of concerns about actions taken by the NRC, Exelon, or Wackenhut in response to allegations that members of the guard force were sleeping or inattentive at the Peach Bottom site. You also assert that the reviews of the inattentiveness issue conducted to date by the NRC and Exelon have been ineffective and do not acknowledge the depth of the problem or its causes, and that the NRC has not investigated Exelon's purported insufficient resources dedicated to the security area.

In contrast to your suggestion, I believe NRC reviews of inattentiveness of the security officers at the Peach Bottom site have been effective overall. That said, the NRC is evaluating the lessons learned from this incident to identify areas for improvement in our process for reviewing inattentiveness issues. In addition, the allegations of NRC impropriety in this matter have been referred to the NRC's Office of the Inspector General (OIG) to conduct an independent review of NRC actions. You may contact the OIG in writing at the U.S. Nuclear Regulatory Commission, M/S O-5-E13, Washington, D.C. 20555, or by phone at 1-800-233-3497 regarding this review.

Although the NRC concluded that the overall security program at the Peach Bottom site was not significantly degraded, the inattentiveness of the security officers demonstrated unacceptable regulatory performance of sufficient significance to warrant an augmented inspection by the NRC at Peach Bottom and other actions to preclude similar events at other sites in the United States. In addition to dispatching an Augmented Inspection Team (AIT) to evaluate the circumstances of this event on September 21, 2007, we began enhanced inspection oversight of security at Peach Bottom and immediately requested that Exelon perform an evaluation, identify corrective actions, as appropriate, and provide a written response to the NRC. The NRC staff subsequently confirmed that the licensee implemented acceptable short-term compensatory actions. The NRC completed a follow-up inspection to the AIT in November 2007. Copies of the two inspection reports are enclosed for your information.

On February 12, 2008, NRC informed Exelon that the NRC's finding involving inattentive security officers and an ineffective behavior observation program was characterized as White (i.e., of low to moderate security significance) and that enforcement action for any violations related to this performance deficiency is still under NRC review. The staff will also continue to assess the effectiveness of Exelon's response actions and provide extensive oversight of the

Peach Bottom security organization. Further, the staff has evaluated the concern regarding the environment for raising safety concerns at Peach Bottom as part of the AIT follow-up inspection and additional regulatory actions in this area are being considered.

Regarding the issue about the sufficiency of resources Exelon devoted to its security organization, the NRC reviews whether licensees have the staffing, facilities, and equipment necessary to meet the provisions of their NRC-approved security plan as part of our Reactor Oversight Process. The AIT determined that work hour requirements were not exceeded and that there was no significant correlation between the number of hours worked and the inattentiveness of the security officers. With respect to Exelon's decision to deny funding for "ready room" improvements such as air conditioning, the NRC's augmented inspection report discussed Exelon's failure to address the adverse environmental conditions in the room as one contributing factor to inattentive behavior in the security organization. This matter, as well as others, was thoroughly reviewed by the AIT.

I want to assure you that safety and security at nuclear power plants are of the utmost importance to the NRC and that the ongoing review of security officer performance at Peach Bottom and all other plants will be thorough and comprehensive. If you have any additional comments, please contact me.

Sincerely,

Roy P. Zimmerman, Director **/RA/**
Office of Nuclear Security and Incident Response

Enclosures:

1. AIT Report – Peach Bottom
2. AIT Follow-up Report – Peach Bottom
Without Appendix C (SUNSI)

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