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

April 9, 2008

EA-07-256

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

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2006-013]

Dear Mr. Wilson:

The enclosed Confirmatory Order is being issued to Wackenhut Nuclear Services (WNS), a division of The Wackenhut Corporation, as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by WNS as part of a settlement agreement concerning apparent violations involving WNS employees who were inattentive to duty or served as lookouts such that other security officers could be inattentive while on duty without discovery at Florida Power and Light Company's (FPL) Turkey Point Nuclear Plant in 2004 and 2005.

In a letter dated October 30, 2007, the Nuclear Regulatory Commission (NRC) provided WNS with the results of an investigation completed by the NRC's Office of Investigations (OI). The purpose of the investigation was to determine if security officers employed with WNS at the Turkey Point Nuclear Plant (Turkey Point) were willfully inattentive to duty (sleeping) during 2004 – 2006. Our letter noted that, based on the evidence developed during the investigation, we concluded that 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, while inattentive, unable to maintain continuous communication with an individual in each continuously manned alarm station. A Factual Summary of the OI investigation was enclosed with our letter.

Our letter of October 30, 2007, offered WNS a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, WNS requested ADR to resolve any differences with the NRC concerning the apparent violations, and to discuss corrective actions. An ADR mediation session was held on January 22, 2008, at which a preliminary settlement agreement was reached. The elements of

the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order.

As part of the ADR settlement agreement, WNS agreed to the development and continuation of several initiatives to ensure security officer attentiveness at all facilities supported by WNS, as discussed in the enclosed Confirmatory Order. WNS also agreed to a continuation of periodic communications with the NRC to discuss the status and effectiveness of these initiatives. In consideration of the above commitments, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

We have enclosed a Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated March 25, 2008, you agreed to issuance of this letter and Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, because this issue involves security-related information and disclosure to unauthorized individuals could present a security vulnerability, if you choose to respond, you must mark your entire response "Proprietary Information in accordance with 10 CFR 2.390(d)(1)" and follow the instructions for withholding in 10 CFR 2.390(b)(1). If you choose to provide a response, please provide your response to NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street SW Suite 23T85, Atlanta, Georgia 30303-8931, within 30 days. In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

If you have any questions or comments concerning this letter, please contact Ms. Carolyn Evans of my staff at 404-562-4414.

A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The NRC will also include this letter, and its attached Confirmatory Order, on its website at www.nrc.gov; select What We Do, Enforcement, Significant Enforcement Actions. Your response, if you

choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), unless marked as described above.

Sincerely,

/RA/

Victor M. McCree
Acting Regional Administrator

Enclosures:
1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/encls.:
Arthur Domby
Troutman Sanders, LLP
Bank of America Plaza
Suite 5200
600 Peachtree Street, N.E.
Atlanta, Georgia 30308-2216

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E. Hayden, OPA
G. Caputo, OI
H. Bell, OIG
M. Burrell, OE
M. Ashley, NRR
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V. McCree, RII
C. Casto, RII
H. Christensen, RII
K. Kennedy, RII
J. Shea, RII
C. Evans, RII
S. Sparks, RII
M. Sykes, RII
J. Munday, RII
J. Stewart, RII
K. Clark, RII
R. Hannah, RII
R. Trojanowski, RII
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ADAMS: ☐ Yes ACCESSION NUMBER:_____

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SIGNATURE	/RA/	/RA/	/RA/	DEFER TO OGC		
NAME	CEVANS	JMUNDAY	KKENNEDY		VMCCREE	
DATE	3/26/08	3/27/08		03/28/08		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
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NAME	MCLARK	BWESTREICH	CCARPENTER			
DATE	4/7/08	4/7/08	4/9/08			
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YESNO	YESNO

OFFICIAL RECORD COPY DOCUMENT NAME: M:\ENFORCE\07Cases\

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Wackenhut Nuclear Services, a Division of The Wackenhut Corporation	)	EA-07-256
	)	

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Wackenhut Nuclear Services (WNS), a division of The Wackenhut Corporation, provides security related services to the Turkey Point Nuclear Plant (Turkey Point), operated by Florida Power & Light Company (FPL or Licensee). FPL holds License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR Part 50. The license authorizes the operation of Turkey Point, Units 3 and 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

On December 13, 2006, the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) completed an investigation of security-related matters at FPL's Turkey Point Nuclear Plant. The purpose of the investigation was to determine if security officers employed with WNS at Turkey Point were willfully inattentive to duty during 2004 – 2006. The results of the OI investigation were documented in a letter to WNS dated October 30, 2007, which identified apparent violations involving the activities of WNS employees. The apparent violations involved

WNS security officers who 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.

III

The results of the NRC's preliminary conclusions, as discussed in Section II, were provided to WNS by NRC letter dated October 30, 2007. The NRC's letter informed WNS that the NRC was considering the apparent violations for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered WNS a choice to: (1) attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, WNS requested ADR to resolve the matter. WNS and the NRC participated in an ADR session in Atlanta, Georgia, on January 22, 2008. As a result of the ADR session, WNS and the NRC reached an Agreement in Principle, which consisted of the following elements:

1. The NRC and WNS agreed that during 2004-2006, several security officers employed by Wackenhut Corporation engaged in deliberate misconduct in violation of WNS' policies and procedures and which caused Florida Power and Light Company's Turkey Point Nuclear Plant to be in violation of 10 CFR 73.55(f)(1). Specifically, the security officers were deliberately inattentive to duty or served as lookouts such that other security officers would be allowed to be inattentive while on duty. These actions caused FPL to

be in violation of 10 CFR 73.55(f)(1), because these officers were, while inattentive, unable to maintain continuous communication with an individual in each continuously manned alarm station.

2. The NRC and WNS were in complete agreement that deliberately inattentive security officers is an egregious matter that cannot be tolerated in the nuclear industry.
3. The NRC acknowledged that, to its knowledge, during the time the security officers engaged in deliberate misconduct, there was no actual need for a security response by the WNS security force staff to a security-related threat at Turkey Point. In addition, the facility retained its ability to implement its protective strategy because of the redundancy required by NRC security regulations.
4. The parties incorporated by reference the security enhancements as documented in the NRC's Confirmatory Order of January 22, 2008.
5. In addition to the above, WNS has completed or agreed to complete the following activities in response to the events as discussed in Item 2 above:
   (1) Safety Conscious Work Environment (SCWE) activities:
   a. Issuance of a new SCWE Policy on February 5, 2007
   b. Issuance of a new SCWE Handbook in February 2007
   c. Training of all on-site WNS supervisory personnel on the above SCWE Policy and Handbook initially completed in February 2007, and to be proceduralized and conducted annually (Training Module).
   (2) Continuous Behavioral Observation Program (CBOP):
   a. Implement a Management and Supervisor Oversight procedure to include CBOP evaluations of on-shift security force members' fitness for duty (FFD).
   b. CBOP training of officers regarding behavior identifiers and actions to be taken in response to aberrant issues.

c. CBOP training of supervisors and officers to include communication of expectations to self-declare potential FFD issues.

d. To ensure officers are fit-for-duty at the beginning of each shift, WNS has also enhanced its FFD processes to include FFD questioning of officers prior to each shift. In addition, WNS will reinforce its expectations that officers may declare potential FFD issues at any time.

(3) Training and development activities:

a. Continued implementation of Supervisory Requirements and Expectations at FPL's Turkey Point facility, as discussed in WNS' memo of 10/24/06, and for other facilities supported by WNS as described in WNS' objective and One-on-One procedure.

b. Implementation of Attentiveness Refresher Training in November 2006, and continued training on an annual frequency.

c. Professional development training for newly hired security officers at sites currently serviced by WNS. Periodic professional development training will be performed at sites supported by any WNS's successor organization.

d. Feedback mechanism to determine effectiveness of training (Ideal Facility Performance Metrics).

(4) Process and Program Improvements:

a. Analysis of post rotation frequency and radio check frequency and enhancements made as appropriate.

b. Performance of pre-hire security officer profile testing and third party evaluation

c. Implementation of Work Hour controls with consideration of the NRC's Work Hours Requirement.

6. The NRC and WNS agreed to communications on the above activities at the same frequency as discussed in the NRC's Confirmatory Order of January 22, 2008.
7. In consideration of the above commitments, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.
8. The NRC and WNS agree that the above elements will be incorporated into issuance of a Confirmatory Order.
9. This agreement is binding upon successors and assigns of WNS.

IV

Because WNS has agreed to take actions to address the NRC's concerns, as set forth in Section II above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that WNS' commitments set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that WNS' commitments be confirmed by this Order. Based on the above and WNS' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

WNS has completed or agrees to complete the following activities in response to the events as discussed in Item II above:

1. Safety Conscious Work Environment (SCWE) activities:
    a. Issuance of a new SCWE Policy (issued on February 5, 2007).
    b. Issuance of a new SCWE Handbook (issued in February 2007).
    c. Training of all on-site WNS supervisory personnel on the above SCWE Policy and Handbook initially completed in February 2007, and to be proceduralized and conducted annually (Training Module).
2. Continuous Behavioral Observation Program (CBOP):
    a. Implement a Management and Supervisor Oversight procedure to include CBOP evaluations of on-shift security force members' fitness for duty (FFD).
    b. CBOP training of officers regarding behavior adverse to the safety and security of the facility, and actions to be taken in response to adverse conditions.
    c. CBOP training of supervisors and officers to include communication of requirements to self-declare potential FFD issues.
    d. To ensure officers are fit-for-duty at the beginning of each shift, WNS has also enhanced its FFD processes to include FFD questioning of officers prior to each shift. In addition, WNS will reinforce its expectations that officers should declare potential FFD issues at any time the need arises.
3. Training and development activities:
    a. Continued implementation of Supervisory Requirements and Expectations at FPL's Turkey Point facility, as discussed in WNS' memo of 10/24/06, and for other facilities supported by WNS as described in WNS' objective and One-on-One procedure.

b. Implementation of Attentiveness Refresher Training in November 2006, and continued training on an annual frequency.

c. Professional development training for newly hired security officers at sites currently serviced by WNS. Periodic professional development training will be performed at sites supported by any WNS successor organization.

d. Feedback mechanism to determine effectiveness of training (Ideal Facility Performance Metrics).

4. Process and Program Improvements:

   a. Analysis of post rotation frequency and radio check frequency and enhancements made as appropriate.

   b. Performance of pre-hire security officer profile testing and third party evaluation

   c. Implementation of Work Hour controls with consideration of the NRC's Work Hours Requirement.

5. WNS agrees to communications on the above activities at the same frequency as discussed in the NRC's Confirmatory Order of January 22, 2008.

6. This agreement is binding upon successors and assigns of WNS.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by WNS of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than WNS, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street SW Suite 23T85, Atlanta, GA, 30303-8931; and to WNS. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than WNS requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Victor M. McCree
Acting Regional Administrator

Dated this 9th day of April 2008