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March 21, 2008

The Honorable Edward J. Markey
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Markey:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am providing an update to my initial response to your May 16, 2007 letter concerning the article, "Mercenary," which appeared in the June 2007 edition of *Esquire* magazine. I promised to provide you additional information which responds to questions 5, 7, 8, 9, and 10. I am pleased to provide you the fully updated information. Nothing that was found would cause us to alter our responses to the other questions.

The NRC conducted an investigation to address your concerns. NRC staff interviewed involved personnel and inspected licensee records pertaining to Mr. Clark and also investigated the implication that Mr. Clark had gained his position through the help of a third party who assisted him in circumventing NRC requirements. Although the author of the article dismissed this issue, the NRC fully considered the question as part of its investigation. The following is a summary of the investigation:

1. There was no evidence of external influence in the placement of Mr. Clark, in direct contradiction to the author's initial implications. Mr. Clark did not obtain his position as a reward for actions on behalf of a third party, nor did Mr. Collins of Nuclear Security Services Corporation (NSSC) exert influence during the hiring process.
2. In direct contradiction to the author's statements that individuals colluded to circumvent NRC regulations, there was no evidence of any falsification of employment records or circumvention of NRC drug testing programs.
3. There was no evidence of deception regarding Mr. Clark's employment history. His actual status was verified during the routine employment history check, with the exception of minor discrepancies that were determined to not be a basis for denial of unescorted access.
4. The interviewed personnel consistently reported that Mr. Clark did not exhibit behavior that warranted referral under the Behavioral Observation Program. They dismissed his stories as exaggerations because their other interactions with him did not suggest underlying behavioral problems. Management's issues with Mr. Clark stemmed from his performance as a supervisor at the site and not from any concerns stemming from behavior related incidents.

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5. The NRC reviewed its programs and maintains that they are fundamentally sound. With the exception of not accurately denoting his employment status as a contractor vice being a full-time paid employee of NSSC, Mr. Clark provided accurate information on his personal history questionnaire and passed an on-site drug test. The licensee did not develop any derogatory information (i.e., arrests, credit check, or personal references) during the pre-employment screening sufficient to deny access.

In light of this investigation and Entergy's actions, the NRC is not planning further action on this matter. If you have any questions, please contact me.

Sincerely,

/RA/
Dale E. Klein

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-2-

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5. **Mr. Clark reportedly claimed to his employer that he had been a paid assassin, although it appears that this claim was not in fact true. Can the Commission account for how someone making such a claim, true or not, could be considered eligible for employment at nuclear power plants? Please fully justify your response.**

Update: There was no information in Mr. Clark's background checks or resumes which discussed his supposed role as an assassin, nor did he himself make such a claim until after he was employed at Palisades. Following the publication of the Esquire Magazine article, Entergy conducted a review of the employment information Mr. Clark provided to the licensees and verified that the information was accurate except for minor discrepancies that were determined to not be a basis for denial of unescorted access. Nonetheless, after the publication of the Esquire article, Entergy concluded that Mr. Clark was not trustworthy or reliable and terminated his access at Palisades. Up until that point, Mr. Clark had been considered trustworthy and reliable at Palisades as well as the other nuclear facilities he was granted unescorted access.

7. **Please provide a copy of Mr. Clark's resume. Which claims were verified by licensee or Government personnel?**

Update: The staff previously provided a copy of Mr. Clark's resume in our initial response dated June 29, 2007, and redacted personal identifiable information (home address, home and cellular phone numbers, and e-mail address) from the resume.

In a letter dated May 24, 2007, the NRC requested the appropriate licensees to evaluate their background investigation of Mr. Clark and determine whether Mr. Clark provided any incorrect, misleading, or incomplete information when he applied for initial unescorted access at their plants. This review validated the information provided by Mr. Clark as being accurate, with the exception of minor discrepancies that were determined to not be a basis for denial of unescorted access (inconsistencies were associated with Mr. Clark's actual employment status as a contractor vice a full-time paid employee of NSSC for the period stated). Additional information related to this question is provided in the answer to questions 8, 9, and 10.

8. **What steps have you taken to verify the specific allegations made in the *Esquire* article?**

Update: As mentioned previously, in the letter dated May 24, 2007, the NRC requested licensees to evaluate their background investigations of Mr. Clark and determine whether Mr. Clark provided any incorrect, misleading, or incomplete information when he applied for initial unescorted access at their plants.

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- 2 -

The NRC reviewed the responses provided by licensees that detailed the background investigations performed in the process of screening Mr. Clark for unescorted access to their respective nuclear power plants. This review verified each licensee's compliance with the regulatory requirements for authorizing an individual unescorted access. Additionally, the NRC conducted an independent review of the Personal History Questionnaires completed by Mr. Clark to verify that he did not provide any incorrect, misleading, or incomplete information in the process of applying for unescorted access to nuclear power plants. This review validated the information provided by Mr. Clark as being accurate with the exception of minor discrepancies that were determined to not be a basis for denial of unescorted access (inconsistencies were associated with Mr. Clark's actual employment status as a contractor vice a full-time paid employee of NSSC for the period stated). There was no evidence of deception, and Mr. Clark's actual employment status was verified during the routine employment history check and verification of information acquired through developed references.

9. **When did Mr. Clark work at the Seabrook nuclear power plant, and in what capacity? Did he work for any other nuclear power plants, and if so which, and during what time period? For Seabrook and any additional nuclear power plant at which he worked, please describe a) the manner in which his credentials were examined and/or verified by licensee personnel, including whether he made similar claims on his resume or in interactions with licensee employees as are described in the *Esquire* article; b) the circumstances surrounding Mr. Clark's termination or separation from the power plant; and c) whether, if the circumstances were unusual, the licensee reported them to the Commission (and if so, what actions the Commission took in response to receiving the information).**

Update: In addition to the Palisades Nuclear Power Plant (located in Michigan), Mr. Clark also worked at the Seabrook Nuclear Power Plant (located in New Hampshire) and the Zion Nuclear Power Plant (located in Illinois). For the Seabrook Nuclear Power Plant, Mr. Clark worked as a security consultant with NSSC from [redacted]. NSSC applied for unescorted access for Mr. Clark at the Seabrook Nuclear Power Plant. Mr. Clark was on site in the protected area on [redacted], as an escorted visitor while his background investigation was being completed. By the time Seabrook completed the background investigation of Mr. Clark [redacted], his work no longer required unescorted access to the protected area of the facility. Therefore, he was not issued a badge for unescorted access into the protected area. The applicable elements for the required investigations were completed in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.56; 10 CFR 73.57; 10 CFR Part 26; the January 07, 2003, Access Authorization Order; and NEI Regulatory Guide 0301, "Access Authorization Program for Nuclear Plants." In addition, pursuant to the NRC requirements for unescorted access, from [redacted], Mr. Clark was under a behavioral observation program in the event he needed unescorted access into the protected area. Mr. Clark left the site after he completed his contract service. During this period, Mr. Clark was not observed to exhibit any abnormal behavior while on site or while employed. There were no unusual circumstances observed, and none were reported to the NRC.

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- 3 -

For the Zion Station, Mr. Clark worked as a security consultant with NSSC. The company applied for unescorted access for Mr. Clark at the Zion Station. Mr. Clark was granted unescorted access in accordance with Commonwealth Edison Company's access authorization program. A Temporary Background Investigation was completed on Mr. Clark on _____, and a Full Background Investigation was completed on _____. The applicable elements for the required investigations were completed in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.56; 10 CFR 73.57; 10 CFR Part 26; Regulatory Guide 5.66, "Access Authorization Program for Nuclear Plants;" and NUMARC 89-01, "Industry Guidelines for Nuclear Power Plant Access Authorization." During this time frame, the NRC requirements required a 5-year background investigation. Mr. Clark's initial unescorted access authorization was granted on _____, and maintained until his unescorted access authorization was terminated favorably on _____, when he resigned. During this timeframe, as a person with unescorted access, Mr. Clark was in both a continual behavior observation program and a random fitness-for-duty testing pool. During this period, Mr. Clark was not observed to exhibit any abnormal behavior while on site or while employed. There were no unusual circumstances observed, and none were reported to the NRC. Additional information related to this question is provided in the answer to question 8.

- 10. If you have concluded that any of the claims in the article regarding Mr. Clark's various false representations are correct, or if Mr. Clark engaged in similar behavior at Seabrook or other nuclear power plants, a) why exactly did licensee and/or government personnel fail to discover these representations; b) what steps (and on what timeline) is the Commission taking to ensure that any systemic flaws in the clearance process are remedied; c) what steps is the Commission taking to hold individuals or the licensee accountable for any failures to follow steps in the clearance process; and d) if systemic flaws in the clearance process have been identified, what steps are you taking to require that all background and security checks required of all current licensee employees are redone?**

Update: The NRC conducted an independent evaluation of the claims in the *Esquire* article regarding the potentially false representations made by Mr. Clark in his applications for access to nuclear power plants. The evaluation involved a review of information provided by licensees related to their process for screening Mr. Clark for access to nuclear power plants as well as an independent NRC review of the Personal History Questionnaires completed by Mr. Clark in order to verify that he did not provide any incorrect, misleading, or incomplete information in the process of applying for unescorted access to nuclear power plants. The NRC's independent review and evaluation of the claims made in the *Esquire* article related to Mr. Clark's applications for access to the nuclear power plants found the claims in the *Esquire* article were not substantiated. Additional detail about the review of information related to Mr. Clark is provided in the response to question 5. There were no systematic flaws in the clearance process identified.

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