



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

April 15, 2010

(b)(7)(C)

SUBJECT: RESPONSE TO CONCERNS YOU RAISED TO THE U.S. NUCLEAR  
REGULATORY COMMISSION (NRC) REGARDING THE COLUMBIA  
GENERATING STATION

RE: ALLEGATION RIV-2009-A-0180

Dear

(b)(7)(C)

The NRC has completed its follow up in response to the concerns you brought to our attention on December 7, 2009, regarding the Columbia Generating Station. Your concerns were related to the fitness-for-duty program implementation. The enclosure to this letter restates your concerns and describes the NRC's review and conclusions with regard to each concern.

This letter refers to our letter to you dated December 24, 2009, in which we requested that you contact us to provide additional information regarding your concerns relating to the fitness-for-duty program implementation at the Columbia Generating Station. Since you have not contacted us to provide the additional information we requested, the NRC evaluated your concerns based upon the information that was available.

Thank you for informing us of your concerns. Allegations are an important source of information in support of the NRC's safety mission. We take our safety responsibility to the public seriously and will continue to do so within the bounds of our lawful authority. We believe that our actions in this matter have been responsive and unless the NRC receives additional information that suggests that our conclusions should be altered, we plan no further action on this matter.

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

D/5

(b)(7)(C)

- 2 -

RIV-2009-A-0180

Should you have any additional questions regarding our response, please contact Mr. Michael P. Shannon, Chief, Plant Support Branch-1, at 800-952-9677, extension 215, or you can call Ms. Bernadette Baca on the NRC Safety Hotline at 800-695-7403 Monday - Friday between 8 a.m. and 4:30 p.m. Central time.

Sincerely,

  
Roy J. Caniano, Director  
Division of Reactor Safety

Enclosure: As stated

RESPONSE TO CONCERNS  
ALLEGATION RIV-2009-A-0180

On March 12, 2010, a senior physical security inspector from the NRC's Region IV office completed both an on-site inspection of your concerns; and an in-office independent inspection of the licensee's review of your concerns listed below. The onsite inspection consisted of personnel interviews, review of fitness-for-duty records and review of the fitness-for-duty program documents and implementing procedures. The in-office independent inspection of the licensee's review of your concern included: ensuring your concern was adequately addressed; conducting an in-office review of selected licensee procedures and records. Additionally, we assessed the independence of the investigators, quality, scope and depth of the licensee's review of your concern.

**Concern 1**

The program is being fraudulently run at the Columbia Generating Station. You did all that was required since your access was denied, but you are still being denied access to the site.

**Licensee Response to Concern 1**

On February 2, 2010, the licensee initiated an investigation of your concern. Specifically the investigation was directed at determining: (a) the circumstances surrounding your (b)(7)(C) (b)(7)(C) (b) if all relevant fitness-for-duty procedures were properly implemented; (c) the results of the (b)(7)(C) certification, (d) if the fitness-for-duty program was used to inappropriately administer discipline; and (e) if the fitness-for-duty policies had been equally applied to every person in the same situation for the last year.

First the licensee's investigation developed a time-line of all actions taken with respect to your fitness-for-duty case, to fully describe the circumstances surrounding your (b)(7)(C) (b)(7)(C) This time line was very detailed, and included:

- (b)(7)(C)
- 
- 
- 
- 
-

- The results of your (b)(7)(C)
- The documentation associated with (b)(7)(C)
- The documented completion of your (b)(7)(C)
- Documentation of your meeting with (b)(7)(C)
- (b)(7)(C)
- Letter from the licensee, dated (b)(7)(C)
- Letter from you, dated (b)(7)(C) responding to the licensee's letter of (b)(7)(C) documenting your intent to exercise your appeal rights.

Next, the licensee's investigator reviewed relevant procedures associated with access authorization and fitness-for-duty program requirements and the follow-up evaluation Notice of Compliance (b)(7)(C)

This review determined that all requirements of these programs were implemented in accordance with the associated procedures.

Finally, the investigator reviewed disciplinary cases from the last year. Based upon this review, there was no evidence that the fitness-for-duty program was used, either, inappropriately to administer discipline or that the fitness-for-duty program or policies had been, in any way, applied in an unequal way.

As a result of these investigatory actions, the licensee did not identify fraudulent activities relative to the implementation of either the fitness-for-duty program or the access authorization program; therefore, the licensee did not substantiate your concern.

### **NRC Response to Concern 1**

A senior physical security inspector conducted both an in-office review of the licensee's investigation, and an onsite inspection of your concern. The inspector's in-office review consisted of reviewing the requirements delineated in the licensee's physical security plan, NEI-03-01, "Nuclear Power Plant Access Authorization Program," Revision 2, and documentation provided to support the licensee's investigation. Additionally, the inspector reviewed the inspection report associated with the most recent NRC inspection of the licensee's access authorization program, which was completed on November 20, 2009. The onsite inspection consisted of procedures and records review and interviews of personnel associated with access control and fitness-for-duty programs at the licensee's facility. Neither, the in-office review or the onsite inspection activities resulted in the identification of any inadequacies or program deficiencies in the access authorization or fitness-for-duty programs.

Based upon the inspector's review and evaluation, the facts and statements presented in the licensee's evaluation of your concern appear to be true and accurate. Therefore, the NRC did not substantiate your concern, that the fitness-for-duty program is being fraudulently run at Columbia Generating Station, or identify a violation of NRC regulatory requirements.

### **Concern 2**

Your experience indicates that the plant is using the fitness-for-duty program to administer disciplinary actions to plant personnel.

### **Licensee Response to Concern 2**

The licensee's investigation consisted of a review of records of all disciplinary cases from the last year and discussions with the security compliance supervisor, the access authorization coordinator, the fitness-for-duty coordinator and the human resources supervisor responsible for the EN performance management program. This review did not identify any cases where the fitness-for-duty program was used to administer any disciplinary action. The performance improvement procedure discusses the accepted performance management process but has no ties (direct or indirect) to the fitness-for-duty policies and procedures.

Therefore, your concern was not substantiated

### **NRC Response to Concern 2**

As part of our process to resolve this concern, we contacted you to request additional information with regards to any specific information that you had regarding use of the licensee's fitness-for-duty program to administer discipline. Multiple attempts were made to contact you via telephone and email by the Chief, Plant Support Branch-1, on December 22, 2009 without success. On Tuesday January 19<sup>th</sup>, 2010, you called the RIV allegation coordinator to find out the status of your allegation. The allegation coordinator advised you that the NRC would send you correspondence via certified return receipt mail. You indicated that you had no objection to this method of communication.

A letter from the RIV allegation coordinator was delivered and signed for by you on January 27, 2010. This letter requested additional information for both Concerns 2 and 3. Specifically, we needed information of instances and names of individuals that support the assertions in Concerns 2 and 3. The letter further explained that such information would be required in order to perform an effective review of the concerns. Since your receipt of our letter on January 27, 2010, we have had no additional communications or correspondence received from you by the Region IV allegation branch.

A review of the facts/circumstances and the licensee's documentation, an in-office inspection and an on-site inspection failed to disclose any impropriety or inadequacy associated with an NRC-regulated activity, the NRC plans no further action regarding these matters.

Since you have not contacted us to provide the additional information we requested and the lack of any supporting information from you, in conjunction with the information provided by the licensee, the NRC did not substantiate your concern.

### Concern 3

The fitness-for-duty policies at the Columbia Generating Station are not applied equally to every person in the same situation and at times management has ulterior motives in regards to the program.

### Licensee Response to Concern 3

The licensee's investigation included a review of the EN fitness-for-duty policies, procedures and testing data, interviews with the security compliance supervisor and the fitness-for duty and access authorization program coordinators and a review of your (b)(7)(C)

(b)(7)(C)

The investigation revealed that in the last year there has

(b)(7)(C)

(b)(7)(C)

The policies were applied

(b)(7)(C)

Therefore, your concern was not substantiated

### NRC Response to Concern 3

As part of our process to resolve this concern, we contacted you to request additional information with regards to any specific information that you had regarding use of the licensee's fitness-for-duty program to administer discipline. Multiple attempts were made to contact you via telephone, email, and certified mail, as noted in Concern 2, and to date the NRC has not received the requested additional information.

A review of the facts/circumstances and the licensee's documentation, an in-office inspection and an on-site inspection failed to disclose any impropriety or inadequacy associated with an NRC-regulated activity, the NRC plans no further action regarding these matters.

Since you have not contacted us to provide the additional information we requested and the lack of any supporting information from you, in conjunction with the information provided by the licensee, the NRC did not substantiate your concern.

(b)(7)(C)

bcc w/Statement of Concerns:  
Allegation File

(b)(7)(C)

S:\RAS\ACES\ALLEGATIONS\2009 Case Files\RIV-2\  
Alleger.doc

102595-02-M-1540

ADAMS	No	<input checked="" type="checkbox"/> SUNSI Review Complete		
ALFA/ALFES	SAC	CP	PSBI	
LMBerger	BDBaca	MPShannon	WBJones	
/RA/	<i>PSB</i>	<i>Shannon for</i>	<i>[Signature]</i>	
4/13/10	4/13/10	4/14/10	4/14/10	4/15/10

OFFICIAL RECORD COPY

T=Telephone

E=E-mail

F=Fax