



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005

February 19, 2009

MEMORANDUM TO: Bernadette Baca, Allegation Coordinator

FROM: Ryan Lantz, Chief, Operations Branch

SUBJECT: Callaway Allegation No. RIV-2006-A-0033, Concern 1

The Operations Branch has completed our review of the information relevant to Allegation Case No. RIV-2006-A-0033, Concern 1. The results of this review are documented below. This memorandum provides overall closure basis for Allegation Case No. RIV-2006-A-0033.

**Background**

On April 16, 2007, Allegation No. RIV-2006-A-0033 was closed after an independent investigation was performed by the NRC Office of Investigations (OI). The investigation was documented in OI Report No. 4-2006-025. The OI investigation concluded that the allegation was unsubstantiated. The NRC issued a letter to the concerned individual closing all seven concerns associated with Allegation No. RIV-2006-A-0033 as unsubstantiated in a letter dated April 16, 2007. On November 2, 2007, Allegation No. RIV-2006-A-0033, Concern 1 was reopened by the Allegation Review Board after additional information was provided to the NRC by the concerned individual. OI subsequently performed a followup investigation to assess the concern. The investigation was conducted from November 9, 2007, through December 3, 2008. A supplemental report to OI Report No. 4-2006-025 was issued on December 3, 2008. The Operations Branch reviewed OI's assessments to address the subject allegation concern.

**RIV-2006-A-0033, Concern 1:** An (b)(7)(C) was not attentive to his duties for months. 72

**Original NRC Response to RIV-2006-A-0033, Concern 1 from a letter addressed to the concerned individual from NRC Region IV dated April 16, 2007:**

OI initiated an investigation to determine if an (b)(7)(C) was not attentive to his duties. The investigator interviewed various people and reviewed procedures and other documentary evidence, including Licensed Operator Continuing Training (LOCT) Evaluation summary reports and fitness for duty records. e/qs

Based on the information developed during the investigation, the NRC staff concluded that there was not sufficient evidence to substantiate the concern that the (b)(7)(C) was not attentive to his duties.

This concern was not substantiated (and the allegation was closed).

**NRC Response to RIV-2006-A-0033, Concern 1 after a followup investigation was performed from November 9, 2007 to December 3, 2008:**

The OI investigation was reopened to interview additional personnel and review additional records based on new information provided by the concerned individual. OI personnel interviewed 40 additional current and former Callaway employees to determine if anyone had observed the (b)(7)(C) being inattentive to his duties.

One individual interviewed indicated that on two occasions during the summer and fall of 2005, he observed the (b)(7)(C) in the control room, and on one other occasion he observed the same (b)(7)(C) inattentive in a meeting (outside the control room) in the presence of an (b)(7)(C). This individual also indicated that he raised the sleeping and inattentiveness concerns to operations management. OI personnel subsequently interviewed the associated operations management personnel. None of them could recall any conversations or concerns with this individual regarding the (b)(7)(C) being inattentive while on duty.

The other 39 individuals were identified as potential witnesses by OI since they may have been in a position to observe the (b)(7)(C) in the control room at the same time as the individual noted above. However, these individuals provided no additional testimony to support the allegation that the (b)(7)(C) had been inattentive while on duty in the control room.

Based on the information developed during the initial and second investigations, and because only one individual out of 40 personnel interviewed testified that the (b)(7)(C) had been inattentive while on duty, the NRC staff concluded that there was not sufficient evidence to substantiate the concern, and this allegation is therefore closed.

On February 18, 2009, Mr. R. Caniano, Director, Division of Reactor Safety, NRC Region IV, and Mr. W. Jones, Chief, Allegation and Enforcement Staff, NRC Region IV, met with the concerned individual to explain the processes and procedures used to investigate and evaluate the concern. Mr. Caniano and Mr. Jones emphasized to the concerned individual that the assertion that an (b)(7)(C) had been inattentive to his duties was taken very seriously, and that the investigations performed were as thorough and comprehensive as possible.