



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

August 19, 2013

EA-13-153

John D. Richardson, President
Enercon Services, Inc.
Kennesaw Office-Corporate Headquarters
500 Townspark Lane
Suite 275
Kennesaw, Georgia 30144-5509

SUBJECT: ALLEGED DISCRIMINATION (U.S. Department of Labor Occupational Safety and Health Administration Case No. 7-5880-12-070)

Dear Mr. Richardson:

On July 25, 2012, the U.S. Department of Labor's Occupational Safety & Health Administration (OSHA) in Kansas City, Missouri, received a complaint from a former employee of Enercon Services, Inc. (Enercon). The former employee alleged that that Enercon terminated his employment in retaliation for his reporting safety concerns while performing duties at Wolf Creek Nuclear Operating Corporation. In response to that complaint, OSHA conducted an investigation, and in a letter dated May 15, 2013, the Regional Administrator for OSHA, Region VII, found that there was reasonable cause to believe that Enercon violated Section 211 of the Energy Reorganization Act of 1974.

The NRC is concerned that a violation of Section 211 of the Energy Reorganization Act occurred which indicates that a violation of the employee protection provisions set forth in 10 CFR 50.7, "Employee Protection," may have also occurred and that the actions taken against the former employee may have had a chilling effect on other licensee or contractor personnel. As such, you are requested to provide this office, within 30 days of the date of this letter, a response in writing and under oath or affirmation that describes:

1. Your position regarding whether the actions affecting this individual violated 10 CFR 50.7 and the basis for your position, including the results of any investigations you may have conducted to determine whether a violation occurred; and
2. Actions you have already taken or plan to take to assure that this matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within your organization and, as discussed in NRC Form 3, to the NRC.

We recognize that you may not believe that unlawful discrimination has occurred. Regardless of your answer to Item 1 above, we request that you consider the need to address the *possible* chilling effect that an ongoing issue of this type may have on other employees.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the personal privacy-related information and a redacted copy of your response that deletes the personal privacy-related information. Identify the particular portions of the response in question which, if disclosed, would create an unwarranted invasion of personal privacy, identify the individual whose privacy would be invaded in each instance, describe the nature of the privacy invasion, and indicate why, considering the public interest in the matter, the invasion of privacy is unwarranted.

If you request withholding on any other grounds, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

After reviewing your response, the NRC will determine whether enforcement action is necessary at this time to ensure compliance with regulatory requirements.

If you have any additional questions regarding these matters, please contact Mr. Neil O'Keefe, Chief, Reactor Project Branch B, at (817) 200-1141.

Sincerely,

/RA/

Steven A. Reynolds
Acting Regional Administrator

cc:

Matthew W. Sunseri, President and
Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

Regional Administrator
Region 7
U.S. Department of Labor/OSHA
Two Pershing Square Building
2300 Main Street, Suite 1010
Kansas City, Missouri 64108-2416

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