

November 7, 1995

EA No. 95-170

Mr. Robert E. Denton
Vice President - Nuclear Energy
Baltimore Gas and Electric Company
Calvert Cliffs Nuclear Power Plant
1650 Calvert Cliffs Parkway
Lusby, MD 20657 - 4702

SUBJECT: PREDECISIONAL ENFORCEMENT CONFERENCE

Dear Mr. Denton:

This letter refers to the October 26, 1995, predecisional enforcement conference held at the NRC Region I Office, King of Prussia, Pennsylvania. The purpose of the conference was to discuss the apparent violations identified during an inspection and an investigation conducted at the Calvert Cliffs Nuclear Power Plant. The apparent violations related to the implementation of your Personnel Access Authorization Program, required by 10 CFR 73.56, and are discussed in the report of NRC Inspection Report Nos. 50-317/95-04 and 50-318/95-04. The conference was attended by you and members of your staff and by members of NRC management and staff. A list of conference attendees is provided as Enclosure 1.

During the conference, the items discussed included the apparent violations, your evaluation of the potential root causes of the apparent violations, and the corrective actions that you have implemented. The NRC personnel used the conference to further their understanding of the issues. The handout you provided in conjunction with your presentation is included as Enclosure 2.

We appreciate the information you provided during the conference and believe that the associated discussion was mutually beneficial to improved understanding of the issues. Our decision regarding enforcement action will be transmitted to you by separate correspondence. Thank you for your attendance and input during the conference.

Sincerely,

(original signed by)

James T. Wiggins, Director
Division of Reactor Safety

9511160243 951107
PDR ADOCK 05000317
G PDR

Docket Nos: 50-317
50-318

Enclosures:

1. Conference Attendees
2. Licensee Presentation Outline Slides

100001

1E-14 1/1

Mr. Robert E. Denton

2

cc w/encl:

- T. Camilleri, Director, Nuclear Regulatory Matters (CCNPP)
- R. McLean, Administrator, Nuclear Evaluations
- J. Walter, Engineering Division, Public Service Commission of Maryland
- K. Burger, Esquire, Maryland People's Counsel
- R. Ochs, Maryland Safe Energy Coalition
- State of Maryland (2)

Distribution w/encl:

- Nuclear Safety Information Center (NSIC)
- PUBLIC
- NRC Resident Inspector
- Region I Docket Room (with concurrences)
- J. Lieberman, OE
- W. Dean, OEDO (WMD)
- F. Lyon - Calvert Cliffs
- T. Marsh, NRR
- D. McDonald, NRR
- Inspection Program Branch, NRR (IPAS)

DOCUMENT NAME: G:\EP&SB\KEIMIG\ENFCNF.CC

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	RI/DRS	RI/DRA	RI/DRS		
NAME	RKEIMIG	DHOLODY	JWIGGINS		
DATE	11/2/95	11/ /95	11/ /95	11/ /95	11/ /95

OFFICIAL RECORD COPY

ENCLOSURE 1

CONFERENCE ATTENDEES

Baltimore Gas and Electric Attendees:

R. E. Denton, Vice President - Nuclear Energy
T. Camilleri, Director, Nuclear Regulatory Matters
L. Lemons, Manager, Nuclear Support Services
L. Gibbs, Director, Nuclear Security
M. Burrell, Supervisor, Security Screening
M. Nilbradt, Licensing Engineer

Nuclear Regulatory Commission, Region I Attendees:

W. Kane, Deputy Regional Administrator
J. Wiggins, Director, Division of Reactor Safety
D. Holody, Manager, ORA Technical Programs Staff
K. Smith, Regional Counsel
R. Keimig, Chief, Emergency Preparedness and Safeguards Branch, DRS
L. Doerflein, Chief, Projects Branch 1, DRP
J. Joyner, Project Manager, DNMS
F. Lyons, Resident Inspector, DRP
K. Lathrop, Resident Inspector, DRP
D. Limroth, Senior Reactor Engineer, DRS

Nuclear Regulatory Commission, Headquarters Staff

J. Gray, Deputy Director, Office of Enforcement
D. McDonald, Project Manager, NRR
N. Ervin, Reactor Security Specialist, NRR

CALVERT CLIFFS NUCLEAR POWER PLANT

SECURITY

**Access Authorization Program Predecisional
Enforcement Conference**

Baltimore Gas and Electric Company

King of Prussia, PA

October 26, 1995

AGENDA

Introduction	R. E. Denton
Issues	J. R. Lemons
Contractor Employee Access	J. R. Lemons
Potential Violations	L. P. Gibbs
Identified Weaknesses	L. P. Gibbs
Summary	J. R. Lemons
Conclusion	R. E. Denton

SECURITY ORGANIZATION

VP-Nuclear Energy

Manager-Nuclear Support Services

Director-Nuclear Security

Supervisor-Access Authorization

ISSUES

Potential Violations:

1. Contractor Employee Access
2. Transferred Contractor Employee's Fitness-for-Duty Test
3. Access Authorization Appeal Policy for Contractors
4. Audit Requirements for Subcontractor Providing Data to Security Screening Unit (SSU)

Weaknesses:

1. Review of Derogatory Information
2. Documentation of SSU Supervisor's Review of Access Authorization
3. Positive Identification of Candidates Taking MMPI
4. Identification of Individuals Who Have Been Out of CBO
5. SSU's Involvement in Contractor Audits

POTENTIAL VIOLATIONS

1. **BGE's decision to allow a contractor employee access authorization.**

10 CFR 73.56:

"The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage."

POTENTIAL VIOLATIONS (Continued)

"The licensee shall base its decision to grant, deny, revoke, or continue an unescorted access authorization on review and evaluation of all pertinent information developed."

BACKGROUND:

- Jan 93 Contractor employee applies for unescorted access.
- Feb 93 Preliminary access steps completed (identity verification, psychological evaluation, fitness-for-duty screening, preliminary background investigation) - **Temporary access granted.**

POTENTIAL VIOLATIONS (Continued)

Apr 93 SSU informs employee of FBI fingerprint results, noting arrest record. Contractor employee denies record belongs to him.

SSU advises employee of his right to appeal results with the FBI.

Quality of initial fingerprints submitted is a concern - second set submitted to FBI.

SSU contacts Immigration and Naturalization Service to verify Resident Alien Card number and expiration date are legitimate.

POTENTIAL VIOLATIONS (Continued)

- Jun 93 SSU informs employee results of second FBI fingerprint submitted match first submittal. Again employee denies record.
SSU suspects employee may be lying about arrest record, but notes positive input from preliminary access check and continuous behavioral observation. Employee initiates appeal with the FBI.
- Feb 94 FBI informs employee official FBI record was updated to indicate employee was arrested previously in California.

POTENTIAL VIOLATIONS (Continued)

- Apr 94 Contractor employee informs SSU of appeal results and FBI actions. Employee again denies arrest record. SSU grants permanent access based on positive evidence that outweighs employee's dishonesty. **SSU did not believe employee represented a threat to the facility.**
- Oct 94 Immigration and Naturalization Service and State Department interview employee at Calvert Cliffs. His access is immediately pulled by SSU.

SAFETY SIGNIFICANCE

No evidence employee would have or actually did constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage.

REGULATORY SIGNIFICANCE

- Falsification of background information and subsequent denials should have carried more weight relative to determining the employee's reliability and trustworthiness. **BGE's decision making in this particular case should have been more conservative.**
- As required by 10 CFR 73.56, SSU supervisor considered all factors pertaining to employee background and character. **BGE believes we did not willfully violate the requirements set forth in 10 CFR 73.56(b)(1).**
- Positive attributes considered to be more critical than known dishonesty related to past criminal record -- **SSU did not believe employee was a threat.**

CORRECTIVE ACTIONS

- ◆ Clear senior management expectations for dealing with derogatory information and conservative decision making were communicated to the Manager-Nuclear Support Services, Director-Nuclear Security, and Security Screening Unit Supervisor.
- ◆ Revised SSU procedures to clearly define how derogatory information will be adjudicated and documented.
- ◆ Issues involving trustworthiness and reliability will either result in denial of access authorization or elevation to Management for resolution.
- ◆ Independent review - Benchmarking by supervisor of recognized Region II access program.

POTENTIAL VIOLATIONS

2. Transferred contractor employee's Fitness-for-Duty Test.

Background:

- * Contractor employee onsite for seismic verification project.
- * Paperwork transferred from previous utility indicated employee was under continual behavior observation (CBO), but badge was inactive.
- * SSU failed to determine length of badge inactivity as expected (> 90 days) - **Missed opportunity due to inattention to detail.**

Error: Failure to administer Fitness-for-Duty Test for employee not under CBO with a badge inactive for > 60 days.

CORRECTIVE ACTIONS

- ◆ Upon discovery, immediately checked employee's status and determined individual was no longer working at Calvert Cliffs.
- ◆ Appropriate disciplinary action given to SSU member involved.
- ◆ Conducted specific training session with SSU to reinforce management's expectations regarding attention to detail.
- ◆ 100% audit of 91-03 transfers over the past 12 months. No major discrepancies were noted.

POTENTIAL VIOLATIONS

3. Access Authorization Appeal Policy for Contractors.

Background:

- * Security Plan states Calvert Cliffs is committed to Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants."
- * Regulatory Guide 5.66 states 10 CFR 73.56(e) provides requirements for access authorization denial/revocation processes.
- * 10 CFR 73.56(e) states there must be an opportunity for an objective review of denial/revocation basis.
- * Calvert Cliffs' process for BGE employees provides for appeal through corporate grievance procedure; process for contractors involves appeal to Director-Nuclear Security.

POTENTIAL VIOLATIONS (Continued)

Issue: Although 10 CFR 73.56(e) states the procedure may be an impartial and independent internal management review, the review of access decisions for contractors by Director-Nuclear Security could be less objective than review performed for BGE employees.

CORRECTIVE ACTIONS

- ◆ Revised access authorization procedures to clearly capture required elements contained in 10 CFR 73.56(e).
- ◆ Revised policy for review of contractor employee information by removing Director-Nuclear Security from the process. Independent management individual selected to perform review.

POTENTIAL VIOLATIONS

4. Audit requirements for subcontractors providing data to SSU.

Background:

- * 10 CFR 73.56(g)(1) states each licensee shall audit its access authorization program every 24 months. Requirement to audit program contained in quality assurance audit matrix (verified as part of previous NOV corrective action).
- * NUMARC 89-01 provides guidance for auditing "approved" contractor programs. Subcontractor providing raw data to SSU does not have an approved access authorization program - instead is considered an element of Calvert Cliffs' program.

POTENTIAL VIOLATIONS (Continued)

Background: (Continued)

- * Quality assurance audit of access authorization program is performance based and includes a review of data provided by subcontractor, consistent with guidance found in NUMARC 89-01.
- * Past evidence of questionable data submitted by a previously used subcontractor did result in specific audit.

Issue: Although the information provided by the subcontractor was reviewed as part of the audit, the process by which the information was developed was not reviewed.

CORRECTIVE ACTIONS

- ◆ A specific audit of the current subcontractor was conducted by the Vendor Audits Unit in September 1995.
- ◆ To satisfy the biannual access authorization program audit requirement, the subcontractor will be specifically audited every two years.

WEAKNESSES

Lack of Access Authorization Program Requirements for:

1. Documenting review and decisions related to the disposition of derogatory information.

Corrective Action: Revised access authorization procedures to clearly define the level of documentation required.

2. Documenting SSU Supervisor's review of access authorization decision.

Corrective Action: Revised procedure to state SSU supervisor or designated alternate must review and sign for each decision.

WEAKNESSES (Continued)

3. Positively identifying candidates who take the MMPI test.

Corrective Action: Revised procedures to ensure candidates produce positive identification prior to taking the test.

4. Identifying individuals who have been absent from Continual Behavioral Observation (CBO) for an extended period of time while badge remains active.

Corrective Action: Changed access software to prevent individuals from accessing the protected area if they have not used their badge for access within the past 60 days. CBO verification required before access is granted.

WEAKNESSES (Continued)

5. Ensuring group other than SSU develops scope and selects records for approved contractor program audits.

Corrective Action: Vendor Audits Unit is now responsible for conducting audits, including development of scope and depth. Security Personnel may act as technical specialists on audit team.

SUMMARY

- Specific potential violations and weaknesses recognized. Opportunities for improvement clearly recognized
- Strong senior management focus on ensuring expectations for conservative judgment are understood and requirements stated in access authorization regulations are effectively implemented
- No impact on public health/safety
- **BGE believes there was no willful violation of regulatory requirements or responsibilities**
- Overall Access Authorization Program is sound and meets objective of regulations
 - Independent review by Region II access supervisor
 - Assessment of corrective actions by independent internal assessment organization