



Carolina Power & Light Company
PO Box 1551
Raleigh NC 27602

C.S. Hinnant
Senior Vice President and
Chief Nuclear Officer

Serial: PE&RAS-99-101
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U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

SHEARON HARRIS NUCLEAR POWER PLANT
DOCKET NO. 50-400/LICENSE NO. NPF-63

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
DOCKET NO. 50-261/LICENSE NO. DPR-23

REPLY TO A NOTICE OF VIOLATION

Ladies and Gentlemen:

The attachment to this letter provides Carolina Power & Light (CP&L) Company's reply to the Notice of Violation (EA 99-272 and EA-99-273) for the Shearon Harris Nuclear Power Plant (SHNPP) and H.B. Robinson Steam Electric Plant, (HBRSEP) Unit No. 2, transmitted by Nuclear Regulatory Commission (NRC) letter dated November 23, 1999. The violation involves the failure to comply with the requirements of 10 CFR 73 and the provisions of the SHNPP and HBRSEP, Unit No. 2, Physical Security Plans related to the Access Authorization (AA) Program. The NRC letter requested that CP&L address the Corporate aspects of the violation. CP&L has implemented applicable corrective actions at the Corporate level as well as at its three nuclear sites.

In accordance with the Notice of Violation, the attachment includes: (1) the reason for the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

Please refer any questions regarding this submittal to John Caves at (919) 546-4579.

Sincerely,

Attachment

- c: L. A. Reyes, Regional Administrator - Region II
J. B. Brady, USNRC Senior Resident Inspector - SHNPP, Unit No. 1
R. J. Laufer, NRR Project Manager - SHNPP, Unit No. 1
USNRC Resident Inspector - HBRSEP, Unit No. 2
R. Subbaratnam, NRR Project Manager - HBRSEP, Unit No. 2
J. A. Sanford - North Carolina Utilities Commission
T. A. Easlick, USNRC Senior Resident Inspector - BSEP, Unit Nos. 1 and 2
D.C. Trimble, Jr., NRR Project Manager - BSEP, Unit Nos. 1 and 2

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ATTACHMENT TO PE&RAS 99-101

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REPLY TO A NOTICE OF VIOLATION

RESTATEMENT OF VIOLATION:

10 CFR 73.56 requires the licensee to establish and maintain an access authorization (AA) program that complies with the performance objectives in 73.56(b)(1) through (3) and (h)(1). These objectives include, in part, granting of unescorted access to protected and vital areas to individuals 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; that the licensee base its decision to grant, deny, revoke, or continue an unescorted AA on review and evaluation of all pertinent information developed; and the retention of the records on which the authorization is based for the duration of the unescorted AA and for a five-year period following its termination.

10 CFR 73.71(c) requires each licensee to maintain a current log and to record the safeguards events described in paragraphs II(a) and (b) of Appendix G of Part 73 within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization.

10 CFR 50.9(a) requires, in part, that information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

Facility Operating Licenses for the Harris and Robinson facilities (i.e., 50-400, NPF-63, Amendment 84, dated December 31, 1998, and 50-261, DPR-23, Amendment 15, dated October 21, 1998), require the licensee to fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans.

The Harris Physical Security Plan (PSP), Revision 0, dated March 15, 1996, Paragraph 2.0, and the Robinson PSP, Revision 0, dated July 17, 1998, Paragraph 2.0 require the licensee to establish procedures to provide detailed information to the security force for implementation of the plan including, all elements of

Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants".

Carolina Power & Light Company's (CP&L) Procedure SEC-NGGC-2101, "Nuclear Worker Screening Program for Unescorted Access," Paragraph 1.0, Revision 10, dated July 2, 1998, requires the licensee to implement an unescorted AA program which satisfies the requirements of 10 CFR 73.56.

CP&L's Procedure SEC-NGGC-2101, "Nuclear Worker Screening Program for Unescorted Access," Paragraph 9.3, Revision 10, dated July 2, 1998, requires CP&L to make a best effort to obtain required information and to document such attempts to address the applicant's employment history, education history, credit history, criminal history, military service, motor vehicle history, and character and reputation using the criteria set forth in the procedure.

Robinson Nuclear Plant, Security Procedure-16, Notification of Significant Events, Revision 22, Paragraph 5.2.2, and Harris Nuclear Plant, Security Procedure-17, Reporting of Safeguards and Fitness for Duty Events, Revision 9, dated September 22, 1997, Paragraph 6.0, state a partial failure of an otherwise satisfactory access control program in which malevolent intent is not established may be logged rather than reported if properly compensated or mitigated.

Contrary to the above, the licensee failed to comply with the regulations in 10 CFR Part 73 and the provisions of the Harris and Robinson PSPs related to the Access Authorization (AA) Program in four examples. Example A also resulted in the failure to comply with 10 CFR 50.9.

- A. The licensee willfully failed to review and evaluate background information for three individuals, one at Harris and two at Robinson, prior to granting temporary access authorization to the individuals on January 27, 28, and 29, 1999. Nevertheless, the background investigation reports for these individuals were drafted to indicate that prior employment had been verified when it had not. Accurate background information including prior employment history information is material in that confirmation of prior employment is necessary to determine that individuals have the requisite trustworthiness and reliability for gaining unescorted access to protected and vital areas of the plant.
- B. During the period January 29 through February 5, 1999, the licensee failed to discontinue the temporary unescorted AA for three individuals, one at Harris and two at Robinson, even though information had been obtained on January 29, 1999, which indicated that the background investigations, upon which access was partially based, were inaccurate and/or incomplete.

- C. The licensee failed to maintain original data upon which the licensee granted unescorted access authorization to three individuals, one at Harris and two at Robinson, for a period of five years as required by 10 CFR 73.56(h)(1). Specifically, on February 3, 1999, the licensee destroyed three Unescorted Access Authorization Certification Letters at the CP&L corporate office which had documented the certification of unescorted access authorization for two individuals at Robinson and one at Harris.

- D. The licensee failed to appropriately resolve and document safeguards events in the security event logs in accordance with 10 CFR 73.71(c) within 24 hours of discovery. Specifically, on January 29, 1999, the licensee became aware of incomplete background investigations for individuals who had been granted temporary AA; however, the licensee did not log the event at the Robinson plant until February 8, 1999, and did not log the event at the Harris plant until February 9, 1999. Both periods exceeded 24 hours (01014).

This is a Severity Level IV violation for the Robinson facility (Supplement III).
This is a violation associated with a Green issue for the Harris facility.

RESPONSE TO VIOLATION :

Background

The attached organization Figure reflects the primary individuals and groups associated with this violation. The Corporate Access Authorization (CAA) organization consists of staff in the Corporate Office and Plant Access Authorization (PAA) at each nuclear plant. The CAA unit is responsible for Background Investigations (BIs) and certifying individuals for unescorted access to a Protected Area. The PAA units are responsible for obtaining information from unescorted access applicants and for badging individuals for unescorted access.

On January 29, 1999, Corporate Security discovered evidence indicating that a verification of employment history had not been performed by a CAA employee as documented in a completed BI file for a worker certified for unescorted access. On February 2, 1999, Corporate Security confirmed that employment verification had not been performed as documented in the BI report for the worker. On February 3, 1999, background discrepancies were identified in four other BI files containing elements completed by the employee. Two of the files had been certified for unescorted access to a plant protected area, while the other two were still in the certification process. On the same day, a member of CAA management destroyed three certification letters for unescorted access associated with the discrepant BI documentation, because he believed that this action would preclude access by workers until the issue could be resolved. On February 4, 1999, one worker was inappropriately badged for unescorted access at H. B.

Robinson Steam Electric Plant (HBRSEP), Unit No. 2. The worker did not enter the Protected Area. On February 5, 1999, unescorted access was suspended for the badged employee until a second BI was completed. On February 8, 1999, the HBRSEP, Unit No. 2 security organization was notified of the event and the event was logged in the Safeguards Event Log (SEL). On February 9, 1999, the Shearon Harris Nuclear Power Plant (SHNPP), Unit No. 1 security organization was notified of the event and the event was logged in the SEL.

Admission or Denial of Violation:

CP&L acknowledges that violations of the requirements occurred.

Reason for the Violation:

The event cited was caused by failure of Corporate Security and CAA management to practice and enforce fundamental management principles necessary to manage change, enforce procedure adherence, and provide oversight of the CAA program.

Example A

The individual involved with performing the Background Investigations (BI) on the three employees, when confronted by contradictory evidence regarding documentation of investigations performed, admitted wrong-doing in an interview. After implementing recent changes in the CAA program, management oversight of the employee's activities was inadequate to reduce the risks associated with falsification of records. Five Information Notices have been issued by the NRC since 1983 regarding falsified pre-employment screening records, training records, and plant records. Effective response to the industry experience regarding falsified records could have reduced the risk of wrong-doing in the performance of investigations.

Example B

CAA personnel and management failed to initiate and follow through with actions in accordance with the Corrective Action Program (CAP). The Corporate Procedure CAP-NGGC-0001, "Corrective Action Program," requires that a Condition Report (CR) be initiated upon identification of an adverse condition. An adverse condition includes any deficiency, failure, deviation, abnormal occurrence, or nonconformance in an activity which has affected or reasonably could affect nuclear safety or quality or compliance with regulations. Although the first discrepancy in a BI was discovered on January 29, 1999, the CR was not documented by CAA in the CAP until February 4, 1999. As a result, an opportunity to identify and determine in a timely manner reportability requirements and to take prompt compensatory actions was lost. The CAP procedure states the responsibility of managers and supervisors to identify conditions that are potentially reportable, and requires that Regulatory Affairs personnel evaluate reportability of conditions. The Corporate CAP procedure requires that managers and supervisors foster a work environment that encourages timely reporting of potential problems. The failure

to document the condition in a CR in a timely fashion indicates inadequate management oversight of the application of the CAP to the CAA Program.

Example C

The destruction of records was a violation of Corporate security procedure SEC-NGGC-2101, "Nuclear Worker Screening Program for Unescorted Access," governing records generated as a result of CAA activities. The management individual involved took action contrary to the procedural requirement to retain records for a minimum of five years. These actions taken by CAA management indicate a weakness in the CAA management oversight of procedural compliance within the organization.

Example D

In addition to failing to document the condition in a CR in a timely fashion as discussed in the reason for Example B, CAA management failed to follow through with requirements of procedure SEC-NGGC-2101 to identify potential reportability of the event and notify the plants for determination of reportability. The HBRSEP, Unit No. 2 security organization was not informed by CAA that an individual was certified for unescorted access at the plant on the basis of falsified information until February 8, 1999, while the SHNPP, Unit 1 security organization was not notified until February 9, 1999. Ineffective communications within CAA and from CAA to PAA led to the failure to log the event in the SELs in accordance with requirements, and indicates a lack of CAA management oversight of issues of regulatory significance.

Corrective Actions Which Have Been Taken and Results Achieved:

The access authorizations for workers whose certifications for unescorted access were suspect were suspended on February 5, 1999. This action ensured that no one whose certifications were suspended could enter the protected area. The BIs were subsequently re-performed and the affected workers' authorization for unescorted access re-certified by February 5, 1999. A late entry was made in the SEL for HBRSEP, Unit 2 on February 8, 1999, and for SHNPP, Unit No. 1 on February 9, 1999. Appropriate disciplinary action was taken against certain personnel. A copy of one of the destroyed certifications for unescorted access was found, marked void, and placed in the file. A missing document statement was placed in the file for each of the other two certifications that were destroyed.

The Senior Vice President and Corporate Secretary - Legal and Risk Management Group communicated expectations to the CAA personnel regarding change management, conservative decision making, procedural compliance, open and direct communications, self assessment, effective use of the Corrective Action Program, use of self-checking techniques, teamwork, and a self-critical culture.

The Performance Evaluation Support (PES) Unit is the organization responsible for independent assessment of the corporate nuclear support organizations, including CAA.

PES increased its assessment of the CAA organization as a result of events cited in this violation.

Corrective Actions Which Will Be Taken to Avoid Further Violations:

The Senior Vice President and Corporate Secretary - Legal and Risk Management Group provided counseling and coaching to the Manager - Corporate Security on adherence to procedures, compliance with regulatory standards, conservative decision-making, communications, and management accountability for the performance of Access Authorization. The Senior Vice President and Chief Nuclear Officer - Nuclear Generation Group and Senior Vice President and Corporate Secretary - Legal and Risk Management Group jointly counseled Corporate security representatives and plant security Superintendents about the need for greater communication and cooperation.

The Senior Vice President and Chief Nuclear Officer - Nuclear Generation Group and Senior Vice President and Corporate Secretary - Legal and Risk Management Group jointly defined and published expectations for CAA activities in an inter-organizational agreement. This agreement requires that CAA notify the plant security organizations of any event which potentially affects a certification for unescorted access of a worker. The notification is required to occur immediately if the event involves activities, derogatory information, falsification, or other information, which, if known at the time of access certification, would have resulted in a denial of unescorted access.

Corporate Procedure SEC-NGGC-2101 was revised to require immediate notification to site security organizations upon discovery of incomplete pre-employment screening records of individuals granted unescorted access.

The Manager, Corporate Security has implemented and will continue active oversight of Access Authorization activities, effective communication, change management, procedure compliance, and use of the Corrective Action Program. These responsibilities also include periodic monitoring of Access Authorization and its performance indicators.

The corrective actions described above to avoid further violations apply to CAA activities in the Corporate office as well as to PAA at the three CP&L nuclear facilities.

Date When Full Compliance Was Achieved:

Personnel whose certifications for unescorted access were suspect were suspended from unescorted access to the Protected Area on February 5, 1999. SEL entries were made at HBRSEP, Unit No. 2 on February 8, 1999, and at SHNPP, Unit No. 1 on February 9, 1999. Full compliance was achieved when missing documentation notations were placed in the affected BI files on March 18, 1999.

Overview of Reporting Relationships

