



Union of Concerned Scientists

December 12, 2000

Mr. William R. Borchardt, Director
Office of Enforcement
United States Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: ADDITIONAL QUESTIONS ABOUT ENFORCEMENT UNDER
 THE REVISED REACTOR OVERSIGHT PROGRAM**

Dear Mr. Borchardt:

By letter dated November 30, 2000, I asked several questions regarding recent enforcement actions and inactions at the D C Cook nuclear power plant. Related matters at facilities other than D C Cook prompt further questions. I hope that these additional questions arrive in time to be consolidated with your response to the initial batch.

It is my understanding that your imposed the harshest sanction it could against the clerk in the D C Cook case because she supplied inaccurate information in her employment application. It had nothing to do with the real or perceived safety significance of her actions — it was because her actions were deliberate. By letter dated November 21, 2000, Mr. H. L. Summer Jr. of the Southern Nuclear Operating Company submitted licensee event report (LER) 2000-S02-0 to the NRC regarding the discovery of two (2) contractors at the Hatch nuclear plant providing false criminal history information. The LER stated that both contractors failed to disclose prior criminal convictions. If the D C Cook clerical case is any precedent, I expect that the NRC will also impact the harshest sanction it can against these two individuals for deliberately providing inaccurate information to an NRC licensee.

NRC Information Notice 2000-18 dated November 29, 2000, describes two (2) cases where Chicago Bullet Proof Systems (CBPS) provided inaccurate information to NRC licensees. Specifically, this NRC information notice states that "CBPS told PSC [Public Service Company Colorado] that the material supplied, Shot-Tex #4, conformed to the UL standard and subsequently provided a Certificate of Compliance" but the material when independently tested was not in conformance with the UL standard. This NRC information notice also states that "CBPS provided PP&L [Pennsylvania Power & Light Company] a Certificate of Compliance certifying that the gun port material conformed with UL Standard 752, Level 4" but the material when independently tested was not in conformance with the UL standard. PSC and PP&L intended to use the material supplied by CBPS for security measures at the Fort St. Vrain and Susquehanna power reactor sites.

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If the D C Cook non-clerical cases are any precedents, I expect that the NRC will impose no sanctions, or the lightest possible sanctions, against Chicago Bullet Proof Systems and its employees. The information notices states the "NRC staff found that although CBPS was responsible for material certification and verification at the Metaltek facility, CBPS did not adequately perform material quality and chemical verification activities." In other words, CBPS did not lie to PSC and PP&L in the Certificate of Compliances because their performance was incompetent. They did not know the material was substandard. Had CBPS's performance been competent, they would have known the material was substandard. Their ineptness apparently prevented them from lying to PSC and PP&L when they said the material conformed to the UL standard when it, in fact, did not.

The NRC's enforcement policy rewards incompetence by eliminating or reducing sanctions when violations are caused by stupidity or sheer incompetence. Thus, the NRC takes little enforcement action when companies like CBPS actually provide substandard material to nuclear power plants but takes overwhelming enforcement action when lower level workers actually provide substandard information on employment applications. For some reason, the NRC views a deliberate act with absolutely no safety significance as being much, much worse than a inept act with potentially great safety significance.

My questions:

1. Will the NRC take any enforcement action for the two individuals discussed in Hatch LER 2000-S02-0? If so, what enforcement action? If not, what differentiates their acts from that purportedly performed by the D C Cook clerk?
2. Will the NRC take any enforcement action against Chicago Bullet Proof Systems or any of its employees? If so, what enforcement action? If not, why not?
3. Does the NRC enforcement policy really impose enforcement actions commensurate with the safety significance of the violations? If so, please explain because I see absolutely no evidence of it. If not, a simple 'no' will suffice.

If you prefer, I would welcome a public meeting to discuss the issues and questions raised in this and my November 30th letter. We are attempting to determine whether the Enforcement Policy or the Significance Determination Process is the weakest element in the revised reactor oversight process.

Sincerely,



David A. Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists