



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

August 30, 2007

IA-07-017

Mr. Andrew Smith
[Home Address Removed
According to 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION (NRC OFFICE OF INVESTIGATIONS REPORT
NO. 2-2006-011)

Dear Mr. Smith:

This letter is in reference to an investigation completed by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) on September 27, 2006, regarding your involvement in the administration of NRC-required annual requalification testing of security officers at Progress Energy/Carolina Power and Light Company's (CPL) Shearon Harris Nuclear Plant (HNP), while you were employed as a contract security supervisor by Securitas Security Services USA, Inc. The results of the investigation, including the identification of an apparent violation of 10 CFR 50.5, Deliberate Misconduct, were forwarded to you by our letter of April 13, 2007.

Our letter also informed you that the NRC was considering escalated enforcement action against you in accordance with the NRC Enforcement Policy, and you were provided an opportunity to either respond in writing to this apparent violation, attend a predecisional enforcement conference, or request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. You did not provide a written response to our April 13, 2007, letter or contact the NRC regarding your desire to attend a predecisional enforcement conference or request ADR.

Based on the information developed during the investigation, the NRC has concluded that your actions in this matter constituted a violation of 10 CFR 50.5(a)(1), "Deliberate Misconduct." The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the above referenced investigation. In summary, the NRC concluded that you deliberately caused HNP to violate 10 CFR 73.55(b)(4)(i), Section II.E. of Appendix B to 10 CFR Part 73, and the Shearon Harris Security Training and Qualification Plan, Revision 9, Section 3.3.1. Specifically, in September 2005, you provided the answer key with tests you handed out during NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test).

During 2005, you also provided answers to security officers while administering NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test) and while administering the NRC required annual re-qualification computer based testing (Plant Access, Radiation Worker and Respiratory Protection Training). As a result, numerous security officers were not tested or qualified as required.

Deliberate violations are a very serious matter to the NRC because the agency relies upon the integrity of NRC licensees, contractors and their employees. Our licensees' examination process is critical in assuring that security officers possess the requisite knowledge to perform their duties. In this case, your actions diminished the Agency's confidence in HNP's examination process. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 Web site at <http://www.nrc.gov/reading-rm/pdr.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. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you disagree with this enforcement sanction you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Mr. Andrew Smith

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If you have any questions or comments concerning this letter, please contact Mr. Joseph Shea of my staff at 404-562-4600.

Sincerely,

/RA/

William D. Travers
Regional Administrator

Enclosures:

1. Notice of Violation
2. Letter to HNP
3. NUREG/BR-0317

CERTIFIED MAIL: P 257 835 892
RETURN RECEIPT REQUESTED

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Mr. Andrew Smith

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OFFICE	EICS:RII	DRS	OE	NSIR	OGC	
SIGNATURE	/RA Sparks for/	/RA/		/RA. M Burrell for via telephone/		
NAME	CEVANS	JSHEA		R. Correia		
DATE	8/24/07	8/30/07		7/22/07		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: C:\FileNet\ML072420315.wpd

NOTICE OF VIOLATION

Mr. Andrew Smith
[HOME ADDRESS REMOVED
PER 10 CFR 2.390]

IA-07-017

During an NRC investigation completed on September 27, 2006, and NRC in-office inspection completed on April 13, 2007, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is set forth below:

10 CFR 73.55(b)(4)(i), states, in part, that each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months.

10 CFR Part 73, Appendix B, Section II.E., states, in part, that security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with NRC-approved licensee training and qualification plan.

Shearon Harris Nuclear Plant Technical Specification 6.8, requires, in part, that the licensee develop and adhere to procedures listed in NRC Regulatory Guide 1.33, including procedures for instructing workers on radiological safety.

Shearon Harris Nuclear Plant, Security Training and Qualification Plan, Revision 0, dated October 18, 2004, Section 3.3.1, states, in part, that an annual written examination shall be administered to armed security officers which samples the knowledge requirements identified in the security training program.

Progress Energy Nuclear Generation Group (Shearon Harris) Standard Procedure TRN-NGGC-0010, Plant Access, Radiation Worker and Respiratory Protection Training, Revision 5, Section 9.5.2, paragraph 6, states in part, Plant Access Re-training (PAR) is required annually with a tolerance of the remainder of the month in which the training was completed. Section 9.5.3, paragraph 5, states in part, Radiation Worker Retraining (RWR) is required annually with a tolerance of the remainder of the month in which the training was completed. Section 9.8.3 states in part, Respiratory Protection Retraining (RPR) is required annually with a tolerance of the remainder of the month in which the training was completed.

10 CFR 50.5(a)(1) states, in part, that any contractor of any licensee, who knowingly provides to any licensee any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Contrary to the above requirements, in 2005, Andrew Smith engaged in deliberate misconduct that caused Progress Energy/Carolina Power and Light Company's Shearon Harris Nuclear Plant (HNP) to violate 10 CFR 73.55(b)(4)(i) and 10 CFR Part 73,

Enclosure 1

Appendix B, Section II.E. Specifically, Mr. Smith, a contract security supervisor employed by Securitas Security Services US, Inc., in September 2005 provided the answer key with tests he handed out during NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test). During 2005, Mr. Smith also provided answers to security officers while administering NRC-required annual written security re-qualification testing (Armed Guard/Responder Crucial Task Test) and while administering the NRC required annual re-qualification computer based testing (Plant Access, Radiation Worker and Respiratory Protection Training). As a result, numerous security officers were not tested or qualified as required.

This is a Severity Level III Violation (Supplement III).

Pursuant to the provisions of 10 CFR 2.201, Mr. Andrew Smith is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region II, 61 Forsyth Street SW, Suite 23T85, Atlanta, GA 30303, and marked "Open by Addressee Only", and a copy to the NRC Resident Inspector at the Harris Nuclear Plant, 5421 Shearon Harris Road, New Hill, NC 27562, with a similar marking, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-07-017" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing 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. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because 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 Web site at <http://www.nrc.gov/reading-rm/pdr.html>, to the extent possible, it 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 or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, 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., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 30TH day of August 2007