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Raytheon Engineers &
Constructors

October 21, 1996

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555

Re: EA 96-137
Raytheon Engineers & Constructors, Inc.

Reply to Notice of Violation

Raytheon Engineers & Constructors, Inc. ("RE&C") replies to the above-referenced Notice of Violation as requested and as follows:

- (I) RE&C contests the conclusion that, contrary to 10 C.F.R. 50.7, it, in March and May, 1994, discriminated against one of its employees, Earl V. Keene for raising concerns at the South Texas Project ("STP") about signing off on electrical work he did not perform, and did so by including Mr. Keene in a March 24, 1994, reduction in force, by giving him a lower performance appraisal rating in March, and by subjecting him to fitness-for-duty testing on May 24, 1994.

RE&C's basis for disputing the Notice of Violation is essentially the same as its basis for challenging the Recommended Decision and Order ("RD&O") of a Department of Labor ALJ concerning the same matter, that is, that such a conclusion of discrimination regarding the allegations raised by Mr. Keene is unreasonable, unwarranted and unsupported by substantial evidence.

As detailed in briefs challenging the RD&O which were filed with the Secretary of Labor in January and April, 1996, we contend there was no discrimination against Mr. Keene and that the Secretary of Labor will agree that :

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Per Jean Lee

(1) the incidents underlying allegations made by Mr. Keene to the DOL in September, 1994, were not raised as concerns by him during his March, 1994, period of employment at STP, the individual who selected Mr. Keene for layoff and evaluated him was not aware of the alleged concerns at the time those actions were taken, and thus retaliation for the alleged concerns could not have been the motive or basis for the challenged employment actions;

(2) Mr. Keene was one of seven (7) electricians laid off in March 1994 as part of an overall reduction in force of eighteen (18) and, consistent with evidence of Mr. Keene's own actions and the actions of others on or about March 24, 1994, Mr. Keene was not confused when he admitted during deposition testimony that, in fact, he was not concerned about nor was he claiming the March 1994 layoff to have been motivated by retaliation for raising concerns; and

(3) For-cause alcohol and drug testing of Mr. Keene in May, 1994, resulted from guidance appropriately sought, received and followed regarding proper application of HL&P's fitness-for-duty policy requirements, and was in no way motivated by retaliatory discrimination.

(II) Corrective Steps

Without conceding any facts or waiving our administrative appeal pending before the Secretary of Labor, we note that the events giving rise to the complaints made by Mr. Keene occurred between March and May, 1994. As stated at the conference, Raytheon did not acquire Ebasco Services, Inc. and, with it, the maintenance contract at STP, until on or about December 20, 1993. Thus, the events referenced in the Keene matter occurred very early in the Raytheon presence at STP, and did so perhaps before our fundamental corporate commitment to doing business in a fair and ethical manner and our expectations regarding individual employee conduct and responsibility had been sufficiently communicated to all levels of our contractor personnel at STP.

We note that the ALJ in the Keene matter concluded that two RE&C employees discriminated against Mr. Keene -- one by selecting him for inclusion in a layoff and downgrading his performance, and the other for sending him to HL&P for alcohol testing when he was a visitor. Neither of these individuals is presently employed by RE&C, its parent or any of its subsidiaries. However, RE&C made sure that every current employee who appeared to have had involvement in the events surrounding Mr. Keene attended one of the meetings in which these events were discussed.

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In addition, after the predecisional enforcement conference, RE&C elected to reinforce the message by having individual meetings with those same personnel to review the issues raised by the RD&O. It should be understood that none of the current RE&C employees at STP were believed by the ALJ to have engaged in any wrongdoing.

However, since becoming a contractor at STP and continuing throughout our presence there, extensive actions have been taken, at various times from 1994 up to the present, which can be characterized as corrective in the context of the incidents and activities alleged to have occurred to Mr. Keene. Such actions include:

- Communication to newly acquired employees at STP of the Raytheon Company corporate Code of Ethics;
- Communication regarding employee access to a Raytheon company-wide 800 number ethics hotline;
- Required viewing of Raytheon corporate Ethics Training video by both non-manual and craft, manual labor at STP;
- Training at STP regarding corporate safety programs and goals.
- Upper level management participation in stand-downs with site personnel designed to provide an open forum for raising concerns about day to day work activities at STP;
- Implementation at STP of RE&C's own Employee Concerns Program, "CSD-0366", which has included:
 - Posting of CSD-0366 in the lunchroom and office area;
 - CSD-0366 made required reading for all managers, superintendents, supervisors, general foreman and foreman;
 - Discussions conducted of CSD-0366 procedure as part of regular safety meetings in April, May and June, 1996;
 - CSD-0366 and the right of personnel to bring forth concerns without fear of retaliation made a topic of review with employees at Human Performance Day in May, 1996;

- CSD-0366 and the importance of employees bringing forth concerns without fear of retaliation stressed at team-building sessions involving HL&P and RE&C managers, supervisors and superintendents in April, 1996;
- Same topics again discussed in a team-building session for RE&C management, supervisors, general foremen and foremen in May, 1996;
- CSD-0366 made part of an orientation for all new and returning employees at STP.
- RE&C personnel assigned to STP are made aware of HL&P's Employee Concerns Program during in processing as part of site access program.
- Posting 10 C.F.R. 50.7 "Employee Protection"
- Posting nuclear safety and quality concerns section from RE&C contract with HL&P
- Posting Smith decision by Secretary of Labor.
- Posting of NRC Notices of Violation to both RE&C and HL&P regarding the Smith and Keene cases.
- Implementation of open door policy to Raytheon site manager at STP.

All of the above have been completed for current on site RE&C employees at STP. Many actions are of a continuing nature and as new employees are processed in, they will be exposed to the Employee Concerns Programs of both RE&C and HL&P as well as Raytheon's Corporate Ethics Program.

Results: The above actions have served, we believe, to increase attention on the need to have and maintain the existence of a work environment in which each and every employee feels free and encouraged to report or discuss concerns without fear of retaliation or harassment. Such actions have had progressively positive impact on improving the environment for reporting concerns at STP since the time of the allegations giving rise to the Keene case.

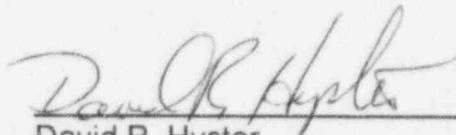
(III) Corrective Actions To Be Taken

Required corrective actions have already been taken.


- As noted above, many of the actions already taken are of a continuing nature, assuring that current employees will be reminded and new employees will be informed of their right and duty to voice concerns and to the maintenance of an environment in which such can be done without fear of retaliation or harassment by anyone.
- We intend to continue to emphasize our and HL&P's Employee Concerns Programs to personnel to insure that newly acquired personnel are familiar with Raytheon's and the South Texas Project's expectations.

(IV) Date of Full Compliance - We believe that RE&C operations at STP are presently and will continue to remain in full compliance with the requirements of 10 C.F.R. 50.7 and of the protections afforded by Section 211 of the Energy Reorganization Act.

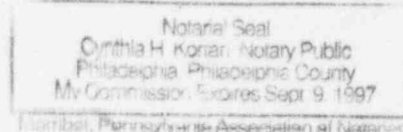
I, **David R. Hyster**, Vice President, Nuclear Services, Raytheon Engineers & Constructors, Inc., swear and affirm that I have read the foregoing Reply to Notice of Violation and that it is true and accurate to the best of my knowledge, information and belief.


David R. Hyster

SUBSCRIBED AND SWORN TO, before me this 21st day of October, 1996.


NOTARY PUBLIC

My Commission Expires:



October 21, 1996

U. S. Nuclear Regulatory Commission

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