

The Commission's regulations regarding physical protection of nuclear plants are set forth in 10 CFR part 73. The regulations require a physical protection system designed to protect against acts of radiological sabotage or theft of special nuclear material based on certain design basis threats. The design basis threats for radiological sabotage defined in 10 CFR part 73.1(a)(1) include "a determined, violent, external assault." The potential threat posed by malevolent use of vehicles as part of a violent external assault and the need to protect against it, were the subject of detailed analysis before the NRC published its regulations on design basis threat. However, the use of a land vehicle bomb was not initially included in the design basis threat for radiological sabotage.

The newspaper article cited by the Petitioner describes two events that occurred in February 1993: a forced vehicle entry into the protected area at Three Mile Island (TMI), Unit 1, and a van bomb which was detonated in a public underground parking garage at the World Trade Center in New York City. As a result of these events, the Commission directed the NRC staff to reevaluate and, if necessary, update the design basis threat for vehicle intrusions and the use of vehicle bombs.

In its subsequent review of the threat environment, the NRC staff concluded that there is no indication of an actual vehicle threat against the domestic commercial nuclear industry (59 FR 38889, August 1, 1994). Nonetheless, in light of the above recent events, the NRC staff concluded that a vehicle intrusion or bomb threat to a nuclear power plant could develop without warning in the future. Therefore, on August 1, 1994, the Commission published in the **Federal Register** (59 FR 38889), a final regulation to amend its physical protection regulation for operating nuclear power reactors. The amendments modified the design basis threat for radiological sabotage to include use of a land vehicle by adversaries for transporting personnel and their hand-carried equipment to the proximity of vital areas and to include a land vehicle bomb (see 10 CFR 73.1(a)(1)(i)(E) and (ii)).

All operating commercial nuclear power plants, including SONGS Units 2 and 3, must comply with the modified design basis threat. This amended rule requires reactor licensees to install vehicle control measures, including vehicle barrier systems, to protect against the malevolent use of a land vehicle by February 29, 1996 (see 10 CFR 73.55(c)(9)). A description of the proposed vehicle control measures for

all operating commercial power reactors was required to be submitted to the Commission by February 28, 1995, for review. The licensee for SONGS submitted its proposed measures on February 24, 1995, and they are currently being reviewed by the NRC staff.

The security program at SONGS has consistently demonstrated superior performance and continues to exceed regulatory requirements. In addition to the normal NRC inspection activities of the SONGS security program, and Operational Safeguards Response Evaluation (OSRE) was conducted with the assistance of members of the U.S. Army Special Forces. One objective of the OSRE is to evaluate the licensee's abilities to respond to an external threat. The OSRE team concluded that SONGS had an excellent contingency response capability.

The Petitioner has failed to provide an adequate basis for asserting that the plant is not defensible. The petitioner cited a newspaper article as basis for his allegation. The article does not provide any information that is new or different than that already considered by the Commission. The staff has concluded that the Petitioner has not raised a significant health or safety issue.

#### IV. Conclusion

The NRC staff has reviewed the basis and justification stated to support the Petitioner's request that the NRC take appropriate actions to cause the shutdown and dismantling of SONGS. This review did not reveal any substantial safety issues that would call into question the continued safe operation of SONGS.

The institution of proceedings in response to a request pursuant to Section 2.206 is appropriate only when substantial health and safety issues have been raised. See *Consolidated Edison Co. of New York* (Indian Point, Units 1, 2, and 3), CLI-75-8, 2 NRC 173, (1975), and *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 923 (1984). This standard has been applied to determine whether any action in response to the Petition is warranted. For the reasons discussed above, no basis exists for taking any action in response to the Petition as no substantial health or safety issues have been raised by the Petition. Accordingly, no action pursuant to Section 2.206 is being taken in this matter.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided by this regulation, the

Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 27th day of April 1995.

For the Nuclear Regulatory Commission.

**William T. Russell,**

*Director, Office of Nuclear Reactor Regulation.*

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[Docket No. 030-31609 License No. 37-28496-01 (Revoked) EA 94-253]

**McCormick, Taylor, And Associates, Inc., Philadelphia, Pennsylvania; Order Imposing A Civil Monetary Penalty**

#### I

McCormick, Taylor and Associates, Inc. (MTA) (Licensee) was the holder of Byproduct Materials License No. 37-28496-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on October 31, 1979. The License was revoked by the Commission on August 13, 1992 for nonpayment of fees. The License authorized MTA to possess and use certain byproduct materials in accordance with the conditions specified therein at its facility in Philadelphia, Pennsylvania.

#### II

An inspection of MTA's activities was conducted on December 2, 1994, at MTA's facility located in Philadelphia, Pennsylvania. The results of the inspection and review of communication (and associated documents) conducted between NRC and MTA between August 13, 1992, and November 19, 1994, indicated that MTA had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon MTA by letter dated February 13, 1995. The Notice states the nature of the violations, the provisions of the NRC requirements that MTA had violated, and the amount of the civil penalty proposed for one of the violations.

MTA responded to the Notice in two letters, both dated March 10, 1995. In its responses, MTA admits the violations as stated in the Notice and requests mitigation of the penalty.

#### III

After consideration of MTA's responses and the statements of fact, explanation, and arguments for