

Public

October 18, 1999

IA 99-050

Mr. Leonard Frye  
[HOME ADDRESS DELETED  
UNDER 10 CFR 2.790]

SUBJECT: CONFIRMATION OF ENFORCEMENT CONFERENCE ARRANGEMENTS  
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-98-018)

Dear Mr. Frye:

This is in reference to an investigation conducted by the Nuclear Regulatory Commission (NRC) Office of Investigations (OI) initiated on August 13, 1998, and NRC inspections conducted at the Allegheny Wireline Services (AWS) facilities in Weston and Charleston, West Virginia, from May 19-21, 1998 and at the Elderton, Pennsylvania facility on July 15, 1998. The purpose of the OI investigation was to determine whether an AWS well logger failed to conduct a radiation safety survey and whether a radiation safety survey record was falsified by the employee. A copy of the investigation synopsis to OI Report No. 2-98-018 and an OI Investigation Factual Summary are included as Enclosures 1 and 2 to this letter, respectively.

Based on the results of the OI investigation, an apparent violation of the NRC's regulation prohibiting deliberate misconduct, 10 CFR 30.10 (Enclosure 4), has been identified and is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, (Enclosure 3). 10 CFR 30.10 prohibits any employee of a licensee from deliberately engaging in activities which cause a licensee to be in violation of any rule, regulation, or order; or any term, condition or limitation of any license or from deliberately submitting to the NRC or a licensee, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. The evidence developed during the OI investigation substantiated that you, acting in your capacity as the Radiation Safety Officer of the Elderton, Pennsylvania facility, intentionally and deliberately failed to provide adequate oversight concerning the performance of radiation surveys and completion radiation survey records. Specifically, under your oversight as Radiation Safety Officer, site surveys were not performed on numerous occasion as required by Condition 21 of AWS's NRC License and on numerous occasions records of surveys were documented without the surveys being performed. Although you were aware of these deficiencies, you did not exercise the responsibility of the RSO, as required, to ensure that these aspects of the radiation safety program were correctly performed. No Notice of Violation is presently being issued for these investigation findings; however, please be advised that the characterization of the apparent violation may change as a result of further NRC review.

On October 14, 1999, you were advised of the completion of the OI investigation and the NRC's intent to conduct a predecisional enforcement conference. The conference will be held on a date to be determined, at NRC's Region II Office located at 61 Forsyth Street, S.W.,

FEO

Suite 23T85, Atlanta, Georgia 30303. This conference will be closed to the public and transcribed. As discussed with you, this conference is predecisional which means the NRC has not made a final determination that violations of NRC requirements occurred or that enforcement action will be taken against you.

The purpose of the conference is to discuss the apparent violation and the circumstances surrounding it, and to give you an opportunity to provide your perspective on this issue and any other information you believe is relevant to the NRC's enforcement determination. You are specifically invited to address the factors that the NRC would consider in determining whether enforcement action should be taken against you. These factors are described in Section VIII, Enforcement Actions Involving Individuals, of the enclosed copy of the Enforcement Policy.

If the NRC concludes that you deliberately caused or committed a violation of NRC requirements, the possible sanctions that may be imposed include a Notice of Violation or an order. An order may prohibit your involvement in NRC-licensed activities, require notice to the NRC before the resumption of involvement in NRC-licensed activities, or require other action. Accordingly, you should be prepared to address why NRC should not issue an order to you prohibiting your involvement in licensed activities.

A tentative agenda for the conference is enclosed. Although not required, you may provide the NRC a written reply to the apparent violation prior to or during the conference. In addition, as discussed with you, you may have an attorney or personal representative of your choice to attend the conference. It should be understood however, that the NRC will address its questions to you. Furthermore, you are not required to attend the conference, but you should understand that if you do not, the NRC will make an enforcement decision on the basis of the information developed during the investigation and inspection.

You will be advised by separate correspondence of the results of our deliberations on this matter. No response regarding this apparent violation is required at this time. Should you have any questions about this letter or the conference, please contact me at 404-562-4700 or Anne Boland, Enforcement Officer, Enforcement and Investigations Coordination Staff, at 404-562-4421.

L. Frye

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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures, with your home address removed, will be placed in the NRC Public Document Room following a final agency determination regarding this matter.

Sincerely,



Douglas M. Collins, Director  
Division of Nuclear Materials Safety

- Enclosures:
1. Synopsis, OI 2-98-018
  2. OI Investigation Factual Summary
  3. NUREG-1600, Rev. 1 (Enforcement Policy)
  4. 10 CFR 30.10
  5. Predecisional Enforcement Conference Agenda

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## SYNOPSIS

On August 13, 1998, the U.S. Nuclear Regulatory Commission, Region II, Office of Investigations initiated this investigation to determine whether an Allegheny Wireline Services, Inc. (AWS) well logger failed to conduct a radiation safety survey and whether a radiation safety survey was falsified by the employee.

Based upon the evidence developed during this investigation, it was substantiated that three well loggers intentionally and deliberately failed to conduct radiation surveys and that radiation survey records were intentionally and deliberately falsified by the employees. The investigation further determined that an AWS employee at Elderton, PA, intentionally and deliberately failed to provide adequate oversight concerning the completion of radiation surveys and radiation survey records.

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~~FIELD OFFICE DIRECTOR, OFFICE OF INVESTIGATIONS, REGION II~~ on 10/14/99

## FACTUAL SUMMARY

The Nuclear Regulatory Commission's (NRC) Region II office conducted an inspection at Allegheny Wireline Services', Inc. (AWS) facilities in Weston and Charleston, West Virginia (WV), from May 19-21, 1998. As a result of the inspection, a Notice of Violation (NOV) was issued concerning numerous failures to implement required aspects of the AWS radiation safety program, including radiation surveys. AWS replied to the NOV on June 30, 1998. In its response, AWS described a corrective action plan that was submitted to all field station radiation supervisors. The corrective action plan served as notification to field radiation supervisors to assure that radiation surveys were being performed and documented as required. On July 15, 1998, an inspection was conducted at AWS, Elderton, Pennsylvania (PA), by NRC's Region I office. During this inspection an AWS Geophysical Logger (logger) was found to have filled out his radiation survey record prior to conducting the required radiation survey. On July 16, 1998, the logger admitted to falsifying the radiation survey and indicated that over the past year, surveys had not been performed by other loggers as well.

On August 13, 1998, the NRC's Region II OI initiated an investigation. The scope of the OI investigation included activities that occurred at AWS's Elderton, PA facility from the date of the issuance of corrective action plan, June 30, 1998, to the date of the NRC Region I inspection, July 15, 1998. Seven individuals were interviewed during the OI investigation.

The evidence indicated that three loggers intentionally and deliberately failed to conduct radiation surveys and intentionally and deliberately falsified radiation survey records. One logger admitted that he recorded false data on the radiation survey form when he had not conducted the well site survey on July 15, 1998, and he indicated that he was aware that this was a violation of NRC regulations. This logger also admitted that he had not performed the radiation surveys from the time of notification of the corrective plan until the July 1998 NRC inspection. Another logger stated that he was aware that he was falsifying a record when he recorded data on the radiation survey form without performing a survey. The third logger admitted that he continued to document inaccurate information on the radiation survey form because he had not actually performed the survey after issuance of the corrective action plan. He also realized that he was providing false information.

Further, the evidence indicated that the Field Radiation Supervisor (Supervisor) who is also the Radiation Safety Officer at the Elderton, PA facility intentionally and deliberately failed to provide adequate oversight concerning the conduct of radiation surveys and the completion of survey forms. The Supervisor was interviewed and indicated that he received the corrective action plan written by the AWS Radiation Safety Officer, following the May 1998 inspection in Weston, WV. The Supervisor acknowledged that it was his responsibility to ensure that survey forms were filled out properly. However, he revealed that he had occasionally received survey forms that had not been completed but never questioned the individual(s) who turned in forms with the well site survey readings left blank. The Supervisor stated that he was cognizant of the requirement to perform surveys, but he did not feel they were important.