



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

November 9, 1999

IA 99-051

Mr. Steve Templeton
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NRC INVESTIGATION REPORT NO. A4-1999-020

Dear Mr. Templeton:

This is in reference to an investigation conducted by the NRC's Office of Investigations (OI) involving your actions on April 16, 1999, while providing health physics coverage for activities related to steam generator nozzle dam installation. The NRC's investigation found that you engaged in deliberate misconduct in two instances: (1) by instructing a decontamination technician to enter an area when you knew he did not have the personal protective equipment required by the radiation work permit (RWP); and (2) by intentionally failing to survey the steam generator platform prior to sending two decontamination technicians to decontaminate the platform. A summary of the facts and circumstances as we understand them is enclosed with this letter.

Based on our review of the investigation report, an apparent violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 50.5, has been identified. This rule prohibits any employee of a licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any rule or regulation. A copy of this rule is enclosed with this letter.

On November 8, 1999, the conclusions of the investigation and a summary of the facts as we understand them were discussed with you. We indicated that the NRC is aware of the disciplinary action taken by your employer, Wolf Creek Nuclear Operating Corporation, as outlined in a Revised Confidential Compromise Settlement Offer dated May 27, 1999. We informed you that since you have already provided your perspective to the NRC's Office of Investigation, a predecisional enforcement conference may not be necessary. Nonetheless, before the NRC makes its enforcement decision, we are providing you an opportunity to either (1) respond to the apparent violation identified in this letter within 30 days of the date of this letter or (2) within 7 days of receipt of this letter request a predecisional enforcement conference. If a conference is held, it will be transcribed.

If you choose to respond in writing, your response should be clearly marked as a "Response to An Apparent Violation in OI Investigation Report A4-1999-020" and should include: (1) the reason for each example of the apparent violation, or, if contested, the basis for disputing the apparent 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. In addition, we ask that you address our concern with respect to the second instance of deliberate misconduct that you disregarded specific instructions from the Health Physics (HP) Outage Supervisor to perform a survey prior to allowing the deconners to decontaminate the steam generator platform. Your response should be submitted under oath or affirmation, and should be sent to the Regional Administrator, NRC Region IV, 611 Ryan

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Plaza Drive, Suite 400, Arlington, Texas 76011, with a copy sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

You are specifically invited to address the factors that the NRC will 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 "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600. In addition, please be advised that the number and characterization of apparent violations may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

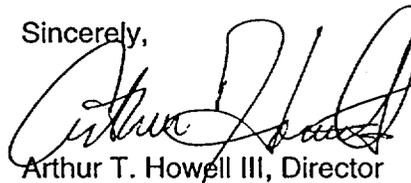
As discussed with you, the NRC has not made a final determination that violations of NRC requirements occurred or that enforcement action will be taken against you.

If the NRC concludes that you deliberately caused or committed a violation of NRC requirements, the possible sanctions include a Notice of Violation, a civil penalty,¹ or an order. An order may prohibit involvement in NRC-licensed activities, require notice to the NRC before resuming involvement in NRC-licensed activities, or require other action.

You will be advised by separate correspondence of the results of our deliberations on this matter. Should you have any questions about this letter, please contact Ms. Gail Good at 817-860-8215 or Mr. Michael Vasquez at 817-860-8121.

The NRC will delay placing a copy of this letter and its enclosure in the NRC Public Document Room (PDR) until an enforcement decision has been made. The NRC will determine the appropriateness of placing these materials in the PDR after an enforcement decision has been made. At that time, in accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, and the enclosure may be placed in the PDR.

Sincerely,



Arthur T. Howell III, Director
Division of Reactor Safety

Docket No. 50-482
License No. NPF-42

Enclosures: As stated

¹ Civil penalties are not normally imposed on unlicensed individuals. See Footnote 10 of the NRC Enforcement Policy.

ENCLOSURE 1

FACTUAL SUMMARY

On April 16, 1999, Mr. Steve Templeton was assigned to provide health physics (HP) support to work related to installation of a steam generator nozzle dam. While helping one crew to suit up, a problem arose with an individual's air line and the individual was provided another air line. However, the individual needed a new communication line and the only spare one was in the steam generator "playpen." Mr. Templeton instructed a deconner to go into the playpen, obtain the communication line, and hook up the individual. Mr. Templeton acknowledged that the deconner noted he did not have a face shield, as required by the radiation work permit (RWP). Mr. Templeton instructed the deconner to go anyway. Mr. Templeton admitted to the NRC's Office of Investigations (OI) that he was aware that by sending the deconner into the area without a face shield, he was causing a violation of the RWP. Mr. Templeton stated that he did this because he believed this was a critical path job and he felt time pressure. When further questioned, Mr. Templeton stated that it would have taken the deconner only about 5 minutes to obtain a face shield. Mr. Templeton also acknowledged that HP technicians (like himself) did not have the authority to downgrade RWP requirements, and that he did not have the authority to instruct the deconner to go into the area without protective equipment required by the RWP. The deconner also provided a signed statement consistent with the above events.

Thus, the first example of an apparent violation of 10 CFR 50.5 occurred when Mr. Templeton instructed a deconner to enter an area despite knowing that the deconner did not have a face shield as required by the RWP. By doing so, Mr. Templeton appears to have engaged in deliberate misconduct which caused the licensee to be in violation of the RWP (which is required by plant Technical Specifications).

On April 16, 1999, after installation of the steam generator nozzle dams, Mr. Templeton planned to have the primary platform decontaminated before a survey was to be performed. However, the HP Outage Supervisor became aware of these plans and telephoned Mr. Templeton. During the call, the HP Outage Supervisor specifically instructed Mr. Templeton to survey the area before allowing the deconners to enter and decontaminate the primary platform. Mr. Templeton informed OI that he got busy and neglected to alter his instructions to the deconners. As he entered the playpen to perform the survey, Mr. Templeton met the deconners coming out of the area. They had just completed decontaminating the platform. Mr. Templeton stated he had no chance to talk to them after speaking with the HP Outage Supervisor. Mr. Templeton stated he had not realized they had gone in to decontaminate the area.

However, in signed statements, two individuals stated they heard Mr. Templeton on the telephone with the HP Outage Supervisor. Their statements indicate that Mr. Templeton had no intention of following the instructions from the HP Outage Supervisor, and that Mr. Templeton instructed the deconners to perform the decontamination when the nozzle dam workers came out of the area. The workers followed Mr. Templeton's instructions by decontaminating the area prior to a survey.

The second example of an apparent violation of 10 CFR 50.5 occurred when Mr. Templeton deliberately failed to perform a survey of the platform prior to sending the deconners to decontaminate the area. By doing so, Mr. Templeton may have engaged in deliberate misconduct which caused the licensee to be in violation of 10 CFR 20.1501.

ENCLOSURE 2

50.5 Deliberate misconduct.

(a) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, 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, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause 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, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

[56 FR 40690, Aug. 15, 1991]