



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

April 21, 2000

EA 00-042

S. K. Gambhir, Division Manager
Nuclear Operations
Omaha Public Power District
Fort Calhoun Station FC-2-4 Adm.
P.O. Box 399
Hwy. 75 - North of Fort Calhoun
Fort Calhoun, Nebraska 68023-0399

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT A4-99-060)

Dear Mr. Gambhir:

The enclosed Notice of Violation is based on the results of an investigation to determine the circumstances surrounding an apparent violation of 10 CFR 50.70(b)(4), which prohibits announcing the arrival or presence of an NRC inspector. The NRC's conclusions in this matter were discussed with Omaha Public Power District (OPPD) officials during a telephonic exit interview conducted March 7, 2000.

The investigation was conducted by the NRC's Office of Investigations and included a review of your investigation of the same matter. Specifically, during an NRC inspection being conducted on October 20, 1999, at Fort Calhoun Station, a plant radiation protection technician used the Radiation Protection radio system to announce the fact that an NRC inspector, who had checked in at the entrance to the radiologically controlled area, was about to enter the containment building at the plant. NRC regulations specifically prohibit communicating the arrival or presence of an NRC inspector who has been properly authorized facility access.

OPPD investigated this matter and concluded that the technician, who had repeatedly been exposed to this requirement in OPPD's General Employee Training, should have known and avoided this inappropriate behavior. Your report also stated that the individual did not associate his behavior with a violation of the NRC requirement, but did not explicitly state whether OPPD believed the technician's behavior was willful.

The NRC believes the technician's behavior was willful, i.e., either he intentionally violated the requirement, or he demonstrated careless disregard for whether his behavior conformed to the requirement. The NRC's view is based on: 1) the fact that announcing the arrival or presence of NRC inspectors is specifically covered during General Employee Training as an example of willful misconduct; 2) the fact that the technician had been exposed to this training repeatedly and had completed it successfully; and 3) the fact that the technician walked away from the NRC inspector and into another room before he used his radio to alert other radiation protection personnel about the inspector's presence.

Based on our review of all of the evidence in this case, we conclude that a violation occurred, that it was willful, and that it should be formalized in the enclosed Notice of Violation. The violation has been classified at Severity Level IV, in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy) NUREG-1600. The basis for issuing a Notice of Violation rather than treating this as a Non-Cited Violation is that it was willful and identified by the NRC.

Your investigation report discussed a number of corrective actions taken in response to this incident. These actions included disciplinary action against the involved technician; discussions between supervisors and their personnel of this incident and management expectations; an informal survey of OPPD and contract personnel which verified they understood the requirement; plans to emphasize training on 10 CFR 50.70(b)4 and management expectations during general employee training; and plans to perform a 6-month effectiveness review to assure the effectiveness of corrective actions.

The NRC has concluded that information regarding the reason for the violation, and the corrective actions taken and planned to correct the violation and prevent recurrence is adequately addressed above. Therefore, you are not required to respond to the enclosed Notice of Violation unless the description above does not accurately reflect your corrective actions or your position on this matter. However, the NRC does request that you provide us the results of your 6-month effectiveness review when available. If you elect to dispute this violation, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice of Violation.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and any response you choose to submit will be placed in the NRC Public Document Room.

Sincerely,

/RA/

Arthur T. Howell III
Director, Division of Reactor Safety

Docket No. 50-285
License No. DPR-40

Enclosure: Notice of Violation

Omaha Public Power District

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cc w/Enclosure:

Mark T. Frans, Manager
Nuclear Licensing
Omaha Public Power District
Fort Calhoun Station FC-2-4 Adm.
P.O. Box 399
Hwy. 75 - North of Fort Calhoun
Fort Calhoun, Nebraska 68023-0399

James W. Chase, Division Manager
Nuclear Assessments
Fort Calhoun Station
P.O. Box 399
Fort Calhoun, Nebraska 68023

J. M. Solymossy, Manager - Fort Calhoun Station
Omaha Public Power District
Fort Calhoun Station FC-1-1 Plant
P.O. Box 399
Hwy. 75 - North of Fort Calhoun
Fort Calhoun, Nebraska 68023

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Winston & Strawn
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Washington, D.C. 20005-3502

Chairman
Washington County Board of Supervisors
Washington County Courthouse
P.O. Box 466
Blair, Nebraska 68008

Cheryl K. Rogers, Program Manager
Nebraska Health and Human Services System
Division of Public Health Assurance
Consumer Services Section
301 Centennial Mall, South
P.O. Box 95007
Lincoln, Nebraska 68509-5007

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NOTICE OF VIOLATION

Omaha Public Power District
Fort Calhoun Station

Docket No. 50-285
License No. DPR-40
EA 00-042

During an NRC investigation completed February 8, 2000, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.70(b)(4), states, in part, that the licensee shall ensure that the arrival and presence of an NRC inspector is not announced or otherwise communicated by its employees or contractors to other persons at the facility, unless specifically requested by the NRC inspector.

Contrary to the above, on October 20, 1999, the licensee failed to ensure that the arrival and presence of an NRC inspector was not announced by its employees to other persons at the facility. Specifically, at approximately 3:15 a.m. on that date, a radiation protection technician used the Radiation Protection radio system to announce that an NRC inspector was about to enter the containment building at the Fort Calhoun Station, and the technician was not specifically requested to do so by the inspector.

This is a Severity Level IV violation (Supplement VII).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is adequately addressed in the letter transmitting this Notice of Violation. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and a copy to the NRC Resident Inspector at the Fort Calhoun Station within 30 days of the date of the letter transmitting this Notice of Violation.

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.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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 2.790(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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 21st day of April 2000