



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

February 21, 2002

EA-01-304

Mr. C. L. Terry
TXU Electric
Senior Vice President & Principal Nuclear Officer
ATTN: Regulatory Affairs Department
P.O. Box 1002
Glen Rose, Texas 76043

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2 - FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND NOTICE OF VIOLATION FOR NRC INSPECTION REPORT NO. 50-445/01-07; 50-446/01-07

Dear Mr. Terry:

The purpose of this letter is to provide you with the final results of our significance determination of the preliminary White finding identified in the subject inspection report. The inspection finding was assessed using the public radiation safety significance determination process (SDP) and was preliminarily characterized as White, an issue with low to moderate importance to safety which may require additional NRC inspection. This White finding involved 11 examples in which radiological surveys to detect radioactivity required by Technical Specification procedures were not adequate. Specifically, each of these 11 examples involved items containing low levels of contamination, which were released from radiologically controlled areas (RCAs) at your Comanche Peak Steam Electric Station.

At your request, a regulatory conference was held on January 23, 2002, to discuss further your views on this issue. During the meeting, your staff described TXU's assessment of the significance of the findings. Specifically, your presentation included the following points:

- (1) You agreed that a violation of Comanche Peak's Technical Specification requirements had occurred in that items with detectable activity were released from the RCAs.
- (2) You stated that the exposure associated with each item was a very small fraction of the public dose limit, and, as such, there was no credible impact on safety. Therefore, you asserted that the violation should be considered minor, and, in accordance with NRC Inspection Manual 0610*, not documented (and not processed through the SDP).

- (3) You stated that none of the material was released from the site boundary (outside of which is an unrestricted area as defined in your Offsite Dose Calculation Manual) and, thus, it was unlikely that a member of the public would have received a radiation exposure from these items.
- (4) You stated that if the protected area boundary, because of the radiation portal monitors at the security egress points, was conservatively used as defining the unrestricted area for the purposes of the SDP, then only three of the events should be counted in arriving at the significance determination. Therefore, even if these examples were considered to be more than minor, three examples is less than the greater than five threshold specified in the SDP for a white finding.

After careful consideration of each of your comments, we concluded that the 11 examples did have a credible potential to impact safety. While the individual examples did not pose a significant radiological hazard, they revealed a potentially unmonitored pathway for radioactive material to be released from the facility. Specifically, once these contaminated items were released from the RCA, there were no proceduralized survey controls in place to prevent a release of these items to an unrestricted area, which could potentially expose members of the public to radiation. In addition, unconditionally releasing these items from the RCAs to other areas of the plant had the potential to impact safety by posing a potential for unintended and unnecessary radiation exposure to site workers. Therefore, we determined that all 11 examples were more than minor and subject to treatment under the SDP as "events."

The Radioactive Material Control Program portion of the Public Radiation Safety Significance Determination Process "... assesses the licensee's ability to prevent the inadvertent release of licensed radioactive material to an unrestricted area that can cause a radiation dose to members of the public." In assessing your ability to prevent the inadvertent release of licensed radioactive material to an unrestricted area, we noted the following:

- (1) Your Offsite Dose Calculation Manual states that an unrestricted area means any area beyond the site boundary. As discussed during the regulatory conference, with the exception of the gamma sensitive radiation portal monitors located at the security egress points and the radiation survey point at Warehouse C, no other fixed radiation survey points exist outside the RCA boundaries to ensure that radioactive material is not inadvertently released to an unrestricted area. Therefore, a potential to release material inadvertently from the protected area exists when material is not passed through the security egress radiation portal monitors (e.g., items removed from the protected area in a vehicle or items too big to be carried through the radiation portal monitor).
- (2) Because there are no controls in place to ensure that items bypassing the radiation portal monitors at the security egress points are surveyed prior to removal from the protected area, we have concluded that any RCA boundary (for the purposes of the Public Radiation Safety Significance Determination Process) is the restricted area boundary. This conclusion is consistent with your program and procedural requirements that were in place at the time of the inspection as they define a threshold of no-detectable activity to be released from the RCAs. Therefore, as discussed above, with respect to your contention that only the

3 examples, which were released to the owner controlled area be counted, we concluded that all 11 examples released from a RCA be counted.

As discussed above, we recognize that the 11 events involved items that did not pose a significant radiological hazard. However, as discussed above, the NRC's Public Radiation Safety Significance Determination Process considers the extent to which you have formal and systematic controls in place to prevent radioactive material from entering the public domain. Thus, public confidence in your program to control radioactive material is an implicit feature of this process. This aspect was recognized by both the industry and the NRC during the development of the Public Radiation Safety Significance Determination Process. Accordingly, it was the intent of this SDP to capture as "events" examples such as the ones which are the subject of this case even though the potential for public exposure from these items represented a very small fraction of the public dose limit.

Therefore, after carefully considering the information developed during the inspection, and the information you provided at the conference, the NRC has concluded that the inspection finding is appropriately characterized as White, an issue with low to moderate importance to safety which may require additional NRC inspection.

You have 10 business days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

The NRC has also determined that allowing items with detectable activity out of the RCA constituted a violation of Technical Specification 5.4.1.a., as cited in the attached Notice of Violation (Notice). The circumstances surrounding the violation are described in detail in the subject inspection report. The enclosed Notice describes only nine examples of the violation of Technical Specification 5.4.1.a because two of the 11 examples were already documented as non-cited violations in previous NRC inspection reports. In accordance with the NRC Enforcement Policy, NUREG-1600, the Notice of Violation is considered escalated enforcement action because it is associated with a White finding.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

Because plant performance for this issue has been determined to be in the regulatory response column, we will use the NRC Action Matrix in NRC Inspection Manual Chapter 0305 to determine the most appropriate NRC response for this event. We will notify you, by separate correspondence, of that determination.

TXU Electric

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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 enclosure will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Ellis W. Merschoff
Regional Administrator

Docket Nos: 50-445, 50-446
License Nos: NPF-87, NPF-89

Enclosure: Notice of Violation

cc w/Enclosure:
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NOTICE OF VIOLATION

TXU Electric
Comanche Peak Steam Electric Station

Docket No. 50-445/446
License No. NPF-87/89
EA-01-304

During an NRC inspection conducted between October 29 - November 8, 2001, 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:

Technical Specification 5.4.1.a states, in part, that written procedures shall be established, implemented, and maintained covering the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, February 1978, Appendix A.

Regulatory Guide 1.33, Appendix A, Section 7.e.(4), recommends procedures for contamination control.

Section 4.2.1 of Procedure RPI-213, "Survey and Release of Material and Personnel," Revision 8, states, in part, that the criteria for unconditional release from a Radiologically Controlled Area is no detectable activity.

Contrary to the above, between January 24, 2000, and April 11, 2001, the licensee identified and documented nine instances in which items containing detectable activity were unconditionally released from a radiologically controlled area. Each of these instances was documented on a SMART form (SMF) and is referenced in NRC Inspection Report 50-445/01-07; 50-446/01-07, Section 40A2c.

This violation is associated with a White significance determination process finding.

Pursuant to the provisions of 10 CFR 2.201, TXU Electric is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region IV, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice of Violation (Notice), within 30 days of the date of the letter transmitting this Notice. This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (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. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). 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 are required to post this Notice within two working days.

Dated this 21st day of February 2002