



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
801 WARRENVILLE ROAD  
LISLE, ILLINOIS 60532-4351

NOT RECORDED  
12/31/03  
100-472-1073-1021

December 30, 2003

IA-03-024

[REDACTED]

ex AL

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2002-004

[REDACTED]

ex AL

This refers to an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) into an apparent violation of the NRC required fitness for duty (FFD) program at the Kewaunee Nuclear Plant. The Nuclear Management Company (NMC), the operator of the Kewaunee Nuclear Plant, also investigated this matter. A summary of the OI investigation was provided to you on June 10, 2003, and a predecisional enforcement conference (PEC) was held with you on August 5, 2003.

Based on information developed by the NMC and OI investigations, information provided by NMC during a PEC on July 16, 2003, information contained in an August 29, 2003, letter from NMC, and information you provided during the August 5, 2003, PEC, the NRC has concluded that a violation of NRC requirements occurred. In summary, around July or August 2001, two D&Z employees told you, a D&Z supervisor, that they refused to work with a third D&Z employee because they believed the employee was "a drunk." Subsequently, you detected an odor that you believed may have been alcohol on the employee. You had received FFD training as a part of general employee training for unescorted access to the Kewaunee Nuclear Plant. As a result, you believed that you were required to observe the employee for signs of impairment. Because you observed the employee and did not detect any sign of impairment, you did not pursue the matter. You did not ask the employee if he had been drinking, did not report the matter to security, and did not send the employee to for-cause FFD testing. Representatives of NMC at the PEC on July 16, 2003, stated that the licensee's FFD program required you to order for-cause FFD testing of the D&Z employee after you had detected what you believed to be the possible odor of alcohol on the employee. In view of your training, your knowledge that the employee was a heavy drinker and was reputed to have a drinking problem, and your having detected what you believed was the possible odor of alcohol on the employee, your failure to send the employee to for-cause FFD testing is considered a willful violation in careless disregard of the FFD program of the Kewaunee Nuclear Plant. Since this was not considered a deliberate violation, the NRC has decided not to take enforcement action against you in this case. Notwithstanding this decision, the NRC determined that your actions caused NMC to be in violation of the NRC approved FFD program at the Kewaunee Nuclear Plant. Enclosed is a copy of the Notice of Violation issued to NMC.

... was deleted  
in accordance with the Freedom of Information  
Act, exemptions 7C  
FOIA- 2006-113

D-24

As described in our letter of June 10, 2003, a potential violation of 10 CFR 50.9, "Completeness and Accuracy of Information," associated with the FFD issue, was originally considered for enforcement action. Subsequent to that letter, NMC interviewed several witnesses and presented the results of the interviews at the PEC on July 16, 2003. Following, the PEC, NMC conducted additional interviews and submitted the results to the NRC with its August 29, 2003, letter. Because the facts of the matter cannot be sufficiently determined, the NRC staff has decided not to pursue enforcement action for this matter.

Please feel free to contact James R. Creed, Security Team Leader, NRC Region III office, if you have any questions. Mr. Creed can be reached at telephone number (630) 829-9500.

You are not required to respond to this letter. However, if you choose to provide a response, please mark it as "Response to IA-03-024" and provide it to the Regional Administrator, with a copy to the Enforcement Officer, U. S. Nuclear Regulatory Commission, Region III, 801 Warrenville Road, Lisle, IL 60532-4351 within 30 days of the date of this letter. If you choose to respond, your response should not include any personal privacy, proprietary, or safeguards information. 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).

Normally documents compiled for enforcement purposes are placed in the NRC Public Electronic Reading Room link at <http://www.nrc.gov/reading-rm/adams.html>. Since the NRC is not taking enforcement action against you in this case, a copy of this letter, or a copy of your response if you choose to reply, will not be placed in the electronic reading link. However, all final NRC documents, including the final NRC report, are official agency records and may be made available to the public under the Freedom of Information Act (FOIA), subject to a redaction of information in accordance with the FOIA.

Sincerely,



Cynthia D. Pederson, Director  
Division of Reactor Safety

Docket No. 50-305  
License No. DPR-43

Enclosure: Letter to NMC with Notice of Violation  
and Proposed Imposition of Civil Penalty - \$60,000

**NOT FOR RELEASE WITHOUT APPROVAL OF THE DIRECTOR, OE**

**Distribution:**

WTravers, EDO  
SCollins, DEDR  
FCongel, OE  
JDyer, NRR  
RZimmerman, NSIR  
DDambly, OGC  
HBell, OIG  
GCaputo, OI  
GGrant, RIII  
SReynolds, RIII  
JCreed, RIII  
CWeil, RIII  
JDixon-Herrity, OE  
GLongo, OGC  
RFranovich, NRR