

Tennessee Valley Authority, Post Office Box 2000, Spring City, Tennessee 37381-2000

Richard T. Purcell  
Site Vice President, Watts Bar Nuclear Plant

JUL 02 1998

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, D. C. 20555

10 CFR 2.201

Gentleman:

In the Matter of )  
Tennessee Valley Authority ) Docket No. 50-390

WATTS BAR NUCLEAR PLANT (WBN) - NRC INSPECTION REPORT  
50-390/98-02 - REPLY TO NOTICE OF VIOLATION (NOV)  
390/98-02-03

This letter provides TVA's reply to NOV 390/98-02-03 which is documented in the subject inspection report dated April 17, 1998. By letter dated April 27, 1998, TVA requested an Office of Investigations (OI) report which served as the basis for the NOV. TVA then submitted a letter on May 1, 1998, which requested that NRC extend the response time period for the NOV from May 18, 1998 (30 days after the date of the Inspection Report) to 30 days after TVA's receipt of the material requested from NRC. NRC approved TVA's request to extend the submittal date by letter dated May 26, 1998. By letter dated June 8, 1998, TVA withdrew its request for the OI report. That same day, TVA discussed the matter with Region II staff who agreed to allow TVA to respond to the NOV within 30 days of June 8, 1998.

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There are no commitments made in the enclosed response. If you should have any questions, please contact P. L. Pace at (423) 365-1824.

Sincerely,

*W.R. Jorgensen*  
for  
R. T. Purcell

Enclosure  
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PLP:JLB

Enclosure

cc (Enclosure):

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ENCLOSURE

TENNESSEE VALLEY AUTHORITY  
WATTS BAR NUCLEAR PLANT (WBN)  
UNIT 1

INSPECTION REPORT NUMBER 50-390/98-02  
REPLY TO NOTICE OF VIOLATION (NOV)

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I. RESTATEMENT OF VIOLATION 390/98-02-03

"10 CFR 26.29, Protection of Information, states 'Licensees, contractors, and vendors shall not disclose the personal information collected and maintained to persons other than assigned Medical Review Officers, other licensees or their authorized representatives legitimately seeking the information as required by this part for unescorted access decisions and who have obtained a release from current or prospective employees or contractor personnel . . .'

Fitness for Duty Procedure FFD-9, Health Services: Fitness for Duty Program, Revision 5, dated April 5, 1996, states that, 'Health Services shall not disclose the personal information collected and maintained to persons other than assigned Medical Review Officers, other licensees or their authorized representatives legitimately seeking the information as required by the Part for unescorted access decisions and who have obtained a release from current or prospective employees or contractor personnel, NRC representatives, appropriate law enforcement officials under court order, the subject individual or his or her representative, or to the those licensee representatives who have a need to have access to the information in performing assigned duties, including audits of licensee's, contractor's, and vendor's programs, to persons deciding matters on review or appeal, and to other persons pursuant to court order.'

Contrary to the above, in June 1995 a member of the Tennessee Valley Authority Corporate medical staff failed to protect personal Fitness for Duty information in that sensitive information was discussed with a Medical Review Officer who was not authorized to receive the information."

TVA's REPLY TO VIOLATION 390/98-02-03

1. Reason For The Violation

TVA does not agree that a member of its medical staff failed to protect personal Fitness for Duty information as stated in the violation. However, TVA does not wish to contest the matter.

The medical staff member fully cooperated with an investigation conducted by NRC's Office of Investigations (OI). According to a synopsis of the OI report, "The evidence developed during this investigation did not substantiate the allegation that TVA willfully failed to protect personal information and inappropriately processed the fitness for duty and psychological evaluation of an employee." TVA agrees that a conversation between the medical staff member and a Medical Review Officer (MRO) took place in June 1995. However, TVA does not agree that sensitive Fitness for Duty (FFD) information was disclosed to the MRO. Rather, the conversation was one in which the medical staff member solicited information from the MRO in order to address legitimate security concerns involving an evaluated employee.

The medical staff member provided sworn testimony to the OI explaining why the conversation took place and, to the best of the staff member's recollection, the content of the conversation. Also described in the testimony were several instances in which the evaluated employee disclosed sensitive FFD information regarding him/herself to others. However, TVA sees no benefit in pursuing our disagreement with the NOV any further. The conversation in question took place years ago between the TVA medical staff member who no longer holds job responsibilities within TVA Nuclear (TVAN), and the MRO who has since retired from TVA.

TVA wishes to make it clear that it is fully appreciative of the importance of maintaining sensitive FFD information in accordance with TVA's FFD Program and NRC regulatory requirements. TVA

1. Reason For The Violation (continued)

has traditionally maintained a strong program to ensure the integrity of its workforce and protect sensitive employee information. TVA has used this occasion to reinforce its FFD Program integrity requirements as discussed below.

2. Corrective Steps Taken And Results Achieved

To reinforce our emphasis on the importance of maintaining sensitive FFD information, TVAN's Corporate Nuclear Security organization distributed a memorandum clearly setting forth specific responsibilities for maintaining the confidentiality of FFD information. The memorandum was distributed to a number of individuals holding FFD Program Integrity clearance at the time of TVAN's annual FFD Collector's meeting which was held on March 28, 1998. Included within this group were members of the Corporate Nuclear Security FFD staff and the medical staffs at TVAN's nuclear plant sites. Subsequently, the memorandum was distributed to the remainder of those having FFD Program Integrity responsibilities.

The memorandum spelled out specific responsibilities for protecting FFD information, including specific do's and don'ts when it comes to protecting such information, recites NRC regulatory requirements regarding protection of information, and provides warnings and consequences for failing to comply. In addition, each recipient of the memorandum is required to sign their name acknowledging that as a recipient of an FFD Program Integrity clearance, they understand their responsibilities and will immediately notify management of any known violations.

3. Corrective Steps That Have Been Taken To Prevent Recurrence

TVAN conducts annual training for those who are responsible for the collection of breath, urine, and blood samples and who also hold an FFD Program Integrity clearance, including the medical staffs. This training addresses, among other things, the requirements for protecting personal FFD information. TVA considers that this annual training, coupled with the above-mentioned action taken to reinforce such training, will help avoid any future problems.

4. Date When Full Compliance Will Be Achieved

With respect to the cited violation, TVA is in full compliance.