

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
Keith Davis

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Docket No. 55-61336  
License No. SOP-11801  
IA-07-14

CONFIRMATORY ORDER  
(EFFECTIVE IMMEDIATELY)

I

Keith Davis (Mr. Davis) was previously employed as a licensed Senior Reactor Operator at the Susquehanna Steam Electric Station (SSES). Mr. Davis was the holder of Senior Reactor Operator (SRO) License Number SOP-11801 issued by the Nuclear Regulatory Commission (NRC) pursuant to 10 CFR Part 55. The license authorized Mr. Davis to direct the licensed activities of licensed operators at, and to manipulate all controls of, the Susquehanna Steam Electric Station, (facility license numbers NPF-14 and NPF-15). The facility is located on a PPL-Susquehanna, LLC site in Berwick, PA.

II

An investigation was initiated by the NRC Office of Investigations (OI) on August 4, 2006, at the Susquehanna Steam Electric Station. This investigation was initiated, in part, to determine if Mr. Davis deliberately failed to report an arrest as required by station procedures on June 27, 2006, on his first day back to work after the arrest for driving under the influence (DUI) of

alcohol on June 19, 2006. As noted in an NRC letter to Mr. Davis on July 2, 2007, OI substantiated, based on the evidence developed during its investigation, that Mr. Davis deliberately failed to report the arrest as required by station procedure. The letter offered Mr. Davis the opportunity to either attend a Predecisional Enforcement Conference or to request use of Alternate Dispute Resolution (ADR), to resolve this matter.

### III

In response to the July 2, 2007 letter, Mr. Davis requested the use of ADR to resolve this matter with the NRC. ADR is a process in which a neutral mediator with no decision-making authority assists the NRC and Mr. Davis in reaching an agreement on resolving any differences regarding the enforcement action. An ADR session was held between Mr. Davis and the NRC in King of Prussia, Pennsylvania on September 27, 2007, and was mediated by a professional mediator, arranged through Cornell University's Institute of Conflict Management. During that ADR session, a settlement agreement was reached. The elements of the settlement agreement consisted of the following:

1. The NRC and Mr. Davis agreed with the following facts: (1) Mr. Davis, while employed as a senior reactor operator at the PPL-Susquehanna nuclear facility, was arrested on June 19, 2006, for driving under the influence of alcohol; (2) Mr. Davis did not report the arrest to the Pennsylvania Power Light (PPL) - Susquehanna management on June 27, 2006, upon arrival for scheduled work, his first opportunity after the arrest; and, (3) at the time of the arrest, Mr. Davis understood that he was required to follow all station procedures under the terms and conditions of his individual senior reactor operator license (SOP-11801).

2. As a result of the facts agreed to in Item 1, the NRC and Mr. Davis agreed that Mr. Davis violated NRC requirements, in that on June 27, 2006, contrary to 10 CFR 55.53, as required by 10 CFR 50.34 (c) and PPL-Susquehanna procedure, NDAP-00-2002, Rev 4, "Fitness for Duty/Behavior Observation Program," Mr. Davis willfully failed to report to PPL-Susquehanna that he had been arrested for driving under the influence of alcohol on June 19, 2006.
  
3. Mr. Davis, subsequent to the NRC's identification of this violation, took actions to assure that he learned from the violation and provided the NRC with assurance that it would not recur. These actions included attending substance abuse counseling and entering into Accelerated Rehabilitation Disposition Program with the Commonwealth of Pennsylvania, which included participating in education awareness and community service.
  
4. During the ADR mediation session, Mr. Davis recognized an opportunity for other licensed operators in the nuclear industry to learn from his violation. Therefore, Mr. Davis agreed to take the following actions in the future to sensitize other licensed operators to the importance of remaining fit for duty, and reporting any arrest to the facility licensee as part of the behavior observation program: (a) writing an Operating Experience report that will address lessons learned from this violation which will include a discussion of meeting the intent of procedures as part of procedure adherence; (b) providing the written report to the NRC for review; (c) submitting the report to a minimum of 3 national organizations for possible publication, including INPO, NEI, and a third organization that Mr. Davis will identify, and inform the NRC of such when submitting the

report for review; (d) providing a written response to the NRC explaining the reasons why the NRC can have confidence in Mr. Davis following licensee procedures and meeting NRC regulations should he work in the nuclear industry in the future; and, (e) preparing a training plan for licensed and non-licensed operator training at PPL-Susquehanna regarding procedure compliance as it relates to meeting the intent of the procedure, and the lessons-learned from the circumstances which resulted in this ADR. The subject training plan will be provided to PPL for their potential use.

5. Mr. Davis will inform the NRC before he resumes work involving NRC licensed activities.
6. Mr. Davis agreed to complete the additional actions described in Item 4 within three months after issuance of an NRC Confirmatory Order confirming the commitments agreed to herein, and will send a letter to the NRC informing the NRC that these actions are complete. Mr. Davis agreed to send this letter to the NRC within 30 days of completion of all actions.
7. In light of the actions Mr. Davis has taken as described in Item 3, and those actions Mr. Davis has committed to take as described in Items 4, 5, and 6, the NRC agrees to issue a Severity Level III Notice of Violation to Mr. Davis. The NRC will issue a letter with the aforementioned Notice of Violation and a Confirmatory Order to Mr. Davis confirming the commitments set forth herein. The letter, Notice of Violation, and the Confirmatory Order will be publically available in ADAMS, will appear on the NRC "Significant Enforcement Actions - Individuals" website for a period of 1 year, and will also be placed in Mr. Davis' individual license file (Docket No. 55-61336, License No. SOP-11801).

8. Mr. Davis agreed to issuance of the letter, Notice of Violation, and Confirmatory Order confirming this agreement, and also agrees to waive any request for a hearing regarding this Confirmatory Order.

#### IV

Since Mr. Davis has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the commitments as outlined in this Confirmatory Order. I find that Mr. Davis' commitments as set forth in Section III above are acceptable. In view of the foregoing, I have determined that these commitments be confirmed by this Confirmatory Order. Based on the above and Mr. Davis' consent, this Confirmatory Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. §2.202 and 10 C.F.R. Part 55, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY THAT:

1. Within three months of the date of this Order, Mr. Davis will take the following actions to sensitize other licensed operators to the importance of remaining fit for duty, and reporting any arrest to the facility licensee as part of the behavior observation program:
  - (a) writing an Operating Experience report that will address lessons learned from this violation which will include a discussion of meeting the intent of procedures as part of

procedure adherence; (b) providing the written report to the NRC for review; (c) submitting the report to a minimum of 3 national organizations for possible publication, including INPO, NEI, and a third organization that Mr. Davis will identify and inform the NRC of such when submitting the report for review; (d) providing a written response to the NRC explaining the reasons why the NRC can have confidence in Mr. Davis following licensee procedures and meeting NRC regulations should he work in the nuclear industry in the future; and, (e) preparing a training plan for licensed and non-licensed operator training at PPL-Susquehanna regarding procedure compliance as it relates to meeting the intent of the procedure, and the lessons-learned from the circumstances which resulted in this ADR. The subject training plan will be provided to PPL for their potential use.

2. Mr. Davis will inform the NRC before he resumes work involving NRC licensed activities.
3. Mr. Davis will provide the NRC with a letter detailing his completion of all actions specified in Item 1 above within 30 days of completion of all actions.

The NRC Region I Regional Administrator may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Davis of good cause.

Any person adversely affected by this Confirmatory Order, other than Mr. Davis, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Fed. Reg. 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's

public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the “Contact Us” link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted

by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.309(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained.

AN ANSWER OR A REQUEST FOR A HEARING SHALL NOT STAY THE EFFECTIVENESS DATE OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

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Marc L. Dapas

Deputy Regional Administrator

Dated this 26th day of November 2007

