



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

September 9, 1988

Docket Nos. 50-390 and 50-391  
License Nos. CPPR-91 and CPPR-92  
EA 88-65

Mr. S. A. White  
Senior Vice President, Nuclear Power  
Tennessee Valley Authority  
6N 38A Lookout Place  
1101 Market Street  
Chattanooga, Tennessee 37402-2801

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Dear Mr. White:

SUBJECT: NOTICE OF VIOLATION  
(NRC INVESTIGATION REPORTS NOS. 2-85-034 AND 2-85-034S)

This refers to an investigation conducted by the Office of Investigations (OI) regarding alleged harassment and intimidation of Authorized Nuclear Inspectors (ANI's) from the Hartford Steam Boiler Inspection and Insurance Company (HSBII) at the Watts Bar Nuclear Plant. The investigation was initiated because of allegations that ANI's at Watts Bar had been pressured by their management to accept work at Watts Bar, primarily involving inspections of inaccessible welds on flued head piping penetrations, that had not been conducted according to the American Society of Mechanical Engineers (ASME) Code. A summary of the investigation report was mailed to you on March 10, 1988. At your request, a redacted copy of the entire investigation report was sent to you on August 2, 1988.

The investigation disclosed an apparent violation of NRC regulations. An Enforcement Conference to discuss this violation was held in the Office of Special Projects office in Rockville, Maryland on May 10, 1988 during which the violations, their root causes and your corrective actions were discussed. The summary report of the enforcement conference was sent to you on May 31, 1988.

The violation described in the enclosed Notice of Violation (Notice) concerns discrimination against four ANI's whose management's adversarial and confrontational attitude had the potential to adversely impact upon their diligence as third party inspectors. Section 50.7(c) of 10 CFR states that a violation of paragraph (a) of Section 50.7 by a licensee contractor may be grounds for enforcement action taken against the licensee. Section 50.7 of 10 CFR prohibits discrimination by a Commission licensee or contractor of a Commission licensee for engaging in certain protected activities. Protected activities, as described in Section 210 of the Energy Reorganization Act of 1974, include but are not limited to commencing a proceeding for the administration or enforcement of any requirement imposed under the Energy Reorganization Act or under the Atomic Energy Act of 1954, as amended. The NRC has determined that the identification of safety-related problems constitutes a protected activity. In the present case, the ANI's were engaged in identifying safety-related problems and ensuring that work was performed in accordance with the ASME code. Discrimination includes discharge and other actions that relate to compensation, terms,

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conditions, and privileges of employment. Discrimination includes intimidation or harassment that could lead a person to reasonably expect that if the conduct is not changed, the compensation, terms, conditions, and privileges of employment could be affected. In the present case, the acts of discrimination consisted of coercion, intimidation, and harassment of the ANI's by management such that at least one ANI felt that his job was being threatened. In addition, pressure was put on the ANI's to accept work which they felt violated the ASME Code. While there were discussions between TVA and HSBII, our investigation did not conclude that TVA was directly involved in acts of discrimination. Nevertheless, TVA, as the licensee, is responsible for the acts of its contractor.

The violation arises out of a nonconforming condition involving the failure to visually examine for leakage during hydrostatic testing certain internal welds in flued head containment piping penetrations. This condition was documented in NCR 5609 and was dispositioned "use as is" on May 17, 1984. ASME Code Section III, subsection NC-6221 requires that unless the penetrations are categorized as subassemblies and hydrotested by the vendor, they must be hydrotested as part of systems testing after installation and visually examined for leakage. These penetrations were not hydrotested by the vendor nor visually examined for leakage during the system hydrostatic test. The violation results from an ANI being pressured by his management to accept TVA's "use as is" disposition of this nonconforming condition that did not meet the requirements of the ASME Code.

This violation has been categorized at Severity Level III. Normally, a civil penalty is proposed for violations at Severity Level III or above. However, after consultation with the Deputy Executive Director for Regional Operations and the Director, Office of Enforcement, I have been authorized to exercise discretion in accordance with Section V.G.2 of the Enforcement Policy and will not propose a civil penalty for this violation. I have determined that a civil penalty is not necessary to achieve remedial action since you have initiated significant corrective action for this violation, addressing not only the generic issue of discrimination but also the TVA-ANI contractual arrangements. However, if similar violations occur or are identified in the future, additional enforcement action may be taken.

Separate correspondence is also being sent to HSBII addressing the violation described in the enclosed Notice and requesting a meeting to discuss the issues and measures taken by HSBII to ensure that such actions are not repeated. In addition, this issue is being raised with the National Board of Boiler and Pressure Vessel Inspectors and ASME.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

Mr. S. A. White

- 3 -

September 9, 1988

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedure of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. G. Partlow', is written over the typed name.

James G. Partlow, Director  
Office of Special Projects

Enclosure:  
Notice of Violation

Mr. S. A. White

- 4 -

September 9, 1988

cc w/enclosure:  
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Honorable Johnny Powell  
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Dr. Henry Myers, Science Advisor  
Committee on Interior  
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U.S. House of Representatives  
Washington, D.C. 20515

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Mr. S. A. White

- 5 -

September 9, 1988

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