



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

OCT 21 1988

Docket Nos. 50-390 and 50-391
License Nos. CPPR-91 and CPPR-92
EA 88-253

Tennessee Valley Authority
ATTN: Marvin T. Runyon
Chairman of the Board
6N 38A Lookout Place
1101 Market Street
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Gentlemen:

SUBJECT: NOTICE OF VIOLATION

This refers to the inspection and investigation conducted at the Tennessee Valley Authority beginning December 3, 1986. These efforts were undertaken as a followup to your submission of a letter dated March 20, 1986 responding to a NRC inquiry as to whether or not the requirements of 10 CFR Part 50, Appendix B, were being met at the Watts Bar Nuclear Plant and the submission of a subsequent letter of June 5, 1986 further describing this issue.

The NRC has determined that the conclusions in the March 20, 1986 letter, at best, did not adequately portray the nature and extent of the review conducted concerning compliance with Appendix B at the Watts Bar Nuclear Plant. Enclosure 1 provides background information with regard to the March 20 letter.

In a letter dated May 16, 1986, NRC informed TVA that NRC could not agree with the conclusions contained in the March 20 letter. The NRC's letter of May 16, 1986 provided TVA with an opportunity to reexamine its position. TVA responded with a letter signed by Mr. White on June 5, 1986. In this letter, TVA repeated and reemphasized the conclusion made in the March 20, 1986 letter concerning compliance with Appendix B at Watts Bar.

In the June 5, 1986 letter, TVA added two significant statements which were clearly intended to bolster earlier statements made to NRC and to allay the staff's concerns. In the first, Mr. White advised that he had "assembled a group of outside individuals with significant and extensive nuclear QA experience in the areas questioned and directed them to conduct a review of each one of the perceptions." The second stated that "In addition, I had a group of highly experienced non-TVA experts review this group's findings." Both of these statements are false. The effort of the first group was of insufficient scope or depth to support the conclusion that a review of each perception was undertaken. Mr. White, notwithstanding the second statement, did not form a second group to conduct the stated review process. In fact, there never was a second group.

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These statements clearly conveyed the impression that Mr. White was in charge, that he knew what was happening, and that the March 20, 1986 letter could be relied on because TVA had performed two formal reviews of the information provided to assure its validity. However, his lack of familiarity with the review process and his statement concerning the "group" of "non-TVA experts", which did not exist as a review group, indicate that the "non-TVA experts" statement was made with careless disregard for the truth.

This indifference to accuracy was demonstrated again in Mr. White's sworn testimony to OI investigators on July 14 and 15, 1987 concerning that review process. When asked about the group of non-TVA experts, Mr. White named nine individuals and stated that "yes, in effect" they reviewed the findings of the group of the outside individuals, but that he did not know what they did in order to review those findings. When asked how he got the results of their review, Mr. White stated "I got them from direct conversations." Of the individuals named, one reviewed the findings and discussed them with Mr. White, another did a cursory review but did not discuss it with Mr. White, and the other seven neither reviewed the findings nor discussed them with Mr. White. Thus, Mr. White's testimony concerning the actions of the non-TVA experts was false.

In a further letter to the NRC on the subject, dated January 11, 1987, in referring to the review conducted by the "group of outside individuals", Mr. White used the phrase "Based on a limited review of the 11 issues...", whereas that limitation had not been included in the earlier correspondence, and in fact, the opposite impression was conveyed in the March 20 and June 5, 1986 letters.

These TVA communications with the staff regarding the quality of work at Watts Bar did not fully convey the extent of the problems and led the staff to believe that TVA's management did not understand the magnitude of the issues confronting TVA. This failure required the NRC to put considerably more effort and resources into inspections and review at Watts Bar during calendar year 1986.

It is obviously of concern that, after TVA in 1985 had certified Watts Bar as ready for licensing, there had been breakdowns in the construction process that had been undetected as of 1986 by TVA's quality assurance program. However, NRC is also very concerned that in preparing the March 20, 1986 letter TVA, did not state it was not in a position yet to judge whether its QA program was effective, but instead developed a response to the January request to justify that the program was good enough when it wasn't. Time has shown that the QA program was not effective in all areas. There were subsequently reported breakdowns in inspection of structural welding and in radiograph interpretation. TVA has in the past reflected an attitude, specifically, a tendency to do things in its own way, and has failed to recognize the importance of meeting or exceeding national standards. It was our expectation that Mr. White and his advisors would change this attitude at TVA. TVA has expressed its desire to achieve excellence in performance. Although some improvements in attitude have been seen, TVA must continue these improvements in order to attain the level of performance expected of one of the largest U.S. nuclear utilities.

The regulatory system requires submission of a large amount of information by licensees on a continuing basis. You should be aware that the regulatory process is by its nature an audit. The NRC, with its limited resources, cannot monitor all activities of a licensee. Therefore, the NRC must be confident that it can rely on the information furnished by a licensee. If the answer to an NRC inquiry is that the licensee does not know or is not yet ready to respond because of lack of information, the licensee must so state. The regulations imposed by this agency are imposed to be met. A licensee cannot expect NRC to carry out its function when faced with ambiguities and highly qualified statements. The holder of a license from the NRC must be complete and accurate in communicating with the NRC and its staff. Anything less than accurate and complete statements to the Commission cannot and will not be tolerated.

Enforcement action is appropriate for this matter. While the conclusions in the March letter and their reiteration in the June letter were, at least, incomplete and inaccurate, the Commission has decided not to take action on them as a matter of prosecutorial discretion. The Commission has determined that the enforcement action being taken herein, based on the additional statements in the June letter and the statements made to the Commission's investigators, is sufficient to emphasize its concerns with TVA's communications. Therefore, separate action on the conclusions in the March letter and the reiteration in the June letter is not necessary to convey to TVA the need for accurate communications with the NRC.

It is recognized that Mr. White's tenure at TVA is coming to an end. Although TVA has made organizational changes, these changes in TVA's management do not remove TVA's responsibility for the material false statements set forth in the Notice of Violation involved in this case. TVA management as a whole is responsible for the quality of communications with the NRC. Mr. White was the executive responsible for the communications involved in these violations. However, it was TVA's responsibility as an organization to give Mr. White the quality of support necessary in the NRC's regulatory environment. Both the individuals involved and the organization must share responsibility for the actions giving rise to these violations, but the fundamental premise of our regulatory system makes TVA, as the licensee, ultimately responsible. Therefore, this action is being taken notwithstanding Mr. White's expected departure from TVA.

The violations associated with the communications at issue are described in the attached Notice of Violation. These violations have been aggregated into a Severity Level II problem because the statements concerning the "non-TVA experts" in the letter and during the investigation were made in at least careless disregard for the accuracy of the information, because of the level of Mr. White's position, and because the three statements are related in that their intent was to influence the agency to accept the March 20, 1986 position. However, the Commission has concluded under the circumstances, that a civil penalty for this matter is not necessary to further focus the attention of either TVA or the industry on the importance of complete candor in dealing with the NRC.

Tennessee Valley Authority

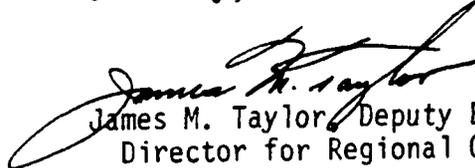
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You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC 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.

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

Sincerely,


James M. Taylor, Deputy Executive
Director for Regional Operations

Enclosures: Background and
Notice of Violation

cc: See next page

Tennessee Valley Authority

cc w/enclosures

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Background Concerning March 20, 1986 Letter

On December 19, 1985, TVA's Nuclear Safety Review Staff (NSRS) made a presentation to NRC Commissioner James Asselstine regarding the NSRS perceptions of the quality and status of construction at the Watts Bar Nuclear Plant (WBN). These perceptions included 11 issues and a "bottom line" that the requirements of 10 CFR Part 50, Appendix B were not being met at WBN. At the time of the presentation, the presenter noted that NSRS management had not seen the slide depicting these issues and thus the slide did not necessarily convey the TVA corporate position. In a letter dated January 3, 1986, the NRC asked TVA to furnish under oath or affirmation "TVA's corporate position with respect to whether or not 10 CFR Part 50, Appendix B requirements are being met at the Watts Bar facility."

On March 20, 1986, TVA submitted a notarized response to the staff's inquiry. The cover letter stated:

On the basis of a review of the issues identified in the NSRS Perceptions, as reflected in the enclosure, I find that there has been no pervasive breakdown of the quality assurance (QA) program; that problems have been identified; and that TVA has remedied or will remedy all identified design/construction deficiencies and noncompliances, and that accordingly, the overall QA program is in compliance with 10 CFR Part 50, Appendix B.

The response contained attachments that addressed each of the 11 NSRS perceptions. At the time that the letter was being delivered to the NRC, Mr. S. A. White, Manager of Nuclear Power, discussed the letter in a telephone call with Mr. Denton. This contemporaneous phone call was apparently intended to assure that the March 20, 1986 letter responded to the NRC's inquiry of January 3, 1986.

At the time of the January 3, 1986 letter, the NRC had concerns with regard to TVA's performance at its nuclear facilities. The concerns included:

(1) As of August 1985, TVA had placed all of its licensed operating plants in administrative shutdown due to extensive technical and managerial problems. TVA agreed not to restart these plants without NRC authorization. In addition, numerous deficiencies had been identified at the Watts Bar facility by TVA and through its Employee Concern Program.

(2) On September 17, 1985, the NRC issued the fifth Systematic Assessment of Licensee Performance (SALP) of TVA facilities and headquarters functions. The SALP found significant and continuing weaknesses in performance in many aspects of TVA nuclear activities. In addition to the poor SALP performance in many areas at several sites, the NRC letter noted the multiple escalated enforcement actions, including a large accumulation of civil penalties, and numerous significant events at TVA facilities. The letter of September 17, 1985 indicated that the underlying causes of these problems were programmatic and management deficiencies. Because of the "ineffective management of its nuclear program," TVA was asked in that letter to provide information relating to various aspects of its nuclear program, including QA, pursuant to 10 CFR 50.54(f).

During this time period TVA made significant management changes at all levels, including measures to keep the Board of Directors informed and involved, establishment of corporate controls for tracking commitments to the NRC, and procedures for escalating Quality Assurance audit findings.

In light of these actions, senior TVA management, including those people new to TVA, should have recognized by March 1986 that serious problems existed throughout the QA program. QA programs were fragmented and deficient. Senior management should also have recognized that the large number of employee concerns regarding construction deficiencies at Watts Bar was further evidence of the likelihood of serious QA problems at that plant. The corrective action program was weak and known to be deficient, in that it did not identify root causes or prevent recurrence of identified problems. Similarly, there was evidence that the welding program was seriously deficient. Starting as early as 1980, questions were raised as to the quality of welds and the weld inspection process. The problem was first noted at Bellefonte Nuclear Plant, but was found to be generic to all TVA plants under construction. While there was regular contact between TVA and NRC after 1980, in 1985 and January 1986, the level of interaction was very high, with frequent meetings and letters to address increasingly serious concerns over the welding program and inspection practices. TVA then engaged an outside contractor to address the welding problems.

In the face of the background described above, and the examination of TVA in the fall of 1985 by Mr. White and some of his advisors, TVA senior management failed to assure that a thorough review of the NSRS perceptions was conducted. In addition, they failed to involve those in TVA who were in positions to accurately portray conditions. Individuals in this group had prepared earlier drafts of a response to the NRC inquiry of January 3, 1986 which would have put them in a meaningful position to comment on the response that was being prepared. Instead, the advisors submitted to Mr. White a response that used language drafted, in part, by outside counsel without critically reviewing it for accuracy, clarity, and application to the matter at hand. As a result, the March 20, 1986 letter and its attachments, at best, did not adequately portray the nature and extent of the review conducted. This response conveyed a broad review to support broad findings and omitted the limitations of the review. Specifically, the response (1) did not describe that TVA only conducted a limited review of the specific bases provided by NSRS for the issues in its perceptions, (2) did not describe the limited time frame of the review being reported (suggesting past history rather than contemporaneous QA activities, i.e. since Mr. White came to TVA on January 13, 1986), and (3) used highly qualified and ambiguous terms such as the "overall QA program" and "pervasive", resulting in a misleading breadth of review. There was apparent concern within TVA that stating the problem clearly would have created an adverse impact on TVA, as demonstrated by key managers comparing the TVA situation to Zimmer. Mr. Kelly, the QA manager, would not have concurred in this letter if the letter had said there was no "widespread breakdown." In sum, the March 20, 1986 letter conveyed a sense that the problems were of a lesser magnitude than was known to be the case.

Enclosure

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On May 16, 1986, the NRC wrote TVA advising that the NRC was "not prepared to agree with your conclusion on the TVA position regarding Appendix B requirements." This was because NRC's final position with regard to Appendix B requirements relative to the 11 NSRS issues would depend on: (1) evaluation and resolution of issues raised in the employee concern program, (2) evaluation of the position of the NSRS staff, and (3) evaluation and resolution of allegations by NRC. TVA, through Mr. White, has stated that it intended the March 20, 1986 letter to cover current Appendix B performance. NRC clearly did not read the letter that way and was concerned about past work as well as current efforts. Thus, the May 16, 1986 NRC letter advised that, as to past work related to the NSRS Perceptions, the NRC could not agree with the conclusions of TVA, and, as to ongoing work, the NRC would continue to review the adequacy of such work during inspections. The NRC also requested additional information as to the apparent inconsistency between the March 20, 1986 response and the withdrawal of certification of readiness for fuel load at Watts Bar.