



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

April 19, 1990

Docket Nos. 50-390  
 and 50-391

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

Dear Mr. Kingsley:

SUBJECT: DISPOSITION OF INVESTIGATION REPORT OI-2-86-002

On December 12, 1989, the Director, OI, completed an investigation of possible material false statements by TVA management in their 1985 certification of readiness for fuel loading at Watts Bar. A synopsis of that report is appended.

The OI report detailed the results of investigation into two different filings made by TVA - a certification of readiness to load fuel made in February 1985 and an update of that letter sent in April 1985. The purpose of the two letters was to certify to the NRC that, subject to completion of open items listed generally in the letters and their enclosures, construction of Watts Bar Unit 1 was completed in accordance with the application and the applicable NRC regulations. Such a certification is a prerequisite to the issuance of an operating license.

In the summer of 1985, based largely on employee allegations, the NRC began an examination of the actual status of Watts Bar and concluded that there were a large number of significant deficiencies that would require correction prior to licensing of Watts Bar. This finding led eventually to the issuance of a 50.54(f) letter requiring the institution of extensive corrective action programs and a major reorganization of the management structure of TVA. The certifications of readiness to load fuel were eventually rescinded by TVA in 1986.

The OI report examines in considerable detail the process by which these letters were prepared. TVA had in place an extensive tracking process to identify deficiencies that had to be corrected and items that had to be completed prior to completion of construction and TVA line management went through an exhaustive

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review of these lists prior to issuing the letters. In general, it seems that TVA pursued a substantive internal review process to assure themselves that all items on the various lists would be addressed prior to licensing. From OI's investigation, it appears that the TVA personnel involved in drafting the letters believed the certification to be true and that they had conducted a reasonable review before making the certification.

Nonetheless as was shown by the NRC's efforts in the summer and TVA's corrective action programs later, the lists failed to reflect a significant number of major deficiencies at Watts Bar. Therefore, TVA's statements that the plant was complete except for closing out identified punch list items was not accurate.

There appear to have been two root causes of TVA management's erroneous confidence in the status of their plant. First, there was a climate that inhibited working level TVA personnel from bringing safety issues or deficiencies to the attention of their management and, second, TVA line management maintained an adversarial relationship with its own QA and NSRS staffs which inhibited TVA management from taking seriously expressions of concern regarding potential deficiencies identified by these organizations. These workers and members of these support organizations became the source of the allegations the NRC followed up in identifying the extent of problems at Watts Bar. Given this situation, TVA based its certification on status of correction of already identified deficiencies rather than on a searching examination of actual as-built plant quality.

Evidence does not exist to support a conclusion that TVA submitted the letters in a willful attempt to mislead the staff; the investigation report documents a reasonable effort to determine the status of issues that required closure prior to licensing. Nonetheless, a certification that Watts Bar was ready to load fuel in the spring of 1985 is clearly inaccurate. Without doubt, the statement was material to the NRC's decision-making process on the issuance of an operating license. The certification was, therefore, a material false statement under the North Anna precedent which applied at that time.

However, it was made after a thorough, albeit deficient, review by qualified individuals who believed it to be true. In the absence of a finding of willfulness, including careless disregard of the truth, the staff is not citing these certifications as material false statements.

Without wrongdoing, the issue becomes one of non-compliance with 10 CFR 50.55(e) or 10 CFR 50 Appendix B, Criterion XVI. The violations are closely associated with the issues that led to the TVA shutdown and therefore fall within the problem plant exemption in the enforcement policy. Considering these factors, the staff concludes that no enforcement action is called for with reference to these matters.

Had 10 CFR 50.9 been in effect at that time, these certifications would have constituted violations of that regulation under which the staff undoubtedly would have taken escalated enforcement action. These matters constitute exactly the sort of serious inaccuracies and omissions in statements to the NRC, albeit made without willful intent to deceive or in careless disregard of the truth, that the regulation is intended to address. No response to this letter is required.

Sincerely,

Original signed by  
Dennis M. Crutchfield

Dennis M. Crutchfield, Associate Director  
for Special Projects  
Office of Nuclear Reactor Regulation

Enclosure:  
Synopsis of OI Report

cc w/enclosure:  
See next page

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