

April 1, 2009

IA-09-014

Mr. Keith Davis
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Davis:

On November 26, 2007, the US Nuclear Regulatory Commission (NRC) sent to you a letter forwarding a Notice of Violation (Notice) and Confirmatory Order containing commitments to which you had agreed following a September 27, 2007, Alternate Dispute Resolution (ADR) mediation session. You had requested ADR in response to an NRC letter, dated July 2, 2007, which provided the results of an investigation initiated by the NRC Office of Investigations (OI). The July 2, 2007, letter informed you that the NRC was considering escalated enforcement action against you for an apparent violation of your Senior Reactor Operator (SRO) license (now terminated) at the Susquehanna Steam Electric Station (SSES), due to your failure to report an arrest as required by SSES procedures and NRC regulations.

The July 2, 2007, letter offered you a choice to attend a Predecisional Enforcement Conference or to request ADR to resolve any disagreement over: (1) whether a violation occurred; and (2) the appropriate enforcement action. On July 12, 2007, you informed Mr. Paul Krohn of the NRC Region I (RI) office that you wished to pursue resolution through ADR. In the ADR session, held on September 27, 2007, a settlement agreement was reached containing, among other items, the following elements (summarized):

1. You agreed that you were arrested on June 19, 2006, while employed as an SSES SRO, for driving under the influence of alcohol, and that you did not report the arrest to SSES management. You also agreed that you had understood you were required to report any arrests in accordance with SSES procedures and the terms and conditions of your SRO license, and that you violated NRC requirements by willfully failing to report your arrest to SSES management.
2. You agreed to take the following actions so that other licensed operators could learn from your actions:
 - a. Write an operating experience report addressing lessons learned from your violation;
 - b. Provide the report to the NRC for review and then submit it to a minimum of three national organizations for possible publication;
 - c. Provide a written response to the NRC explaining why the NRC can have confidence that you will follow licensee procedures and meet NRC regulations, should you work in the nuclear industry in the future;

- d. Prepare a licensed and non-licensed operator training plan regarding procedure compliance and the lessons learned from this issue, and provide the plan to SSES for its potential use.
3. You agreed to complete the actions described in Item 2 within three months of issuance of the Confirmatory Order, and to send a letter informing the NRC that the actions were complete within thirty days of their completion.
4. You agreed to inform the NRC before resuming work involving NRC-licensed activities.

In addition to the above, you agreed to the issuance of a Severity Level III violation for your actions, and to the issuance of a Confirmatory Order confirming the commitments of the ADR settlement. You also agreed to waive any request for a hearing regarding the Confirmatory Order. The November 26, 2007, letter provided you the Notice that described the Severity Level III violation, the Confirmatory Order confirming the ADR settlement, and a copy of your signed Consent and Hearing Waiver Form. In accordance with the conditions of the ADR agreement, you were required to complete the Confirmatory Order actions by February 26, 2008, and to inform the NRC of completion of the actions by March 27, 2008. As of the date of this letter, you have not provided this correspondence.

NRC staff attempted to contact you on July 3 and August 1, 2008, by sending you letters by certified mail. On September 18, 2008, the U.S. Postal Service forwarded the August 1, 2008, letter to a new address that had been listed for you. In each instance, however, you did not sign for or claim the letters. NRC OI successfully located and talked to you in person on October 17, 2008, at which time you stated that you did not agree with the ADR settlement that you had signed, and that it was for this reason that you did not accept and/or ignored the NRC's correspondence. At OI's suggestion, you also contacted the NRC RI senior enforcement specialist by telephone on October 17, 2008, and informed him that you were not in agreement with the conclusions of the ADR. You stated that you chose not to complete the Confirmatory Order actions or to notify the NRC of your disagreement with the ADR. The senior enforcement specialist advised you to send a letter to the NRC RI Regional Administrator explaining your position. As of the date of this letter, you have not provided this or any other correspondence.

Based on the above, the NRC has determined that you have violated 10 CFR 2.202(b) by not responding to an NRC Order by filing a written answer under oath or affirmation. Your decision to not complete the Confirmatory Order actions, or to respond to the Confirmatory Order or to the NRC's subsequent correspondence and communication attempts, has resulted in the loss of reasonable assurance that you may be relied upon to comply with NRC requirements.

Consequently, the NRC has decided to issue an Order that prohibits your involvement in NRC-licensed activities for a period of three years. This Order also requires you to provide the NRC in writing the name, address and telephone number of your employer of your first employment in NRC-licensed activities.

If you apply for an operator's license in the future, you will need to satisfy all applicable NRC requirements, including the requirements in 10 CFR Part 55. Under 10 CFR 55.31(b), the NRC may require you to provide further information in order to determine whether to grant or deny your application for an operator's license. For example, the NRC may require you to provide information regarding the reasons for your prior violations of NRC requirements, any actions you have taken to prevent the recurrence of such violations, your ability and willingness to carry out

the special trust and confidence that would be placed in you as a licensed operator, and your ability and willingness to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with 10 CFR 2.202, you must provide a response to the enclosed Order within 20 days of its issuance. If sensitive, security-related information is included in the response, please mark the entire response, "Security-Related Information – Withhold Under 10 CFR 2.390." If your response does not contain any sensitive, security-related information, the NRC will make the response publicly available. In addition, you or any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Please see the enclosed Order for further instructions. If a hearing request is submitted, the NRC will make the request publicly available. Therefore, please do not include any sensitive, security-related information in the hearing request, or, in the alternative, provide a redacted copy of the hearing request that does not include any sensitive security-related information.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed Order shall be subject to criminal prosecution as set forth in that section. Violation of the enclosed Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Cynthia A. Carpenter
Director, Office of Enforcement

Enclosures:

1. Order
2. NUREG/BR-0317

Electronic DISTRIBUTION w/encl:

SECY

CA

OEMAIL

OEWEB

R. W Borchardt, EDO

B Mallett, DEDR

S Campbell, OEDO

T Bloomer, OEDO

C Carpenter, OE

S Macgruder, OE

D Starkey, OE

N Hilton, OE

J Wray, OE

G Bowman, OE

G Gulla, OE

C Marco, OGC

E Leeds, NRR

J Wiggins, NRR

B Boger, NRR

R Nelson, NRR

B Vaidya, NRR

M Ashley, NRR

R Zimmerman, NSIR

P Holahan, NSIR

D Furst, NSIR

G Caputo, OI

H Bell, OIG

S Titherington-Buda, OCFO

M Williams, OCFO

E Hayden, OPA

S Collins, RA

M Dapas, DRA

D Lew, RI

D Roberts, RI

P Krohn, RI

F Jaxhemier, SRI, RI

K Farrar, ORA

D Holody, ORA

A DeFrancisco, ORA

M McLaughlin, ORA

D Screnci, PAO-RI

N Sheehan, PAO-RI

C O'Daniell, RI

R1DRPMailResource

Region I OE Files (with concurrences)

Enforcement Coordinators RII, RIII, RIV

the special trust and confidence that would be placed in you as a licensed operator, and your ability and willingness to abide by all fitness-for-duty and other license requirements and conditions.

In accordance with 10 CFR 2.202, you must provide a response to the enclosed Order within 20 days of its issuance. If sensitive, security-related information is included in the response, please mark the entire response, "Security-Related Information – Withhold Under 10 CFR 2.390." If your response does not contain any sensitive, security-related information, the NRC will make the response publicly available. In addition, you or any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Please see the enclosed Order for further instructions. If a hearing request is submitted, the NRC will make the request publicly available. Therefore, please do not include any sensitive, security-related information in the hearing request, or, in the alternative, provide a redacted copy of the hearing request that does not include any sensitive security-related information.

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,
/RA/
Cynthia A. Carpenter
Director, Office of Enforcement

- Enclosures: 1. Order
2. NUREG/BR-0317

SUNSI Review Complete: MMM (Reviewer's Initials)

After declaring this document, "An Official Agency Record," the letter will be released to the Public. The enclosed Order will be placed in the Federal Register will be released to the public.

ADAMS ML090900798

OFFICE	RI/ORR	RI/DRP	RI/DRP	RI/DRS	RI/OI	RI/ORR
NAME	*M McLaughlin	*PKrohn	*DLew	*DRoberts	*EWilson	*KFarrar
DATE	03/05/09	03/06 /09	03/09/09	03/10/09	03/10/09	03/11/09
OFFICE	RI/ORR	RI/RA	HQ/NRR	HQ/OGC	OE/BC	OE/D
NAME	*DHolody	MLD for SCollins	N Salgado	M Clark	N Hilton	C Carpenter
DATE	03/12/09	03/13/09	03/18/09	03/18/09	03/27/09	04/1/09

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

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Keith Davis

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Docket No. 55-61336
License No. SOP-11801
(Terminated)

IA-09-014

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES

I

Keith Davis (Mr. Davis) was previously employed as a Senior Reactor Operator (SRO) at PPL Corporation's Susquehanna Steam Electric Station (SSES or the facility), located in Berwick, Pennsylvania. Mr. Davis was the holder of SRO License Number SOP-11801, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 55. The license authorized Mr. Davis to direct the licensed activities of SSES licensed operators, and to manipulate the controls of the facility. The license was terminated on August 1, 2006.

II

In a letter dated July 2, 2007, the NRC provided to Mr. Davis the results of an investigation initiated by the NRC Office of Investigations (OI). The letter informed Mr. Davis that the NRC was considering escalated enforcement action against him for an apparent violation of his SRO license due to his failure to report an arrest as required by SSES procedures. The NRC offered Mr. Davis a choice to attend a Predecisional Enforcement Conference or to request Alternate Dispute Resolution (ADR) to resolve any disagreement over: (1) whether a violation occurred; and (2) the appropriate enforcement action. At his request, an ADR mediation session was held between Mr. Davis and the NRC on September 27, 2007, and a settlement agreement was

reached regarding his role in this matter. Mr. Davis confirmed his agreement, in principle, on November 16, 2007, when he signed the Consent and Hearing Waiver form, consenting to the issuance of a Notice of Violation and Confirmatory Order containing commitments agreed to in the settlement.

On November 26, 2007, the NRC issued a Notice of Violation (Notice) to Mr. Davis for his failure to report the arrest. The Notice characterized the violation at Severity Level III. The NRC also issued the Confirmatory Order confirming the commitments made as part of the settlement agreement. The Confirmatory Order required Mr. Davis to complete the commitment actions within three months of the date of the Confirmatory Order, and then inform the NRC within one month of completion.

The actions included:

- a. Writing an operating experience report addressing lessons learned from the violation;
- b. Providing the report to the NRC for review and then submitting it to a minimum of three national organizations for possible publication;
- c. Providing a written response to the NRC explaining why the NRC can have confidence that Mr. Davis will follow licensee procedures and meet NRC regulations, should he work in the nuclear industry in the future; and
- d. Preparing a licensed and non-licensed operator training plan regarding procedure compliance and the lessons learned from this issue, and providing the plan to SSES for its potential use.

In accordance with the Confirmatory Order, Mr. Davis was required to notify the NRC, in writing, of completion of these activities by March 27, 2008.

The requirement to respond to an NRC Order is outlined in 10 CFR 2.202(b), which states, in part: a licensee or other person, to whom the Commission has issued an order under this section, must respond to the order by filing a written answer under oath or affirmation. Mr. Davis failed to respond to the Confirmatory Order.

After the NRC made several unsuccessful attempts to contact Mr. Davis, the NRC OI located and spoke with him on October 17, 2008. At that time, Mr. Davis informed OI that he did not agree with the ADR settlement to which he had consented, and that it was for this reason that he did not accept and/or ignored the NRC's correspondence attempts. On October 17, 2008, Mr. Davis also contacted the RI senior enforcement specialist by telephone, and explained that he was not in agreement with the conclusions of the ADR, and that he chose to not complete the Confirmatory Order actions or notify the NRC of his disagreement. The senior enforcement specialist instructed Mr. Davis to send a letter to the RI Regional Administrator explaining his position and reasons for not complying with the Confirmatory Order. As of the date of this Order, Mr. Davis has neither provided this letter nor otherwise responded to the November 26, 2007, Confirmatory Order.

III

Based on the above, the NRC has concluded that Keith Davis violated 10 CFR 2.202(b), by failing to respond to an NRC Confirmatory Order. This conclusion is based on: (1) Mr. Davis's statements to the RI OI that he no longer agreed with the ADR settlement and that he knowingly

did not accept and/or ignored NRC correspondence requesting his response to the Confirmatory Order; (2) Mr. Davis's failure to contact the NRC regarding his disagreement with the ADR settlement; and (3) Mr. Davis's continued failure to respond to the Confirmatory Order.

As a result, I no longer have the necessary assurance that Mr. Davis, should he engage in NRC-licensed activities under any other NRC license, would perform NRC-licensed activities safely and in accordance with NRC requirements, and that the health and safety of the public will be protected if Mr. Davis were permitted at this time to be involved in NRC-licensed activities.

Therefore, the public health, safety, and interest require that Mr. Davis be prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order, and that Mr. Davis notify the NRC of his first employment in NRC-licensed activities for a period of three years following the prohibition period.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, IT IS HEREBY ORDERED THAT:

1. Keith Davis is prohibited for three years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Keith Davis is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. Keith Davis shall, within 20 days following acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Davis of good cause.

V

In accordance with 10 CFR 2.202, Mr. Davis must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, Mr. Davis and any other person adversely affected by this Order may request a hearing on this Order 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, 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 other than Mr. Davis 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 Mr. Davis or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Cynthia A. Carpenter
Director, Office of Enforcement

Dated this 1st day of April 2009