

June 2, 2010

IA-09-075

Ms. Mary Files

[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: ORDER (EFFECTIVE IMMEDIATELY) PROHIBITING INVOLVEMENT IN  
NRC-LICENSED ACTIVITIES (NRC OFFICE OF INVESTIGATIONS REPORT  
NO. 2-2009-009, MCGUIRE NUCLEAR STATION)

Dear Ms. Files:

The enclosed Order prohibiting involvement in U.S. Nuclear Regulatory Commission (NRC) licensed activities (Order) is being issued because you engaged in deliberate misconduct as defined in Section 50.5, "Deliberate misconduct," of Title 10 of the *Code of Federal Regulations* (10 CFR) that has caused an NRC licensee, Duke Energy Carolinas LLC's (DEC) McGuire Nuclear Station (MNS), to be in violation of regulatory requirements.

On September 3, 2009, an investigation was completed by the NRC's Office of Investigations at DEC's facility in Huntersville, NC. The purpose of the investigation was to review the circumstances surrounding your involvement in a fitness-for-duty (FFD) matter that occurred at MNS on or about October 20, 2008. The investigation substantiated that you deliberately introduced and used an illegal drug (marijuana) inside the Protected Area at the McGuire Nuclear Station.

Your deliberate actions caused DEC, an NRC licensee, to be in violation of 10 CFR 26.10, 10 CFR 26.20, and Duke Energy Nuclear Policy Manual NSD 217.8, Revision 14, regarding the actual introduction of illegal drugs into the MNS Protected Area (PA).

In this case, DEC conducted an independent review of your work and did not identify any issues that would adversely affect the health and safety of the public. However, you knowingly and deliberately introduced and used illegal drugs inside the PA at MNS, and caused the licensee to be in violation of the regulatory and procedural requirements referenced above. Consequently, the NRC staff has determined that an Order prohibiting your involvement in NRC-licensed activities for a period of five years is appropriate.

The enclosed Order is effective immediately. The Order requires you to immediately cease any involvement in NRC-licensed activities. If you are involved with an NRC licensee on the date of the Order, you must provide a copy of the Order to that NRC licensee and inform the NRC of the name, address, and telephone number of that licensee.

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 this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to a civil monetary penalty.

A copy of this letter and its enclosure is being sent to DEC's MNS. You are required to provide a response to this order and should follow the instructions specified in the order when preparing your response. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21, "Requirements for the protection of safeguards information."

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 our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

In accordance with 10 CFR 2.390, "Public inspections, exemptions, requests for withholding," a copy of this letter and its enclosure will be made available for public inspection in the NRC Public Document Room and from the NRC's Agencywide Documents Access and Management System (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Instead of providing a response to the order as stated above and prior to requesting a hearing, you may request alternative dispute resolution (ADR) with the NRC under its Office of Enforcement's ADR Program. Alternative dispute resolution is a general term encompassing various techniques for resolving conflict using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is an informal process in which a neutral third party (i.e. the mediator) works with you and the NRC to help the parties reach a resolution. The mediator, who the parties mutually select, does not have any decision-making authority or any stake in the outcome of the mediation. The NRC has contracted with the Cornell University's Institute on Conflict Resolution to facilitate the NRC's program as an intake neutral and as a source of mediators. Please contact Cornell University at (877) 733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

In addition, as the order explains, you have a right to request a hearing on this order within 20 days of its publication in the Federal Register. If you elect to request ADR as referenced above,

you must also request an extension of time to request a hearing because engaging in mediation does not automatically stay your right to request a hearing. The request for extension of time must be made in writing to the Director, Office of Enforcement. Conversely, if you request a hearing at anytime, the Office of Enforcement's ADR Program will not be available to you as stated above.

Questions concerning this Order should be addressed to Gerry Gulla, of my staff, who can be reached at (301) 415-2872 or email at [Gerald.Gulla@NRC.Gov](mailto:Gerald.Gulla@NRC.Gov).

Sincerely,

**/RA/**

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosure: As stated

cc w/encl: (see page 4)

cc w/ encl:

Mr. Regis T. Repko  
Vice President  
Duke Power Company, LLC  
d/b/a Duke Energy Carolinas, LLC  
McGuire Nuclear Station  
MG01VP/12700 Hagers Ferry Road  
Huntersville, NC 28078

Lisa F. Vaughn  
Associate General Counsel  
Duke Energy Corporation  
526 South Church Street-EC07H  
Charlotte, NC 28202

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Questions concerning this Order should be addressed to Gerry Gulla, of my staff, who can be reached at (301) 415-2872 or email at Gerald.Gulla@NRC.Gov.

Sincerely,  
**/RA/**

Roy P. Zimmerman, Director  
 Office of Enforcement

Enclosure: As stated

cc w/encl: (see page 4)

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DATE	4/20/10	4/26/10	4/21/10	4/21/10
OFFICE	OE	OGC	NSIR	OE
NAME	GGulla	CSafford	GWest	RZimmerman
DATE	5/06/10	5/05/10	5/03/10	6/2/10