

November 28, 2011

IA-09-014

Keith Davis
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: YOUR REQUEST FOR RELAXATION OF THE NRC ORDER, DATED APRIL 1, 2009, PROHIBITING YOUR INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Davis:

In a letter dated October 17, 2011, you requested that I relax or rescind the subject Order issued to you on April 1, 2009, by the US Nuclear Regulatory Commission (NRC). This Order (ML090900798)¹ prohibits your involvement in NRC-licensed activities for a period of 3 years from the date of the Order (i.e., until April 1, 2012). The Order also requires you to provide the NRC, in writing, the name, address, and telephone number of your employer for your first employment in NRC-licensed activities following the prohibition period.

In your October 17, 2011, letter requesting the relaxation or rescission of the subject Order, you described the reasons for your violations of NRC requirements and the impact that they have had on you, both professionally and personally. However, you did not provide any reasonable basis for relaxation or rescission of the Order. You did, however, attest to your commitment to abide by NRC regulations in the future. While the NRC cannot justify relaxing or rescinding the prohibition Order on the basis of your letter alone, the NRC is willing to consider shortening the term of the prohibition if you complete the actions to which you previously agreed in a September 27, 2007, Alternative Dispute Resolution (ADR) session. The NRC maintains that completing these actions (described below), and communicating the impact that your violations have had, may serve as a deterrent to other individuals, including licensed operators, from committing similar acts. Much of what you stated in your letter to the NRC is what the NRC envisioned would make up the content of the documents you agreed to prepare as part of the ADR settlement.

The NRC had issued you the April 1, 2009, Order as the result of your failure to complete commitments to which you had agreed following a September 27, 2007, 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.

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Documents referenced in this letter are publicly-available using the accession number in ADAMS.

As a result of the ADR session, a settlement agreement was reached in which you agreed to take the following actions so that other licensed operators could learn from your actions, thereby creating a deterrent effect:

- 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; and
- 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.

On November 26, 2007, the NRC issued you the Confirmatory Order confirming the ADR settlement, and a copy of your signed Consent and Hearing Waiver Form (ML073300491). 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. However you failed to complete any of these actions.

Following several unsuccessful attempts by NRC staff to contact you, NRC OI successfully located and spoke with you in person on October 17, 2008, at which time you stated that you did not agree with the ADR settlement that you had previously agreed to and signed, and that it was for this reason that you did not accept and/or ignored the NRC's correspondence. You were later advised to send a letter to the NRC Region I Regional Administrator explaining your position. However, you did not provide such correspondence.

Your decision to not complete the Confirmatory Order action, or to respond to the Confirmatory Order, constituted a violation of Title 10 of the Code of Federal Regulations (10 CFR) Section 2.202(b), and resulted in the loss of reasonable assurance that you could be relied upon to comply with NRC requirements. Accordingly, the NRC issued you the April 1, 2009, Order prohibiting your involvement in NRC licensed activities for a period of 3 years.

While I am willing to consider relaxing the portion of the Order prohibiting your involvement in NRC-licensed activities if you complete the above-listed actions, the portion of the Order requiring your notification to the NRC within 20 days of accepting your first employment offer involving NRC-licensed activities and providing the name, address, and telephone number of the employer, will not be relaxed or rescinded.

If you do decide to complete the actions to which you had previously agreed, please prepare the operating experience report and submit it to the NRC Region I Administrator, 475 Allendale Road, King of Prussia, Pennsylvania 19406 for review prior to submitting it to any national organizations for their consideration to publish. Then, please notify the NRC Region I Administrator in writing upon your subsequent completion of the remaining actions and include a description of how the actions were completed, along with copies of any final documents prepared. Upon receipt by the NRC Region I Regional Administrator of your notification that the actions have been completed, I will consider your request to shorten the term of your prohibition from involvement in NRC-licensed activities.

K. Davis

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, as well as your October 17, 2011, letter, with any privacy act information removed, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If you have any questions regarding this matter, please contact Paul Krohn, Chief, NRC Region I Division of Reactor Projects Branch 4, at 610-337-5120.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

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Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

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*See previous concurrence page