



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

January 5, 2012

IA-11-047

Mr. Terry J. Douglas
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION - NRC INVESTIGATION REPORT 4-2010-064

Dear Mr. Douglas:

This letter refers to the investigation completed by the Nuclear Regulatory Commission's Office of Investigations, Region IV, on May 20, 2011, regarding your activities at Entergy Operations, Inc.'s River Bend Station. The purpose of the investigation was, in part, to determine if you, as a licensed operator, willfully failed to follow the requirements in Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0, by accessing the internet while standing watch as the reactor operator "At-the-Controls."

In the October 17, 2011, letter transmitting the factual summary of the Office of Investigations' report, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. Since you have not requested a predecisional enforcement conference nor replied in writing, the NRC is proceeding with its enforcement action based on the results of the investigation by the Office of Investigations.

Based on the information developed during the investigation, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). You engaged in deliberate misconduct by deliberately accessing the internet without authorization while standing watch as the reactor operator "At-the-Controls" in the "At-the-Controls" area of the control room. Specifically, you logged on to the internet on a few occasions between January 22 and April 18, 2010, for non-work related reasons.

Your deliberate actions placed River Bend Station in violation of Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0, and you in violation of 10 CFR 50.5, Deliberate Misconduct, and your license OP-43038. A copy of the enforcement action issued to River Bend Station is enclosed (Enclosure 2).

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Terry J. Douglas

- 2 -

After considering the significance of the violation, the extent, and frequency of your prohibited activities, and your deliberate misconduct, the NRC has categorized this violation at Severity Level IV, in accordance with the NRC Enforcement Policy. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement or criminal action.

You are required to respond to this letter, within 30 days, and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access Management System (ADAMS), accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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.

Your response will be made publicly available unless you provide a sufficient basis to withdraw this violation within the 30 days specified above for a response to this Notice of Violation. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>. 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's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Should you have any questions concerning this matter, please contact Ms. Christi Maier of my staff at (817) 200-1217.

Sincerely,



Elmo E. Collins
Regional Administrator

Docket: 55-41756
License: OP-43038

Enclosures:

1. Notice of Violation
2. Notice of Violation issued to
River Bend Station

cc w/enclosure 1:
Distribution via Listserv

NOTICE OF VIOLATION

Mr. Terry J. Douglas
[HOME ADDRESS DELETED]
UNDER 10 CFR 2.390(a)]

Docket: 55-41756
License: OP-43038
IA-11-047

During an investigation conducted by the NRC's Office of Investigations, Region IV, and completed on May 20, 2011, a violation of NRC requirements was identified. In accordance with the NRC's Enforcement Policy, the violation is listed below:

10 CFR 50.5 (a)(1) states, in part, that any employee of a licensee or applicant may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Technical Specification 5.4.1.a requires procedures to be established, implemented, and maintained covering the applicable procedures recommended by Appendix A to Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Revision 2, February 1978.

Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Appendix A; "Typical Procedures for Pressurized Water Reactors and Boiling Water Reactors," Section 1.b, includes administrative procedures for safety-related activities in relation to "Authorities and Responsibilities for Safe Operation and Shutdown."

Entergy Nuclear Management Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0, Section 5.2, states, "Internet access is not permitted in the ATC (At-the-Controls) area of the Control Room, except as specifically authorized by the Operations Manager."

Contrary to the above, on multiple occasions between January 22 and April 18, 2010, Mr. Terry J. Douglas, a reactor operator at the River Bend Station, engaged in deliberate misconduct that caused River Bend Station to be in violation of a rule, regulation, or order; or any term, condition, or limitation of a license issued by the Commission. Specifically, Mr. Douglas deliberately violated Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0, by accessing internet sites without authorization while standing watch in the At-the-Controls area of the control room.

This is a Severity Level IV violation (Section 6.4).

Pursuant to the provisions of 10 CFR 2.201, Terry J. Douglas is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and marked "Open by Addressee Only," and a copy to the NRC Resident Inspector at River Bend Station with a similar marking, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-11-047"

and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it 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 please 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. 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's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 5th day of January 2012

RIVER BEND STATION
NOTICE OF VIOLATION AND PROPOSED IMPOSITION
OF CIVIL PENALTY - \$140,000
NRC INVESTIGATION REPORT 4-2010-064



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BLVD
ARLINGTON, TEXAS 76011-4511

January 5, 2012

EA-11-159

Eric W. Olson, Site Vice President
Entergy Operations, Inc.
River Bend Station
5485 US Highway 61
St. Francisville, LA 70775

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$140,000, NRC INVESTIGATION REPORT 4-2010-064 - RIVER BEND STATION

Dear Mr. Olson:

This refers to the investigation completed by the NRC's Office of Investigations, Region IV, on May 20, 2011, at the River Bend Station. The purpose of the investigation was to determine, in part, if licensed operators at the River Bend Station willfully failed to follow Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0. This investigation was initiated after the NRC was informed that River Bend Station's management had determined that "At-the-Controls" reactor operators had willfully violated a facility procedure. Specifically, River Bend Station's management determined that the "At-the-Controls" reactor operators violated Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Controls," Revision 0, by accessing internet sites while standing watch in the "At-the-Controls" area of the control room.

On November 21, 2011, a predecisional enforcement conference was conducted in the Region IV office with you and members of your staff to discuss the apparent violation, its significance, the root causes, and your corrective actions. On November 28, 2011, the licensee submitted additional written information regarding their cause determination and corrective action for River Bend Station Condition Report (CR) 2011-03296 documenting "a declining trend in safety culture."

Based on the information developed during the investigation and the information that you provided during and after the conference, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in the factual summary of the investigation, which was issued as an enclosure to our letter dated October 14, 2011. This violation involves hundreds of instances of licensed operators accessing the internet from the "At-the-Controls" area of the control room while standing watch in the "At-the-Controls" watch station.

Based on our investigation, it appears that operators remained attentive to reactor operations, indications, and alarms, and that the types of Web sites accessed were limited to news, sports, hobbies, and finance (the types of Web sites that workplaces often allow for limited personal use). The NRC understands that you identified the issue, took disciplinary actions against the operators involved, and restored the internet blocks on one of the computers in the "At-the-Controls" area of the control room. However, because most of the operators involved knew and understood the station prohibitions on internet access, the NRC has concluded that willfulness, in the form of deliberate misconduct, is associated with the hundreds of instances of licensed operators violating the station procedure prohibiting accessing the internet from the "At-the-Controls" area of the control room.

This violation is a serious concern to the NRC not only because accessing the internet from the "At-the-Controls" area of the control room has the potential to distract the licensed operator from monitoring the reactor, but also because of the large number of licensed reactor operators that deliberately chose to ignore the procedural ban on accessing the internet from the "At-the-Controls" area. Therefore, this violation has been categorized in accordance with the NRC's Enforcement Policy at Severity Level III.

Because willfulness was associated with this violation, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Because the violation was identified and reported by an alert shift manager while discharging his supervisory duties on shift, the NRC concluded that credit was warranted for *Identification*. However, the Enforcement Policy stipulates that credit for *Corrective Action* should be given if actions were "prompt and comprehensive."

The NRC has determined that corrective action credit is not warranted because comprehensive corrective actions were not prompt following the discovery of the internet use issue in April 2010. The internet use by licensed operators was discovered in April 2010 and, at that time, corrective actions were limited to disconnecting the internet from one of the "At-the-Controls" computers and taking disciplinary action against the operators involved. The NRC considers that, because all but one of your licensed reactor operators were involved, the issue strongly suggested that appropriate control room standards and work practices were neither followed nor consistently enforced, but had instead become degraded. In short, River Bend Station had strong evidence that a safety culture problem existed. However, comprehensive actions were not taken for at least a year, following completion of a root cause evaluation initiated on April 4, 2011, related to this and five other events documented in CR 2011-03296. According to the CR, these events collectively indicated "a declining trend in safety culture" caused by "leaders' ineffective modeling of nuclear safety culture values and behaviors," "situational standards," "inadequate work practices and decision making," "inadequate communication," "lack of accountability," "insufficient awareness of the impact of actions on safety," and "lowered acceptance standards."

The NRC noted three of the five additional events were operator related, and may well have been prevented if comprehensive corrective actions stemming from a root cause evaluation had promptly followed the April 2010 internet issue. The NRC acknowledges that, though not prompt, the additional corrective actions taken to reverse the declining safety culture trend were responsive to the safety culture issues apparent in the internet issue of April 2010. These actions included nuclear safety culture training for all managers and supervisors, lessons

learned training for all employees, establishment of a Nuclear Safety Culture Committee, implementation of continuous and systematic self-assessment of performance and behaviors relative to standards, and Performance Improvement Notebooks. However, because these actions were not prompt, credit for corrective action is not warranted.

In addition, the NRC notes that River Bend Station's overall performance was particularly poor in response to this issue. A CR was not written documenting the internet issue until 2 months after discovery, which is also when the NRC was made aware of the issue. As previously noted, a root cause evaluation was not conducted until additional events occurred over the course of a year. The NRC has concluded a root cause evaluation was warranted specifically for the internet issue in order to identify and better understand the particular organizational weaknesses and other factors that resulted in the majority of your reactor operators deliberately violating station procedures while on watch in the control room.

The information in Entergy's presentation at the conference was not fully consistent with the conclusions documented in CR 2011-03296 nor did it address the relevant corrective actions taken in response to this CR. For example, the written information presented by Entergy during the conference indicated that operators' deliberate misconduct represented a "potential for degradation of control room standards." On the contrary, the NRC views having the majority of reactor operators at River Bend Station engaged in deliberate misconduct in the control room as a significant degradation of control room standards that warranted an immediate, thorough, and focused review to determine the root causes and so that comprehensive corrective actions could be promptly taken. Additionally, during the November 21, 2011, conference, River Bend Station's presentation failed to address the corrective actions taken the following year in response to CR 2011-03296, specifically those actions that were responsive to the safety culture aspects of the deliberate misconduct on the part of the licensed operators. As you know, willful violations are of particular concern because the NRC's regulatory program is based on licensees and their employees acting with integrity. The Commission cannot tolerate willful violations, and licensees are expected to take significant remedial action in responding to willful violations.

Therefore, to emphasize the importance of promptness in implementing comprehensive corrective actions, the Enforcement Policy stipulates that a Civil Penalty in the base amount of \$70,000 would be appropriate. However, because of River Bend Station's particularly poor performance in responding to this violation as discussed above, the NRC is exercising discretion to increase the Proposed Civil Penalty to \$140,000 per Section 3.6.c of the Enforcement Policy. Therefore, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Civil Penalty in the amount of \$140,000 for this Severity Level III violation.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request alternative dispute resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties.

Mediation is a confidential and voluntary process. If the parties to the ADR process (the NRC and the licensee or individual) agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Generally, the NRC is willing to discuss the resolution of three potential issues: 1) whether a violation occurred; 2) the appropriate enforcement action; and 3) the appropriate corrective actions for the violation. Additional information concerning the NRC's ADR program can be found at <http://www.internal.nrc.gov/OE/ADR/post-invest-adr-home.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact the ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing this issue through the ADR program. You may also contact Nick Hilton, Office of Enforcement, at (301) 415-3055 for additional information.

Also, if you decide to pursue ADR, please contact Ms. Christi Maier of my staff at (817) 200-1217 within 10 days of the date of this letter.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC's review of your response to the Notice will also determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response 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>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,



Elmo E. Collins
Regional Administrator

Docket: 50-458
License: NPF-47

Enclosure:
Notice of Violation

cc w/enclosure:
Distribution via Listserv

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Entergy Operations, Inc.
River Bend Station

Docket: 50-458
License: NPF-47
EA-11-159

During an NRC investigation concluded on May 20, 2011, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

Technical Specification 5.4.1.a requires procedures to be established, implemented, and maintained covering the applicable procedures recommended by Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Revision 2, Appendix A, February 1978.

Regulatory Guide 1.33, Appendix A, "Typical Procedures for Pressurized Water Reactors and Boiling Water Reactors," Section 1.b, includes administrative procedures for safety-related activities in relation to "Authorities and Responsibilities for Safe Operation and Shutdown."

Entergy Nuclear Fleet Procedure EN-OP-115-02, "Control Room Conduct and Access Control," Revision 0, step 5.2.7 states, "Internet access is not permitted in the ATC [At-the-Controls] area of the control room, except as specifically authorized by the Operations Manager."

Contrary to the above, from January 22 through April 18, 2010, the licensee, through its on-watch operators, accessed the internet in the "At-the-Controls" area of the control room without specific authorization by the Operations Manager. Specifically, 14 licensed operators accessed the internet hundreds of times from the "At-the-Controls" computer, which is located in the "At-the-Controls" area of the control room, while on watch assigned to the "At-the-Controls" watch station.

This is a Severity Level III violation (Section 6.4).
Civil Penalty - \$140,000. (EA-11-159)

Pursuant to the provisions of 10 CFR 2.201, River Bend Station is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; EA-11-159" and should include for each alleged violation: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted, and if denied, the basis for denying the validity of the violation; (3) the corrective steps that have been taken and the results achieved; (4) the corrective steps that will be taken; and (5) the date when full compliance will be achieved.

Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an Order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked, or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown.

Within the same time provided for the response required under 10 CFR 2.201, the Licensee may pay the civil penalty proposed above or the cumulative amount of the civil penalties if more than one civil penalty is proposed, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation," and may: (1) deny the violation listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Roy Zimmerman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

Because your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access Management System (ADAMS), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. ADAMS is accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>. If personal privacy or proprietary information is necessary to provide an acceptable response, then please 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 that such material is withheld from public disclosure, 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.

In accordance with 10 CFR 19.11, you are required to post this Notice within two working days of receipt.

Dated this 5th day of January 2012