



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Region III
2443 Warrenville Road, Suite 210
Lisle IL 60532-4352

October 10, 2012

IA-12-036

Mr. Brian Kemp
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(A)]

SUBJECT: NOTICE OF VIOLATION; NRC INVESTIGATION REPORT NO. 3-2012-004

Dear Mr. Kemp:

This letter refers to an investigation completed on May 31, 2012, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) regarding an event that occurred while you were employed as the Design Engineering Manager at the Palisades Nuclear Plant. The purpose of the OI investigation was to determine whether you willfully failed to report to Palisades management your arrest which occurred on January 14, 2011.

On August 28, 2012, the NRC issued a letter informing you of the results of the investigation. In that letter, we provided you the opportunity to address the apparent violation by providing a written response, by attending a predecisional enforcement conference or by participating in an alternative dispute resolution session, before we made our final enforcement decision. In a letter dated September 24, 2012, you provided a response to the apparent violation.

Based on the information developed during the investigation and the information that you provided in your response, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice). The violation involved your deliberate failure to report to your supervisor that you were arrested on January 14, 2011, in accordance with Title 10 of the Code of Federal Regulations 73.56(g). Given the deliberate nature of your actions, your former position within the Palisades organization and the underlying significance of the issue, this violation has been categorized in accordance with the NRC Enforcement Policy as a Severity Level III. The NRC also considered that Entergy Nuclear Operations, Inc., the licensee for Palisades, terminated your employment on September 1, 2011, and denied your unescorted access to Palisades.

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 action or criminal action.

You are not required to respond to the Notice unless you contest the violation. If you desire to contest the violation, a response is required within 30 days of the date of this letter addressing the specific basis for disputing the violation. This response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Charles A. Casto, Regional Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532 and marked, "Open by Addressee Only – Response to a Notice of Violation, IA-12-036" with a copy to Roy P. Zimmerman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC 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. 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 Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions concerning this matter, please contact Mr. Steven Orth at (630) 810-4373.

Sincerely,

/RA by C. Pederson for/

Charles A. Casto
Regional Administrator

Enclosure:
As Stated

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC 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. 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 Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions concerning this matter, please contact Mr. Steven Orth at (630) 810-4373.

Sincerely,

/RA by C. Pederson for/

Charles A. Casto
Regional Administrator

Enclosure:
As Stated

DISTRIBUTION:
See next page

PLEASE SEE PREVIOUS CONCURRENCE

DOCUMENT NAME: G:\ORAI\IEICS\ENFORCEMENT\Cases\Enforcement Cases 2012\IA-12-036 Failure to Report Arrest deliberate\IA-12-036 Letter and NOV.docx

OFFICE	RIII	RIII	RIII	RIII	RIII
NAME	Pelke	Hansen DF for	Skokowski DF for	Reynolds	Heck
DATE	10/03/12	10/03/12	10/03/12	10/03/12	10/04/12
OFFICE	D:OGC	D:OE	D: NSIR	RIII	RIII
NAME	Scott ¹	Zimmerman ²	Wiggins ³	Orth	Casto CP for
DATE	10/09/12	10/09/12	10/09/12	10/10/12	10/10/12

OFFICIAL RECORD COPY

¹ OGC "No Legal Objection" received via e-mail from D. Furst on October 9, 2012

² OE concurrence received via e-mail from D. Furst on October 9, 2012

³ NSIR concurrence received via e-mail from D. Furst on October 9, 2012

Letter to Brian Kemp from Charles A. Casto dated October 10, 2012

SUBJECT: NOTICE OF VIOLATION; NRC INVESTIGATION REPORT NO. 3-2012-004

DISTRIBUTION:

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NOTICE OF VIOLATION

Brain Kemp
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-12-036

During a U.S. Nuclear Regulatory Commission (NRC) investigation completed on May 31, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations 73.56(g) requires, in part, that any individual who is maintaining unescorted access under this section shall promptly report to his or her supervisor any legal action(s) taken by a law enforcement authority or court of law to which the individual has been subject that could result in incarceration or a court order or that requires a court appearance, including but not limited to an arrest, an indictment, the filing of charges, or a conviction.

Contrary to the above, Brian Kemp, while maintaining unescorted access as Manager of Design Engineering at the Palisades Nuclear Plant, failed to report to his supervisor that he was arrested on January 14, 2011, by the Grand Rapids Michigan Police Department.

This is a Severity Level III violation (Section 6.9).

The NRC has concluded that information regarding the reason for the violation, and the corrective actions taken by Brian Kemp to prevent recurrence is already adequately addressed in NRC Investigation Report No. 3-2012-004, a letter from the NRC to Brian Kemp dated August 28, 2012, and a letter from Brian Kemp to the NRC dated September 24, 2012.

Therefore, you are not required to submit a written statement or explanation pursuant to 10 CFR 2.201 unless the description in the above referenced letters and report do not accurately reflect your position. In that case, or if you otherwise choose to respond, you should clearly title your response as a "Reply to a Notice of Violation, IA-12-036" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Charles A. Casto, Regional Administrator, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532, in an envelope marked, "Open by Addressee Only – Response to a Notice of Violation, IA-12-036," within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 within 30 days of the date of the letter transmitting this Notice.

Enclosure

If you choose to respond, your response will be made available electronically for public inspection 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>. Therefore, to the extent possible, the 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 please provide a bracketed copy of the response that identifies the information that should be protected and a redacted copy of the 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).

This Notice, along with its accompanying cover letter, will be made available electronically for public inspection from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, unless you provide a sufficient basis to withdraw the Notice within the 30 days specified above for response. 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 Notice 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>.

Dated this 10th day of October 2012