



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

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

April 30, 2013

EA-12-266

Mr. David A. Heacock
President and Chief Nuclear Officer
Dominion Energy Kewaunee, Inc.
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

**SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING WITH
ASSESSMENT FOLLOWUP; NOTICE OF VIOLATION AND PROPOSED
IMPOSITION OF CIVIL PENALTY – \$70,000; NRC INSPECTION REPORT
NO. 05000305/2013008; KEWAUNEE POWER STATION**

Dear Mr. Heacock:

This letter provides you the final significance determination of the preliminary White finding discussed in U.S. Nuclear Regulatory Commission (NRC) 05000305/2013007, investigation and inspection report. This letter also refers to the NRC Office of Investigations (OI) report, No. 3-012-010, conducted from January 3, 2012, to December 14, 2012, at the Kewaunee Power Station; a factual summary of the report was included in the inspection report. The purpose of the investigation was to determine whether a former fire brigade trainer at the Kewaunee Power Station: 1) willfully failed to conduct announced fire drills in accordance with your license condition and implementing procedure, and 2) falsified fire drill evaluation/critique forms. The inspection finding involved the failure to conduct announced drills in accordance with your license condition and implementing procedure. The results of the investigation and resulting inspection were discussed on February 14, 2013, with Mr. A. Jordan and other members of your staff. The inspection report was issued on March 4, 2013.

In the letter transmitting the investigation and inspection report, we provided you the opportunity to address the willful violations and the finding in a number of ways including: (1) respond to the NRC in writing for either or both the finding and the apparent violations, (2) attend a Regulatory Conference for only the finding where you can present to the NRC your perspective on the facts and assumptions the NRC used to arrive at the finding and assess its significance, (3) attend a Predecisional Enforcement Conference (PEC) to discuss only the apparent violations; or (4) request Alternative Dispute Resolution (ADR) for only the apparent violations.

On March 14, 2013, Mr. A. J. Jordan of your staff verbally informed the NRC that, while Dominion Energy – Kewaunee appreciated the opportunity to present its perspective on the facts and assumptions associated with these issues, your staff felt that information was already provided during the inspection; therefore, you did not intend to partake in any of the above opportunities. On March 20, 2013, your staff provided written verification that you did not intend to respond to any of the options for the finding or the apparent violations.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as White, a finding with low to moderate safety significance which will require a supplemental NRC inspection. According to NRC

Inspection Manual Chapter (IMC) 0609, appeal rights only apply to those licensees that have either attended a Regulatory Conference or have submitted a written response to the preliminary determination letter which submits additional information not previously considered by the NRC staff. The wording of the March 20, 2013, letter clearly indicated that your staff did not contest the facts or assumptions used by the NRC to arrive at the finding and its significance. By this statement, Dominion Energy – Kewaunee gave up its right to appeal the finding.

As a result of our review of Kewaunee's performance, including this White finding, we have assessed the plant to remain in the Regulatory Response column of the NRC's Action Matrix, effective the 4th quarter of 2012. Therefore, we plan to conduct a supplemental inspection using Inspection Procedure 95001, "Inspection for One or Two White Inputs in a Strategic Performance Area," when your staff has notified us of your readiness for this inspection. This inspection procedure is conducted to determine whether or not the root cause and contributing causes of risk significant performance issues are understood, the extent of condition and the extent of cause are identified, and the corrective actions are sufficient to prevent recurrence.

In addition, based on the information developed during the investigation, the NRC has determined that violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding them are described in detail in the subject inspection and investigation report. The violations are cited in Enclosure 1.

The first violation involves the deliberate failure to conduct announced fire drills. Specifically, beginning, at least, in August 2009, through December 2011, the fire brigade trainer began conducting the announced fire drills as training sessions instead of in-the-plant drills. The deliberate actions of the trainer resulted in Kewaunee Power station failing to achieve required fire brigade training activities. This was contrary to License Condition 2.C.(3) and the Kewaunee Fire Protection Program Plan, as implemented through Dominion Procedure SA-KW-FPP-010, "Fire Drills." The second violation involves the former trainer's deliberate falsification of required forms to claim that the announced drills were completed when, in fact they were not. The NRC used the Significance Determination Process to assess the underlying risk significance of the issue and determined that there was an associated finding of low to moderate significance, as described above. This was contrary to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9(a), "Completeness and Accuracy of Information."

These violations are a serious concern to the NRC because the deliberate actions of the fire brigade trainer caused fire brigade members to not perform fire drills in the auxiliary building and to only perform one fire drill in a safety-related area. Although the actions were taken by an individual, the NRC generally holds licensees accountable for the actions of their employees. In this case, the NRC considered that Kewaunee management had considerable opportunities at multiple levels to identify the issue prior to the NRC identifying it in December 2011. Given the significance of the underlying issues and the deliberate nature of the trainer's actions, these violations are categorized collectively in accordance with the NRC Enforcement Policy as a Severity Level III problem.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for a Severity Level III problem. Because the violations were willful, 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.

The NRC determined that credit was not warranted for *Identification* as the violations were identified by the NRC. The NRC determined that credit was warranted for *Corrective Action* based on your corrective actions which included, in part: (1) initiation of an internal investigation into the fire brigade trainer's activities; (2) disciplinary actions taken for both the trainer and the individual's supervisor; (3) revision to Kewaunee procedure, SA-KW-FPP-010, "Fire Drills," to incorporate specific definitions and actions as they related to meeting regulations; and (4) conducting fire drills correctly, with no major deficiencies noted.

Therefore, to emphasize the importance of complying with NRC requirements and to encourage prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the base amount of \$70,000 for the Severity Level III problem.

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 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 violations 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 Steven Orth, Enforcement Officer, at (630) 810-4370 for additional information. If you decide to pursue ADR, please contact Mr. Orth within 10 days of the date of this letter.

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in NRC Inspection Report No. 05000305/2013007. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

For administrative purposes, this letter is issued as NRC Inspection Report 05000305/2013008. Additionally, apparent violations (AVs) 05000305/2012007-01 and 05000305/2012007-02 are now considered to be violations 05000305/2012007-01 and 05000305/2012007-02, respectively.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS which is 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>.

Sincerely,

/RA by C. Pederson for/

Charles A. Casto
Regional Administrator

Docket No. 50-305
License No. DPR-43

Enclosure:
Notice of Violation

cc: Distribution via ListServ

NOTICE OF VIOLATION

Dominion Energy Kewaunee, Inc
Kewaunee Power Station

Docket No. 50-305
License No. DPR-43
EA-12-266

During a U.S. Nuclear Regulatory Commission (NRC) investigation conducted from January 3, 2012, to December 14, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. License No. DPR-43, Condition 2.C.(3), "Fire Protection," requires, in part, that the licensee shall implement and maintain in effect all provisions of the approved Fire Protection Program as described in the licensee's Fire Plan, and as referenced in the Updated Safety Analysis Report.

Section 9.0, "Training," of the Fire Protection Program Plan, Revisions 9 and 10, required, in part, that the KPS [Kewaunee Power Station] fire brigade training program incorporates the guidance of paragraph IV.B.6(e) of BTP [Branch Technical Position] APSCB 9.5-1, thus ensuring that the capability to fight potential fires is established and maintained. The requirements are defined via administrative control procedures and implemented via training procedures.

Training Procedure SA-KW-FPP-010, Revision 0, "Fire Drills," Section 5.1, required, in part, that each active fire brigade and fire team member shall participate in a minimum of two fire drills per calendar year, and that each operations crew shall complete one drill each calendar quarter (announced or unannounced). This included one unannounced and one back shift drill.

Training Procedure SA-KW-FPP-010 Revision 0, "Fire Drills," Section 6.1, required, in part that a minimum of five qualified Fire Brigade members, including a qualified Fire Brigade Leader, respond to the Fire Drill.

Contrary to the above, from at least August 19, 2009 to December 20, 2011:

- (1) The fire brigade and fire team members did not participate in a minimum of two fire drills per calendar year and each operations crew did not complete one drill each calendar quarter. Specifically, announced fire drills conducted in the third and fourth quarters of 2009, and calendar years 2010 and 2011 were implemented as training sessions rather than actual fire drills, with the exception of a June 29, 2010, announced drill.
 - (2) Fire drills were conducted with less than five qualified fire brigade members. Specifically, the fire brigade drills incorrectly conducted as training sessions on September 19, 24, and 25, 2009, and on September 22, 2010, were conducted with less than the five qualified fire brigade members.
- B. Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9(a), "Completeness and Accuracy of Information," requires, in part, that information required by license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

Enclosure

10 CFR Part 50, Appendix B, Criterion XVII, "Quality Assurance Records," requires, in part, that sufficient records be maintained to furnish evidence of activities affecting quality. Records include closely-related data such as qualifications of personnel, procedures, and equipment.

License No. DPR-43, Condition 2.C.(3), "Fire Protection," requires, in part, that the licensee shall implement and maintain in effect all provisions of the approved Fire Protection Program as described in the licensee's Fire Plan, and as referenced in the Updated Safety Analysis Report.

Section 6.0, "Quality Assurance," of the Fire Protection Program Plan, Revisions 9 and 10, stated, in part, that the plant has committed to implement fire protection quality assurance criteria under the licensee's existing Quality Assurance Program, which is required under 10 CFR Part 50, Appendix B.

Section 9.0, "Training," of the Fire Protection Program Plan, Revisions 9 and 10, required, in part, that the KPS fire brigade training program incorporates the guidance of paragraph IV.B.6(e) of BTP APSCB 9.5-1, thus ensuring that the capability to fight potential fires is established and maintained. The requirements, cited in the referenced paragraph, are defined via administrative control procedures and implemented via training procedures.

Training Procedure SA-KW-FPP-010, "Fire Drills," Revision 0, Section 5.6, "Completing The Documentation," required, in part, that upon completion of each fire drill, Attachment A, Fire Drill Evaluation/Critique form, be completed and assembled for filing, and the original be shipped to the Quality Assurance Vault. Section 7.1, "Quality Assurance Records," stated that Attachment A, Fire Drill Evaluation/Critique Form is a Quality Assurance record.

Contrary to the above, from, at least, August 19, 2009 to December 20, 2011, the completed Fire Drill Evaluation/Critique Forms for announced fire drills, a Quality Assurance record required by License Condition 2.C(3) and Section 6.0 of the Fire Protection Program Plan, were not complete and accurate in all material respects. Specifically, the completed Fire Drill Evaluation/Critique Forms incorrectly stated the following parameters: (1) On scene time; Location; (2) Did personnel respond to the correct location; (3) Were communications established with the Control Room; (4) Was protective gear worn properly; (5) Were self-contained breathing apparatus used properly; and (6) Did fire brigade leader establish attack and back-up teams and brief teams prior to entry. The information was not accurate because the individuals did not complete the activities described in the Critique Form satisfactorily during an actual fire brigade drill. This information was material to the NRC because the completed Fire Drill Evaluation/Critique Forms for announced fire drills indicated that the Fire Brigade members were qualified, when in fact, the Fire Brigade were not qualified for the above period.

This is a Severity Level III problem (Section 6.1)
Civil Penalty – \$70,000 (EA-12-266)

The NRC has concluded that information regarding the reasons for the violations, the corrective actions taken and planned to be taken to correct the violations, and the date when full compliance was achieved, is already adequately addressed on the docket in NRC Inspection Report No. 05000305/2013007. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation under 10 CFR 2.201. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-12-266" and send it to the Director, Office of Enforcement, with a copy to the Regional Administrator, Region III, and a copy to the NRC Resident Inspector at the Kewaunee Power Station.

You may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, a "Statement as to Payment of Civil Penalty" 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 you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you 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 violations 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. Your attention 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 P. 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 Charles A. Casto, Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle IL 60532 and a copy to the NRC Resident Inspectors at the Kewaunee Power Station.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and 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 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 (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 may be required to post this Notice within two working days of receipt.

Dated this 30th day of April, 2013

D. Heacock

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now considered to be violations 05000305/2012007-01 and 05000305/2012007-02, respectively.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS which is 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>.

Sincerely,

/RA by C. Pederson for/

Charles A. Casto
Regional Administrator

Docket No. 50-305
License No. DPR-43

Enclosure:
Notice of Violation

cc: Distribution via ListServ

SEE PREVIOUS CONCURRENCE

FILE NAME: G:\ORAI\IICS\ENFORCEMENT\Cases\Enforcement Cases 2012\EA-12-266 Kewaunee Fire Brigade \$\$\EA-12-266 Kewaunee Final Significance Determination - FINAL.docx

OFFICE	RIII	RIII	RIII	RIII
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DATE	04/09/13	04/10/13	04/12/13	04/15/13
OFFICE	D:OGC	D:OE	RIII	RIII
NAME	Spencer ¹ BKlukan for	Zimmerman ² GGulla	Orth	Casto
DATE	04/17/13	04/17/13	04/25/13	04/26/13

OFFICIAL RECORD COPY

1 OGC "no legal objection" provided via email from B. Klukan on April 17, 2013

2 OE concurrence provided via email from G. Gulla on April 17, 2013

Letter to David Heacock from Charles A. Casto dated April 30, 2013

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING WITH
PROPOSED FOLLOWUP; NOTICE OF VIOLATION AND PROPOSED
IMPOSITION OF CIVIL PENALTY – \$70,000; NRC INSPECTION REPORT
NO. 05000305/2013008; KEWAUNEE POWER STATION

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