

July 24, 2014

Ms. Kay Drey
Beyond Nuclear
515 West Point Ave
St. Louis, MO 63130

Dear Ms. Drey:

I am responding to your letter of June 3, 2013, to Chairman Macfarlane of the U.S. Nuclear Regulatory Commission (NRC), in which you requested that the NRC staff review Mr. Lawrence Criscione's article in the *International Nuclear Safety Journal (INSJ)*, Volume 2, Number 1 (2013), regarding the Callaway Plant inadvertent shutdown event of October 21, 2003. You specifically asked for responses to 10 questions.

The responsibility of the NRC under the Atomic Energy Act of 1954, as amended, is "to provide for the common defense and security and to protect the health and safety of the public." The NRC takes its safety responsibility seriously, and we welcome opportunities to discuss nuclear safety issues in an open and collaborative manner. As both a member of the NRC staff and a member of the public, Mr. Criscione has discussed the Callaway Plant inadvertent shutdown event of October 21, 2003, with the NRC staff on numerous occasions. He has submitted four petitions to the staff regarding the event, by letters dated April 27, April 30, and September 17, 2010, and August 15, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML101200401, ML101230100, ML103280306, and ML12237A172, respectively), under Title 10 of the *Code of Federal Regulations* (10 CFR), 2.206, "Requests for actions under this subpart." The staff's responses to Mr. Criscione are documented in letters dated May 27, 2010, January 19 and January 20, 2011, and September 20, 2012 (ADAMS Accession Nos. ML101380320, ML110140104, ML103410070, and ML12257A165, respectively).

Mr. Criscione's petitions were thoroughly reviewed and handled in accordance with NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions." The NRC staff follows an established process for reviewing petitions to ensure that each petition is fully and objectively evaluated, and the staff meets its obligations under 10 CFR 2.206. The NRC has reviewed, evaluated, and resolved the issues that Mr. Criscione raised for the Callaway Plant.

The specific efforts of the NRC staff to address Mr. Criscione's concerns are documented in the staff's responses to him listed above. The staff is obligated to ensure the public health and safety in accordance with the regulations, not to enforce or satisfy individual personal standards or curiosity. In fact, the staff has expended considerable resources to substantiate that an event which occurred in 2003 had no safety significance or consequences. These resources include investigations into claims of false testimony and falsification of records not available to the public because of the potential for enforcement, criminal prosecution, or release of personal information. Mr. Criscione chose to file his petitions as a member of the public. Therefore, only information available to the public was used to respond to his requests.

Missouri State Representative Jeanette Mott Oxford discussed the Callaway Plant inadvertent shutdown event with members of the NRC Region IV staff on November 8, 2011, as documented in Mr. Elmo Collins' letter to her dated April 20, 2012 (ADAMS Accession No. ML12167A508). By letter dated November 1, 2012, she subsequently requested answers from the NRC staff to questions that are similar to your questions:

1. Their assessment as to whether or not the information contained in "CAR 200702606, Action 5" is accurate.
2. Their assessment as to when the operators at Callaway Plant first recognized the reactor was no longer critical on October 21, 2003.
3. Their assessment as to why the operators allowed the reactor to operate in the source range for over 45 minutes with its control rods still at their critical rod heights and with no Source Range Nuclear Instruments energized.
4. Their assessment as to why the Reactor Operator was able to spend 30 minutes raising letdown flow from 75 to 120 gpm yet could not spend 10 minutes to insert the control banks.
5. Their assessment as to why NRC licensed reactor operators were available to remove an intake pump from service and to place cooling tower blowdown in service, yet were not available to insert the control banks.

The NRC staff addressed Question 1 in its letter to Mr. Criscione dated September 20, 2012. The staff addressed Question 2 in Mr. Collins' letter to Representative Oxford dated November 17, 2011 (ADAMS Accession No. ML113220478, specifically response 6). With regard to Questions 3, 4, and 5, the staff has concluded (e.g., Mr. Collins' letter to Representative Oxford dated November 17, 2011, specifically responses 4 and 5), that the operators were not fully cognizant of the operational condition of the reactor and that operator performance in not effectively controlling reactivity on October 21, 2003, was attributable, in part, to weakness with management oversight, training, and procedural guidance. Additional information addressing your specific questions may be found in the NRC correspondence referenced above. The staff reviewed Mr. Criscione's article in *INSJ* after its publication last year and concluded that it provided no new information beyond that already provided by Mr. Criscione or the licensee and evaluated by the staff, as documented in the correspondence noted above.

As stated in Mr. Collins' letter dated April 20, 2012, the scope of the initial investigation that the NRC conducted from September 28, 2007, to May 9, 2008, was to determine if Callaway Plant control room personnel failed to document a temperature transient during the inadvertent shutdown event of October 21, 2003. The NRC did not investigate if the operations manager was in the control room during the plant shutdown since it was not relevant to the scope of the investigation. The NRC has no regulatory concern regarding the presence or absence of the operations manager in the control room during the shutdown because there is no regulatory requirement that he or she be present during specific evolutions, including low power operations or shutdowns. The NRC requires a sufficient number of operators and skill sets in the control room to ensure safe operation of the facility. As a result, the operations manager's presence is

not needed in the control room. With respect to Mr. Criscione's question about the sworn testimony of the shift manager at the Callaway Plant, the NRC staff has no evidence to suggest that he provided false testimony when investigators interviewed him in 2008 about the October 21, 2003, plant shutdown. The shift manager's testimony was corroborated not only by the testimony of other reactor personnel in the control room, but by other documentary evidence.

The fact that the circumstances involving operator performance weaknesses were not documented in a corrective action document in 2003 is not in dispute. However, the staff has concluded that the corrective actions the licensee has taken in the intervening years have been responsive to addressing this and other performance deficiencies related to the October 2003 plant shutdown. These actions included improving plant low-power operations procedures.

As further stated in Mr. Collins' letter dated April 20, 2012, Mr. Criscione's questions are important and we have publicly responded to these questions in detail, as discussed above. We have also provided these answers to Mr. Criscione in multiple interactions with him in the past (correspondence, meetings, etc.). Based on the NRC's independent inspection, the agency has concluded that the shutdown did not endanger public health and safety. Furthermore, there has been no evidence obtained during the investigation and inspection that would indicate that there was wrongdoing, such as a cover-up, involved in the plant shutdown. Therefore, in the absence of new information, there is no regulatory or safety basis for the NRC to expend further resources related to the October 21, 2003, Callaway Plant shutdown.

All of the correspondence referenced above are publicly available. The ADAMS library may be accessed at <http://www.nrc.gov/reading-rm/adams.html>. If you have additional questions, please feel free to contact Fred Lyon at 301-415-2296 or email at Fred.Lyon@nrc.gov. I appreciate hearing your views and thank you for your interest in this matter.

Sincerely,

/RA by Jennifer Uhle for/

Daniel H. Dorman, Acting Director
Office of Nuclear Reactor Regulation

that he provided false testimony when investigators interviewed him in 2008 about the October 21, 2003, plant shutdown. The shift manager's testimony was corroborated not only by the testimony of other reactor personnel in the control room, but by other documentary evidence.

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Daniel H. Dorman, Acting Director
Office of Nuclear Reactor Regulation

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