



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

January 27, 2016

EA-15-170

Adam C. Heflin, President and
Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

**SUBJECT: WOLF CREEK GENERATING STATION – NOTICE OF VIOLATION – SEVERITY
LEVEL III PROBLEM - NRC INSPECTION REPORT 05000482/2015011**

Dear Mr. Heflin:

This letter provides you the Nuclear Regulatory Commission (NRC) enforcement decision for the apparent violations documented in NRC Inspection Report 05000482/2015010, issued to Wolf Creek Nuclear Operating Corporation, the licensee for the Wolf Creek Generating Station (Wolf Creek), on December 16, 2015 (Agency-wide Documents Access and Management System (ADAMS) Accession Number ML15350A424). The apparent violations, associated with licensed reactor operator medical examinations and related NRC reporting requirements, were discussed with licensee representatives during a telephonic inspection exit meeting on December 16, 2015, and documented in the inspection report.

The NRC in its inspection report notified you that the apparent violations were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy, and provided you the opportunity to address the apparent violations by attending a pre-decisional enforcement conference (PEC), or by submitting a written response before we made our final enforcement decision. The NRC also informed you in the inspection report transmittal letter that we had sufficient information regarding the apparent violations and the licensee's corrective actions to make an enforcement decision without the need for a PEC or a written response. In a telephone call on December 28, 2015, Mr. W. Muilenburg, Licensing Supervisor, the licensee, informed Mr. V. Gaddy, Chief, Operations Branch, that the licensee does not request a PEC nor intend to provide a written response.

Therefore, based on the information developed during the inspection, the NRC 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 NRC Inspection Report 05000482/2015010.

The first violation involved licensee's submittal of information to the NRC in a licensed operator application, dated January 10, 2010, that was not complete and accurate in all material respects. Specifically, the application did not specify that the applicant had a permanent medical condition that required a restriction to take medication for a disabling medical condition. Based, in part, on this inaccurate information, the NRC issued a renewed operator license that did not contain the necessary restricting license condition.

The second violation involved the licensee's failure to notify the NRC within 30 days of a permanent disability of a licensed operator. Specifically, the licensed operator informed the licensee's contract medical staff in May 2006 that he was taking medication for a disabling medical condition. The licensee failed to report this condition to the NRC when it submitted NRC Form 396, "Certification of Medical Examination by Facility Licensee," as part of the licensed operator application in January 2010, as well as the subsequent biennial requalification medical examinations in 2012 and 2014. The licensee also failed to request an amended license with a restricting license condition to account for the medical issue until July 2015.

The NRC concluded that both violations occurred as a result of the failure of the licensee's contract medical personnel to follow prescribed processes. Accordingly, these violations are categorized collectively as a Severity Level III problem to emphasize the importance of providing suitable training, oversight, and focus on licensed operator medical requirements.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for a Severity Level III problem involving a power reactor licensee. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC concluded that credit is warranted for the licensee's corrective actions. Specifically, the inspector confirmed that the licensee: (1) requested the NRC amend the operator's license to include a restriction for the use of prescribed medication (on July 15, 2015, the NRC issued the amended license with the new restriction), (2) initiated a causal analysis that included an extent of condition review for all operators to determine if there were any further unknown medical conditions, and (3) trained appropriate personnel on NRC medical restriction requirements.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC concluded that information regarding: (1) the reasons for the violations, (2) the actions planned or already taken to correct the violations and prevent recurrence, and (3) the date when full compliance was achieved, are already adequately addressed on the docket in either NRC Inspection Report 05000482/2015010 or in this letter. 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room and in 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. If personal privacy or proprietary information is necessary to provide an acceptable response, 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.

A. Heflin

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If you request withholding of such information, 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).

The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

/RA/

Marc L. Dapas
Regional Administrator

Docket No. 50-482
License No. NPF-42

Enclosure:
Notice of Violation

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A. Heflin

- 3 -

If you request withholding of such information, 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).

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Letter to Adam C. Heflin from Marc L. Dapas, dated January 27, 2016.

SUBJECT: WOLF CREEK GENERATING STATION – NOTICE OF VIOLATION – SEVERITY
LEVEL III PROBLEM - NRC INSPECTION REPORT 05000482/2015011

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NOTICE OF VIOLATION

Wolf Creek Nuclear Operating Corporation,
Wolf Creek Generating Station

Docket No. 50-482
License No. NPF-42
EA-15-170

During a Nuclear Regulatory Commission (NRC) inspection conducted between September 14, 2015, and December 16, 2015, violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- (1) Title 10 of the *Code of Federal Regulations* (10 CFR) 50.9 requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Title 10 CFR 55.21 requires, in part, that individual licensed operators and licensed senior operators shall have a medical examination by a physician every two years, and that the physician shall determine that the licensee meets requirements of Section 55.33(a)(1).

Title 10 CFR 55.33(a)(1) requires, in part, that an applicant's medical condition and general health will not adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety. Title 10 CFR 55.33(b) states, in part, that if the applicant's general medical condition does not meet the minimum standards under 10 CFR 55.33(a)(1), the Commission may approve the application and include conditions in the license to accommodate the medical defect.

Title 10 CFR 55.23 requires, in part, that an authorized representative of the facility licensee shall certify the medical fitness of an applicant by completing and signing an NRC Form 396, "Certification of Medical Examination by Facility Licensee." The NRC Form 396, when signed by an authorized representative of the facility licensee, certifies that, based on the results of the physical examination, including information furnished by the applicant, the physician has determined that the applicant's physical condition and general health are such that the applicant would not be expected to cause operational errors endangering public health and safety, and documents whether the applicant's license should be conditioned with restrictions.

Contrary to the above, on January 10, 2010, the licensee failed to provide information to the NRC that was complete and accurate in all material respects. Specifically, the licensee submitted a NRC licensed operator application with an NRC Form 396 that certified the medical fitness of the applicant without a necessary restricting license condition. This information was inaccurate in that the applicant has a permanent medical condition that does not meet the minimum standards of 10 CFR 55.33(a)(1), and that requires a restricting license condition to take medication as prescribed, to maintain medical qualifications. Based, in part, on the inaccurate information, the NRC issued the applicant a renewed operator license without the required restricting license condition on February 25, 2010.

Enclosure

- (2) Title 10 CFR 55.3 requires, in part, that a person must be authorized by a license issued by the Commission to perform the function of a licensed operator as defined in Part 55.

Title 10 CFR 50.74(c) requires, in part, that each licensee shall notify the appropriate NRC Regional Administrator within 30 days of a permanent disability or illness as described in 10 CFR 55.25 involving a licensed operator or senior operator.

Title 10 CFR 55.25 requires, in part, that if a licensed operator or licensed senior operator develops a permanent physical condition that causes the licensee to fail to meet the requirements of 10 CFR 55.21, the facility licensee shall notify the NRC within 30 days of learning of the diagnosis. For conditions where a conditional license is required, the facility licensee shall provide medical certification on NRC Form 396, "Certification of Medical Examination by Facility Licensee."

Title 10 CFR 55.21 requires, in part, that individual licensed operators and licensed senior operators shall have a medical examination by a physician every two years, and that the physician shall determine that the operator meets requirements of Section 55.33(a)(1).

Title 10 CFR 55.33(a)(1) requires, in part, that an applicant's medical condition and general health will not adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety. Title 10 CFR 55.33(b) states, in part, that if the applicant's general medical condition does not meet the minimum standards under 10 CFR 55.33(a)(1), the Commission may approve the application and include conditions in the license to accommodate the medical defect.

Contrary to the above, from June 30, 2006, to July 9, 2015, the licensee failed to notify the NRC of a permanent disability of a licensed operator that could adversely affect the performance of assigned operator job duties. Specifically, the operator informed the licensee's medical staff on May 31, 2006 that he was taking prescribed medication for a potentially disabling condition. The licensee failed to report this permanent medical condition to the NRC within 30 days of: (1) the operator's initial declaration to the licensee, (2) following any of the operator's annual examinations conducted by the licensee medical staff from May, 2006 through February, 2015, or (3) as part of the operator's license renewal application in January 2010. The licensee also failed to request an amended license for the operator with a restricting license condition to account for the medical issue until July 9, 2015.

These two violations represent a Severity Level III problem (NRC Enforcement Policy, Section 6.4).

The NRC concluded that information regarding: (1) the reasons for the violations, (2) the actions planned or already taken to correct the violations and prevent recurrence, and (3) the date when full compliance was achieved, are already adequately addressed on the docket in either NRC Inspection Report 05000482/2015010 or in this letter. Therefore, you are not required to respond to this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not

accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation EA-15-170," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region IV, 1600 East Lamar Boulevard, Arlington, Texas, 76011, and a copy to the NRC Resident Inspector at the Wolf Creek Generating Station, within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, Agency-wide 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. In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 27th day of January 2016