

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~



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

February 9, 2016

EA-15-224

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, NRC SECURITY INSPECTION
REPORT 05000482/2016406 AND NRC INVESTIGATION REPORT
NO. 4-2014-048

Dear Mr. Heflin:

This letter refers to the investigation conducted at the Wolf Creek Generating Station (WCGS) by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI). The purpose of the investigation was to determine whether willful security-related violations of NRC requirements occurred at WCGS. The investigation was initiated on August 27, 2014, and completed on October 20, 2015. This issue was discussed with you and other members of your staff during a telephone conversation on January 27, 2016. A factual summary of the subject OI investigation is enclosed.

Based on the staff's review of the results of the OI Investigation, one apparent violation of NRC requirements was identified and is being considered for escalated enforcement action in accordance with the Enforcement Policy, which can be found on the NRC's web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In addition, since you identified the violation and have taken appropriate corrective actions, a civil penalty may not be warranted in accordance with Section 2.3.4 of the Enforcement Policy. The final decision will be based on you confirming on the license docket that the corrective actions previously described to the NRC staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either (1) respond in writing to the apparent violation addressed in the enclosed factual summary and inspection report within 30 days of the date of this letter, (2) request a predecisional enforcement conference (PEC), or (3) request Alternate Dispute Resolution (ADR). If a PEC is held, the NRC may issue a press release to announce the time and date of the conference;

“Enclosure transmitted herewith contains SUNSI. When separated from enclosure, this transmittal document is decontrolled.”

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

~~OFFICIAL USE ONLY — SECURITY-RELATED INFORMATION~~

A. Heflin

- 2 -

however, the PEC will be closed to public observation since information related to an Office of Investigations report and Security-Related Information will be discussed. If you decide to participate in a PEC or pursue ADR, please contact Mark S. Haire, Chief, Plant Support Branch 1, at 817-200-1527, within 10 days of the date of this letter. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

If you choose to provide a written response, it should be clearly marked as a "Response to an Apparent Violation; EA-15-224," and should include for the apparent violation: (1) the reason for the apparent violation or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. Additionally, your response should be sent to the NRC's Document Control Center, with a copy mailed to Mr. Anton Vogel, Region IV, 1600 E Lamar Blvd, Arlington, Texas, 76011, within 30 days of the date of this letter. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC. In addition, please be advised that the number and characterization of apparent violations described in the enclosed report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on this issue and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a conference does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned.

In lieu of a PEC, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a third party neutral. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr/post-investigation.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

~~OFFICIAL USE ONLY — SECURITY-RELATED INFORMATION~~

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

A. Heflin

- 3 -

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390, "Agency Rules of Practice and Procedure," a copy of this letter will be made available 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>.

However, the material enclosed herewith contains Security-Related Information in accordance with 10 CFR 2.390(d)(1) and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosures will not be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's ADAMS. If you choose to provide a response and Security-Related Information is necessary to provide an acceptable response, please mark your entire response "Security-Related Information – Withhold from Public Disclosure Under 10 CFR 2.390" in accordance with 10 CFR 2.390(b)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1). 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 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

Sincerely,

/RA/

Anton Vogel, Director
Division of Reactor Safety

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

Nonpublic Enclosure:

1. Factual Summary of OI Investigation
Report No. 4-2014-048
2. NRC Inspection Report 05000482/2016406

Public Enclosure:

NUREG/BR-0317 Post-Investigation
ADR Program

cc w/Public Enclosure:

Electronic Distribution

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

Mediation Location and Duration

The parties usually hold the mediation at, or in the vicinity of, one of the NRC's offices. However, the parties may mutually agree upon any alternate location. Mediation sessions are usually no longer than 1 day. In some cases, the mediation may take longer than 1 day with the mutual consent of the parties.

The NRC Mediation Team

The responsible Regional Administrator or his or her designee will serve as the principal negotiator for the NRC in cases that involve wrongdoing and related technical issues, if any. When a case involves discrimination, the Director of the Office of Enforcement will normally serve as the principal negotiator. The other members of the NRC mediation team typically include an enforcement specialist, an attorney, and a staff representative who is familiar with the technical issues under discussion.

The Confirmatory Order

A CO is a legally binding document that includes the terms of the AIP. For a licensee, a CO serves as an amendment to its NRC license. Regardless of the type of entity, a CO has the same legal force against any party to which it is issued.

The NRC will only issue a CO with the prior written consent of the other party, and with a waiver of the right to a hearing. After the entity or the individual, as applicable, has completed the terms of the CO, the NRC will conduct verification activities to ensure that the terms of the CO have been satisfied in a timely manner. Because the CO is legally binding, failing to comply with its terms exposes the entity or individual to additional enforcement action.

Although the substance of the mediation session remains confidential, the details of the settlement will normally be made public via a press release and the publication of the CO in the *Federal Register*.

Timeliness Goals

The timely resolution of issues is one of the goals of the post-investigation ADR program. Accordingly, the NRC expects a timely progression of a case at each stage of the mediation process. In cases where the parties achieve settlement, the NRC expects to issue a CO within 90 calendar days of the date of the agency's letter offering the ADR option to an entity the other party.

Additional Sources of Information

Further information about the NRC's ADR program is available from the following:

- Cornell toll free at (877) 733-9445 9/4/15
- NRC ADR Program Manager in the Office of Enforcement toll free at (800) 368-5642 or (301) 415-2741
- NRC enforcement ADR program on the agency's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/adr.html



NUREG/BR-0517 Rev. 1
July 2011



United States Nuclear Regulatory Commission
Protecting People and the Environment

Post-Investigation
Alternative Dispute
Resolution Program

The Program

The U.S. Nuclear Regulatory Commission's (NRC's) post-investigation alternative dispute resolution (ADR) program provides an amicable process to resolve enforcement matters. It may produce more timely and effective outcomes for the NRC and an entity (e.g., an NRC licensee, certificate holder, or contractor of an NRC licensee or certificate holder) or an individual who is subject to an enforcement action. Following the congressional endorsement of the use of ADR by Federal agencies, the NRC established the post-investigation ADR program in 2004. Post-investigation ADR offers the opportunity to resolve discrimination cases or other wrongdoing and related matters through mediation rather than through the NRC's traditional enforcement process.

Post-investigation ADR refers to the use of mediation after the completion of an investigation by the NRC Office of Investigations and the staff's conclusion that pursuit of an enforcement action appears warranted. As long as the enforcement matter is within the scope of the program, the NRC normally offers post-investigation ADR at each of the following stages of the enforcement process: (1) before an initial enforcement action, (2) after the initial enforcement action is taken, typically upon issuance of a notice of violation, and (3) when a civil penalty is imposed but before a hearing request.

Mediation is an informal process in which a trained and experienced mediator works with the parties to help them reach a resolution. The parties are the NRC and the entity or an individual, as applicable, in the mediation. The mediator focuses the attention of the parties on their needs and interests rather than on their stated positions. Mediation gives the parties an opportunity to discuss issues, clear up misunderstandings, identify creative ways to address issues, find areas of agreement, and resolve their dispute.

Participation in the program is entirely voluntary. The NRC and the entity or the individual, as applicable, may withdraw from the mediation process at any time.

The Program Administrator

The NRC has a contract with the Cornell University Scheinman Institute on Conflict Resolution (Cornell) to serve as the program administrator for the post-investigation ADR program. Cornell administers the program's day-to-day operations, including handling the logistical matters and working with the parties to select a mediator from Cornell's roster of mediators. Cornell uses a network of independent and experienced mediators who help the parties find areas of agreement and help them settle their dispute.

The Mediator

The mediator is an experienced neutral individual who is mutually selected by the parties. He or she has no stake in the outcome of the mediation or any power to make decisions that may bind either party. The role of the mediator is to facilitate communication between the parties and to provide an environment where the parties have an opportunity to address their differences. The mediator uses consensus building skills and knowledge of negotiation to help the parties find ways to overcome any misunderstandings and attempt to find areas of agreement. The mediator does not act as legal counsel or provide legal advice to any party. Each party should consult an attorney for legal advice as such party deems appropriate.

The Mediation Process

Historically, most post-investigation ADR mediations have occurred at the first stage of the enforcement process (i.e., before an initial enforcement action). In those cases, the NRC presents the entity or an individual, as applicable, with the opportunity to engage in mediation with the agency before it makes an enforcement decision. If the entity or the individual elects ADR, Cornell will help the NRC and the entity or the individual, as applicable, to jointly select a mediator. After the parties select a mediator, the parties, in coordination with the mediator, set a date and place for the mediation. Typically, the mediator holds a pre-mediation teleconference with the parties to discuss logistical matters or any special needs of either party.

During the mediation, the mediator will give the parties an opportunity to discuss their views on the issue. Often, the mediator will meet privately with each party to develop a clear understanding of the party's perspective and explore and assess options. Although the mediator does not have any power to make decisions that may bind either party, he or she may ask questions intended to help the parties assess the merits of their positions, help them converse in a respectful atmosphere, and identify potential settlement options.

If the parties reach a settlement agreement during the mediation session, they will typically document the terms of their agreement in writing by developing an agreement in principle (AIP) document. The AIP is not enforceable by either party against the other, but it is the basis on which the NRC drafts a confirmatory order (CO), which is a legally binding document used to confirm the commitments made in the AIP.

However, if the parties do not reach a settlement agreement, the traditional enforcement process resumes—that is, the enforcement process continues as it would have, had the parties not engaged in ADR.

Confidentiality

Although the terms of an ADR settlement become publically available through the issuance of the CO, with certain exceptions, the substance of the discussions during the mediation session is confidential regardless of the mediation outcome. The mediator is prohibited from discussing the mediation proceedings, testifying on anyone's behalf concerning the mediation, or submitting a report on the substance of the discussions.

Cost

The NRC and the entity or individual, as applicable, equally share the fees and travel expenses of the mediator and any meeting room fees. However, each party is responsible for its own expenses, such as travel, lodging, and legal representation.

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

A. Heflin

- 3 -

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390, "Agency Rules of Practice and Procedure," a copy of this letter will be made available 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 Web site at <http://www.nrc.gov/reading-rm/adams.html>.

However, the material enclosed herewith contains Security-Related Information in accordance with 10 CFR 2.390(d)(1) and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosures will not be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's ADAMS. If you choose to provide a response and Security-Related Information is necessary to provide an acceptable response, please mark your entire response "Security-Related Information – Withhold from Public Disclosure Under 10 CFR 2.390" in accordance with 10 CFR 2.390(b)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1). 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 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

Sincerely,

/RA/

Anton Vegel, Director
Division of Reactor Safety

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

Nonpublic Enclosure:

- 1. Factual Summary of OI Investigation
Report No. 4-2014-048
- 2. NRC Inspection Report 05000482/2016406

Public Enclosure:

NUREG/BR-0317 Post-Investigation
ADR Program

cc w/Public Enclosure:
Electronic Distribution

Distribution:

See next page

ADAMS Accession Number: ML16040A382

Entire Report: <input checked="" type="checkbox"/> SUNSI Review by: JLB		<input type="checkbox"/> Non-Sensitive <input checked="" type="checkbox"/> Sensitive	<input type="checkbox"/> Publicly Available <input checked="" type="checkbox"/> Non-Publicly Available	Keyword: NRC-002 MD 3.4 Non-Public A.3		
Cover Letter Only: <input checked="" type="checkbox"/> SUNSI Review by: JLB		<input checked="" type="checkbox"/> Non-Sensitive <input type="checkbox"/> Sensitive	<input checked="" type="checkbox"/> Publicly Available <input type="checkbox"/> Non-Publicly Available	Keyword: RGN-002 SUNSI Review Complete		
OFFICE	PSI.PSB1	C.PSB1	C:PBB	ES ACES	RC.RIV	OE
NAME	JBuchanan	MHaire	NTaylor	JKramer	KFuller	RArrighi
SIGNATURE	/RA/	/RA/	/RA/	/RA/	/RA/	/RA/
DATE	1/22/16	1/22/16	1/26/16	2/2/16	2/3/16	2/9/16
OFFICE	OGC	D.DRS				
NAME	DCylkowski	AVegel				
SIGNATURE	/RA/	/RA/				
DATE	2/9/16	2/9/16				

OFFICIAL RECORD COPY

~~OFFICIAL USE ONLY — SECURITY-RELATED INFORMATION~~

Letter to Adam C. Heflin from Anton Vegel, dated February 9, 2016

SUBJECT: WOLF CREEK GENERATING STATION, NRC SECURITY INSPECTION
REPORT 05000482/2016406 AND NRC INVESTIGATION REPORT
NO. 4-2014-048

Distribution w/enclosure:

Security Specialist/NSIR (Eric.Wharton@nrc.gov)
Security Specialist/NSIR (Niry.Simonian@nrc.gov)
Chief, Security Performance Evaluation Branch/NSIR (Clay.Johnson@nrc.gov)
Security Specialist/NSIR (Douglas.Garner@nrc.gov)
Branch Chief, RI DRS/PSB1 (Raymond.McKinley@nrc.gov)
Branch Chief, RII DRS/PSB1 (Binoy.Desai@nrc.gov)
Branch Chief, RIII DRS/PSB (Steven.Orth@nrc.gov)
Branch Chief, RIV DRS/PSB1 (Mark.Haire@nrc.gov)
Senior Resident Inspector (Douglas.Dodson@nrc.gov)
Regional Administrator (Marc.Dapas@nrc.gov)
Deputy Regional Administrator (Kriss.Kennedy@nrc.gov)
DRP Director (Troy.Pruett@nrc.gov)
DRP Deputy Director (Ryan.Lantz@nrc.gov)
DRS Director (Anton.Vegel@nrc.gov)
DRS Deputy Director (Jeff.Clark@nrc.gov)
Senior Resident Inspector (Douglas.Dodson@nrc.gov)
Resident Inspector (Fabian.Thomas@nrc.gov)
Branch Chief, DRP/B (Nick.Taylor@nrc.gov)
Senior Project Engineer, DRP/B (David.Proulx@nrc.gov)
Project Engineer, DRP/B (Shawn.Money@nrc.gov)
Project Engineer, DRP/B (Steven.Janicki@nrc.gov)
ACES (R4Enforcement.Resource@nrc.gov)

Distribution by RIV w/o enclosure:

Public Affairs Officer (Victor.Dricks@nrc.gov)
Project Manager (Fred.Lyon@nrc.gov)
Team Leader, DRS/TSS (Thomas.Hipschman@nrc.gov)
RITS Coordinator (Marisa.Herrera@nrc.gov)
Regional Counsel (Karla.Fuller@nrc.gov)
Technical Support Assistant (Loretta.Williams@nrc.gov)
Senior Congressional Affairs Officer (Jenny.Weil@nrc.gov)
RIV Congressional Affairs Officer (Angel.Moreno@nrc.gov)
R4Allegation Resource
SAIC (Gayle.Walker@nrc.gov)
RSLO (Bill.Maier@nrc.gov)
RidsOeMailCenter Resource
OEWEB Resource (OEWEB.Resource@nrc.gov)
OEWEB Resource (Sue.Bogle@nrc.gov)
RIV/ETA: OEDO (Raj.lyengar@nrc.gov)

~~OFFICIAL USE ONLY — SECURITY-RELATED INFORMATION~~