



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION I
2100 RENAISSANCE BLVD., SUITE 100
KING OF PRUSSIA, PA 19406-2713

February 11, 2016

IA-15-081

Justin Hubbard
Radiation Task Supervisor
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2014-018

Dear Mr. Hubbard:

This letter refers to an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) between April 29, 2014, and September 17, 2015, to determine, in part, whether you, while employed as Radiation Task Supervisor (RTS) at Tetra Tech EC, Inc. (Tetra Tech), deliberately falsified soil sample surveys from the area referred to as 'Parcel C' at the U.S. Navy's Hunter's Point Naval Shipyard (HPNS) in San Francisco, California. A copy of a letter to Tetra Tech discussing the OI investigation and apparent violation, which includes a Factual Summary of OI Investigation Report 1-2014-018, is enclosed with this letter (Enclosure 1).

Based on the results of the NRC investigation, the NRC made a preliminary determination that you deliberately falsified soil sample surveys when your staff was tasked with obtaining soil samples to ascertain the amount of residual radioactivity in specific locations within Parcel C. Specifically, as the RTS, you directed that soil samples be taken instead from other areas that were suspected to be less contaminated. You also represented (on related chain-of-custody forms) that the samples had been obtained from the specified locations. As a result, it could have appeared that residual radioactivity within the specific locations in Parcel C was lower than it actually was. Your actions caused Tetra Tech to be in apparent violation of NRC requirements in that Tetra Tech did not make or cause to be made, surveys of areas within Parcel C that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity in the soil at HPNS.

Accordingly, the NRC has determined that you committed an apparent violation of 10 CFR 30.10(a), "Deliberate Misconduct." The NRC's deliberate misconduct rule prohibits employees of any licensee from engaging in deliberate misconduct that causes, or would have caused if not detected, a licensee to be in violation of NRC requirements. The rule also prohibits employees from deliberately submitting to a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC. Your actions are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The NRC Enforcement Policy is included on the NRC's Website at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Since the NRC has not made a final determination in this matter, a Notice of Violation is not being issued at this time. Please be advised that the number and characterization of the apparent violation described herein may change as a result of further NRC review.

We believe we have sufficient information to make an enforcement decision regarding the apparent violation. Therefore, you may accept the violation as characterized in this letter and notify us of that decision within 10 days. Alternatively, before the NRC makes its final enforcement decision, you may choose to provide your perspective on this matter, including the significance, cause, and corrective actions, as well as any other information that you believe the NRC should take into consideration by: (1) requesting a pre-decisional enforcement conference (PEC) to meet with the NRC and provide your views in person; (2) requesting Alternative Dispute Resolution (ADR); or (3) responding to the apparent violation in writing.

If you choose to request a PEC, the meeting should be held in our office in King of Prussia, PA, within 30 days of the date of this letter. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe will assist the NRC in making an enforcement decision.

In lieu of a PEC, you may also 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 neutral third party. The technique that the NRC has decided to employ is mediation; a voluntary, informal process in which a trained neutral 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 ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC 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. The ADR mediation session should be held in our office in King of Prussia within 45 days of the date of this letter.

Either the PEC or the ADR would be closed to public observation because the NRC's preliminary findings are based on an NRC OI report that has not been publicly disclosed. However, the time and date of the PEC or ADR will be publicly announced.

If you choose to provide a written response, it should be sent to the NRC within 30 days of the date of this letter. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. You should clearly mark the response as a "Response to Apparent Violations in NRC Investigation No. 1-2014-018; IA-15-081," 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 I, 2100 Renaissance Boulevard, King of Prussia, PA 19406.

Please contact Raymond Powell, Chief, Decommissioning and Technical Support Branch, at 610-337-6967 within **10** days of the date of this letter to notify the NRC which of the above options you choose. If an adequate response is not received with the specified time or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision.

A copy of this letter will not be made publicly available at this time. However, if the NRC subsequently issues an enforcement action to you, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at www.NRC.gov/reading-rm/adams.html.

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." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, may be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

/RA/

James M. Trapp, Director
Division of Nuclear Materials Safety

Docket No. 03038199
License No. 29-31396-01

Enclosures:

1. Letter to Tetra Tech Regarding OI Investigation Report No. 1-2014-018
2. Apparent Violation Being Considered for Escalated Enforcement

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Sincerely,

/RA/

James M. Trapp, Director
 Division of Nuclear Materials Safety

Docket No. 03038199
 License No. 29-31396-01

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Distribution: see next page

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DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Choice Letters\Tetra Tech Choice LETTER to IND EA-15-231.doc.docx

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DATE	12/22/2015	12/29/15	12/29/15	12/30/15	12/30/15	2/3/16
OFFICE	NMSS	OGC	RI/DNMS			
NAME	N/A	R Carpenter/RC	J Trapp/			
DATE		1/28/16	2/10/16			

*See previous concurrence page **Second review OFFICIAL RECORD COPY

Letter to J. Hubbard from J. Trapp dated February 11, 2016

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Apparent Violation Being Considered for Escalated Enforcement

10 CFR 30.10(a) states, in part, that any employee of a licensee may not: (1) engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation; or, (2) deliberately submit to a licensee information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, on several occasions between November 18, 2011, and June 4, 2012, while employed as a Radiation Task Supervisor for Tetra Tech EC, Inc. (Tetra Tech), you: (1) engaged in deliberate misconduct that caused the licensee to be in violation of an NRC regulation; and, (2) deliberately submitted to Tetra Tech information that you knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, when your staff was tasked with obtaining soil samples to ascertain the amount of residual radioactivity in specific locations within Parcel C at the U.S. Navy's Hunter's Point Naval Shipyard, you directed that soil samples be taken instead from other areas that were suspected to be less contaminated. You also represented (on related chain-of-custody forms) that the samples had been obtained from the specified locations. As a result, it could have appeared that residual radioactivity within the specific locations in Parcel C was lower than it actually was. Your actions caused Tetra Tech to be in violation of NRC requirements specified in Title 10 of the Code of Federal Regulations (CFR) 20.1501(a), in that Tetra Tech did not make or cause to be made, surveys of areas that may be necessary for the licensee to comply with the regulations in 10 CFR Part 20, and were reasonable under the circumstances to evaluate concentrations or quantities of residual radioactivity and the potential radiological hazards of the residual radioactivity detected.