



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

July 28, 2016

IA-15-081

Mr. Justin Hubbard
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2014-018)

Dear Mr. Hubbard:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for the apparent violation identified during an NRC investigation of the activities of Tetra Tech EC, Inc. (Tetra Tech) staff at the U.S. Navy's Hunter's Point Naval Shipyard (HPNS) site in San Francisco, California. The investigation was conducted to evaluate whether employees of Tetra Tech deliberately falsified soil sample surveys from the area referred to as 'Parcel C' at HPNS. Based on the results of the NRC investigation, the NRC preliminarily determined that you committed an apparent violation of Title 10 of the Code of Federal Regulations (CFR) Part 30.10(a), "Deliberate Misconduct." Specifically, while you were employed as a Radiation Task Supervisor at Tetra Tech, 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.

In a letter dated February 11, 2016 (ML16042A083),¹ the NRC described the apparent violation to you and informed you that the NRC was considering escalated enforcement action against you. In the letter, we offered you the opportunity to address the apparent violation by either attending a pre-decisional enforcement conference (PEC), to engage the NRC in an alternative dispute resolution (ADR) mediation session, or to provide a written response before we made our final enforcement decision. Since you have not requested a PEC, ADR, nor replied in writing, the NRC is proceeding with its enforcement action based on the results of the NRC investigation.

Based on the information developed during the investigation, the NRC determined that a violation of NRC requirements occurred. Specifically, you directed that soil samples be taken from areas that were suspected to be less contaminated and documented on related chain-of-custody forms that the soil samples had been taken from areas that had been specified.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

Your actions caused Tetra Tech to violate 10 CFR 20.1501(a) that requires, in part, that Tetra Tech make or cause to be made, surveys of areas that were reasonable to evaluate concentrations and potential radiological hazards of residual radioactivity. The failure to make reasonable surveys within Parcel C at HPNS is of significant concern to the NRC because the potential existed for buildings, land, or materials at HPNS to be inappropriately released for unrestricted use. In addition, the NRC concluded that your actions with respect to the violation were deliberate. Therefore, the NRC has categorized the violation by Tetra Tech in accordance with the NRC Enforcement Policy, at Severity Level III (SL III). A copy of the letter and Notice of Violation issued to Tetra Tech is enclosed for your information.

Your deliberate actions associated with the violation described above placed you in violation of 10 CFR 30.10, "Deliberate Misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, your individual violation has been categorized in accordance with the NRC Enforcement Policy at SL III, and is set forth in the enclosed Notice of Violation.

Because you are no longer employed by Tetra Tech, and are no longer involved in NRC licensed activities, you are not required to respond to the Notice of Violation at this time. However, should you become employed by, or seek employment with, an NRC licensee in the future, you are required, pursuant to the provisions of 10 CFR 2.201, to submit a written response. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice of Violation.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or 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 neutral third party. The technique that the NRC employs 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 on the NRC's ADR program can be found 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's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Raymond Powell at 610-337-6967 within **10** days of the date of this letter. You may also contact both ICR and Mr. Powell for additional information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 the NRC's Agencywide Documents Access and Management System (ADAMS) (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.

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 considered for, 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, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

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

Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Enclosures: As stated

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 considered for, 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, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

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Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Enclosures: As stated

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OFFICE	RI/ORA	RI/ORA	RI/DNMS	RI/ORA	RI/ ORA	OE
NAME	C Crisden/cjc*	N Warnek/nsw*	R Powell/rjp*	B Klukan/bmk*	B Bickett/cjc for*	R Fretz via email*
DATE	6/29/16	6/30/16	7/14/16	7/18/16	7/26/16	7/26/16
OFFICE	NMSS	OGC	DNMS			RA
NAME	M Burgess via email*	R Carpenter via email*	J Trapp/jmt*			D Dorman/dhd*
DATE	7/18/16	7/27/16	7/27/16			7/27/16

*See previous concurrence page OFFICIAL RECORD COPY

Letter to J. Hubbard from Daniel H. Dorman dated July 28, 2016

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Region I OE Files (with concurrences)

NOTICE OF VIOLATION

Justin Hubbard
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-15-081

During an NRC investigation conducted between April 29, 2014, and September 17, 2015, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (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 a person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

10 CFR 30.10(c) states, in part, that deliberate misconduct means an intentional act or omission that a person knows would cause a licensee to be in violation of any rule, regulation, or order.

10 CFR 20.1501(a) requires that each licensee shall make or cause be made, surveys of areas, including the subsurface, that may be necessary for the licensee to comply with regulations in 10 CFR Part 20 and are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels, concentrations or quantities of residual radioactivity, and the potential radiological hazards of the radiation levels and residual radioactivity detected.

10 CFR 20.1003 defines survey to mean an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of concentrations or quantities of radioactive material present.

10 CFR 20.1402 requires, in part, that a site be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed 25 mrem (0.25 mSv) per year, including that from groundwater sources of drinking water, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA).

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 from other areas that were suspected to be less contaminated. You also documented 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 10 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.

This is a Severity Level III violation (Enforcement Policy Section 6.3).

Because you are no longer employed Tetra Tech, and are no longer involved in NRC licensed activities, you are not required to respond to the Notice of Violation at this time. However, should you become employed by, or seek employment with, an NRC licensee in the future, you are required, pursuant to the provisions of 10 CFR 2.201, to submit a written response. This response should be clearly marked as a "Reply to a Notice of Violation; IA-15-081" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid future violations; and (4) the date when full compliance was achieved. The reply should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, 19406, and marked "Open by Addressee Only." The reply should be dated within 30 days of accepting employment with, or becoming employed by, an NRC licensee. If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System (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, 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 withholding of such material, 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 28th day of July 2016