



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

October 30, 1995

EA 95-110
EA 95-185

Public Service Company of Colorado
ATTN: A. Clegg Crawford, Vice President
Electric Operations
P.O. Box 840
Denver, Colorado 80201-0840

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report 50-267/94-03 & Office of Investigations
Reports 4-94-010 and 4-95-015)

Dear Mr. Crawford:

This is in reference to: 1) NRC Inspection Report 50-267/94-03, issued on June 15, 1994; 2) the Public Service Company of Colorado's (PSC) investigation of radiation survey documentation irregularities, completed in March 1995 and based on an investigation by the law firm of Stier, Anderson & Malone; 3) the subsequent investigation conducted by the NRC's Office of Investigations (OI), which was completed in May 1995; and 4) the predecisional enforcement conference which was conducted on August 29, 1995, in the NRC's Region IV Arlington, Texas office with representatives of PSC and the Scientific Ecology Group (SEG), a contractor involved in the decommissioning of PSC's Fort St. Vrain Nuclear Generating Station (FSV).

The purpose of the August 29, 1995 predecisional enforcement conference was to discuss apparent violations of NRC requirements that were identified during the various inspections and investigations referenced above. The events leading up to the conference were described in the NRC's August 8, 1995, letter confirming the conference arrangements. Briefly, PSC's and SEG's investigations found, as was subsequently confirmed by OI, that several SEG supervisors and technicians had participated in falsely documenting two categories of radiation survey records associated with the decommissioning project. These included 14 survey records associated with the release of material from the facility in late 1992 and 20 survey records to support work conducted under various radiation work permits at FSV in early 1993. The involved records were created substantially after the surveys were purported to have been performed, but were dated and signed to make it appear they had been prepared at the time the surveys were conducted. Furthermore, the created records contained numerous inaccuracies, such as survey instrument usage and calibration dates, that could not be supported by factual information.

At the enforcement conference, PSC and SEG admitted violating 10 CFR 50.9, "Completeness and Accuracy of Information," which requires such records to be accurate in all material respects, and admitted that one of the records had been deliberately falsified. Based on NRC's review of the investigation reports and the information PSC and SEG provided at the conference, the NRC

9511030040 951030
PDR ADOCK 05000267
G PDR

JEH

does not agree that only one of the survey records was deliberately falsified. The evidence collected by the law firm of Stier, Anderson & Malone, as documented in its December 1994 report, strongly suggests that the involved individuals knew they were creating records that contained false information. In addition to being backdated, many of the involved records included survey results and records of instrument use that had been fabricated and could not be supported by factual information. Thus, we conclude that the involved individuals knew they were submitting inaccurate information of a material nature and that there were multiple instances of deliberate misconduct.

Despite these records being falsified, it appears from the investigations that surveys were actually done to assure that materials were released from the facility according to procedures and that workers were adequately protected from radiation hazards during these work activities. Nonetheless, such widespread falsification of required radiation protection-related records is a significant regulatory concern to the NRC. It is of substantial concern that individuals entrusted with assuring radiation safety would attempt to resolve a concern about missing survey documentation by creating false records and, furthermore, that they would conspire to do so with supervisory involvement.

As discussed in the NRC's recent enforcement action involving a hostile work environment at Fort St. Vrain (EA 95-045, issued August 14, 1995), PSC failed in this case to exercise its oversight responsibility to assure that its decommissioning contractors understood the significance of complying with NRC requirements and the need to avoid emphasizing production goals over meeting such requirements. As PSC itself has recognized, this oversight responsibility is of paramount importance at the beginning of decommissioning activities, when a licensee turns the responsibility for dismantling a facility over to a contract workforce that is largely unfamiliar with the licensee's regulatory requirements and commitments. We are concerned that PSC's lack of effective oversight and active control of its contractors allowed this situation to develop and these violations to occur. These failures represent a significant regulatory concern. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600, (60 FR 34381, June 30, 1995), the violation in the enclosed Notice of Violation (Notice) has been classified as a Severity Level III violation. In determining the severity level, the NRC gave considerable weight to the evidence indicating that surveys were actually performed though the records of these surveys were falsified; otherwise the violations most likely would have been classified at a higher level.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$50,000 is considered for a Severity Level III violation. Because your facility has been the subject of escalated enforcement action within the last 2 years,¹ the NRC considered whether credit was warranted for identification and corrective action, in accordance with the civil penalty assessment process in Section VI.B.2. of the Enforcement Policy. Despite our concerns about

¹ A Severity Level II violation was issued on August 14, 1995, based on a violation of 10 CFR 50.7 that also involved contractor personnel.

PSC's original failure in its oversight responsibilities, the NRC has determined that PSC should be given credit for ultimately identifying and thoroughly investigating these violations, as well as credit for prompt and extensive corrective actions, as described above, fully mitigating the civil penalty. As to corrective action, the NRC acknowledges that PSC and SEG responded promptly and thoroughly when allegations of record irregularities surfaced. Actions taken in response included: a 16-day suspension of decommissioning work to allow time to resolve whether there were other incorrect survey records; retraining of staff prior to resuming decommissioning activities; an extensive investigation into the falsification of records by Stier, Anderson & Malone; disciplinary action against the involved supervisors; retraining and counseling of the involved technicians; an increase in the size of the radiation protection staff at FSV; a review of all material release survey documentation and all 1992 and 1993 radiation protection records; an indepth review of the entire SEG radiation protection program; procedural revisions to enhance understanding of survey-related requirements; enhancements to the radiological occurrence reporting system; other SEG personnel actions to enhance management of FSV radiation protection activities; enhancements to the quality assurance program; and retraining of personnel in the importance of identifying concerns. SEG also said at the conference that it has applied the lessons learned from this incident to other projects where it is involved in providing radiation protection services.

In addition to examining these factors, the NRC considered whether a civil penalty should be assessed based on the willfulness involved in the violations. Despite our concerns about the willfulness involved in creating false survey records, after considering all of the circumstances in this case, the NRC has decided not to exercise its discretion to assess a civil penalty.

Therefore, to encourage prompt identification and comprehensive corrective action for violations, I have been authorized, after consultation with the Director, Office of Enforcement, and the Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, the NRC is issuing Notices of Violation or letters to the SEG personnel, both former and current, who were found to have participated in the falsification of the survey documents.

In a related matter, the NRC is exercising discretion and is proposing no sanctions against PSC or SEG for a more recent incident in April 1995 in which it was discovered that an SEG technician had not been performing instrument response checks as required by procedures. This matter, which has been assigned case number EA 95-185, was reviewed by OI (4-95-015) and it was determined that the involved technician deliberately failed to follow procedures. However, because this was an isolated occurrence that was discovered by SEG after concerns about the technician were raised by other employees, because the underlying violation though willful is considered a Severity Level IV violation, and because SEG took prompt and appropriate action in response, the NRC is taking no further action against PSC or SEG, in accordance with Section VII.B.1 of the Enforcement Policy. The NRC is issuing a separate letter to the technician involved in that incident.

Public Service Company
of Colorado

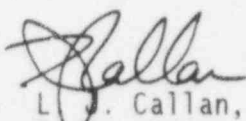
- 4 -

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. You may reference or incorporate previously submitted documentation on your corrective actions in this matter as you deem appropriate. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96.511.

Sincerely,



L. Callan,
Regional Administrator

Docket: 50-267
License: DPR-34

Enclosure: Notice of Violation

cc w/enclosure:
Public Service Company of Colorado
ATTN: M. H. Holmes
Project Assurance Manager
16805 Weld County Road 19-1/2
Platteville, Colorado 80651

GA International Services Corporation
Fort St. Vrain Services
ATTN: David Alberstein, Manager
P.O. Box 85608
San Diego, California 92138

Public Service Company of Colorado
ATTN: D. D. Hock, President and
Chief Executive Officer
P.O. Box 840
Denver, Colorado 80201-0840

Public Service Company
of Colorado

- 5 -

Public Service Company of Colorado
ATTN: Patricia T. Smith, Senior Vice
President and General Counsel
P.O. Box 840
Denver, Colorado 80201-0840

Chairman
Board of County Commissioners
of Weld County, Colorado
Greeley, Colorado 80631

Regional Representative
Radiation Programs
Environmental Protection Agency
1 Denver Place
999 18th Street, Suite 1300
Denver, Colorado 80202-2413

Colorado Department of Health
ATTN: Robert M. Quillin, Director
Radiation Control Division
4300 Cherry Drive South
Denver, Colorado 80220-1530

Colorado Public Utilities Commission
ATTN: Ralph Teague, P.E.
1580 Logan Street OL1
Denver, Colorado 80203

Commitment Control Program Coordinator
Public Service Company of Colorado
16805 Weld County Road 19-1/2
Platteville, Colorado 80651

Scientific Ecology Group, Inc.
ATTN: Mr. Don Neely
Vice President
628 Gallaher Road
Oak Ridge, Tennessee 37763

