



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

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

October 30, 1995

IA 95-046

Mr. Kenneth Zahrt
[Home address deleted from
copies pursuant to 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION NO. 4-94-010)

Dear Mr. Zahrt:

This is to inform you that the NRC has found you in violation of its regulations prohibiting deliberate misconduct, specifically 10 CFR 50.5, "Deliberate Misconduct," paragraph (a)(2), based on your involvement in creating and approving false records of radiation surveys at the Public Service Company of Colorado's (PSC) Fort St. Vrain Nuclear Generating Station (FSV). Until March 1994, you were employed by the Scientific Ecology Group at FSV as the Radiation Protection Operations Supervisor and were responsible for overseeing SEG's radiation protection support of the FSV decommissioning project.

The NRC's rule on deliberate misconduct states, in part, that an employee of a contractor or subcontractor of any licensee may not "[d]eliberately submit to ... a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC."

Our conclusion with respect to your involvement in deliberate misconduct is based on our review of the investigation conducted by the law firm of Stier, Anderson & Malone (SAM) on behalf of PSC as documented in its December 1994 report, the results of which were subsequently confirmed by the NRC's Office of Investigations (OI). Briefly, the investigation found that several SEG supervisors and technicians had participated in falsely documenting two categories of radiation survey records associated with the decommissioning project. These included survey records associated with the release of material from the facility in late 1992 and 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 by a radiation protection technician (RPT) and reviewed by a supervisor at the appropriate time. Furthermore, the created records contained numerous inaccuracies, such as survey instrument usage and calibration dates, that could not be supported by factual information.

The SAM investigation concluded that you reviewed and signed 14 backdated material release survey forms "with full knowledge that they were backdated." These survey documents indicated that they were prepared by an RPT and reviewed by you on various dates between September and December 1992. Contrary to the dates on the forms, the SAM investigation showed that they

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were all created in February 1993 after you had directed an RPT to "fix the problem" of missing survey documentation. Likewise, the SAM investigation showed that some 20 survey forms related to RWP work were created substantially after the surveys were allegedly performed, that you admitted to having directed one RPT to backdate a survey form, and that you "participated in the backdating activity" by reviewing and signing several of these falsified documents, "thereby contributing to the false appearance that the survey forms documented contemporaneous survey activity." Noting that "[n]either the RPTs who prepared the backdated survey forms nor the supervisors who reviewed them made any notation that would have alerted an outside observer that the documentation came into existence at a much later date than the alleged survey activity described on the forms," the investigation concluded that "[t]he weight of the evidence supports the conclusion that the backdated RWP survey forms were intended to mislead."

Despite these records being falsified, it appears from the investigations that surveys were actually done to assure that materials were properly released from the facility 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 particular 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.

Therefore, the NRC has decided to issue the enclosed Notice of Violation (Notice) to you based on your violating the NRC's rule regarding deliberate misconduct. In accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions," NUREG-1600 (60 FR 34381, June 30, 1995) the violation has been classified at Severity Level III. In determining the sanction against you, the NRC gave considerable weight to the evidence indicating that surveys were performed and to the action already taken against you by your former employer; otherwise the sanction most likely would have been more severe. Should you become involved in NRC-licensed activities in the future, further violations or misconduct on your part may result in more significant action.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice of Violation (Notice) when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. After reviewing your response to this Notice, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

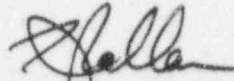
In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," enforcement actions are placed in the NRC Public Document Room (PDR). A copy of this letter with its enclosure and your response, with your address removed will be placed in the PDR.

Mr. Kenneth Zahrt

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The enclosed Notice is 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. J. Callan
Regional Administrator

Enclosure: Notice of Violation

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