



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 26, 1991

Mr. James S. Reynolds, Acting Chief
General Litigation and
Legal Advice Section
Criminal Division
U.S. Department of Justice
P.O. Box 887
Ben Franklin Station
Washington, DC 20044-0887

Dear Mr. Reynolds:

The enclosed report (Case No. 2-90-001) is the result of an investigation conducted by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) into allegations that senior reactor operations personnel willfully violated the conditions of a nuclear plant technical specification (TS), and subsequently willfully failed to report this violation, as required by NRC regulations.

By letter dated January 19, 1990, the NRC Regional Administrator, Region II, Atlanta, Georgia, requested that OI investigate an alleged willful violation of Vogtle Electric Generating Plant (VEGP) TS 3.4.1.4.2 by senior Georgia Power Company (GPC) Operations personnel in October 1988. This letter also requested that OI investigate an allegation that, in November 1989, the VEGP Plant Review Board (PRB), composed of GPC managers at VEGP, deliberately did not report this TS violation to the NRC.

*knowing
intentional
violation
TS*

The OI investigation disclosed that on October 12 and 13, 1988, in order to facilitate a chemical cleaning of the Reactor Coolant System (RCS), four Senior Reactor Operators (SRO), with full knowledge, concurrence and permission of the Assistant General Manager for Operations, knowingly and intentionally violated TS 3.4.1.4.2 by directing that specific valves be opened that were required by TS 3.4.1.4.2 to be locked closed while the plant was in the mode (status) in which the openings were accomplished. After each of the chemical injections facilitated by the four valve openings, the valves were closed. Regarding plant safety, the opening of the valves in question dilutes the boron concentration in the RCS water, which, if diluted excessively, could cause reactor criticality. An alarm (High Flux at Shutdown Alarm) would sound if the boron concentration in the RCS water was approaching excessive dilution. The Assistant General Manager for Operations, informally and relatively quickly, considered the degree of boron dilution that would be caused by opening and closing these valves to conduct the chemical injections. He decided that the dilution would be insignificant. A year later, a formal engineering analysis supported his decision. However, at the time of his decision: 1) he had no formal analysis, 2) the TS prohibited the opening of the valves, and 3) he did not contact NRC for either consultation or permission regarding the valve openings.

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The investigation also disclosed that, a year after these valve openings, the VEGP PRB formally considered the reportability of these openings to NRC. The PRB decision not to report this 1988 placement of the plant into a condition prohibited by TS 3.4.1.4.2 to NRC was, at best, illogical, based upon the information considered by the PRB. However, it was not concluded by OI that the PRB decision was a deliberate violation of the requirement to report TS violations.

potentially willful

The actions of the GPC SROs and Assistant General Manager for Operations are potential willful violations of the VEGP plant technical specifications. Technical specifications are required by 10 CFR 50.36 to be included as part of a license to operate a commercial nuclear plant. Section 101 of the Atomic Energy Act (AEA) of 1954, as amended, (42 U.S.C. 2131) requires a license to operate the nuclear facility. Section 222 of the AEA (42 U.S.C. 2272) makes a willful violation of Section 101 of the AEA a criminal act.

Based upon the information provided above, we are forwarding the described report and supporting documentation for your prosecutorial consideration. If you have any questions regarding this matter, please contact the case Investigator, Larry L. Robinson, or the Field Office Director, James Y. Vorse, Region II, NRC, FTS 841-6502, or commercial (404) 331-6502.

Sincerely,

Ben B. Hayes

Ben B. Hayes, Director
Office of Investigations

Enclosure:
As stated

cc w/o encl:
Chairman Carr
Commissioner Rogers
Commissions Curtiss
Commissioner Remick
W. Parler, OGC
L. Chandler, OGC
J. Taylor, EDO
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