

**From:** Gifford, Ian  
**Sent:** Thursday, February 20, 2020 4:00 PM  
**To:** Thompson, Catherine  
**Subject:** RE: TVA cases - letters attached  
**Attachments:** Choice Letter-Shea\_IAG.docx

Hi Kitty,

Here are comments on the Shea letter.

Thanks,  
Ian

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**From:** Thompson, Catherine  
**Sent:** Thursday, February 20, 2020 12:41 PM  
**To:** Gifford, Ian ; Solorio, Dave  
**Subject:** TVA cases - letters attached

All – attached are the four letters. I made a few minor edits, highlighted in blue, to change Watts Bar to Corporate, and add the Indefinite suspension words about Czufin. Please take one more look to see if I caught everything.

Dave – should George and Nick see these before the Region?

k

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**From:** Gifford, Ian  
**Sent:** Thursday, February 20, 2020 12:28 PM  
**To:** Thompson, Catherine <[Catherine.Thompson@nrc.gov](mailto:Catherine.Thompson@nrc.gov)>; Solorio, Dave <[Dave.Solorio@nrc.gov](mailto:Dave.Solorio@nrc.gov)>  
**Subject:** RE: TVA cases

Hi Kitty,

No changes yesterday afternoon. Do we need to circulate them within OE before sending to the Region?

Thanks,  
Ian

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**From:** Thompson, Catherine <[Catherine.Thompson@nrc.gov](mailto:Catherine.Thompson@nrc.gov)>  
**Sent:** Thursday, February 20, 2020 11:28 AM  
**To:** Solorio, Dave <[Dave.Solorio@nrc.gov](mailto:Dave.Solorio@nrc.gov)>; Gifford, Ian <[Ian.Gifford@nrc.gov](mailto:Ian.Gifford@nrc.gov)>  
**Subject:** TVA cases

Dave, Ian,

I think the draft letters we put together last week are still correct unless something changes after I left yesterday. I will relook at them and send them back to you for one last look before send them to region tomorrow and to Nasreen to format. Let me know if there are new instructions...

K

**Hearing Identifier:** JShea\_IA\_NonPublic  
**Email Number:** 762

**Mail Envelope Properties** (BL0PR0901MB4499240767CC7F072545837AEA130)

**Subject:** RE: TVA cases - letters attached  
**Sent Date:** 2/20/2020 3:59:59 PM  
**Received Date:** 2/20/2020 3:59:59 PM  
**From:** Gifford, Ian

**Created By:** Ian.Gifford@nrc.gov

**Recipients:**  
"Thompson, Catherine" <Catherine.Thompson@nrc.gov>  
Tracking Status: None

**Post Office:** BL0PR0901MB4499.namprd09.prod.outlook.com

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	1517	2/20/2020 3:59:59 PM
Choice Letter-Shea_IAG.docx	36094	

**Options**  
**Priority:** Normal  
**Return Notification:** No  
**Reply Requested:** No  
**Sensitivity:** Normal  
**Expiration Date:**

[Date]

IA-2020-008

Mr. Joseph Shea

ADDRESS REMOVED

SUBJECT: APPARENT VIOLATIONS OF EMPLOYEE PROTECTION REQUIREMENTS  
(OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-015)

Dear Mr. Shea:

This letter refers to an investigation by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) related to Tennessee Valley Authority (TVA), completed on January 21, 2020 (2-2019-015). The purpose of the investigation was to determine whether a former Manager of Emerging Regulatory Issues employed by TVA **Corporate** was the subject of **employment** discrimination for participating in a protected activity in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, "Employee Protection."

The NRC determined that the former employee was placed on paid administrative leave on October 15, 2018, and terminated on January 14, 2019, in part, for engaging in protected activities. Between 2016 and 2017, the former employee raised numerous safety concerns, including: violations of the Part 26 Fatigue Rule requirements at Watts Bar 2; failure to adhere to the Fukushima requirements at Sequoyah; concerns regarding a Watts Bar 2 surveillance extension request; and failure to meet NRC commitments in Information Notice 2017-3 to identify Anchor Darling double disc gate valve susceptibility to failure at Brown Ferry. On July 24, 2017, the former employee submitted an allegation to the NRC (**RII-2017-A-0114**) raising concerns that the former Director of **Corporate Nuclear Licensing (CNL)** was creating a chilled work environment, among other issues. The former employee also wrote condition reports and discussed safety issues during meetings. The former employee believed that the former Director of CNL was retaliating against other TVA employees that had raised safety concerns and was concerned about retaliatory actions from the former Director of CNL. The former employee reported concerns of retaliation and a hostile work environment to you. The former employee also raised concerns of retaliation to a TVA attorney during an investigative interview. Contacting the NRC and raising concerns of a chilled work environment are protected activities.

The NRC staff reviewed the evidence gathered during the NRC OI investigation and determined that the actions taken against the former employee **were** in apparent violations of the NRC's rule prohibiting deliberate misconduct, 10 CFR 50.5 (a). Based on the evidence developed during the investigation and subsequent staff analysis, it appears that you, as the **Vice President** of Regulatory Affairs, engaged in deliberate misconduct that caused an NRC licensee (TVA) to be in violation of 10 CFR 50.7, "Employee Protection." These apparent violations **is** being considered for escalated enforcement action in accordance with the NRC Enforcement Policy.

Official Use Only – Predecisional Enforcement Information

The current Enforcement Policy can be found on the NRC's Web site at [www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html](http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html).

The apparent violation, which is based on the NRC's OI investigation and staff's analysis of the evidence, was ~~asere~~ discussed with you during a [date] telephone conversation.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued at this time. In addition, please be advised that the characterization of the apparent violations, and the number of violations, may change as a result of further NRC review.

Before the NRC makes its enforcement decision, a closed pre-decisional enforcement conference (PEC) will be held to discuss the apparent violation. The NRC will contact you to determine a mutually agreeable date, time, and location for the PEC. The PEC will be closed to public observation since it is associated with an OI report, and the results have not been publicly released. Additionally, the conference will be transcribed. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference will include an opportunity for you to provide your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. A PEC should be held within 30 days of the date of this letter.

The NRC's Enforcement Policy permits the individual who was the subject of the alleged employment discrimination to participate in the conference. Accordingly, that individual ~~will~~ be invited to attend the PEC and may participate by observing the conference. Following your presentation, the individual may, if desired, present ~~their~~ views on why ~~they~~ believes the discrimination occurred and comment on your presentation. You would then be afforded an opportunity to respond and the NRC may ask some clarifying questions. Under no circumstances would the NRC staff permit you or the ~~former~~ employee to cross-examine or question each other.

Enclosed is the redacted Report of Investigation (ROI) 2-2019-015. The OI report provides an overview of the evidence gathered during the investigation. Because the NRC has not made a final decision regarding the apparent violation, the NRC will not make the OI report available to the general public, and we request that you also refrain from doing so. Other PEC participants will also be sent a copy of the redacted OI report.

A copy of this letter and its enclosures 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 and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. In addition, this letter will be maintained by the

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Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. 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>.

Sincerely,

George Wilson, Director  
NRC Office of Enforcement

Enclosures:

1. Apparent Violations
2. Report of the Office of Investigation No. 2-2019-015  
(EXEMPT FROM PUBLIC DISCLOSURE)

**DISTRIBUTION: WITHOUT ENCLOSURES**

P. Moulding, OGC  
D. Castelveter, OPA  
M. Kowal, RII  
S. Sparks, RII  
B. Hughes, NRR  
M. Doane, EDO  
OE R/F.

### Apparent Violations

10 CFR 50.7 (a) states that discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment.

10 CFR 50.5 (a) states that any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:

- (1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Contrary to the above, between October 15, 2018, and January 14, 2019, you engaged in deliberate misconduct that caused Tennessee Valley Authority (TVA), an NRC licensee, to be in violation of 10 CFR 50.7(a). Specifically, you placed a TVA employee on paid administrative leave and subsequently terminated the employee. As contributing factors for these adverse actions, you cited the employee's statements made during a TVA Office of the General Counsel investigation and fear of retaliation communicated to you by the employee, which are protected activities.