

From: Kontz, Craig
Sent: Thursday, November 29, 2018 2:48 PM
To: Luina, Scott
Subject: FW: 18-111 Update
Attachments: ML18333A033.pdf; 18-111 Ack Letter CRK.docx

Scott – forgot to put you on this – this wraps up the issue we had the call on.

Also here is the report in case you are interested

From: Kontz, Craig
Sent: Thursday, November 29, 2018 2:43 PM
To: Mendez-Gonzalez, Sandra
Subject: 18-111 Update

Attached if the updated form and report to send him.

Subject: WATTS BAR NUCLEAR PLANT – FOLLOW-UP FOR NRC CONFIRMATORY ORDER EA-17-022 AND CHILLED WORK ENVIRONMENT LETTER EA-16-061; NRC INSPECTION REPORT 05000390/2018013, 05000391/2018013

WATTS BAR NUCLEAR PLANT – FOLLOW-UP FOR NRC CONFIRMATORY ORDER EA-17-022 AND CHILLED WORK ENVIRONMENT LETTER EA-16-061; NRC INSPECTION REPORT 05000390/2018013, 05000391/2018013

ADAMS ACCESSION NUMBER: ML18333A033

Hearing Identifier: JShea_IA_NonPublic
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Subject: FW: 18-111 Update
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From: Kontz, Craig

Created By: Craig.Kontz@nrc.gov

Recipients:
"Luina, Scott" <Scott.Luina@nrc.gov>
Tracking Status: None

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MESSAGE	727	11/29/2018 2:47:32 PM
ML18333A033.pdf	147064	
18-111 Ack Letter CRK.docx	52313	

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Reply Requested: No
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**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II**

245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

November 28, 2018

EA-17-022
EA-16-061

Mr. Joseph W. Shea
Vice President, Nuclear Regulatory Affairs
and Support Services
Tennessee Valley Authority
1101 Market Street, LP 4A
Chattanooga, TN 37402-2801

**SUBJECT: WATTS BAR NUCLEAR PLANT – FOLLOW-UP FOR NRC CONFIRMATORY
ORDER EA-17-022 AND CHILLED WORK ENVIRONMENT LETTER EA-16-061;
NRC INSPECTION REPORT 05000390/2018013, 05000391/2018013**

Dear Mr. Shea:

On November 26, 2018, the U.S. Nuclear Regulatory Commission (NRC) completed its review of Unresolved Item (URI) 05000390, 391/2018012-01, Potential Failure to Implement Reviews of Adverse Employment Actions in Accordance with Confirmatory Order, EA-09-009 and EA-09-203; which was identified in the August 17, 2018, inspection report 05000390/2018012, 05000391/2018012 (ML18229A153). The NRC inspector discussed the results of this inspection with Mr. Paul Simmons and other members of your staff on November 28, 2018. The results of this inspection are documented in the enclosed report.

As part of the inspection activities, the inspector reviewed past revisions of Tennessee Valley Authority's (TVA)'s procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, along with a review of TVA databases and human resource (HR) records, dating back to March 2017, to ensure that activities identified as Executive Review Board (ERB) Adverse Actions and Non-ERB Adverse Actions were reviewed per the requirements of the 2009 & 2017 Confirmatory Order (CO).

The inspector documented two Severity Level IV (SL IV) violations for failure to implement the requirements of the Confirmatory Orders under traditional enforcement process in this report. The NRC is treating these violations as non-cited violations (NCVs), consistent with Sections 2.2.4 and 2.3.2 of the NRC Enforcement Policy.

The inspector also documented a licensee-identified SL IV violation under traditional enforcement process in this report. The NRC is treating this violation as an NCV consistent with Sections 2.2.4 and 2.3.2 of the NRC Enforcement Policy.

If you contest the violations or significance of these NCVs, you should provide a response within 30 days of the date of this inspection report, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001; with copies to the Regional Administrator, Region II; the Director, Office of Enforcement; and the NRC resident inspector at the Watts Bar Nuclear Plant.

This letter, its enclosure, and your response (if any) will be made available for public inspection and copying at <http://www.nrc.gov/reading-rm/adams.html> and at the NRC Public Document Room in accordance with 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."

Sincerely,

/RA/

Anthony D. Masters, Chief
Reactor Projects Branch 5
Division of Reactor Projects

Docket Nos.: 50-390, 50-391
License Nos.: NPF-90, NPF-96

Enclosure:
IR 05000390/2018013, 05000391/2018013

cc: Distribution via ListServ

**U.S. NUCLEAR REGULATORY COMMISSION
REGION II**

Docket Nos.: 50-390, 50-391

License Nos.: NPF-90, NPF-96

Report No.: 05000390/2018013, 05000391/2018013

Licensee: Tennessee Valley Authority (TVA)

Facility: Watts Bar, Units 1 and 2

Location: Spring City, TN 37381

Dates: September 17 through November 28, 2018

Inspector: S. Smith, Senior Construction Inspector

Approved by: Anthony D. Masters, Chief
Reactor Projects Branch 5
Division of Reactor Projects

Enclosure

SUMMARY

This inspection was initiated to review Unresolved Item (URI) 05000390, 391/2018012-01. Activities performed include a review of past revisions of Tennessee Valley Authority's (TVA)'s procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board; along with a review of TVA databases and human resource (HR) records, dating back to March 2017, to ensure that activities identified as ERB Adverse Actions and Non-ERB Adverse Actions were reviewed per the requirements of the 2009 & 2017 Confirmatory Order (CO). Two NRC-identified Severity Level IV (SL IV) Non-cited Violations (NCV) and one additional tracking item are summarized in the table below. A Licensee-identified SL IV NCV is documented in report section 92702.

List of Findings and Violations

Failure to Adequately Implement Requirements of Confirmatory Order EA-09-009, -203			
Cornerstone	Significance	Cross-Cutting Aspect	Report Section
N/A	SLIV NCV 05000390, 391/ 2018013-01 Closed	N/A	92702
The inspector identified a SL IV NCV for the licensee's failure to adequately implement requirements of CO EA-09-009, -203. Specifically, procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, failed to provide procedural guidance for the implementation of a process to review proposed adverse actions such as demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.			

Failure to Adequately Implement Requirements of Confirmatory Order EA-17-022			
Cornerstone	Significance	Cross-Cutting Aspect	Report Section
N/A	SL IV NCV 05000390, 391/2018013-02 Closed	N/A	92702

Additional Tracking Items

Unresolved Item (URI) 05000390, 391/2018012-01 (Closed)	Potential Failure to Implement Reviews of Adverse Employment Actions in Accordance with Confirmatory Order, EA-09-009 and EA-09-203	92702
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INSPECTION SCOPES

Inspections were conducted using the appropriate portions of the inspection procedures (IPs) in effect at the beginning of the inspection unless otherwise noted. Currently approved IPs with their attached revision histories are located on the public website at:

<https://www.nrc.gov/reading-rm/doc-collections/insp-manual/inspection-procedure/index.html>

The inspector reviewed selected procedures and records, observed activities, and interviewed personnel to assess licensee performance and compliance with Commission rules and regulations, license conditions, site procedures, and standards.

OTHER ACTIVITIES – TEMPORARY INSTRUCTIONS, INFREQUENT AND ABNORMAL

92702 - Follow-up on Traditional Enforcement Actions Including Violations, Deviations, Confirmatory Action Letters, Confirmatory Orders, and Alternative Dispute Resolution Confirmatory Orders

The inspector reviewed Unresolved Item (URI) 05000390, 391/2018012-01, Potential Failure to Implement Reviews of Adverse Employment Actions in Accordance with CO, EA-09-009 and EA-09-203.

INSPECTION RESULTS

<p>URI 05000390, 391/2018012-01 (Closed)</p>	<p>Potential Failure to Implement Reviews of Adverse Employment Actions in Accordance with Confirmatory Order, EA-09-009 and EA-09-203</p>	<p>92702</p>
<p><u>Description:</u> TVA CO EA-09-009, -203 issued to TVA on December 22, 2009, required, in part, that:</p> <p style="text-align: center;"><i>By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE. Such a process should consider actions to mitigate a potential chilling effect if the employment action, despite its legitimacy, could be perceived as retaliatory by the workforce.....</i></p> <p>During the June 2018 inspection for Follow-up for NRC CO EA-17-022 and Chilled Work Environment Letter Safety Conscious Work Environment (SCWE) and CO EA-16-061, inspectors identified that TVA procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board (ERB), Revision 01, dated December 21, 2017, defined Adverse Action, or Adverse Employment Action (AEA) as “an employer-initiated action that detrimentally affects an employee’s compensation terms, conditions, or privileges of employment. Such actions include but are not limited to termination, demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.” The procedure then delineates between adverse actions as “ERB Adverse Actions” and “Non-ERB Adverse Actions”; stating that “Non-ERB Adverse Actions do NOT</p>		

require ERB review. However, management may elect to have other employee actions reviewed by ERB, as they deem necessary.” Specific Adverse Actions, identified by the procedure as “Non-ERB Adverse Actions,” included:

- Demotions
- Transfer to a Less Desirable Job
- Denial of Access

As part of the inspection activities, the inspector performed a review of TVA databases and human resource (HR) records, dating back to March 2017, to ensure that activities identified as ERB Adverse Actions and Non-ERB Adverse Actions were reviewed per the requirements of the 2009 & 2017 CO. Specifically, the inspector reviewed:

- Denial of Access database,
- List of Contractor Terminations,
- TVA Incident Report Database, and
- HR records for individuals that received Lower Grade Pay, Change in Pay, and Transfers.

Finally, the inspector reviewed various ERB packages along with the contractor oversight process to ensure that the Adverse Actions were being identified and reviewed in accordance with the applicable procedures and met the requirements of both COs.

Corrective Action Reference(s): Condition Report (CR) 1449611

Licensee Identified Violation	92702
<p>This violation of very low safety significance was identified by the licensee and has been entered into the licensee’s corrective action program and is being treated as a non-cited violation, consistent with Sections 2.2.4 and 2.3.2 of the NRC Enforcement Policy.</p>	
<p>Violation: TVA CO EA-09-009, -203 issued to TVA on December 22, 2009, requires, in part, that:</p> <p><i>“By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE....”</i></p> <p>Contrary to the above, on October 12, 2017, TVA failed to review a proposed licensee adverse employment action at WBN before the action was taken. Specifically, a TVA contractor terminated an employee prior to giving TVA notification. This action resulted in a failure to perform an Executive Review Board prior to the termination which was required per procedure NPG-SPP-11.10, Rev. 7, Adverse Employment Action.</p>	

Significance/Severity Level: This violation was characterized using traditional enforcement because it is associated with Confirmatory Order EA-09-009, -203. The violation was assessed using Sections 2.2.2 and 2.2.4 of the NRC's Enforcement Policy. The inspector concluded that the violation represented a procedural error that did not result in an actual safety impact, the potential consequences were very limited, and that the licensee took appropriate corrective actions.

Corrective Action Reference(s): Condition Report (CR) 1352296

Failure to Adequately Implement Requirements of Confirmatory Order EA-09-009, -203

Cornerstone	Significance	Cross-Cutting Aspect	Report Section
N/A	SL IV NCV 2018013-01	N/A	92702

The inspector identified a Severity Level IV Non-Cited Violation (NCV) for the licensee's failure to adequately implement requirements of Confirmatory Order EA-09-009, -203. Specifically, procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board (ERB), failed to provide procedural guidance for the implementation of a process to review proposed adverse actions such as demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.

Description:

Confirmatory Order EA-09-009, -203 states that:

"By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA's nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE...."

On October 20, 2017, TVA issued procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, Rev. 0. Section 5.0, Definitions, defines Adverse Action (Adverse Employment Action, or AEA) as "an employer-initiated action that detrimentally affects an employee's compensation terms, conditions, or privileges of employment. Such actions include but are not limited to termination, demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access." TVA's definition for adverse action is consistent with the NRC's RIS 2005-18.

The only AEAs for which the procedure requires a review include: suspensions (one or more days off without pay), terminations for cause, involuntary reduction in force, and no-fault terminations of employment. Those four AEAs are subjected to an ERB review. However, AEAs, such as, demotions, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access are not required to be reviewed because

the procedure does not require any reviews for the AEAs that are not required to have an ERB review. Procedure NPG-SPP-01.7.4 has been revised two times since it initially became effective on October 20, 2017, with Rev. 1 dated December 21, 2017, and Rev. 2 dated August 13, 2018. Both of these revisions also do not require any reviews for the licensee defined adverse actions which include demotions, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.

Therefore, procedure NPG-SPP-01.7.4 fails to provide procedural guidance for implementation of a review process for proposed licensee adverse employment actions which do not require an ERB review before actions are taken to determine whether the proposed action comports with employee protection regulations and whether the proposed actions could negatively impact the Safety Conscious Work Environment (SCWE) as required by Confirmatory Order EA-09-009, -203.

Corrective Actions: In response to this issue, TVA has entered this into the corrective action program and is assessing potential impacts.

Corrective Action Reference: This issue has been captured in Condition Report 1449611.

Performance Assessment:

This violation was associated with previously documented AV 05000390, 391/2016013-03; documented in inspection report 05000390/2016013, 05000391/2016013 (ML17069A133).

Enforcement:

Violation: TVA Confirmatory Order (CO) EA-09-009, -203, issued to TVA on December 22, 2009, requires, in part, that:

“By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE....”

Contrary to the above, on October 20, 2017, TVA issued procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, Rev. 0, which failed to provide procedural guidance for implementation of a process to review proposed licensee adverse actions before actions were taken.

TVA procedure NPG-SPP-01.7.4, Section 5.0, Definitions, defines Adverse Action (Adverse Employment Action, or AEAs) as “an employer-initiated action that detrimentally affects an employee’s compensation terms, conditions, or privileges of employment. Such actions include but are not limited to termination, demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.” TVA’s definition for adverse action is consistent with the NRC’s RIS 2005-18.

The only AEA for which the procedure requires a review include: suspensions (one or more days off without pay), terminations for cause, involuntary reduction in force, and no-fault terminations of employment. Those four AEAs are subjected to an Executive Review Board (ERB) review. However, demotions, denial of a promotion, an unfavorable performance

appraisal, transfer to a less desirable job, and denial of access are not required to be reviewed by the ERB or any other required reviews. This is not consistent with Confirmatory Order EA-09-009, -203. The failure to provide procedural guidance for implementation of a review process for non-ERB adverse actions was also identified in Revisions 01 and 02 of procedure NPG-SPP-01.7.4.

Severity: The NRC determined this violation constituted a more than minor traditional enforcement violation associated with failure to implement the requirements of Confirmatory Order EA-09-009, -203. While the inspectors did not identify any actual examples where the licensee failed to perform a review for non-ERB adverse actions, the potential to miss such a review exists; notwithstanding the licensee’s cognitive SCWE review. The inspector determined that the failure to perform such a review could potentially impact safety, in that, failure to perform SCWE reviews for non-ERB adverse actions could miss opportunities to identify and/or prevent an environment where individuals would be hesitant to raise nuclear safety concerns for fear of retaliation. The inspector determined that the licensee’s failure to implement the requirements of the Confirmatory Order is considered a SL IV violation, consistent with Section 2.2.2.d of the NRC Enforcement Policy, dated May 15, 2018.

Enforcement Actions: The violation is being treated as an NCV consistent with Sections 2.2.4 and 2.3.2 of the NRC Enforcement Policy, dated May 15, 2018.

Corrective Action Reference(s): Condition Report (CR) 1449611

Failure to Adequately Implement Requirements of Confirmatory Order EA-17-022

Cornerstone	Significance	Cross-Cutting Aspect	Report Section
N/A	SL IV NCV 2018013-02	N/A	92702

The inspector identified a Severity Level IV Non-Cited Violation (NCV) for the licensee’s failure to adequately implement requirements of Confirmatory Order (CO) EA-17-022. Specifically, corporate and site procedure revisions failed to ensure that current and future CO requirements continue to be met when procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, was revised such that it no longer required review of adverse actions as required by Confirmatory Order EA-09-009, -203.

Description:

TVA CO EA-17-022 states in part that:

“Within six months of issuance of the CO, TVA shall revise corporate and site procedures, as appropriate, to ensure that current and future CO requirements continue to be met.”

TVA CO EA-09-009, -203 states in part that:

“By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE....”

The CO EA-17-022 requirement took effect on January 27, 2018. On August 13, 2018, TVA issued procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, Rev. 2. Section 5.0, Definitions, defines Adverse Action (Adverse Employment Action) as “an employer-initiated action that detrimentally affects an employee’s compensation terms, conditions, or privileges of employment. Such actions include but are not limited to termination, demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access.” The only Adverse Actions for which the procedure requires a review include: suspensions (one or more days off without pay), terminations for cause, involuntary reduction in force, and no-fault terminations of employment. Those four adverse actions are subjected to an Executive Review Board (ERB) review. However, demotions, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access are not required to be reviewed. The procedure does not require any reviews for the adverse actions that are not required to have an ERB review. Although, both previous revisions to this procedure (Procedure NPG-SPP-01.7.4, Rev. 0, dated October 20, 2017, and Rev. 1 dated December 21, 2017) also do not require any reviews for the licensee defined adverse actions demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access, Rev. 2 was the first revision issued after the Confirmatory Order EA-17-022 requirement to ensure that current and future CO requirements continue to be met went into effect.

While TVA’s definition for adverse action is consistent with the NRC’s RIS 2005-18; procedure NPG-SPP-01.7.4 fails to provide procedural guidance for implementation of a review process for proposed licensee adverse employment actions which do not require an ERB review before actions are taken to determine whether the proposed action comports with employee protection regulations and whether the proposed actions could negatively impact the SCWE. Therefore, since this procedure revision does not require reviews of personnel actions defined as adverse actions, it is not in compliance with the 2009 Confirmatory Order and thus is a failure to ensure that current CO requirements continue to be met.

Performance Assessment:

This violation was associated with previously documented AV 05000390, 391/2016013-03; documented in inspection report 05000390/2016013, 05000391/2016013 (ML17069A133).

Enforcement:

Violation:

TVA CO EA-17-022, issued to TVA on July 27, 2017, requires, in part, that:

“Within six months of issuance of the CO, TVA shall revise corporate and site procedures, as appropriate, to ensure that current and future CO requirements continue to be met.”

TVA CO EA-09-009, -203, issued to TVA on December 22, 2009, requires, in part, that:

“By no later than ninety (90) calendar days after the issuance of this Confirmatory Order, TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action

comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE....”

Contrary to the above, TVA’s corporate and site procedures did not ensure that current CO requirements continue to be met. Specifically, on August 13, 2018, TVA procedure NPG-SPP-01.7.4, Adverse Employment Action and the Executive Review Board, Rev. 2, was issued and failed to provide procedural guidance for implementation of a process to review proposed licensee adverse actions before actions were taken. Procedure NPG-SPP-01.7.4 Rev. 2 did not provide procedural guidance for implementation for a process to review proposed Adverse Actions, which do not require ERBs, such as demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access. This is not consistent with Confirmatory Order EA-09-009, -203, which states in part that “*TVA shall implement a process to review proposed licensee adverse employment actions at TVA’s nuclear plant sites before actions are taken to determine whether the proposed action comports with employee protection regulations, and whether the proposed actions could negatively impact the SCWE....”* Although, both previous revisions to this procedure (Procedure NPG-SPP-01.7.4, Rev. 0, dated October 20, 2017, and Rev. 1 dated December 21, 2017) also do not require any reviews for the licensee defined adverse actions demotion, denial of a promotion, an unfavorable performance appraisal, transfer to a less desirable job, and denial of access, Rev. 2 was the first revision issued after the Confirmatory Order EA-17-022 requirement to ensure that current and future CO requirements continue to be met went into effect.

Severity: The NRC determined this violation constituted a more than minor traditional enforcement violation associated with failure to implement the requirements of CO EA-17-022. While the inspectors did not identify any actual examples where the licensee failed to perform a review for non-ERB adverse actions, the potential to miss such a review exists; notwithstanding the licensee’s cognitive SCWE review. The inspectors determined that the failure to ensure that current and future CO requirements continue to be met could potentially impact safety. Specifically in this example, failure to perform SCWE reviews for non-ERB adverse actions could miss opportunities to identify and/or prevent an environment where individuals would be hesitant to raise nuclear safety concerns for fear of retaliation. The inspectors determined that the licensee’s failure to implement the requirements of the Confirmatory is considered SL IV violation, consistent with Section 2.2.2.d of the NRC Enforcement Policy, dated May 15, 2018.

Enforcement Actions: The violation is being treated as an NCV consistent with Sections 2.2.4 and 2.3.2 of the NRC Enforcement Policy, dated May 15, 2018.

Meeting Summary

On September 21, 2018, the inspector presented the inspection results to Mr. Paul Simmons, Site Vice President and other members of the licensee staff. The inspector confirmed that all proprietary information reviewed during the inspection was returned and that none of the potential report input discussed was considered proprietary.

The inspector conducted additional briefings with your staff to the potential findings on November 2, 2018, and November 9, 2018. On November 28, 2018, the inspector presented the final inspection results to Mr. Paul Simmons, Site Vice President and other members of the licensee staff.

DOCUMENTS REVIEWED

Other Activities:

Follow-up of Confirmatory Order Commitments (IP 92702)

WBN Failure to Implement Adverse Employment Action Process, Event Date: 3/10/2017, Level 1 Evaluation (RCA) Report, dated 5/26/2017

NPG-SPP-01.7.4, Adverse Employment Action and Executive Review Board, Rev. 02, dated 8/13/2018

NPG-SPP-01.7.4, Adverse Employment Action and Executive Review Board, Rev. 01, dated 12/21/2017

NPG-SPP-01.7.4, Adverse Employment Action and Executive Review Board, Rev. 00, dated 10/20/2017

NPG-SPP-11.10, Adverse Employment Action, Rev. 07, dated 1/24/2017

NPG-SPP-11.10, Adverse Employment Action, Rev. 06, dated 7/28/2016

NPG-SPP-11.10, Adverse Employment Action, Rev. 05, dated 4/27/2016

NPG-SPP-11.10, Adverse Employment Action, Rev. 04, dated 3/2/2015

NPG-SPP-11.10, Adverse Employment Action, Rev. 03, dated 12/19/2013

NPG-SPP-11.10, Adverse Employment Action, Rev. 02, dated 4/24/2012

NPG-SPP-11.10, Adverse Employment Action, Rev. 01, dated 7/14/2011

NPG-SPP-11.10, Adverse Employment Action, Rev. 00, dated 8/31/2010

TVA-SPP-11.2.0, Filling Vacant Positions, Rev. 04, dated 5/1/2017

TVA-SPP-11.316, Employee Discipline, Rev. 06, dated 9/11/2018

TVA-SPP-11.316, Employee Discipline, Rev. 05, dated 7/3/2017

TVA-SPP-11.316, Employee Discipline, Rev. 04, dated 9/12/2016

NPG-SPP-07.7, TVA Nuclear CTS Role and Oversight of Supplemental Personnel, Rev. 07, dated 3/16/2018

Watts Bar Nuclear Plant Nuclear Safety Culture Site Leadership Team Report, dated 7/12/2018

Watts Bar Nuclear Plant Nuclear Safety Culture Site Leadership Team Report, dated 1/11/2018

CR 1449501, The NRC Confirmatory Order Follow-Up Inspection at WBN identified the need to review applicable vendor records to verify compliance to the NPG Adverse Employment Action process.

CR 1449609, During the Confirmatory Order follow-up inspection held 9/17/18-9/21/18, the NRC identified that an ERB package was missing some signatures and was incomplete. The ERB was held on 5/8/17 with the action taken on 5/10/17, therefore the ERB was held prior to the action being taken. The NRC interviewed the D&Z PM that was involved with the ERB and it was confirmed that there was a calendar invitation sent on for the ERB to be held on 5/8/17.

CR 1448827 July 2018 SLT NSC Meeting Minutes are incorrect.



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

November 28, 2018

SUBJECT: Concerns You Raised to the NRC Regarding Watts Bar Nuclear Plant -
Allegation Report RII-2018-A-0111

Dear Sir or Madam:

This letter refers to your electronic message to US Nuclear Regulatory Commission (NRC) staff members on November 2, 2018 and subsequent telephone call with NRC staff members on November 16, 2018. During your communications you expressed concerns related to the Tennessee Valley Authority (TVA) 2009 Confirmatory Order. We take identity protection very seriously, which is why we do not include your name on our written correspondence with you. We do not intend for the omission of your name to be impersonal. This practice simply adds another layer of protection in our communications with you.

Enclosure 1 to this letter documents your concern as we understand it and our review. If the description of your concern as noted in Enclosure 1 is not accurate, please contact me so that we can assure that your concern is appropriately described and adequately addressed.

The NRC brochure "Reporting Safety Concerns to the NRC" contains information that you may find helpful in understanding our process for review of safety concerns. It includes an important discussion of our identity protection procedures and limitations. The brochure can be found on the NRC public web site at the following link: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0240/>.

If a request is filed under the Freedom of Information Act (FOIA) related to your area of concern, the information provided will, to the extent consistent with that act, be purged of names and other potential identifiers. Further, you should be aware you are not considered a confidential source unless confidentiality has been formally granted in writing.

Allegations are an important source of information in support of the NRC's safety mission. We take our safety responsibility to the public seriously and will continue to do so within the bounds of our lawful authority. Thank you for notifying us of your concern. We believe our actions have been responsive to your concern. If, however, new information is provided that suggests that our conclusions should be altered, we will reevaluate that information to determine if additional evaluation is indicated.

Should you have any additional questions, or if the NRC can be of further assistance, please call me at the regional office toll-free number 1-800-577-8510 extension 4707 or you may provide information to me in writing at EICS, 245 Peachtree Center Avenue, NE, Suite 1200, Atlanta, GA 30303-1257. You may also communicate with me by electronic mail, if you so choose. However, please be advised that the NRC cannot protect the information during transmission on the Internet and there is a possibility that someone could read your response while it is in transit. My e-mail address is Sandra.Mendez-Gonzalez@nrc.gov. Should you

prefer to communicate by email, please also respond to the following email addresses:
R2Allegations@nrc.gov.

Sincerely,

Sandra L. Mendez Gonzalez
Allegation Coordinator
Enforcement and Investigation Coordination Staff

Enclosure: As stated

TENNESSEE VALLEY AUTHORITY (TVA)
STATEMENT OF CONCERN AND REVIEW
ALLEGATION REPORT RII-2018-A-0111

Concern 1:

TVA management's actions to insist on the procedure changes to the Adverse Employment Action Program constituted a willful violation of the 2009 Confirmatory Order.

Response to Concern 1:

We have reviewed your concern and determined that this is not an issue we can pursue on the basis of the information provided. During the telephone call on November 16, 2018, you stated that TVA management believed the changes to the procedure were justified based on the outcome of the Alternative Dispute Resolution (ADR) session for the 2009 Confirmatory Order (CO) violation. Based on this discussion, we determined that although the actions taken may have resulted in a violation of NRC requirements, they do not provide indications of wrongdoing because it does not meet the criteria outlined in the enforcement manual for a willful violation.

Specifically, the requirement that the person committing the violation knew a requirement existed, understood the requirement, and knew the requirement was applicable at the time is not satisfied. In this case it appears that there was an improper belief that the requirements of the 2009 Order were no longer applicable even when contrary views were presented by other employees. On the basis of the foregoing, further NRC intervention on this issue is not warranted at this time.

In reference to this concern we have attached a copy of the report addressing this URI which should encompass the technical aspects already under the NRC's review.

ATTACH COPY OF REPORT ML18333A033

Enclosure