

**From:** JSheaIA-Hearing Resource  
**Sent:** Wednesday, February 17, 2021 5:52 PM  
**To:** JSheaIA-HearingNPEm Resource  
**Subject:** OE documents  
**Attachments:** ML21040A344\_Redacted.pdf

**Hearing Identifier:** JShea\_IA\_NonPublic  
**Email Number:** 1307

**Mail Envelope Properties** (9a1c00bda2004f8390b29cd1e6e116f4)

**Subject:** OE documents  
**Sent Date:** 2/17/2021 5:51:36 PM  
**Received Date:** 2/17/2021 5:51:38 PM  
**From:** JShealA-Hearing Resource

**Created By:** JShealA-Hearing.Resource@nrc.gov

**Recipients:**  
"JShealA-HearingNPEm Resource" <JShealA-HearingNPEm.Resource@nrc.gov>  
Tracking Status: None

**Post Office:** HQPWMSMRS02.nrc.gov

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	3	2/17/2021 5:51:38 PM
ML21040A344_Redacted.pdf	873532	

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

**From:** Thompson, Catherine  
**Sent:** Friday, January 8, 2021 12:31 PM  
**To:** JSheaIA-Hearing Resource  
**Subject:** documents  
**Attachments:** TVA SEQUOYAH EAW NRC 1260 2-19-2020 OUO (003).pdf; [REDACTED] EAW NRC 1260 2-19-2020 OUO (003).pdf; EA-20-013.TVA.CMT strategy form [REDACTED] 2.pdf; EA-20-013-2.TVA.CMT strategy form [REDACTED] 1.pdf; EA-20-006-2.TVA.CMT strategy form Sequoyah 2.pdf; EA-20-006-1.TVA.CMT strategy form Sequoyah 1.pdf

Hearing Identifier: JShea\_IA\_NonPublic  
Email Number: 578

**Mail Envelope Properties** (DM6PR09MB4744472278EE4F317C75D26E8CAE0)

**Subject:** documents  
**Sent Date:** 1/8/2021 12:31:00 PM  
**Received Date:** 1/8/2021 12:31:10 PM  
**From:** Thompson, Catherine

**Created By:** Catherine.Thompson@nrc.gov

**Recipients:**  
"JSheaIA-Hearing Resource" <JSheaIA-Hearing.Resource@nrc.gov>  
Tracking Status: None

**Post Office:** DM6PR09MB4744.namprd09.prod.outlook.com

Files	Size	Date & Time
MESSAGE	0	1/8/2021 12:31:10 PM
TVA SEQUOYAH EAW NRC 1260 2-19-2020 OOU (003).pdf		2066006
██████████ EAW NRC 1260 2-19-2020 OOU (003).pdf		2063161
EA-20-013.TVA.CMT strategy form ██████████ 2.pdf		91194
EA-20-013-2.TVA.CMT strategy form ██████████ 1.pdf		88169
EA-20-006-2.TVA.CMT strategy form Sequoyah 2.pdf		96488
EA-20-006-1.TVA.CMT strategy form Sequoyah 1.pdf		97505

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



**ENFORCEMENT ACTION WORKSHEET**

<b>EA#:</b>	EA 2020-06
<b>Date of Panel:</b>	February 19, 2020
<b>Licensee:</b>	TVA
<b>Facility/Location:</b>	Sequoyah
<b>Licensee Type:</b>	Operating Reactor
<b>Docket No(s):</b>	
<b>Inspection Report No(s):</b>	
<b>Date of Exit Meeting:</b>	
<b>Date of IR or Choice Letter Issuance:</b>	
<b>ML Number of case documents (if known):</b>	
<b>OI Report No:</b>	2-2018-033
<b>OI Report Date:</b>	October 3, 2019
<b>Inspector:</b>	

1. Summary of Issues Considered for Escalated Enforcement:  
 This investigation determined whether a former TVA Site Licensing Manager employed at Sequoyah was discriminated against for engaging in protected activity, in violation of 10 CFR 50.7, the employee protection regulation. Summary attached.

2. Is willfulness involved?      Yes
- OI's determination:      Deliberate
  - OGC's determination:      Deliberate
  - Regional determination:      N/A

3. Regional Recommendation:  
 OE recommends continuing the escalated enforcement process regarding:

1. TVA
2. The former Director of Corporate Nuclear Licensing  
[REDACTED]

● Number of Apparent Violations (AV):    2

**ENFORCEMENT ACTION WORKSHEET (continued)****Apparent Violation #: 1**

Brief statement of violation (e.g. inadequate survey, 10 CFR 20.1501):

The CI at TVA Sequoyah was discriminated against for engaging in protected activity, in violation of 10 CFR 50.5 and 10 CFR 50.7.

Background information:

Between 2015 and 2018, the Concerned Individual (CI), the former TVA Site Licensing Manager, was involved with ongoing communications with Corporate Nuclear Licensing (CNL), which included the former Director of CNL and the Vice President (VP) of Regulatory Affairs, about how to respond to two non-cited violations (NCVs) issued by the NRC during an inspection. In addition, the CI was involved with several complaints and investigations involving the Employee Concerns Program (ECP), Human Resources (HR), and the TVA Office of General Counsel (OGC). On May 25, 2018, the CI was placed on paid administrative leave and on August 16, 2018, the CI resigned from TVA:

Between 2015 and 2018 the CI was involved in numerous discussions, disagreements and meetings with CNL regarding the Service Life NCV and the Kirk Key NCV. These violations were identified by the NRC during an inspection and required a response, either submit a denial letter or implement corrective actions, within 30 days. However, CNL told the CI to provide only informational letters, which was out of process for both TVA and the NRC. The CI told CNL on numerous occasions, via phone discussions, meetings, emails, texts, and a CAP, that they were in non-compliance and needed to deny the NCV or implement corrective actions. Sequoyah did not provide an appropriate response until 2017 and 2018, leaving them in non-compliance for over two years. The CI's numerous inquiries and attempts to respond appropriately to these NCVs and to raise concerns about regulatory non-compliance are considered protected activities.

The CI was involved in several ECP complaints. In 2017, the CI filed two ECP complaints against the former Director of CNL. In March 2018, with full support of the VP of Regulatory Affairs, the former Director of CNL submitted a formal complaint to HR and the VP of Regulatory Affairs of harassment against the CI. This complaint was investigated by TVA OGC. On May 25, 2018, the draft TVA OGC report stated that the CI misused the ECP and said that this was a form of retaliation against the former Director of CNL. The draft TVA OGC report was used as a basis for placing the CI on administrative leave. Using the ECP is considered protected activity.

On May 25, 2018, the CI was placed on paid administrative leave as recommended by the [REDACTED], based on the draft TVA OGC report, and knowing that the CI had used the ECP. For the next three months the CI attempted to return to work by submitting a recovery plan and maintaining contact with his management. The CI was given inconsistent information on the status of his employment during this time and remained on paid administrative leave until he resigned in August 2018, believing that he was ultimately going to be terminated from employment.

- Proposed Severity Level (SL): Escalate to SL I for Willful

**ENFORCEMENT ACTION WORKSHEET (continued)**

• Basis for SL (Enf. Policy Violation Example):

Basis for SL (Enf. Policy Violation Example): In certain cases, the severity level of a violation may be escalated based on unique escalating factors such as whether the adverse action was taken because the employee had contacted the NRC or whether the applicable NRC employee protection regulation (e.g., 10 CFR 50.7 or similar NRC employee protection regulations) was deliberately violated.

Enforcement Policy Example 6.10.b.1, Severity Level II violation of 10 CFR 50.7: An executive-level corporate manager (or equivalent) (which for this definition includes a site vice president) is the decisionmaker or plays a significant role in the adverse action decisionmaking process regardless of the severity of the adverse action but without an escalating factor present.

The [REDACTED] [REDACTED] is the decisionmaker who caused the CI to be put on paid administrative leave and eventually resign because, in part, he used the ECP. The CI reported the adverse action to the NRC on August 13, 2018. A unique factor is present: The [REDACTED], in violation of 10 CFR 50.5, deliberately caused TVA to be in violation of 10 CFR 50.7.

SLII with escalating factor results in SLI.

• Actual Consequences:	No
• Potential Consequences:	Yes
• Impacting the Regulatory Process:	No
• If "Yes" was answered to any of the three preceding questions, Explain: Potential chilling effect on other employees.	
• Willful:	Yes
• Civil Penalty Warranted (explain): Yes: Base civil penalty of \$300,000 for SLI. 2X Base due to no ID or CA credits. However, civil penalty capped at statutory maximum of \$303,471 due to single day violation.	
• Identification Credit:	No - NRC Identified
• Corrective Action Credit:	No
• Describe/List Corrective Actions:	
• Previous Escalated Enforcement (Last 2 yrs or 2 Inspections):	Choose an item:
• Discretion to mitigate/escalate the CP:	Choose an item:
• Explain Bases for discretion:	
• Proposed next action:	Choice letter (Written/PEC/ADR)

**ENFORCEMENT ACTION WORKSHEET (continued)****Apparent Violation #: 2**

Brief statement of violation (e.g. inadequate survey, 10 CFR 20.1501):

The CI at TVA Sequoyah was discriminated against for engaging in protected activity, in violation of 10 CFR 50.5 and 10 CFR 50.7.

## Background information:

Between 2015 and 2018, the Concerned Individual (CI), the former TVA Site Licensing Manager, was involved with ongoing communications with Corporate Nuclear Licensing (CNL), which included the former Director of CNL and the Vice President (VP) of Regulatory Affairs, about how to respond to two non-cited violations (NCVs) issued by the NRC during an inspection. In addition, the CI was involved with several complaints and investigations involving the Employee Concerns Program (ECP), Human Resources (HR), and the TVA Office of General Counsel (OGC). On May 25, 2018, the CI was placed on paid administrative leave and on August 16, 2018, the CI resigned from TVA:

Between 2015 and 2018 the CI was involved in numerous discussions, disagreements and meetings with CNL regarding the Service Life NCV and the Kirk Key NCV. These violations were identified by the NRC during an inspection and required a response, either submit a denial letter or implement corrective actions, within 30 days. However, CNL told the CI to provide only informational letters, which was out of process for both TVA and the NRC. The CI told CNL on numerous occasions, via phone discussions, meetings, emails, texts, and a CAP, that they were in non-compliance and needed to deny the NCV or implement corrective actions. Sequoyah did not provide an appropriate response until 2017 and 2018, leaving them in non-compliance for over two years. The CI's numerous inquiries and attempts to respond appropriately to these NCVs and to raise concerns about regulatory non-compliance are considered protected activities.

The CI was involved in several ECP complaints. In 2017, the CI filed two ECP complaints against the former Director of CNL. In March 2018, with full support of the VP of Regulatory Affairs, the former Director of CNL submitted a formal complaint to HR and the VP of Regulatory Affairs of harassment against the CI. This complaint was investigated by TVA OGC. On May 25, 2018, the draft TVA OGC report stated that the CI misused the ECP and said that this was a form of retaliation against the former Director of CNL. The draft TVA OGC report was used as a basis for placing the CI on administrative leave. Using the ECP is considered protected activity.

On May 25, 2018, the CI was placed on paid administrative leave as recommended by the [REDACTED] based on the draft TVA OGC report, and knowing that the CI used the ECP. For the next three months the CI attempted to return to work by submitting a recovery plan and maintaining contact with his management. The CI was given inconsistent information on the status of his employment during this time and remained on paid administrative leave until he resigned in August 2018, believing that he was ultimately going to be terminated from employment.

- Proposed Severity Level (SL): Escalate to SL II for Willful



**ENFORCEMENT ACTION WORKSHEET (continued)**

● Basis for SL (Enf. Policy Violation Example):

Basis for SL (Enf. Policy Violation Example): In certain cases, the severity level of a violation may be escalated based on unique escalating factors such as whether the adverse action was taken because the employee had contacted the NRC or whether the applicable NRC employee protection regulation (e.g., 10 CFR 50.7 or similar NRC employee protection regulations) was deliberately violated.

Enforcement Policy Example 6.10.c.1, Severity Level III violation of 10 CFR 50.7: A mid- or senior-level plant manager (or equivalent) or a corporate-level line manager (or equivalent) is the decisionmaker or plays a significant role in the adverse action decisionmaking process; the employment action is relatively less adverse to the employee's terms, conditions, compensation, or privileges of employment (e.g., verbal counseling); and no escalating factor is present.

The former Director of CNL (corporate-level line manager) played a significant role initiating an investigation against the CI, with the expectation of an adverse action, by filing a formal complaint with TVA to stop the CI's actions and behaviors regarding the NCVs and the ECP. A unique factor is present: the former Director of CNL, in violation of 10 CFR 50.5, deliberately caused TVA to be in violation of 10 CFR 50.7.

SLIII with escalating factor results in SLII.

● Actual Consequences: No

● Potential Consequences: Yes

● Impacting the Regulatory Process: No

● If "Yes" was answered to any of the three preceding questions, Explain:

Potential chilling effect on other employees

● Willful: Yes

● Civil Penalty Warranted (explain):

Yes: Base civil penalty of \$300,000 for SLII. 2X Base due to no ID or CA credits. However, civil penalty capped at statutory maximum of \$303,471 due to single day violation

● Identification Credit: No - NRC Identified

● Corrective Action Credit: No

● Describe/List Corrective Actions:

● Previous Escalated Enforcement (Last 2 yrs or 2 Inspections): Choose an item:

● Discretion to mitigate/escalate the CP: Choose an item:

● Explain Bases for discretion:

● Proposed next action: Choice letter (Written/PEC/ADR)

**ENFORCEMENT ACTION WORKSHEET (continued)**

4. Individual Actions: Yes

Number of IAs: 2

Add IA

Delete IA

Individual Action #: 1

• Traditional Enforcement (SL):	SLI
• Level of Individual within the organization:	Corporate Executive
• Benefit to wrongdoer:	Choose an item:
• Attitude of wrongdoer:	Choose an item:
• Employer's response:	None
• Proposed next action:	Choice Letter (Written/PEC/ADR)
• Proposed final action:	Choose an item:

Individual Action #: 2

• Traditional Enforcement (SL):	SL II
• Level of Individual within the organization:	Manager
• Benefit to wrongdoer:	Choose an item:
• Attitude of wrongdoer:	Choose an item:
• Employer's response:	None
• Proposed next action:	Choice Letter (Written/PEC/ADR)
• Proposed final action:	Choose an item:

5. Is there a root cause, generic issues/communications, lessons learned, relevant similar cases, or other information that should be considered?

See attached Sequoyah case summary and Prima Facie Analysis, also Watts Bar 1.

6. Any Additional Information?

See other TVA cases (tiger team).

**ENFORCEMENT ACTION WORKSHEET (continued)**

## 7. Draft NOV(s):

Title 10 of the Code of Federal Regulations (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.

Contrary to the above, on March 9, 2018, Tennessee Valley Authority (TVA) corporate management discriminated against a former Site Licensing Manager employed at Sequoyah Nuclear Plant for engaging in a protected activity. Specifically, the former Director of Corporate Nuclear Licensing filed a formal complaint against the employee based, in part, on filing ECP complaints, which is a protected activity. The formal complaint initiated an investigation by the TVA Office of the General Counsel that resulted in the employee being placed on paid administrative leave and eventually resign.

Contrary to the above, on May 25, 2018, Tennessee Valley Authority (TVA) corporate management discriminated against a former Site Licensing Manager employed at the TVA Sequoyah Nuclear Plant for engaging in protected activities. Specifically, the [REDACTED], TVA, recommended that the employee be placed on paid administrative leave which led to the employee's resignation, based, in part, on filing ECP complaints, which is a protected activity.

**ENFORCEMENT ACTION WORKSHEET (continued)****Guidance for completing the Enforcement Action Worksheet**

- \* **NOTE:** All sections of the EAW are not required to be filled in. Only pertinent information is required to fully explain the issues.

**EA: Issued by Enforcement Staff (Headquarters or Regional)**

Date of Panel:

Licensee:

Facility/Location:

Licensee Type:

Docket No(s):

Program Code: **If known**Inspection report No(s): **If known**Date of Exit Meeting: **If known**Date of IR or Choice Letter issuance: **If known**ML Number of case documents: **If known**OI Report No: **If known**OI Report Date: **If known**

1. Provide a brief/concise description of the issue. Any information which is pertinent to the issue should be included. A summary of a draft inspection report or executive summary may also be included or attached. Attach a copy of the "Draft" NOV as Attachment 1 to the completed EAW.
2. If known, choose the appropriate response in the drop-down menu. OI's determination should be located in the OI synopsis; OGC's may or may not be known when the inspector is completing the EAW, Regional enforcement personal may be able to provide this information and choose the Regional determination of the issues.
3. Choose the appropriate number of Apparent Violations. For each AV beyond the first one, click the "Add Apparent Violation" button and a page will be added for the new AV. Choose the appropriate responses for each question.
4. Choose the appropriate response for Individual Actions (Yes, No) and specify the number of individual actions. If individual actions are warranted, complete the questions listed for the individual action. If more than one individual action is needed, click the "Add Individual Action" button and a section will be added for the next individual. Choose the appropriate responses for each question.
5. Explain as necessary (e.g. describe results of root cause, brief/concise listing of generic issues/communications, lessons learned, relevant similar cases, or other information that should be considered.
6. Provide any additional information needed to support the case that wasn't mentioned in any of the other sections in the EAW.
7. To print the EAW, click the "Print EAW" button. This will allow the form to be printed without the buttons and directions (this page) appearing in the final document.



## ENFORCEMENT ACTION WORKSHEET

<b>EA#:</b>	EA-2020-013
<b>Date of Panel:</b>	February 19, 2020
<b>Licensee:</b>	[REDACTED], TVA
<b>Facility/Location:</b>	Sequoyah
<b>Licensee Type:</b>	Individual
<b>Docket No(s):</b>	
<b>Inspection Report No(s):</b>	
<b>Date of Exit Meeting:</b>	
<b>Date of IR or Choice Letter Issuance:</b>	
<b>ML Number of case documents (if known):</b>	
<b>OI Report No:</b>	2-2018-033
<b>OI Report Date:</b>	October 3, 2019
<b>Inspector:</b>	

**1. Summary of Issues Considered for Escalated Enforcement:**

This investigation determined whether a former TVA Site Licensing Manager employed at Sequoyah was discriminated against for engaging in protected activity, in violation of 10 CFR 50.5, the deliberate misconduct regulation, which caused the licensee to be in violation of 10 CFR 50.7, the employee protection regulation. Summary attached

- 2. Is willfulness involved?**      Yes
- OI's determination:      Deliberate
  - OGC's determination:      Deliberate
  - Regional determination:      N/A

**3. Regional Recommendation:**

OE recommends the escalated enforcement process for the [REDACTED], TVA.

- Number of Apparent Violations (AV):      1

## ENFORCEMENT ACTION WORKSHEET (continued)

### Apparent Violation #: 1

Brief statement of violation (e.g. inadequate survey, 10 CFR 20.1501):

The CI at TVA Sequoyah was discriminated against for engaging in protected activity, in violation of 10 CFR 50.5 and 10 CFR 50.7.

#### Background information:

Between 2015 and 2018, the Concerned Individual (CI), the former TVA Site Licensing Manager, was involved with ongoing communications with Corporate Nuclear Licensing (CNL), which included the former Director of CNL and the Vice President (VP) of Regulatory Affairs, about how to respond to two non-cited violations (NCVs) issued by the NRC during an inspection. In addition, the CI was involved with several complaints and investigations involving the Employee Concerns Program (ECP), Human Resources (HR), and the TVA Office of General Counsel (OGC). On May 25, 2018, the CI was placed on paid administrative leave and on August 16, 2018, the CI resigned from TVA:

Between 2015 and 2018 the CI was involved in numerous discussions, disagreements and meetings with CNL regarding the Service Life NCV and the Kirk Key NCV. These violations were identified by the NRC during an inspection and required a response, either submit a denial letter or implement corrective actions, within 30 days. However, CNL told the CI to provide only informational letters, which was out of process for both TVA and the NRC. The CI told CNL on numerous occasions, via phone discussions, meetings, emails, texts, and a CAP, that they were in non-compliance and needed to deny the NCV or implement corrective actions. Sequoyah did not provide an appropriate response until 2017 and 2018, leaving them in non-compliance for over two years. The CI's numerous inquiries and attempts to respond appropriately to these NCVs and to raise concerns about regulatory non-compliance are considered protected activities.

The CI was involved in several ECP complaints. In 2017, the CI filed two ECP complaints against the former Director of CNL. In March 2018, with full support of the VP of Regulatory Affairs, the former Director of CNL submitted a formal complaint to HR and the VP of Regulatory Affairs of harassment against the CI. This complaint was investigated by TVA OGC. On May 25, 2018, the draft TVA OGC report stated that the CI misused the ECP and said that this was a form of retaliation against the former Director of CNL. The draft TVA OGC report was used as a basis for placing the CI on administrative leave. Using the ECP is considered protected activity.

On May 25, 2018, the CI was placed on paid administrative leave as recommended by the [REDACTED], based on the draft TVA OGC report, and knowing that the CI had used the ECP. For the next three months the CI attempted to return to work by submitting a recovery plan and maintaining contact with his management. The CI was given inconsistent information on the status of his employment during this time and remained on paid administrative leave until he resigned in August 2018, believing that he was ultimately going to be terminated from employment.

- Proposed Severity Level (SL): Escalate to SL I for Willful

### ENFORCEMENT ACTION WORKSHEET (continued)

● Basis for SL (Enf. Policy Violation Example):

Basis for SL (Enf. Policy Violation Example): In certain cases, the severity level of a violation may be escalated based on unique escalating factors such as whether the adverse action was taken because the employee had contacted the NRC or whether the applicable NRC employee protection regulation (e.g., 10 CFR 50.7 or similar NRC employee protection regulations) was deliberately violated.

Enforcement Policy Example 6.10.b.1, Severity Level II violation of 10 CFR 50.7: An executive-level corporate manager (or equivalent) (which for this definition includes a site vice president) is the decisionmaker or plays a significant role in the adverse action decisionmaking process regardless of the severity of the adverse action but without an escalating factor present.

The [REDACTED] (executive level corporate manager) is the decisionmaker who caused the CI to be put on paid administrative leave and eventually resign because, in part, he used the ECP. The CI reported the adverse action to the NRC on August 13, 2018. A unique factor is present: The [REDACTED], in violation of 10 CFR 50.5, deliberately caused TVA to be in violation of 10 CFR 50.7.

SLII with escalating factor results in SLI.

Given the [REDACTED] and the significance of these actions, a 5 year ban is proposed.

● Actual Consequences: No

● Potential Consequences: Yes

● Impacting the Regulatory Process: No

● If "Yes" was answered to any of the three preceding questions, Explain:  
Potential chilling effect on other employees.

● Willful: Yes

● Civil Penalty Warranted (explain):  
no

● Identification Credit: No - NRC Identified

● Corrective Action Credit: No

● Describe/List Corrective Actions:

● Previous Escalated Enforcement (Last 2 yrs or 2 Inspections): Choose an item:

● Discretion to mitigate/escalate the CP: Choose an item:

● Explain Bases for discretion:

● Proposed next action: Choice letter (Written/PEC/ADR)

**ENFORCEMENT ACTION WORKSHEET (continued)**

Empty workspace for enforcement action worksheet.



### ENFORCEMENT ACTION WORKSHEET (continued)

4. Individual Actions: Select One

Number of IAs:

Add IA

Delete IA

5. Is there a root cause, generic issues/communications, lessons learned, relevant similar cases, or other information that should be considered?

See attached Sequoyah case summary and Prima Facie Analysis, also Watts Bar 1.

6. Any Additional Information?

See other TVA cases (tiger team).

7. Draft NOV(s):

Title 10 of the Code of Federal Regulations (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, on May 25, 2018, 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 recommended that the employee be placed on paid administrative leave which led to the employee's suspension of nearly three months until the employee resigned. This action was, based, in part, on filing ECP complaints, which is a protected activity.

## ENFORCEMENT ACTION WORKSHEET (continued)

### Guidance for completing the Enforcement Action Worksheet

\* **NOTE:** All sections of the EAW are not required to be filled in. Only pertinent information is required to fully explain the issues.

**EA: Issued by Enforcement Staff (Headquarters or Regional)**

Date of Panel:

Licensee:

Facility/Location:

Licensee Type:

Docket No(s):

Program Code: **If known**

Inspection report No(s): **If known**

Date of Exit Meeting: **If known**

Date of IR or Choice Letter issuance: **If known**

ML Number of case documents: **If known**

OI Report No: **If known**

OI Report Date: **If known**

1. Provide a brief/concise description of the issue. Any information which is pertinent to the issue should be included. A summary of a draft inspection report or executive summary may also be included or attached. Attach a copy of the "Draft" NOV as Attachment 1 to the completed EAW.
2. If known, choose the appropriate response in the drop-down menu. OI's determination should be located in the OI synopsis; OGC's may or may not be known when the inspector is completing the EAW, Regional enforcement personnel may be able to provide this information and choose the Regional determination of the issues.
3. Choose the appropriate number of Apparent Violations. For each AV beyond the first one, click the "Add Apparent Violation" button and a page will be added for the new AV. Choose the appropriate responses for each question.
4. Choose the appropriate response for Individual Actions (Yes, No) and specify the number of individual actions. If individual actions are warranted, complete the questions listed for the individual action. If more than one individual action is needed, click the "Add Individual Action" button and a section will be added for the next individual. Choose the appropriate responses for each question.
5. Explain as necessary (e.g. describe results of root cause, brief/concise listing of generic issues/communications, lessons learned, relevant similar cases, or other information that should be considered).
6. Provide any additional information needed to support the case that wasn't mentioned in any of the other sections in the EAW.
7. To print the EAW, click the "Print EAW" button. This will allow the form to be printed without the buttons and directions (this page) appearing in the final document.

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**ENFORCEMENT ACTION STRATEGY FORM**

<b>SDP/EA No.:</b>	EA-2020-013	<b>Case Status:</b>	Open
<b>Case Type:</b>	Traditional	<b>Initiator:</b>	OE
<b>Regional ES:</b>	Scott Sparks	<b>HQ ES:</b>	Catherine Thompson
<b>Facts:</b>			

Docket No.	Docket Name	License No.	Licensee Name
05000328	Sequoyah 2		Tennessee Valley Authority
05000327	Sequoyah 1		Tennessee Valley Authority

  

Licensee Type	Inspection Date	Related Cases	Related OI Reports
Individual Actor - Reactors			

<b>Participants</b>	<b>Region:</b>	Scott Sparks, Mark Kowal
	<b>Program Office:</b>	Brian Hughes, Anthony Masters, Russ Felts
	<b>OE:</b>	Ian Gifford, Catherine Thompson, David Solorio, Paul Peduzzi, George Wilson, David Jones, Pete Snyder, Lisamarie Jarriel, Nick Hilton, Nicole Coleman
	<b>OGC:</b>	Sara Kirkwood
	<b>Other:</b>	Andy Shuttleworth, Scott Luina, Alex Echavarria
<b>Remarks:</b>		

**Approved By:** catherine thompson  
**Date:** 08/31/2020

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**ENFORCEMENT ACTION STRATEGY FORM**

EA-2020-013 - Panel No. - Strategy Form No. 1

<b>Violation Number</b>	A
<b>Violation</b>	50.7 - Employee Protection
<b>Specific Issue (Violation) Description</b>	on May 25, 2018, you engaged in deliberate misconduct that caused Tennessee Valley Authority (TVA), an NRC licensee, to discriminate against a former Sequoyah employee for engaging in a protected activity. Specifically, the former employee engaged in a protected activity by filing complaints with the Employee Concerns Program. After becoming aware of this protected activity, you, as the [REDACTED] recommended that the former employee be placed on paid administrative leave for nearly three months until, at which point, the former employee was constructively discharged. Your action was based, at least in part, on the former employee engaging in a protected activity.
<b>Date of Violation</b>	05/25/2018

**Wrongdoing Information**

<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were deliberate
<b>Willful Violation NCV Criteria Met</b>	Yes

**Proposed Action**

<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	Yes

**Escalated Action CP Assessment**

<b>ID Credit?</b>	No
<b>CA Credit?</b>	No
<b>CP?</b>	2x Base CP

**Enforcement Discretion**

<b>Enforcement Discretion?</b>	No
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**Decisions Reached**

<b>Next Action</b>	Conference Letter
<b>PEC Open/Closed</b>	Closed

<b>Remarks</b>	On February 19, 2020, Headquarters and Region II paneled two Tennessee Valley Authority (TVA) discrimination cases related to Sequoyah and the Corporate Office. The cases were combined into one panel because there is significant overlap in personnel and background involved in the cases. The panel agreed with the Office of Enforcement's (OE) recommendation to issue four apparent violations to TVA (two apparent violations to Corporate and two violations to Sequoyah). In addition to the apparent violations for TVA, the panel agreed to issue three apparent violations to individuals for deliberate misconduct associated with the cases. During the panel, there was discussion about whether or not to offer Alternative Dispute Resolution (ADR) to TVA. Region II raised concerns that previous ADR mediation with TVA were not
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effective in resolving concerns of a chilled work environment. The panel agreed that the OE Director has the authority to decide whether ADR is offered and that ADR would be offered in this case. The panel agreed that the individuals would not be offered ADR at this time, and would instead receive a conference letter. The panel also discussed whether one individual should receive two violations rather than one violation with two examples. The panel agreed that the single action by the individual against two separate TVA employees was appropriately documented as two examples of the same violation. Additional information about the case background and justification for the apparent violations can be found in the supplemental documents and EAWs.

**Keywords**

Sect. 210 - Discrimination

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<b>SDP/EA No.:</b>	EA-2020-013	<b>Case Status:</b>	Open
<b>Case Type:</b>	Traditional	<b>Initiator:</b>	OE
<b>Regional ES:</b>	Scott Sparks	<b>HQ ES:</b>	Catherine Thompson
<b>Facts:</b>			

Docket No.	Docket Name	License No.	Licensee Name
05000328	Sequoyah 2		Tennessee Valley Authority
05000327	Sequoyah 1		Tennessee Valley Authority

  

Licensee Type	Inspection Date	Related Cases	Related OI Reports
Individual Actor - Reactors			

<b>Participants</b>	<b>Region:</b>	Mark Miller, Scott Sparks, Mark Kowal, Sarah Price
	<b>Program Office:</b>	Chris Miller
	<b>OE:</b>	Catherine Thompson, Dave Solorio, Ian Gifford, George Wilson, Nick Hilton
	<b>OGC:</b>	Sara Kirkwood, Mauri Lemoncelli
	<b>Other:</b>	Andy Shuttleworth, Alex Echavarría, Scott Luina
<b>Remarks:</b>		

**Approved By:** catherine thompson  
**Date:** 08/31/2020

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EA-2020-013 - Panel No. - Strategy Form No. 2

<b>Violation Number</b>	A
<b>Violation</b>	50.5 - Deliberate Misconduct
<b>Specific Issue (Violation) Description</b>	on May 25, 2018, you engaged in deliberate misconduct that caused Tennessee Valley Authority (TVA), an NRC licensee, to discriminate against a former Sequoyah employee for engaging in a protected activity. Specifically, the former employee engaged in a protected activity by filing complaints with the Employee Concerns Program. After becoming aware of this protected activity, you, as the [REDACTED], recommended that the former employee be placed on paid administrative leave for nearly three months until, at which point, the former employee was constructively discharged. Your action was based, at least in part, on the former employee engaging in a protected activity.
<b>Date of Violation</b>	05/25/2018
<b>Wrongdoing Information</b>	
<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were deliberate
<b>Proposed Action</b>	
<b>SDP?</b>	No
<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	No
<b>Escalated Action CP Assessment</b>	
<b>CP?</b>	TBD
<b>Enforcement Discretion</b>	
<b>Decisions Reached</b>	
<b>Next Action</b>	Close-out letter
<b>PEC Open/Closed</b>	Closed
<b>Remarks</b>	A caucus was held on July 20, 2020, to determine the final enforcement action against Mr. Czuifn, The panel agreed to issue a close out letter The panel agreed that there was no deliberate action and no enforcement action to be taken.
<b>Keywords</b>	Sect. 210 - Discrimination

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<b>SDP/EA No.:</b>	EA-2020-006	<b>Case Status:</b>	Open
<b>Case Type:</b>	Traditional	<b>Initiator:</b>	OE
<b>Regional ES:</b>	Scott Sparks	<b>HQ ES:</b>	Catherine Thompson
<b>Facts:</b>	former TVA Site Licensing Manager employed at Sequoyah discriminated against for engaging in protected activity		

Docket No.	Docket Name	License No.	Licensee Name
05000328	Sequoyah 2		Tennessee Valley Authority
05000327	Sequoyah 1		Tennessee Valley Authority
Licensee Type	Inspection Date	Related Cases	Related OI Reports
Operating Reactor		EA-2020-011 EA-2020-013	2-2018-033

<b>Participants</b>	<b>Region:</b>	Mark Miller, Scott Sparks, Mark Kowal, Sarah Price
	<b>Program Office:</b>	Chris Miller
	<b>OE:</b>	Catherine Thompson, Dave Solorio, Ian Gifford, George Wilson, Nick Hilton
	<b>OGC:</b>	Sara Kirkwood, Mauri Lemoncelli
	<b>Other:</b>	Andy Shuttleworth, Alex Echavarria, Scott Luina
<b>Remarks:</b>		

**Approved By:** catherine thompson

**Date:** 09/1/2020



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EA-2020-006 - Panel No. - Strategy Form No. 4

<b>Violation Number</b>	B
<b>Violation</b>	50.7 - Employee Protection
<b>Specific Issue (Violation) Description</b>	on May 25, 2018, TVA discriminated against a former Sequoyah employee for engaging in a protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns about a chilled work environment, filing complaints with the Employee Concerns Program, and raising concerns about the regulatory response the Kirk Key and Service Life non-cited violations. After becoming aware of this protected activity, TVA placed the former employee on paid administrative leave until the former employee resigned in August 2018. This action was based, at least in part, on the former employee engaging in protected activity.
<b>Date of Violation</b>	05/25/2018

**Wrongdoing Information**

<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were willful

**Proposed Action**

<b>SDP?</b>	No
<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	Yes

**Escalated Action CP Assessment**

<b>ID Credit?</b>	No
<b>CA Credit?</b>	No
<b>CP?</b>	2x Base CP

**Enforcement Discretion**

<b>Enforcement Discretion?</b>	No
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**Decisions Reached**

<b>Next Action</b>	Issue Problem w/ CP
<b>PEC Open/Closed</b>	Closed

<b>Remarks</b>	A caucus was held on July 20, 2020, to determine the final enforcement action against TVA. The panel agreed to issue an SL I violation to TVA for the actions of the former Vice President of Regulatory Affairs. The panel used SL I, example 2, from the Enforcement Policy with the willful escalating factor. The panel agreed that no identification or corrective action credit were warranted. The panel discussed whether the two violations associated with the former corporate employee should be combined into a single problem. After further discussion during a follow-up caucus on July 28, 2020, the panel agreed that combining the two violations into a single problem was consistent with previous cases. The SL I and SL II violations were combined into a single SL I problem. The civil penalty was calculated to be \$600,000 (300,000 x 2); however, it is capped at the statutory maximum of \$303,471 for a single-day violation. The panel agreed to offer ADR. Given this is an SL I violation, OE will engage in advance consultation with the Commission before issuing the violation.
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**Keywords**

Sect. 210 - Discrimination

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EA-2020-006 - Panel No. - Strategy Form No. 3

<b>Violation Number</b>	A
<b>Violation</b>	50.7 - Employee Protection
<b>Specific Issue (Violation) Description</b>	on March 9, 2018, the Tennessee Valley Authority (TVA) discriminated against a former Sequoyah employee for engaging in protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns regarding a chilled work environment, filing complaints with the Employee Concerns Program, and by raising concerns regarding the response to two non-cited violations. After becoming aware of this protected activity, the former Director of Corporate Nuclear Licensing (CNL) filed a formal complaint against the former employee. The filing of a formal complaint triggered an investigation by the TVA Office of the General Counsel. This action was based, at least in part, on the former employee engaging in protected activity.
<b>Date of Violation</b>	03/9/2018
<b>Consequence</b>	Willfulness

**Wrongdoing Information**

<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were willful

**Proposed Action**

<b>SDP?</b>	No
<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	Yes

**Escalated Action CP Assessment**

<b>ID Credit?</b>	No
<b>CA Credit?</b>	No
<b>CP?</b>	2x Base CP

**Enforcement Discretion**

<b>Enforcement Discretion?</b>	No
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**Decisions Reached**

<b>Next Action</b>	Issue Problem w/ CP
<b>Remarks</b>	A caucus was held on July 20, 2020, to determine the final enforcement action against TVA. The panel agreed to issue an SL II violation to TVA for the actions of the former Director of Corporate Nuclear Licensing (CNL). The panel used SL II, example 3, from the Enforcement Policy with the deliberate escalating factor. The panel agreed that no identification or corrective action credit were warranted. The panel discussed whether the two violations associated with the former corporate employee should be combined into a single problem. After further discussion during a follow-up caucus on July 28, 2020, the panel agreed that combining the two violations into a single problem was consistent with previous cases. The civil penalty calculation is discussed in the Strategy Form for Violation B.
<b>Keywords</b>	Sect. 210 - Discrimination

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<b>SDP/EA No.:</b>	EA-2020-006	<b>Case Status:</b>	Open
<b>Case Type:</b>	Traditional	<b>Initiator:</b>	OE
<b>Regional ES:</b>	Scott Sparks	<b>HQ ES:</b>	Catherine Thompson
<b>Facts:</b>	former TVA Site Licensing Manager employed at Sequoyah discriminated against for engaging in protected activity		

Docket No.	Docket Name	License No.	Licensee Name
05000328	Sequoyah 2		Tennessee Valley Authority
05000327	Sequoyah 1		Tennessee Valley Authority
Licensee Type	Inspection Date	Related Cases	Related OI Reports
Operating Reactor		EA-2020-011	2-2018-033
		EA-2020-013	

<b>Participants</b>	<b>Region:</b>	Mark Kowal, Scott Sparks
	<b>Program Office:</b>	Brian Hughes, Anthony Masters, Russ Felts
	<b>OE:</b>	Ian Gifford, Catherine Thompson, David Solorio, Paul Peduzzi, George Wilson, David Jones, Pete Snyder, Lisamarie Jarriel, Nick Hilton, Nicole Coleman
	<b>OGC:</b>	Sara Kirkwood
	<b>Other:</b>	Andy Shuttleworth, Scott Luina, Alex Echavarria
<b>Remarks:</b>		

**Approved By:** catherine thompson  
**Date:** 08/31/2020

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EA-2020-006 - Panel No. - Strategy Form No. 1

<b>Violation Number</b>	A
<b>Violation</b>	40.7 - Employee Protection
<b>Specific Issue (Violation) Description</b>	on March 9, 2018, the Tennessee Valley Authority (TVA) discriminated against a former Sequoyah employee for engaging in protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns regarding a chilled work environment, filing complaints with the Employee Concerns Program, and by raising concerns regarding the response to two non-cited violations. After becoming aware of this protected activity, the former Director of Corporate Nuclear Licensing (CNL) filed a formal complaint against the former employee. The filing of a formal complaint triggered an investigation by the TVA Office of the General Counsel. This action was based, at least in part, on the former employee engaging in protected activity.
<b>Date of Violation</b>	03/9/2018
<b>Consequence</b>	Willfulness

**Wrongdoing Information**

<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were deliberate
<b>Willful Violation NCV Criteria Met</b>	Yes

**Proposed Action**

<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	Yes

**Escalated Action CP Assessment**

<b>ID Credit?</b>	No
<b>CA Credit?</b>	TBD
<b>CP?</b>	2x Base CP

**Enforcement Discretion**

<b>Enforcement Discretion?</b>	No
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**Decisions Reached**

<b>Next Action</b>	Choice Letter w/ ADR Offer
<b>PEC Open/Closed</b>	Closed

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**Remarks**

On February 19, 2020, Headquarters and Region II paneled two Tennessee Valley Authority (TVA) discrimination cases related to Sequoyah and the Corporate Office. The cases were combined into one panel because there is significant overlap in personnel and background involved in the cases. The panel agreed with the Office of Enforcement's (OE) recommendation to issue four apparent violations to TVA (two apparent violations to Corporate and two violations to Sequoyah). In addition to the apparent violations for TVA, the panel agreed to issue three apparent violations to individuals for deliberate misconduct associated with the cases. During the panel, there was discussion about whether or not to offer Alternative Dispute Resolution (ADR) to TVA. Region II raised concerns that previous ADR mediation with TVA were not effective in resolving concerns of a chilled work environment. The panel agreed that the OE Director has the authority to decide whether ADR is offered and that ADR would be offered in this case. The panel agreed that the individuals would not be offered ADR at this time, and would instead receive a conference letter. The panel also discussed whether one individual should receive two violations rather than one violation with two examples. The panel agreed that the single action by the individual against two separate TVA employees was appropriately documented as two examples of the same violation. Additional information about the case background and justification for the apparent violations can be found in the supplemental documents and EAWs.

**Keywords**

Sect. 210 - Discrimination

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EA-2020-006 - Panel No. - Strategy Form No. 2

<b>Violation Number</b>	B
<b>Violation</b>	50.7 - Employee Protection
<b>Specific Issue (Violation) Description</b>	on May 25, 2018, TVA discriminated against a former Sequoyah employee for engaging in a protected activity. Specifically, the former Sequoyah employee engaged in protected activity by raising concerns about a chilled work environment, filing complaints with the Employee Concerns Program, and raising concerns about the regulatory response the Kirk Key and Service Life non-cited violations. After becoming aware of this protected activity, TVA placed the former employee on paid administrative leave until the former employee resigned in August 2018. This action was based, at least in part, on the former employee engaging in protected activity.
<b>Date of Violation</b>	05/25/2020
<b>Consequence</b>	Willfulness

**Wrongdoing Information**

<b>Wrongdoing</b>	Yes
<b>Willful Aspects</b>	Panel concludes that actions were deliberate
<b>Willful Violation NCV Criteria Met</b>	Yes

**Proposed Action**

<b>NOV</b>	Yes
<b>SL/Significance</b>	SL II
<b>Considering CP or Enforcement Order?</b>	Yes

**Escalated Action CP Assessment**

<b>ID Credit?</b>	No
<b>CA Credit?</b>	TBD
<b>CP?</b>	2x Base CP

**Enforcement Discretion**

<b>Enforcement Discretion?</b>	No
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**Decisions Reached**

<b>Next Action</b>	Choice Letter w/ ADR Offer
<b>PEC Open/Closed</b>	Closed

<b>Remarks</b>	On February 19, 2020, Headquarters and Region II paneled two Tennessee Valley Authority (TVA) discrimination cases related to Sequoyah and the Corporate Office. The cases were combined into one panel because there is significant overlap in personnel and background involved in the cases. The panel agreed with the Office of Enforcement's (OE) recommendation to issue four apparent violations to TVA (two apparent violations to Corporate and two violations to Sequoyah). In addition to the apparent violations for TVA, the panel agreed to issue three apparent violations to individuals for deliberate misconduct associated with the cases. During the panel, there was discussion about whether or not to offer Alternative Dispute
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Resolution (ADR) to TVA. Region II raised concerns that previous ADR mediation with TVA were not effective in resolving concerns of a chilled work environment. The panel agreed that the OE Director has the authority to decide whether ADR is offered and that ADR would be offered in this case. The panel agreed that the individuals would not be offered ADR at this time, and would instead receive a conference letter. The panel also discussed whether one individual should receive two violations rather than one violation with two examples. The panel agreed that the single action by the individual against two separate TVA employees was appropriately documented as two examples of the same violation. Additional information about the case background and justification for the apparent violations can be found in the supplemental documents and EAWs.

**Keywords**

Sect. 210 - Discrimination, Willful