



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

May 18, 2021

IA-21-006

Mr. Andrew Hernandez
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2017-033

Dear Mr. Hernandez:

This letter refers to the investigation completed on September 23, 2020, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI) at the Waterford Steam Electric Station, Unit 3 (Waterford). The investigation was conducted, in part, to determine if you, a contract superintendent assigned to Entergy Operations, Inc. (licensee) working at Waterford, willfully directed employees to disengage an equipment protective device and continue drilling into a safety-related concrete structure containing embedded items without first obtaining required engineering evaluation, approval, and documentation, in violation of a quality-related licensee procedure. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter to you dated March 2, 2021, Agencywide Documents Access and Management System (ADAMS) Accession No. ML21063A503.

In the letter transmitting the factual summary of the OI report, we provided you with the opportunity to address the apparent violation identified in the letter by attending a predecisional enforcement conference, participating in an alternative dispute resolution mediation session, or providing a written response before we made our final enforcement decision. In a letter dated March 8, 2021 (ADAMS Accession No. ML21082A506), you provided a written response to the apparent violation.

Based on the information developed during the investigation and the information that you provided in your response to our letter dated March 2, 2021, the NRC concluded that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). The violation involves you deliberately violating a licensee quality-related procedure by failing to obtain engineering evaluation and approval when contract workers reported to you that they encountered a metallic obstruction, and you directing the workers to continue drilling.

Your deliberate actions placed the licensee in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings," and you in violation of 10 CFR 50.5, "Deliberate misconduct." Enclosure 2 includes a copy of the letter and Notice issued to the licensee. Given the significance of the underlying issue and the deliberate nature of your actions, your violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

The NRC Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. You should be aware that if you are involved in NRC licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

The NRC has concluded that because you responded to our letter dated March 2, 2021, you are not required to respond to this letter unless the description herein does not accurately reflect your position. In your March 8, 2021, written response, you indicated that you: (1) realize the importance of communicating with management about the need for appropriate levels of supervision; (2) will always use three-way communication when giving instructions, assigning tasks, and issuing equipment in order to confirm mutual understanding of procedures and expectations; and (3) will never again allow the volume of your work to prevent you from personally walking down every task you oversee, particularly where critical equipment or elements are involved. If you choose to respond, you should follow the instructions for sending a response as specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosures, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's ADAMS, accessible from the website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC will also make our letter describing the apparent violation, dated March 2, 2021, publicly available.

The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>. In addition, this letter and its enclosures will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the website at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions concerning this matter, please contact Mr. John Kramer of my staff at 817-200-1121.

Sincerely,

Scott A. Morris

Digitally signed by Scott A.
Morris
Date: 2021.05.18 16:26:09
-05'00'

Scott A. Morris
Regional Administrator

Enclosures:

1. Notice of Violation
2. Notice of Violation to Entergy Operations, Inc.

NOTICE OF VIOLATION, NRC INVESTIGATION REPORT 4-2017-033 – DATED
MAY 18, 2021

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ADAMS ACCESSION NUMBER: ML21138A857

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword: RGN4
By: JGK Yes No Publicly Available Sensitive IA-21-006

OFFICE	SES:ACES	C:DRP/D	TL:ACES	RC	NRR	OE
NAME	JKramer	JDixon	DDodson	DCylkowski	CCauffman	PSnyder
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	04/26/21	04/27/21	04/28/21	04/27/21	05/06/21	05/12/21
OFFICE	OGC	D:DRP	RA			
NAME	LBaer	RLantz	SMorris			
SIGNATURE	/NLO/ E	/RA/ E	/RA/			
DATE	05/13/21	05/14/21	05/18/21			

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Andrew Hernandez
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-21-006

Based on the results of an NRC investigation completed on September 23, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.5(a)(1) requires, in part, that any employee of a contractor of any licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation issued by the Commission. 10 CFR 50.5(c) defines deliberate misconduct, in part, as an intentional act or omission that the person knows: (1) would cause a licensee to be in violation of any rule, regulation, or order; or (2) constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee or contractor.

10 CFR Part 50, Appendix B, Criterion V, requires, in part, that activities affecting quality shall be prescribed by documented procedures of a type appropriate to the circumstances and shall be accomplished in accordance with these procedures.

Step 10.2.4 of Entergy procedure PMC-002-003, "Concrete Cutting," Revision 3, a safety-related procedure, requires, in part, that drills be connected to an equipment protective device (EPD) prior to cutting, drilling, or core drilling of concrete. The EPD may be eliminated at the direction of an engineering document that allows the cutting of grounded embedded items and completion of a Job Safety Hazard Analysis, in accordance with EN-IS-124, "Industrial Safety Planning & Job Safety Hazards Analysis," Revision 4. Manual EN-IS-124, Revision 4, which is incorporated by reference to Procedure PMC-002-003, requires, in part, that if the EPD trips, engineering shall be engaged in the identification of the object that was contacted. Drilling without the use of an EPD, until the interference is cleared, may continue after written approval is obtained from engineering.

Contrary to the above, on November 9 and 10, 2016, you, a contract employee of a licensee, engaged in deliberate misconduct that caused the licensee to be in violation of a regulation issued by the Commission. Specifically, you, a contract superintendent, directed subordinate employees to perform concrete drilling in the safety-related B1 fuel oil storage tank vault cubicle concrete walls without first obtaining engineering evaluation, approval, and documentation, as required by a quality-related procedure. This resulted in the cutting of structural rebar without engineering evaluation and approval, in violation of quality-related licensee procedure.

This is a Severity Level III violation (NRC Enforcement Policy, Section 2.2.1.d).

The NRC has concluded that since you responded to our letter dated March 2, 2021, you are not required to respond to this letter. In your March 8, 2021, written response, you indicated that you: (1) realize the importance of communicating with management about the need for appropriate levels of supervision; (2) will always use three-way communication when giving instructions, assigning tasks, and issuing equipment in order to confirm mutual understanding of procedures and expectations; and (3) will never again allow the volume of your work to prevent you from personally walking down every task you oversee, particularly where critical equipment or elements are involved.

Enclosure 1

However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a “Reply to a Notice of Violation; IA-21-006” and send it to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, and email it to R4Enforcement@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, provide your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, and email it to R4Enforcement@nrc.gov. A response contesting this enforcement action must be submitted to the NRC within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC’s Agencywide Document Access and Management System (ADAMS), accessible at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information.

If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC website at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 18th day of May 2021

WATERFORD STEAM ELECTRIC STATION, UNIT 3 – NOTICE OF
VIOLATION; NRC INSPECTION REPORT 05000382/2021090
AND NRC INVESTIGATION REPORT 4-2017-033



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

May 18, 2021

EA-20-114

Mr. John Ferrick, Site Vice President
Entergy Operations, Inc.
17265 River Road
Killona, LA 70057-0751

SUBJECT: WATERFORD STEAM ELECTRIC STATION, UNIT 3 – NOTICE OF VIOLATION;
NRC INSPECTION REPORT 05000382/2021090 AND NRC INVESTIGATION
REPORT 4-2017-033

Dear Mr. Ferrick:

This letter refers to the investigation completed on September 23, 2020, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations at the Waterford Steam Electric Station, Unit 3 (Waterford). The investigation was conducted, in part, to determine if a contract superintendent assigned to Entergy Operations, Inc. (licensee) working at Waterford, willfully directed employees to disengage an equipment protective device and continue drilling into a safety-related concrete structure containing embedded items without first obtaining required engineering evaluation, approval, and documentation, in violation of a quality-related licensee procedure. A final exit briefing was conducted telephonically with you and your staff representatives on February 9, 2021, and the results of the investigation and details regarding the apparent violation were provided to you in NRC Inspection Report 05000382/2021013, dated March 5, 2021, Agencywide Documents Access and Management System (ADAMS) Accession No. ML21063A502.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation described in the report by attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated April 2, 2021 (ADAMS Accession No. ML21092A173), you provided a written response to the apparent violation.

Your April 2, 2021, written response indicated that you concur that a violation of procedure PMC-002-003, "Concrete Cutting," occurred when contract employees working on a fuel oil storage tank project disengaged an electronic protection device and inappropriately drilled into a piece of structural rebar without required engineering evaluation, approval, and documentation. However, you indicated that you do not consider this to be the result of deliberate misconduct, but rather a result of a misunderstanding between contract personnel. Based on the information obtained during the investigation, the NRC found sufficient evidence to conclude that a contract superintendent deliberately violated a licensee quality-related procedure by failing to obtain an engineering evaluation and approval when contract workers reported that they encountered a metallic obstruction, and by directing the workers to drill through structural rebar.

Based on the information developed during the investigation and the information that you provided in your April 2, 2021, response to our inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are discussed in detail in the March 5, 2021, inspection report. The NRC has determined that this violation involved a deliberate failure to follow your procedure as required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 Appendix B Criterion V "Instructions, Procedures, and Drawings."

In determining the significance of a violation involving willfulness, the NRC considers such factors as the position, training, experience level, and responsibilities of the person involved in the violation, and the significance of any underlying violation. The individual who engaged in deliberate misconduct was a contract superintendent and supervisor of the crew involved in the fuel oil storage tank project. The superintendent is considered a licensee official, according to Section 7.0 of the NRC Enforcement Policy, and a violation involving a licensee official deliberately failing to follow a procedure is considered significant and may be assigned a higher severity level. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The NRC Enforcement Policy is available on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$150,000 is considered for a Severity Level III violation.

Because your facility is the subject of a willful escalated enforcement action, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the NRC Enforcement Policy. Even though your staff's evaluation of inappropriate cutting of the structural rebar did not identify the willful aspect of the procedure violation, the NRC has determined that *Identification* credit is warranted because your staff identified the procedure violation and entered it into the corrective action program. The NRC has also determined that *Corrective Action* credit is warranted for your prompt and comprehensive corrective actions that included: (1) placing the issue into the corrective action program; (2) performing a stand-down of all related work activities; (3) evaluating the structural wall for operability; (4) developing a log that accounted for each hole being drilled, and requiring a sign-out and sign-in log sheet for the issuance of the "rebar eater" drill bit; and (5) conducting a human performance evaluation for the issue to determine the cause of the incident.

Therefore, to encourage identification and prompt and comprehensive correction of the violation, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the March 5, 2021, inspection report and in your letter dated April 2, 2021. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's ADAMS, accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its website at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

If you have any questions concerning this matter, please contact Mr. John Dixon of my staff at 817-200-1574.

Sincerely,

**Scott A.
Morris**

Scott A. Morris
Regional Administrator

 Digitally signed by Scott A.
Morris
Date: 2021.05.18 15:56:50
-05'00'

Docket No. 05000382
License No. NPF-38

Enclosure: Notice of Violation

WATERFORD STEAM ELECTRIC STATION, UNIT 3 – NOTICE OF VIOLATION; NRC INSPECTION REPORT 05000382/2021090 AND NRC INVESTIGATION REPORT 4-2017-033 – DATED MAY 18, 2021

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ADAMS ACCESSION NUMBER: ML21138A858

SUNSI Review: ADAMS: Non-Publicly Available Non-Sensitive Keyword: RGN4
 By: JGK Yes No Publicly Available Sensitive EA-20-114

OFFICE	SES:ACES	C:DRP/D	TL:ACES	RC	NRR	OE
NAME	JKramer	JDixon	DDodson	DCylkowski	CCauffman	PSnyder
SIGNATURE	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E	/RA/ E
DATE	04/26/21	04/27/21	04/28/21	04/27/21	05/06/21	05/12/21
OFFICE	OGC	D:DRP	RA			
NAME	LBaer	RLantz	SMorris			
SIGNATURE	/NLO/ E	/RA/E	/RA/			
DATE	05/13/21	05/12/21	05/18/21			

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NOTICE OF VIOLATION

Entergy Operations, Inc.
Waterford Steam Electric Station, Unit 3

Docket No. 05000382
License No. NFP-38
EA-20-114

Based on the results of an NRC investigation completed on September 23, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR Part 50, Appendix B, Criterion V, requires, in part, that activities affecting quality shall be prescribed by documented procedures of a type appropriate to the circumstances and shall be accomplished in accordance with these procedures.

Step 10.2.4 of Entergy procedure PMC-002-003, "Concrete Cutting," Revision 3, a safety-related procedure, requires, in part, that drills be connected to an equipment protective device (EPD) prior to cutting, drilling, or core drilling of concrete. The EPD may be eliminated at the direction of an engineering document that allows the cutting of grounded embedded items and completion of a Job Safety Hazard Analysis, in accordance with EN-IS-124, "Industrial Safety Planning & Job Safety Hazards Analysis," Revision 4. Manual EN-IS-124, Revision 4, which is incorporated by reference to Procedure PMC-002-003, requires, in part, that if the EPD trips, engineering shall be engaged in the identification of the object that was contacted. Drilling without the use of the EPD, until the interference is cleared, may continue after written approval is obtained from engineering.

Contrary to the above, on November 9 and 10, 2016, licensee contract employees performed concrete drilling, an activity affecting quality, and failed to connect the drill to an EPD and did not have an engineering document that allowed the cutting of grounded embedded items with the EPD disconnected. Specifically, a contract supervisor directed subordinate employees to perform concrete drilling in the safety-related B1 fuel oil storage tank vault cubicle concrete walls without first obtaining engineering evaluation, approval, and documentation, as required by a quality-related procedure. This resulted in the cutting of structural rebar without engineering evaluation and approval, in violation of a quality-related licensee procedure.

This is a Severity Level III violation (NRC Enforcement Policy, Section 2.2.1.d).

The NRC has concluded that information regarding: (1) the reason for the violation; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in the March 5, 2021, inspection report and in your letter dated April 2, 2021. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation; EA-20-114" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 1600 E. Lamar Blvd., Arlington, TX 76011-4511, and to the NRC Resident Inspector at the Waterford Steam Electric Station, Unit 3, and email it to R4Enforcement@nrc.gov within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

Enclosure

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, Director, Office of Enforcement, Washington, DC 20555-0001. A response contesting this enforcement action must be submitted to the NRC within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

Dated this 18th day of May 2021