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Wesley Deschaine, Chief
Reactor Projects Branch 5
Division of Reactor Projects
U.S. Nuclear Regulatory Commission, Region II
245 Peachtree Center Avenue, N.E., Suite 1200
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Re: 11/14/2022 Watts Bar Integrated Inspection Report

Dear Mr. Deschaine:

We recently learned of a November 14, 2022 NRC Integrated Inspection Report regarding TVA's Watts Bar Nuclear Plant, Integrated Inspection Report 005000390/2022003 and 05000391/2022003. According to the Report, the inspection was completed and discussed with Mr. Anthony Williams and others on October 24, 2022. We cannot locate the Report on the NRC's website, in ADAMS, or anywhere else available to the public, but received a copy of it from someone at the site.

The section of the Report addressing the findings and actions regarding a chilled work environment identified in the Chemistry Department is of extreme concern to us, and we want to better understand what was identified. Frankly, the explanations given are incomprehensible and make it appear that the NRC has virtually twisted itself into a pretzel trying to find a way NOT to take the necessary and appropriate enforcement action against TVA. This is a consistent pattern with your office and we object both generally, and specifically, to the Agency's efforts to protect TVA instead of holding it accountable to the standards expected of all Licensees.

Here is what we see: According to the Inspection Report the "NRC determined that there is a chilled work environment in the Chemistry Department, meaning individuals are hesitant to raise nuclear safety concerns for fear of retaliation and perceive that Chemistry supervision is retaliating against chemistry employees for bringing up concerns." However, your cover letter to TVA enclosing the Report, is misleading in that it states "no findings or violations of more than minor significance were identified during this inspection." As you know the Chemistry and Radiation Protection Department has had a "chilling effect" for years, beginning since at least 2018, when the department environment was the subject of the August 17, 2018 Watts Bar Nuclear Plant – Follow-up for NRC Confirmatory Order EA-17-022 and Chilled Work

Environment Letter EA-16-061; NRC Inspection Report 05000390/2018012, 05000391/2018012.¹

The NRC's recent finding confirms that TVA has not yet changed its behaviors in any meaningful way since the last "chilling effect letter" was lifted in February 2021. Your explanation of the Agency's action is mind-boggling. First, your "SCWE qualified" inspectors, using the NRC's own criteria, confirmed a "chilling effect" continues to exist in Chemistry despite the alleged corrective actions taken by TVA.² However, then the NRC decides not to take any further action because TVA has just started to take corrective actions.³ That doesn't make any sense. If TVA already failed to take effective corrective action, and the Chemistry and Radiation Protection department personnel continue to be fearful of raising concerns, what is the NRC waiting for to take action to ensure that these employees feel free to raise concerns without fear of reprisal?

We also don't understand who did the assessment. Your letter to TVA indicates "NRC qualified safety culture assessors performed a limited assessment of the ... SCWE in the Chemistry Department," interviewed all available employees (25) from the Chemistry and Radiation Protection Departments, consisting of technicians, chemists, supervisors, managers and the ECP manager, and determined that "many employees in the chemistry department are hesitant to raise safety concerns through multiple avenues out of fear of retaliation or have the perceptions that nothing will be done with their concerns if they do raise them." Who performed that assessment? There are no NRC "SCWE" staff listed on the report?

Regardless of who performed the assessment, the team noted that some employees in the RadPro and Chemistry department, "will not use the ECP; some are hesitant to talk to the NRC, and while they are sometimes willing to write condition reports (CRs), they have an overall perception that nothing will be done with the CRs once they write them." The team also "heard that the amount of turnover and churn among the staff and supervisors is causing tremendous strain on the organization." Which department are these comments coming from? These are vastly different tasks, with different risk profiles, and the letter should distinguish between RadPro and the Chemistry Department so we can understand what is happening at the site.

The Report states the "team also reviewed TVA's responses to the GLINT assessment, the USA Alliance nuclear safety culture assessment and responses to NRC Requests for Information, which all identified the Chemistry Department as an area of concern." When were the GLINT and USA surveys done? And, if they identified the Chemistry Department as a troubled area, what did TVA do at the time of these findings? What is it doing differently now? There is no

¹ Chemistry and Radiation Protection are basically the same department.

² The Report states that the NRC team found that "the corrective actions are not comprehensive enough to address the work environment issues within the department." (11/14/2022 Inspection Report at p. 10.)

³ The Report states that the NRC decided not to issue a chilling effect letter "because the licensee had recently implemented corrective actions and is still evaluating the effectiveness of corrective actions." (*Id.*)

Condition Report identified in the Inspection Report either, so where are the TVA corrective actions identified?

Our clients, the former TVA ECP Managers, identified a “chilling effect” in RadPro and Chemistry in 2018/2019 based on comments from people in those departments about fear of being fired for writing CRs. Yet, TVA scapegoated the former TVA ECP Managers. Management apparently thought that by removing the former ECP Managers from their ECP positions in May 2019, and replacing them in ECP with hand-picked individuals from line management, all the employee concerns and issues would go away. Obviously, that did not happen. In the face of years of an embedded chilling effect in these departments, why isn't the NRC doing anything to address it?

We have learned of other issues that the NRC has not addressed in any of its Reports. For example, in August 26, 2022, the NRC completed a PI&R Inspection at TVA's Browns Ferry Nuclear Plant. During that Inspection they interviewed several employees who were not aware of the TVA ECP and that the ECP was an option for raising safety concerns. Although that information was provided to TVA by the NRC, it was not captured in writing by the NRC in any public report, only in a Condition Report generated by TVA after receiving the information from the NRC. TVA tried to excuse the fact because the interviewees were “mainly recent new hires.” Why is that an adequate response? Did the NRC attempt to validate that finding?

Finally, we are aware the TVA OIG completed an organizational effectiveness review of the Browns Ferry Radiation Protection department (TVA OIG Evaluation 2021-17252, dated May 25, 2022), in which the OIG found “multiple negative behavioral facts were expressed, including:

- Concerns regarding interactions between BFN RP groups;
- Concerns regarding management interactions;
- Perceptions of unethical and non-inclusive behaviors by certain managers;
- Perceptions that BFN RP personnel cannot stop work and plant operations are placed before radiation safety; and
- Perceptions of negative relationships with some plant and corporate nuclear personnel.

(The OIG interviews occurred between June 14 and September 15, 2021; and November 10, 2021, and included 59 employees, 10 supervisors, 4 superintendents and a senior manager.)

The OIG Report found that 8 out of 59 employees expressed concerns related to the BFN ECP. Some indicated when concerns were brought to BFN ECP they either disappear or no action is even taken. A few also indicated they or others were reluctant to bring up concerns to ECP. A few individuals stated that certain BFN RP management is informed when employees report a concern to BFN ECP, and another individual indicated a general fear that BFN RP management will find out if a concern is reported to BFN ECP.” These are serious findings. But it does not appear that the NRC has considered these issues at all.

The November 14, 2022 NRC Report of Investigation raises more questions than it answers.

- 1) Who were the “NRC qualified safety culture assessors” that performed the “limited assessment”? It does not appear from the list of Inspectors listed on the report that any have SCWE experience or were SCWE assessment qualified;
- 2) When was the “assessment” conducted? The report merely lists dates of July 1-September 30, 2022.
- 3) If the “assessors” determined “the corrective actions are not comprehensive enough to address the work environment issues within the [Chemistry/Radiation Protection] department,” why are you now allowing TVA more time to address this rather than issuing a CEL letter and requiring a different response that has a chance to be effective?
- 4) In the meantime, what actions is the Agency taking to ensure that all of those employees have the direct contact information to the NRC in the event of a nuclear safety issue?
- 5) Did TVA write a Condition Report to capture this issue, and ensure different corrective actions are taken, mitigation actions are taken, and what is the resolution? As we have seen in the example of the BFN PI&R Inspection conducted in August 2022, TVA wrote a corrective action based on the exit interview findings. Why didn't they do so in this instance and why wasn't that CR written on the NRC's list of documents reviewed?
- 6) Finally, the Report states “The NRC has requested the licensee respond to the NRC's assessment results and implement appropriate corrective actions.” By when? Obviously, these matters were discussed with TVA in the exit interview held in October. How much longer is the NRC going to allow TVA to fail to address this serious issue before it intervenes? What is expected of the Licensee, and by when?

As we alluded to before, we believe that there is now a personal or organizational bias in favor of TVA and against our (former ECP) clients because of the current ongoing litigation over the 2019 removal from their positions as ECP managers. We believe that the NRC has modified and molded its TVA inspection activities to try and insulate TVA, and itself, from valid criticism for its inaction and actions related to the 2018 OIG and NRC enforcement action at this time. This conundrum that NRC management has created is shameful. Your job is to regulate and ensure safe operations, and that the Licensee ensures an environment where people feel free to raise concerns without fear. Neither is happening in a way that puts the public health and safety first.

We look forward to a response to our questions as soon as possible. Also, please consider this a notice to not destroy any documents related to the SCWE aspect of the inspection report identified above, including any notes taken during any and all debriefs of TVA on this report, and any follow up, new and different, corrective actions TVA has identified it is taking.

Sincerely,

Billie Pirner Garde

Billie Pirner Garde

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