



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064**

January 31, 2000

IA 99-051

Mr. Steve Templeton
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

**SUBJECT: NOTICE OF VIOLATION
(NRC INVESTIGATION REPORT NO. A4-1999-020)**

Dear Mr. Templeton:

This refers to your undated letter which we received on January 3, 2000, responding to an apparent violation of the deliberate misconduct rule which occurred while you were providing health physics (HP) support during steam generator nozzle dam installation on April 16, 1999. The NRC's Office of Investigations (OI) conducted an investigation on this issue and found that you engaged in deliberate misconduct in two instances: (1) by instructing a decontamination technician to enter an area when you knew he did not have the personal protective equipment required by the radiation work permit (RWP); and (2) by intentionally failing to survey the steam generator platform prior to sending two decontamination technicians to decontaminate the platform (roll up the herculite). On November 8, 1999, OI's conclusions and the summary of the facts were discussed with you. These were documented in our letter to you dated November 9, 1999. In that letter, we provided you with the opportunity to either respond in writing to the apparent violation or request a predecisional enforcement conference. You did not request a conference, and your letter provided your response to the apparent violation.

Regarding the first instance of deliberate misconduct, your letter stated that you did instruct a decontamination technician to enter an area when you knew he did not have the personal protective equipment required by the RWP, but that you did so for a safety reason. Specifically, while helping a steam generator service technician suit up in a bubble suit, a problem arose with the individual's air line and the individual was provided another air line. However, the new air line did not have a communication line. You said you were concerned that the steam generator service technician was on the verge of either passing out in the contaminated area or trying to cut himself out of the bubble suit, and you needed to communicate with him. So, you sent the decontamination technician into the "playpen" (to get a communication line) knowing he did not comply with the RWP protective clothing requirements. You stated you knew the contamination conditions of the "playpen" and that they would not be detrimental to the decontamination technician. Further, you noted other "Human Error Traps," such as time pressure demands, a distractive environment, a high workload, the fact that this was your first time to provide this kind of HP coverage, vague and incorrect guidance, and work stress.

As for the second instance of deliberate misconduct, you stated that you intended to perform the survey before sending the decontamination technicians into the area (as instructed by your supervisor), that you did not have time to perform the survey immediately after the steam generator service technicians came out of the area, that you forgot to inform the

decontamination technicians that they should wait for you to perform a survey before entering the platform, and that by the time you obtained the survey instruments the decontamination technicians had already completed rolling up the herculite. You stated your feeling that plant management did not provide adequate support for the job (including manpower), and that your supervisor could have stopped the job if he felt there were something wrong.

After considering all the information obtained relative to this matter, the NRC, as discussed below, has concluded that you engaged in deliberate misconduct and that enforcement action is warranted. Regarding the first instance of deliberate misconduct, we acknowledge that an emergency situation may be a legitimate basis for deviating from RWP requirements (for example, if an individual in a bubble suit lost airflow or if an individual were injured). However, in this case, the steam generator service technician's air line had been reestablished, and the decontamination technician was retrieving only a communication line. We do not find a sufficient basis existed to justify your actions.

With regard to the second instance of deliberate misconduct, there is evidence that you had no intention of following your supervisor's instructions. The two decontamination technicians overheard your discussion with your supervisor, and both indicate that, after the call from your supervisor, you instructed them (the decontamination technicians) to decontaminate the platform as soon as the nozzle dam workers came out of the area. The fact that both technicians recall statements you made following the phone conversation with your supervisor indicates that they were in the area. Thus, the NRC believes you had opportunities to inform the technicians that they should wait for you to perform the survey. In addition, a member of plant management indicated that you admitted to making the decision to not perform the survey prior to sending the two decontamination technicians to the steam generator platform to perform the decontamination.

Although there were no actual safety consequences of the underlying violations, the NRC considers your acts of deliberate misconduct to be a serious breach of the trust and integrity expected of a senior health physics technician, whose responsibility is to ensure that the workers follow prescribed radiation protection practices. Further, your actions caused the licensee to be in violation of NRC requirements. After reviewing all the circumstances of this case, including the disciplinary action already taken against you by your employer, your level within the organization, and the fact there were no actual safety consequences to your actions, the NRC has limited its enforcement action to issuance of the enclosed Notice of Violation to you. The violation has been categorized at Severity Level III in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. You should be aware, however, that the NRC will consider imposing stronger sanctions should you engage in misconduct in the future.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. You may refer to previous correspondence rather than repeating the information contained therein. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of the correspondence related to this enforcement action, with your home address redacted, will be

Mr. Steve Templeton

3

placed in the Public Document Room (PDR). This includes the NRC's letter to you dated November 9, 1999, and its enclosure, your response which we received on January 3, 2000, this letter with its enclosure, and any response to this letter. As indicated below, we are providing a copy of this letter to your employer.

Sincerely,

/RA/

Ellis W. Merschoff
Regional Administrator

Docket No. 50-482
License No. NPF-42

Enclosure: Notice of Violation

cc (w/enclosure):
Otto L. Maynard, President and
Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, Kansas 66839

NOTICE OF VIOLATION

Mr. Steve Templeton

IA 99-051

During an NRC investigation completed September 23, 1999, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.5 states, in part, that any licensee or any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation; or any term, condition or limitation of any license issued by the Commission.

10 CFR 20.1501 requires that each licensee make or cause to be made surveys that may be necessary for the licensee to comply with the regulations in Part 20 and that are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels, concentrations or quantities of radioactive materials, and the potential radiological hazards that could be present. Pursuant to 10 CFR 20.1003, *survey* means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation.

Technical Specification 6.8.1 requires, in part, that procedures be established, implemented and maintained covering the activities referenced in Appendix A of Regulatory Guide 1.33, Revision 2, February 1978. Appendix A of Regulatory Guide 1.33, Revision 2, February 1978 recommends, in part, radiation protection procedures regarding access control to radiation areas including a radiation work permit system. The licensee's radiation work permit system is described in its procedure, RPP 02-15, "RWP." Section 5.3 of RPP 02-15 states, in part, that health physics technicians are responsible for verifying that work in progress does not violate the protective requirements specified on the RWP. RWP 993202 required, in part, that individuals entering the steam generator "playpen" wear a face shield.

Contrary to the above, on April 16, 1999, Steve Templeton, an employee of a licensee, engaged in deliberate misconduct in two instances that caused the licensee to be in violation of NRC requirements, as discussed below.

(1) In the first instance, Mr. Templeton instructed an individual, who Mr. Templeton knew did not have a face shield, to enter the steam generator "playpen" to obtain a communication line. The individual told Mr. Templeton he did not have a face shield, as required by RWP 993202, but Mr. Templeton instructed him to enter the "playpen" and obtain the communication line anyway. Mr. Templeton's action caused the licensee to be in violation of Technical Specifications section 6.8.1, Regulatory Guide 1.33, section 5.3 of RPP 02-15, in that he deliberately caused work in progress to violate a protective requirement specified on the RWP.

(2) In the second instance, Mr. Templeton intentionally failed to survey the steam generator platform prior to decontamination activities. This failure caused the licensee

to be in violation of 10 CFR 20.1501 in that Mr. Templeton did not perform surveys to demonstrate compliance with 10 CFR 20.1201, which limits the annual total effective dose equivalent to 5 rem. (01013)

This is a Severity Level III violation (Supplement IV).

Pursuant to the provisions of 10 CFR 2.201, Mr. Steve Templeton is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation or severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR 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 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Dated this 31st day of January 2000

Mr. Steve Templeton

BCC W/ENCLOSURE:

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