



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

January 14, 2011

EA-10-142  
EA-10-230

Mr. David A. Heacock  
President and Chief Nuclear Officer  
Dominion Resources  
5000 Dominion Blvd.  
Glen Allen, VA 23060-6711

SUBJECT: NRC INVESTIGATION REPORT NOS. 1-2010-024 AND 1-2010-028;  
MILLSTONE POWER STATION

Dear Mr. Heacock:

This letter refers to two investigations initiated by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) at Millstone Power Station (MPS). The investigations, 1-2010-024, and 1-2010-028, were initiated on March 11 and March 25, 2010, respectively, to determine whether two different contract employees deliberately failed to report an arrest on unescorted access authorization (UAA) records to gain unescorted access (UA) at MPS. Both investigations were initiated after MPS identified these issues and brought them to the attention of the NRC.

As a result of the first investigation, 1-2010-024, the NRC did not substantiate that the contract employee deliberately failed to report an arrest leading to UA at MPS. Specifically, on February 8, 2010, while applying for UA at MPS, the contract employee checked a "no" block on a Personal History Questionnaire (PHQ) form indicating that he/she had no arrests, detentions, or reportable alcohol-related incidents. On February 10, 2010, the contract employee indicated to a supervisor that he/she had been detained by police on December 27, 2009, but did not believe this amounted to an arrest that was required to be reported on the UAA records at MPS. The contract employee's supervisor determined that this issue was required to be reported when the contract employee applied for UA at MPS, and notified MPS of the issue. The contract employee's UA at MPS was subsequently revoked by MPS access personnel.

The OI investigation concluded that the individual had demonstrated evidence to support his/her claim that he/she did not fully understand the PHQ questions, which led him/her to believe that the incident with police on December 27, 2009, was not required to be reported. Additionally, the investigators did not feel that the contract employee's behaviors and actions were consistent with an individual trying to intentionally conceal a failure to report an arrest to gain UA at MPS. Therefore, since the actions of the contract employee were not found to be deliberate, the contract employee did not violate the NRC's deliberate misconduct rule (10 CFR 50.5), which prohibits employees from engaging in deliberate misconduct that would cause a licensee to be in violation of any NRC requirements.

As a result of the second investigation, 1-2010-028, the NRC determined that the second contract employee deliberately falsified UAA records to gain access to MPS. Specifically, on February 9, 2010, the contract employee failed to report a December 13, 2009, arrest when completing the PHQ form for UA at MPS. The contract employee admitted that when he/she filled out the PHQ for UA, he/she knew that the arrest should have been reported. The contract employee's supervisor determined that this issue was required to be reported when the contract employee applied for UA at MPS, and notified MPS of the issue. MPS access personnel subsequently revoked the contract employee's UA. Since the actions of the contract employee were deliberate, the contract employee violated the NRC's deliberate misconduct rule (10 CFR 50.5), which prohibits employees from engaging in deliberate misconduct that would cause a licensee to be in violation of any NRC requirements.

The NRC determined that in both investigations, the two contract employees completed and submitted PHQs on which they failed to report arrests, causing MPS, in each case, to be in violation of NRC requirements, specifically: 1) 10 CFR 50.9, which requires, in part, that documentation required to be maintained by the licensee be complete and accurate in all material respects; and, 2) Section 9.1 of the MPS Physical Security Plan (PSP), which states that the MPS access authorization program will implement the regulatory requirements, utilizing the provisions in NEI-03-01, Revision 2, "Nuclear Power Plant Access Authorization Program." NEI 03-01, Rev. 2, Section 7.2, "Personal History Questionnaire," in part, requires each individual applying for UAA/UA to provide a self-disclosure of criminal history since the eighteenth birthday or since the last UAA period if terminated favorably within the past 3 years. The NRC concluded that these separate occurrences constitute two examples of the same violation. Therefore, the NRC is assessing these examples as one violation.

Because you are responsible for the actions of your employees, and because the violation, in one case, involved willful aspects, the violation was evaluated under the NRC's Traditional Enforcement process as set forth in the NRC Enforcement Policy. The NRC determined that the violation was similar to Enforcement Policy Violation Example 6.11.c.7, in that it involved a reviewing official unknowingly relying on a deliberate falsification of information to make a UA or UAA determination. Although this type of violation would normally be assessed at Severity Level (SL) III, the NRC considered that in both examples of this violation, the individuals were not licensee officials or supervisors, and therefore, the regulatory significance of the violation does not rise to a SL III. Accordingly, the NRC determined that the violation is appropriately classified as SL IV in accordance with the NRC Enforcement Policy. The current NRC Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov>; by selecting "About NRC," "Regulation," "Enforcement," and finally, "Enforcement Policy."

The NRC considered issuance of a Notice of Violation for this issue. However, after considering the factors set forth in Section 2.3.2 of the NRC Enforcement Policy, the NRC determined that a non-cited violation (NCV) is appropriate in this case because: (1) the violation was identified by your staff; (2) the violation involved the acts of individuals who were not considered to be licensee officials within the context of the NRC Enforcement Policy; (3) the violation appeared to be the isolated actions of employees without management involvement and was not caused by a lack of management oversight; (4) you revoked the individuals' site access; and (5) you placed the issues into the corrective action program.

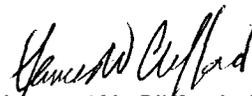
A response to this letter is not required. However, if you contest the NCV or its significance, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555-0001, with copies to the Regional Administrator, Region I; the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; and the

NRC Senior Resident Inspector at MPS.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and your response, if you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room or from the NRC's document management system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response, if you choose to provide one, should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Should you have any questions regarding this letter, please feel free to contact Donald Jackson at (610) 337-5306.

Sincerely,



James W. Clifford, Acting Director  
Division of Reactor Projects

cc: Distribution via Listserv

NRC Senior Resident Inspector at MPS.

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Sincerely,

/RA/

James W. Clifford, Acting Director  
Division of Reactor Projects

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\* see previous concurrence pages for concurrence

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