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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

June 9, 2016

IA-16-015

Michael Skillman

[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION AND NRC INVESTIGATION REPORT 4-2014-048

Dear Mr. Skillman:

This letter refers to the investigation completed on October 20, 2015, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations at Wolf Creek Generating Station (Wolf Creek). The investigation was conducted, in part, to determine whether you, as a contract employee of Wolf Creek, willfully provided incomplete information to a construction supervisor employed by Wolf Creek. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated March 10, 2016. On April 6, 2016, a predecisional enforcement conference was conducted in the Region IV office with you to discuss the apparent violation, its significance, and its cause.

The NRC used the additional information that you provided about your understanding of a Skillman Construction individual's employment status during the predecisional enforcement conference and the information developed during the investigation to assess the deliberateness of your actions. The NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). The violation was determined to be the result of your actions as a contract employee of Wolf Creek. The violation involves your deliberate communication of incomplete information to Wolf Creek personnel regarding a contract employee's employment status. Specifically, you deliberately provided incomplete information regarding the fact that a Skillman Construction employee had been laid off and no longer required access to Wolf Creek's protected area.

Your actions caused Wolf Creek to be in violation of NRC requirements. In addition, since the violation involved willfulness, the NRC considers the violation more significant. Therefore, a security-related violation to Wolf Creek has been categorized in accordance with the NRC Enforcement Policy as greater than Severity Level IV. Enclosure 2 includes a copy of the letter and Notice issued to Wolf Creek.

In addition, your deliberate actions placed you in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.5(a)(2), "Deliberate misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy as greater than Severity Level IV. The current

Enclosure 1 contains Sensitive Unclassified Non-Safeguards Information. When separated from Enclosure 1, this cover letter, and Enclosures 2 and 3 are decontrolled.

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M. Skillman

-2-

Enforcement Policy is included on the NRC's Web site 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 since (1) you are no longer a licensee contractor employee and no longer have unescorted access authorization at Wolf Creek; and (2) you presented your understanding of the issue at the predecisional enforcement conference, you are not required to respond to this letter. Should you choose to respond, follow the instructions specified in the enclosed Notice.

If you disagree with this enforcement action, you may request alternative dispute resolution (ADR) (Enclosure 3) with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral mediator works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions.

Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr/post-investigation.html>. The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as a neutral third party. Please contact Cornell at 877-733-9145 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390, "Agency Rules of Practice and Procedure," a copy of this letter will be made available for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

However, Enclosure 1 to this letter contains security-related information in accordance with 10 CFR 2.390(d)(1), and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosure will not be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's ADAMS. If you choose to provide a written response, then to the extent possible, you should not include any personal privacy or safeguards information so that it can be made available to the Public without redaction. If security-related information is necessary to provide an acceptable response, please mark your entire response "Security-Related Information – Withhold from Public Disclosure Under 10 CFR 2.390" in accordance with 10 CFR 2.390(d)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in

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M. Skillman

-3-

10 CFR 73.21. In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

In addition, 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 Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions, please contact John Kramer at 817-200-1121.

Sincerely,



Kriss M. Kennedy
Deputy Regional Administrator

Nonpublic enclosure:

1. Notice of Violation

Public available enclosures:

2. Letter to Wolf Creek Generating Station
Inspection Report 05000482/2016409
3. NUREG/BR-0317

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**WOLF CREEK GENERATING STATION - NOTICE
OF VIOLATION; NRC SECURITY INSPECTION
REPORT 05000482/2016409 AND
INVESTIGATION REPORT 4-2014-048**

Enclosure 2

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
1600 E. LAMAR BLVD.
ARLINGTON, TX 76011-4511

June 9, 2016

EA-15-224

Mr. Adam C. Heflin, President and
Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

SUBJECT: WOLF CREEK GENERATING STATION - NOTICE OF VIOLATION;
NRC SECURITY INSPECTION REPORT 05000482/2016409 AND
INVESTIGATION REPORT 4-2014-048

Dear Mr. Heflin:

This letter refers to the investigation conducted at the Wolf Creek Generating Station by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations. The purpose of the investigation was to determine whether willful security-related violations of NRC requirements occurred at the Wolf Creek Generating Station. The investigation was initiated on August 27, 2014, and completed on October 20, 2015. This issue was discussed with you and other members of your staff during a telephone conversation on January 27, 2016, and the associated apparent violation was documented in our previous communication, dated February 9, 2016, which included NRC Inspection Report 05000482/2016406.

On March 17, 2016, a predecisional enforcement conference (PEC) was conducted in the Region IV office with members of your staff to discuss the apparent violation, its significance, its root cause, and your corrective actions. A copy of the handout your staff provided at the PEC is enclosed. During the PEC, your staff did not dispute the apparent violation, accepted responsibility for the apparent violation, and described additional corrective actions taken to resolve the apparent violation.

Based on the information developed during the investigation and the information provided during the PEC, 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 described in detail in NRC Inspection Report 05000482/2016406. Because the violation is security-related, refer to the aforementioned inspection report for the basis for the violation's significance. In addition, since the violation involved willfulness, the NRC considers the violation more significant. Therefore, this violation has been categorized in accordance with the NRC Enforcement Policy as greater than Severity Level IV.

**"Enclosures 1 and 2 contain Sensitive Unclassified Non-Safeguards Information.
When separated from the enclosures, this cover letter is decontrolled."**

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A. Heflin

- 2 -

In accordance with the NRC Enforcement Policy, a base civil penalty is considered for a greater than Severity Level IV violation. However, because your facility identified the violation, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. Your immediate corrective actions were described in NRC Inspection Report 05000482/2016406, and your staff described additional corrective actions during the PEC on March 17, 2016, which are summarized in the enclosed handout provided during the PEC. Collectively, the NRC views these corrective actions as both prompt and comprehensive, and the NRC has concluded that credit is warranted for *Corrective Action*.

Therefore, to encourage prompt identification and comprehensive correction of violations, 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 will be achieved is already adequately addressed on the docket in NRC Inspection Report 05000482/2016406, and in the enclosed handout you provided during the PEC. 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 Title 10 of the Code of Federal Regulations (10 CFR) 2.390, "Agency Rules of Practice and Procedure," a copy of this letter will be made available for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

However, the enclosures to this letter contain security-related information in accordance with 10 CFR 2.390(d)(1), and their disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosures will not be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's ADAMS.

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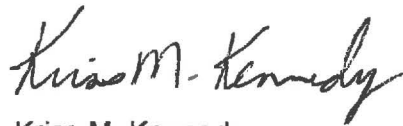
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A. Heflin

- 3 -

If you choose to provide a response and security-related information is necessary to provide an acceptable response, please mark your entire response "Security-Related Information – Withhold from Public Disclosure Under 10 CFR 2.390" in accordance with 10 CFR 2.390(d)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

Sincerely,



Kriss M. Kennedy
Deputy Regional Administrator

Docket: 50-482
License: NPF-42

Nonpublic Enclosures:

1. Notice of Violation
2. Wolf Creek Generating Station
Handout Provided During Predecisional
Enforcement Conference

cc w/encl:
Mr. David Erbe
Security Manager
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, KS 66839

cc w/o encl: Electronic Distribution

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**NUREG/BR-0317 Post-Investigation
Alternate Dispute Resolution Program**

Enclosure 3

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Mediation Location and Duration

The parties usually hold the mediation at, or in the vicinity of, one of the NRC's offices. However, the parties may mutually agree upon any alternate location. Mediation sessions are usually no longer than 1 day. In some cases, the mediation may take longer than 1 day with the mutual consent of the parties.

The NRC Mediation Team

The responsible Regional Administrator or his or her designee will serve as the principal negotiator for the NRC in cases that involve wrongdoing and related technical issues, if any. When a case involves discrimination, the Director of the Office of Enforcement will normally serve as the principal negotiator. The other members of the NRC mediation team typically include an enforcement specialist, an attorney, and a staff representative who is familiar with the technical issues under discussion.

The Confirmatory Order

A CO is a legally binding document that includes the terms of the AIP. For a licensee, a CO serves as an amendment to its NRC license. Regardless of the type of entity, a CO has the same legal force against any party to which it is issued.

The NRC will only issue a CO with the prior written consent of the other party, and with a waiver of the right to a hearing. After the entity or the individual, as applicable, has completed the terms of the CO, the NRC will conduct verification activities to ensure that the terms of the CO have been satisfied in a timely manner. Because the CO is legally binding, failing to comply with its terms exposes the entity or individual to additional enforcement action.

Although the substance of the mediation session remains confidential, the details of the settlement will normally be made public via a press release and the publication of the CO in the *Federal Register*.

Timeliness Goals

The timely resolution of issues is one of the goals of the post-investigation ADR program. Accordingly, the NRC expects a timely progression of a case at each stage of the mediation process. In cases where the parties achieve settlement, the NRC expects to issue a CO within 90 calendar days of the date of the agency's letter offering the ADR option to an entity the other party.

Additional Sources of Information

Further information about the NRC's ADR program is available from the following:

- Cornell toll free at (877) 733-9145
- NRC ADR Program Manager in the Office of Enforcement toll free at (800) 368-5642 or (301) 415-2741
- NRC enforcement ADR program on the agency's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/adr.html



NUREG/BR-0317 Rev. 1
July 2011

U.S.NRC
United States Nuclear Regulatory Commission
Protecting People and the Environment

Post-Investigation Alternative Dispute Resolution Program

The Program

The U.S. Nuclear Regulatory Commission's (NRC's) post-investigation alternative dispute resolution (ADR) program provides an amicable process to resolve enforcement matters. It may produce more timely and effective outcomes for the NRC and an entity (e.g., an NRC licensee, certificate holder, or contractor of an NRC licensee or certificate holder) or an individual who is subject to an enforcement action. Following the congressional endorsement of the use of ADR by Federal agencies, the NRC established the post-investigation ADR program in 2004. Post-investigation ADR offers the opportunity to resolve discrimination cases or other wrongdoing and related matters through mediation rather than through the NRC's traditional enforcement process.

Post-investigation ADR refers to the use of mediation *after* the completion of an investigation by the NRC Office of Investigations and the staff's conclusion that pursuit of an enforcement action appears warranted. As long as the enforcement matter is within the scope of the program, the NRC normally offers post-investigation ADR at each of the following stages of the enforcement process: (1) before an initial enforcement action, (2) after the initial enforcement action is taken, typically upon issuance of a notice of violation, and (3) when a civil penalty is imposed but before a hearing request.

Mediation is an informal process in which a trained and experienced mediator works with the parties to help them reach a resolution. The parties are the NRC and the entity or an individual, as applicable, in the mediation. The mediator focuses the attention of the parties on their needs and interests rather than on their stated positions. Mediation gives the parties an opportunity to discuss issues, clear up misunderstandings, identify creative ways to address issues, find areas of agreement, and resolve their dispute.

Participation in the program is entirely voluntary. The NRC and the entity or the individual, as applicable, may withdraw from the mediation process at any time.

The Program Administrator

The NRC has a contract with the Cornell University Scheinman Institute on Conflict Resolution (Cornell) to serve as the program administrator for the post-investigation ADR program. Cornell administers the program's day-to-day operations, including handling the logistical matters and working with the parties to select a mediator from Cornell's roster of mediators. Cornell uses a network of independent and experienced mediators who help the parties find areas of agreement and help them settle their dispute.

The Mediator

The mediator is an experienced neutral individual who is mutually selected by the parties. He or she has no stake in the outcome of the mediation or any power to make decisions that may bind either party. The role of the mediator is to facilitate communication between the parties and to provide an environment where the parties have an opportunity to address their differences. The mediator uses consensus building skills and knowledge of negotiation to help the parties find ways to overcome any misunderstandings and attempt to find areas of agreement. The mediator does not act as legal counsel or provide legal advice to any party. Each party should consult an attorney for legal advice as such party deems appropriate.

The Mediation Process

Historically, most post-investigation ADR mediations have occurred at the first stage of the enforcement process (i.e., before an initial enforcement action). In those cases, the NRC presents the entity or an individual, as applicable, with the opportunity to engage in mediation with the agency before it makes an enforcement decision. If the entity or the individual elects ADR, Cornell will help the NRC and the entity or the individual, as applicable, to jointly select a mediator. After the parties select a mediator, the parties, in coordination with the mediator, set a date and place for the mediation. Typically, the mediator holds a pre-mediation teleconference with the parties to discuss logistical matters or any special needs of either party.

During the mediation, the mediator will give the parties an opportunity to discuss their views on the issue. Often, the mediator will meet privately with each party to develop a clear understanding of the party's perspective and explore and assess options. Although the mediator does not have any power to make decisions that may bind either party, he or she may ask questions intended to help the parties assess the merits of their positions, help them converse in a respectful atmosphere, and identify potential settlement options.

If the parties reach a settlement agreement during the mediation session, they will typically document the terms of their agreement in writing by developing an agreement in principle (AIP) document. The AIP is not enforceable by either party against the other, but it is the basis on which the NRC drafts a confirmatory order (CO), which is a legally binding document used to confirm the commitments made in the AIP.

However, if the parties do not reach a settlement agreement, the traditional enforcement process resumes—that is, the enforcement process continues as it would have, had the parties not engaged in ADR.

Confidentiality

Although the terms of an ADR settlement become publically available through the issuance of the CO, with certain exceptions, the substance of the discussions during the mediation session is confidential regardless of the mediation outcome. The mediator is prohibited from discussing the mediation proceedings, testifying on anyone's behalf concerning the mediation, or submitting a report on the substance of the discussions.

Cost

The NRC and the entity or individual, as applicable, equally share the fees and travel expenses of the mediator and any meeting room fees. However, each party is responsible for its own expenses, such as travel, lodging, and legal representation.