

August 16, 1996

EA 96-240

Mr. R. C. Allen
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-95-029, NRC INSPECTION
REPORT NOS. 50-280, 281/95-20 AND REQUEST FOR PRE-DECISIONAL
ENFORCEMENT CONFERENCE

Dear Mr. Allen:

The NRC has recently completed an investigation of your apparent willful violation of operational procedure at Surry Nuclear Power Station (SNPS). The investigation was performed by the NRC Office of Investigations (OI) as a followup to the subject inspection and completed in June 1996. The purpose of the investigation was to determine whether you, while a licensed Senior Reactor Operator and Supervisor of Shift Operations, deliberately failed to follow SNPS procedures.

The Office of Investigations concluded that you deliberately violated SNPS operational procedures by initiating a gaseous ground release of the Unit-1 pressurizer relief tank (PRT) without a required permit. Specifically, on September 14, 1995, you directed operators to open a second vent path from the pressurizer relief tank without first obtaining a release permit as required by Operating Procedure 1-OP-RC-011. You directed that the second path be opened, without closing the first path, even though concurrent use of two vent paths was not authorized by procedures and the Unit 1 supervisor had advised you that such venting would not be in accordance with procedures. You also directed that the second vent path be opened even though you knew that a hose from the vent valve to the containment purge exhaust was required by Operating Procedure 1-OP-RC-011 and you knew that the hose was not installed. A copy of the synopsis of the OI Report is enclosed (Enclosure 1). Your apparent deliberate actions of September 13, 1995, are of particular concern to the NRC because you held a management position within the SNPS organization and were responsible for directing and coordinating the activities of other operations personnel. In this regard, you were expected to establish the standard for the conduct of operations including procedural adherence.

Based on the results of the inspection and OI investigation, your actions appear to have violated NRC requirements. Specifically, your NRC Senior Reactor Operator's License, SOP-4301-4/Docket No. 55-6236, (expired on December 28, 1995), required that you observe the operating procedures and other conditions specified in the facility license which authorizes operation of the facility. Also, by deliberately failing to follow operating procedures, you engaged in apparent deliberate misconduct as defined by 10 CFR 50.5 (Enclosure 2). 10 CFR 50.5 provides that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be

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in violation of any rule regulation or order issued by the Commission. This apparent violation is being considered for escalated enforcement action in accordance with the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, a copy of which is enclosed for your reference (Enclosure 3). However, be advised that the characterization of the apparent violation described here may change as a result of further NRC review.

Before the NRC makes its final enforcement decision in this case, we are providing you an opportunity to participate in a predecisional enforcement conference to discuss the apparent violation. The decision to hold a conference with you does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference is to obtain information to enable the NRC to make an enforcement decision, such as a common understanding of the facts, root cause, corrective actions, significance of the issues, and the need for lasting and effective corrective action. In addition, this is an opportunity for you to provide any additional information concerning your perspectives on the severity of the violation and application of the mitigation factors discussed in the Enforcement Policy. Please notify this office, in writing, within 10 days of your receipt of this letter whether you intend to participate in a predecisional enforcement conference. Should you decline to participate in a conference, you should provide a written explanation addressing the above as well as why you should be permitted to continue to work in NRC facility-licensed activities in view of your apparent deliberate violation of NRC requirements. This written explanation should be provided within 30 days of your receipt of this letter. If you choose to attend a conference, these explanations may be provided at that time. Also be advised that should you decide not to participate in a conference, the NRC will pursue enforcement action based on the information obtained during the NRC inspection, OI investigation and provided in your written response. Upon receipt of your reply, and if you choose to participate in a predecisional enforcement conference, we will contact you to make the necessary arrangements. Please be advised that any conference would be closed to the public and transcribed and that you have the right to bring a personal representative or legal counsel.

Your attention is directed to Section V of the Enforcement Policy which explains the purpose of predecisional enforcement conferences and Section VIII which explains enforcement actions involving individuals. Note that the enforcement sanctions that could be assessed against an individual include a Letter of Reprimand, a Notice of Violation, and/or an Order prohibiting or restricting involvement in NRC licensed activities.

You also should be aware that Virginia Electric and Power Company was the subject of escalated enforcement action related to your actions. This action has been completed, and a copy of the enforcement action and supporting inspection report are enclosed for your reference (Enclosures 4 and 5).

At the conclusion of NRC's deliberations on the matter, in accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter with your address deleted and its enclosures will be placed in the NRC Public Document Room.

R. C. Allen

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If you have any questions, please contact Mr. Thomas A. Peebles, Chief, Operator Licensing and Human Performance Branch at (404) 331-5541 or (800) 577-8510.

Sincerely,

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Albert F. Gibson, Director
Division of Reactor Safety

Enclosures: 1. Synopsis for OI Case No. 2-95-029
2. 10 CFR 50.5, Deliberate Misconduct
3. NUREG-1600
4. EA 95-223, dated November 22, 1995
5. Inspection Report Nos. 50-280, 281/95-20

cc w/encl 1:

David A. Christian, Manager
Surry Power Station
Virginia Electric & Power Company
5570 Hog Island Road
Surry, VA 23883

Distribution w/encls 1 and 2 [HOME ADDRESS DELETED]:

PUBLIC (Hold pending final enforcement action - OLHP action)
EJulian, SECY (Hold pending final enforcement action - OLHP action)
BKeeling, CA (Hold pending final enforcement action - OLHP action)
JTaylor, EDO
JMilhoan, DEDR
SEbnetter, RII
LChandler, OGC
JGoldberg, OGC
JLieberman, OE
Enforcement Coordinators
RI, RIII, RIV
EHayden, OPA (Hold pending final enforcement action - OLHP action)
GCaputo, OI
EJordan, AEOD
HBell, OIG
OE:EA File (B. Summers, OE) (2 letterhead)
MSavrius, OE
GEdison, NRR
SRichards, NRR
CEvans, RII
BUryc, RII
KClark, RII
AGibson, RII
TPeebles, RII
ABelisle, RII
RTrojanowski, RII
CPayne, RII
MErnstes, RII
ABoland, RII

Distribution w/encls 1 and 2 (home addressed deleted): (Cont'd on page 4)

R. C. Allen

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(Distribution w/encls 1 and 2 (home addressed deleted: cont'd)
Senior Resident Inspector
5850 Hog Island Road
Surry, VA 23883

OFFICE	RII:DRS	RII:DRP	RII:EICS	RII:RC		
SIGNATURE						
NAME	TPeebles	ABelisle	BUryc	CEvans		
DATE	08 / 9 / 96	08 / 9 / 96	08 / 12 / 96	08 / / 96	08 / / 96	08 / / 96
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

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SIGNATURE					
NAME		TPeebles	ABelisle	BUryc	CEvans
DATE	08 / / 96	08 / 9 / 96	8/9/96	08 / 12 / 96	08 / 13 / 96
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO

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SYNOPSIS

This investigation was initiated by the Nuclear Regulatory Commission, Office of Investigations, Region II, on November 7, 1995. The purpose of the investigation was to determine whether a supervisor of shift operations (SSO) at the Surry Nuclear Power Station (SNPS) deliberately failed to follow control room procedures. The SSO learned that the pressurizer relief tank (PRT) was not venting as quickly as anticipated and was delaying other maintenance activities. The SSO, a third tier supervisor, directed an employee to open a valve to speed up the venting without obtaining a permit required by plant operating procedures. The SSO admitted that he made an error in judgement but insisted that his decision was based on mistake. The SSO said he did not discuss his plans with control room operators and did not document his actions as he allegedly intended.

Based on the evidence developed during this investigation, it is concluded that the SSO deliberately violated SNPS operational procedures by initiating a gaseous ground release of the Unit-1 PRT without a required permit.

Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, two copies to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(i) Emergency plan pursuant to § 50.34;
(ii) Change to an emergency plan pursuant to § 50.54(q);
(iii) Emergency implementing procedures pursuant to Appendix E.V of this part.

(6) *Updated FSAR.* An updated Final Safety Analysis Report (FSAR) or replacement pages, pursuant to § 50.71(e) must be submitted as follows: the signed original and 10 copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(7) *Quality assurance related submittals.* (i) A change to the Safety Analysis Report quality assurance program description pursuant to § 50.54(a)(3) or § 50.55(f)(3), or a change to a licensee's NRC-accepted quality assurance topical report pursuant to § 50.54(a)(3) or § 50.55(f)(3), must be submitted as follows: the signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility.

(ii) A change to an NRC-accepted quality assurance topical report from nonlicensees (i.e., architect/engineers, NSSS suppliers, fuel suppliers, constructors, etc.) must be submitted as follows: one signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

(c) *Form of communications.* All copies submitted to meet the requirements set forth in paragraph (b) of this section must be typewritten, printed or otherwise reproduced in permanent form on unglazed paper. Exceptions to these requirements may be granted for the submittal of micrographic, photographic, or electronic forms. Prior to making any submittal in other than paper form, the applicant or licensee must contact the Information and Records Management Branch, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7230, to obtain specifications, copy requirements, and prior approval.

(d) *Delivery of communications.* Written communications may be delivered to the Document Control Desk at 11555 Rockville Pike, Rockville, Maryland between the hours of 8:15 a.m. and 4:00 p.m. Eastern Time. If a submittal due date falls on Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date.

(e) *Regulation governing submission.* Licensees and applicants submitting correspondence, reports, and other written communications pursuant to the regulations of this part are requested but not required to cite whenever practical, in the upper right corner of the first page of the submittal, the specific regulation or other basis, requiring submission.

(f) *Conflicting requirements.* The communications requirements contained in this section and §§ 50.12, 50.30, 50.36, 50.36a, 50.44, 50.48, 50.54, 50.55, 50.55a, 50.59, 50.82, 50.71, 50.73, 50.82, 50.90, and 50.91 supersede and replace all existing requirements in any license conditions or technical specifications in effect on January 5, 1987. Exceptions to these requirements must be approved by the Information and Records Management Branch, Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415-7230.

§ 50.5 Deliberate misconduct.

(a) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part, may not:

(1) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission, or

(2) Deliberately submit to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means 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 any term, condition, or limitation, of any license issued by the Commission, or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

§ 50.7 Employee protection.

(a) Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of the section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the Commission to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any Commission proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.