



## POLICY ISSUE

(NEGATIVE CONSENT)

SECY-93-216

August 2, 1993

*Corn Vapers*  
*JL*  
*JG*  
*WT*  
*Regional*

For:

The Commissioners

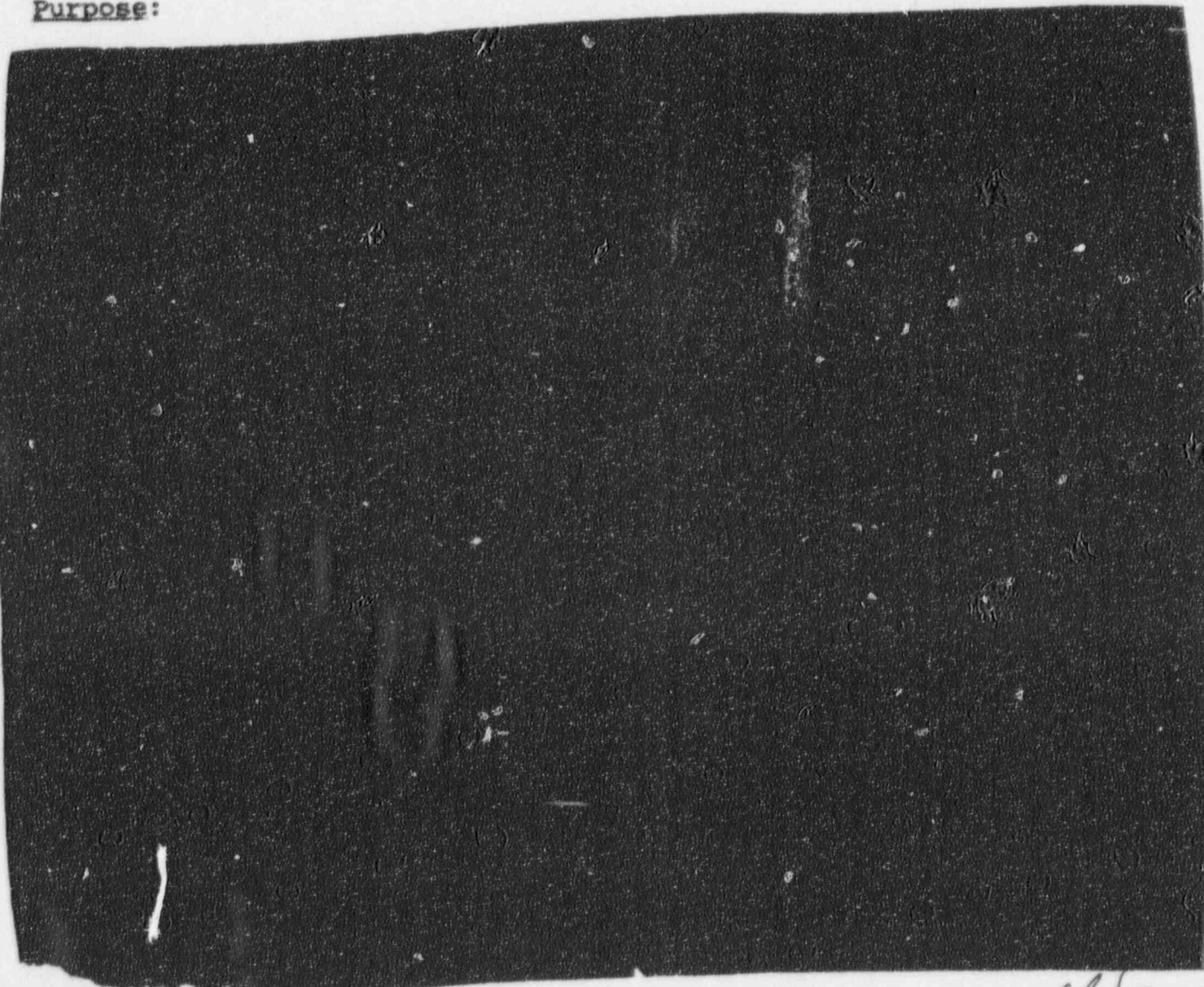
From:

James M. Taylor  
Executive Director for Operations

Subject:

ENFORCEMENT ACTION RE: INCOMPLETE AND  
INACCURATE PLANT RECORDS

Purpose:



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PDR FOIA

O'NEILL96-351 PDR

*BB/2*



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*BB/2*



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

JUN 03 1993

**MEMORANDUM FOR:** James Lieberman, Director  
 Office of Enforcement

**FROM:** Edward C. Wenzinger, Chief  
 Reactor Projects Branch 2  
 Division of Reactor Projects  
 Region I

John R. White, Chief  
 Reactor Projects Section 2A  
 Division of Reactor Projects  
 Region I

**SUBJECT:** DIFFERING PROFESSIONAL VIEW:  
 ENFORCEMENT FOR AUXILIARY AND EQUIPMENT  
 OPERATORS, AND FIREWATCHES RELATIVE TO  
 FALSIFICATION OF RECORDS

In response to your memorandum on this subject, dated May 28, 1993 (Attachment 1) we have the following comments:

1. We accept the recommendations of the independent panel assigned to review our Differing Professional View (DPV) dated April 1, 1993 (Attachment 2), as expressed in the memorandum to you from Jack W. Roe, dated May 24, 1993 (Attachment 3). In this matter, the panel recommended that enforcement discretion be exercised for all plants, including Salem/Hope Creek. We believe that the panel's recommendations effectively, (1) stressed the significance of all safety and safeguards related activities without drawing a distinction between routine and compensatory rounds, (2) eliminated the gross inconsistency in the application of enforcement action for activities involving similar misconduct and performance at other plants, and (3) in view of limited NRC resources, demonstrated a balanced, fair, and effective approach in expressing the agency's concern and directing licensees' attention to the inadequate management oversight that permitted so many instances of misconduct to occur.
2. We do not agree with your rationale for continuing to pursue enforcement relative to Salem/Hope Creek. While the case may have presented the "opportunity to emphasize the role of compensatory measures...in the area of fire protection", we believe that the agency's response in this matter should be based on more than reacting to the perception that "[f]ire protection is a major issue of the day". The principal issue is the potential adverse affect on safety that is implied in instances involving lack of integrity on the part of licensee employees and contractors, and the inadequate management oversight that



JUN 03 1993

2

permitted such conditions to exist and be unnoticed. Pursuing enforcement action for the Salem/Hope Creek fire watch issue could obfuscate the general purpose and focus of the NRC's concern in this area (i.e., the falsification of plant records).

Further, for the same reasons that you identify that enforcement action is not warranted or compelled by the Enforcement Policy for all other instances of falsification of activities by licensed operators or licensee employees, it is evident to us that enforcement action is not warranted or compelled in the case of Salem/Hope Creek. Using the same rationale, a stronger case of enforcement discretion could be made for Salem/Hope Creek.

As our supplement to the DPV (Attachment 4) noted, in the Salem/Hope Creek case, the matter was detected, investigated, analyzed, assessed, documented, and corrected by the licensee without any essential input from the NRC. Aggressive disciplinary action was taken, and several causal factors, including elements involving human performance, were identified.

In this case, the licensee demonstrated a high level of professional performance and self-assessment that was fostered and inspired, we believe, by NRC's policy of enforcement discretion. However, by doing so, the licensee produced a readily packaged enforcement case that required very little NRC effort to take advantage of as an enforcement action. Had PSE&G been less aggressive and effective, it is likely that the licensee could be one of the many others for which relief from enforcement action is granted.

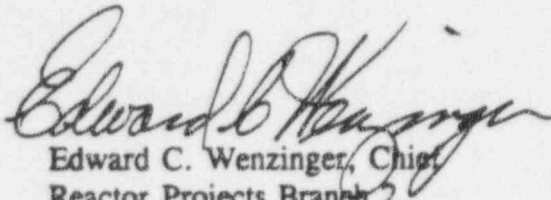
Our understanding of the purposes of enforcement i.e., ensuring safety by effecting compliance with NRC regulatory requirements, obtaining prompt correction of adverse conditions, deterring future occurrences or violations, and encouraging improvement in licensee performance, is already realized in the case of Salem/Hope Creek. Consequently, the necessity of implementing enforcement action in this case is unclear to us, particularly when compared to the numerous other misconduct and performance matters that we are not contemplating pursuing as enforcement cases.

We continue to believe that the performance and veracity of NRC-licensed and non-licensed operators (who are expected to directly observe, monitor, and verify the status and condition of safety-related equipment) is at least as important as that of fire watch personnel (who provide compensatory action to detect fires, that may, if not extinguished or controlled, eventually affect the operability of safety-related equipment). Unlike firewatch personnel, operator surveillance rounds are expected to detect and effect resolution of deficiencies (e.g., inoperable equipment, misaligned valves, and off-normal conditions) that could directly and immediately affect safety-related systems and components.

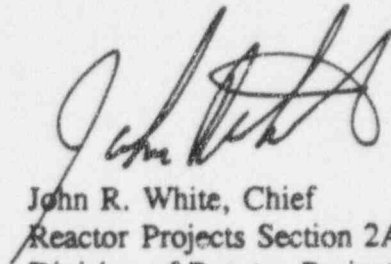
JUN 03 1993

3

3. Given this disagreement, Management Directive 10.159, "Differing Professional Views or Opinions", requires that we submit this matter as a Differing Professional Opinion (DPO). In view of the fact that a Commission Memorandum will be developed relative to this enforcement action, we believe that a DPO appears redundant and unnecessary. However, we request that the Commission Memorandum contain a summary of the DPV issues and the results of the agency's review of the matter; and that a copy of the DPV, the DPV panel recommendation, your May 28, 1993 response, and this memorandum be attached to the Commission package. If this is accomplished, we will be satisfied with the execution of the DPV process. Thank you for your consideration in this matter.



Edward C. Wenzinger, Chief  
Reactor Projects Branch 2  
Division of Reactor Projects  
Region I



John R. White, Chief  
Reactor Projects Section 2A  
Division of Reactor Projects  
Region I

Attachments As Stated

cc:

T. Martin, RI  
W. Kane, RI  
J. Wiggins, RI  
J. Roe, NRR  
T. Johnson, RI



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

MAY 28 1993

MEMORANDUM FOR: Edward C. Wenzinger, Chief  
Reactor Projects Branch 2  
Division of Reactor Projects  
Region I

John R. White, Chief  
Reactor Projects Section 2A  
Division of Reactor Projects  
Region I

FROM: James Lieberman, Director  
Office of Enforcement

SUBJECT: DIFFERING PROFESSIONAL VIEW:  
ENFORCEMENT FOR AUXILIARY AND EQUIPMENT  
OPERATORS, AND FIREWATCHES RELATIVE TO  
FALSIFICATION OF RECORDS

This is in reference to your April 1, 1993 Differing Professional View (DPV) which has been referred to me for review and decision. This DPV arises out of the NRC inspection results obtained from the performance of TI 2535/115, Verification of Plant Records. The evaluation of those findings by the Office of Enforcement (OE) identified approximately 30 sites which had found at least one falsified plant record. In considering what enforcement action should be taken, OE noted that each licensee had identified the falsified logs and taken appropriate corrective action, including disciplinary action against the individuals involved and broader programmatic changes where appropriate. Therefore, enforcement discretion was originally proposed for each site with the exception of Salem and Hope Creek.

For the Salem and Hope Creek site, it was noted that the numerous fire watch rounds were falsified by a contractor. Because this case involved a broad failure to adequately implement a required compensatory measure and the NRC had previously issued a \$50,000 civil penalty to TU Electric (EA 91-015) for a similar fire protection problem, OE recommended that we not exercise enforcement discretion but rather apply the normal enforcement process.

A draft Generic Letter was subsequently prepared to inform licensees of the results of the NRC inspections and remind licensees and individuals involved in licensed activities that the NRC may take direct enforcement action against not only the licensee but also any individual who deliberately causes a licensee to be in violation of NRC requirements. The draft Generic Letter noted that the NRC was concerned not only with

record falsification, but also with management's responsibility to assure that required compensatory measures are fully carried out. In addition, a draft memorandum was prepared for the Commissioners since broad discretion was to be proposed for the logging issues.

On April 1, 1993, you sent a memorandum to Mr. Thomas Marti..., Region I Administrator, outlining your DPV on this proposed course of action. In that memorandum, you noted that the Region I staff originally proposed to utilize discretion for the Salem/Hope Creek case in order to be consistent with the agency's approach to the other falsification issues; the region subsequently modified its proposal to issue without an enforcement conference a Severity Level III violation without a civil penalty in deference to the TU Electric case discussed above; and, the region was subsequently requested to table its proposal in favor of holding an enforcement conference, which could result in a civil penalty for the Salem/Hope Creek licensee. An enforcement conference with the Public Service Electric and Gas Company management was held on April 6, 1993. Based on the application of the Enforcement Policy, a Severity Level III violation without a civil penalty was proposed. This is the current proposal which has been placed on hold as a result of the DPV.

You asserted that this latter action would now be inconsistent with established policy and that either enforcement discretion be exercised for all the cases or if enforcement action is taken against Salem and Hope Creek, then enforcement action may be appropriate in some of the other instances of misconduct even though additional NRC resources may be required to evaluate and process the cases. Finally, you stated that it appears to be unreasonable to consider a more severe action for a case involving contracted fire watches falsifying their rounds in contrast to NRC-licensed operators or other licensee technical personnel engaged in similar misconduct.

On May 11, 1993, a DPV Panel was held to review the original staff position and to hear your views on the matter. By memorandum dated May 24, 1993, the DPV Panel presented their recommendation for my consideration. In summary, those recommendations included: (1) issue a modified generic letter that emphasizes the facility licensee's responsibility for stressing personal accountability and the fact that the NRC considers all types of watch standing, whether routine or compensatory, to be significant, (2) exercise enforcement discretion for all plants, including those involving compensatory fire watch issues, and (3) issue separate letters to senior licensee management of each utility which had a plant with numerous violations to stress the NRC's concern with the apparent extent of the problem at those plants.



The major issue of the DPV is the apparent distinction drawn between the safety importance of the various positions at a nuclear plant. The DPV Panel did not recommend drawing a sharp distinction between the responsibilities of those personnel that carry out compensatory measures and those personnel that carry out other safety and safeguards responsibilities. The panel believes that the safety responsibilities of all plant staff and contractors are important to the safe operation of the nuclear power plant. Diligence and attention to detail are important for all positions to meet defense-in-depth for the safe operation of the plant. A missed round by an auxiliary operator can be as safety significant as a missed round by a firewatch considering the circumstances. Drawing a distinction with the enforcement actions for these cases may be read by the staff and the industry as drawing a distinction between the safety importance of the positions. Considering the facts of all the cases of falsified records at the numerous plants, the panel did not see the sharp safety distinction that has been drawn and believes that this distinction will be misunderstood by the staff and industry.

The DPV was helpful in causing us to rethink this issue. Our initial review focused only on the Salem/Hope Creek problem due to the previous TU Electric escalated action. As a result, a broader review identified the apparent fire protection problem at WNP-2 which is also being considered for escalated enforcement action. The Perry case also had a fire protection issue, but it was clearly an isolated case.

I understand your concerns and the basis of the DPV Panel's recommendations. As you are aware, the enforcement process reflects a balancing of policy issues and judgments. In developing the OE position, the views of the five regional Division Directors, NRR, and the Region I Administrator as well as the Deputy Executive Director for Operations were considered. However, the position that this was an opportunity to emphasize the role of compensatory measures, especially in the area of fire protection, was adopted. This was considered important due to the thermo-lag issue and its associated need for compensatory measures. Although the Salem/Hope Creek case did not involve thermo-lag, it did involve a programmatic failure to adequately implement compensatory measures for inoperable fire barriers and degraded fire detection systems.

While the DPV appears to focus on the issue of individual misconduct and integrity and distinguishing different positions, i.e., fire watches and operators, the enforcement actions were not intended to focus solely on falsifications. It was not the intent to distinguish the level of integrity needed for different positions. Nor did we intend to suggest that logging is not important or that the role of a licensed operator is less significant than that of a fire watch. Notwithstanding the special legal relationship NRC has with licensed operators, each



individual involved in nuclear activities must perform at a high level of integrity. There is not a graded approach to integrity. Failures by individuals in different positions can impact safety such that each person involved in a safety function plays an important role in the overall safety performance of a licensee.

If resources were unlimited, we would take enforcement action against each licensed operator and each utility that had employees falsifying records. However, such action in my view is not warranted nor compelled by the Enforcement Policy. It is my understanding that the NRC does not have the specific evidence and procedures, etc., to support this action for each licensed operator, nor do we have it for each logging violation. In addition, the data we have for each plant may not be consistent in scope and depth across all licensees. Importantly, the involved licensees have dealt with the integrity issue. The various failures were found not by NRC but by licensees, in many cases demonstrating good initiatives prior to NRC involvement. In fact, our inspections did not find significant logging failures. Licensees have taken various disciplinary actions against the individuals involved, including in some cases, severe action against the licensed operators. Regional management appears to be satisfied that in each case licensees took appropriate actions to prevent recurrence and provided appropriate messages that falsification will not be tolerated in their licensed activities. Therefore, I continue to be of the view that given the resources needed to complete the actions for these cases, it is not inconsistent with the goals of the Enforcement Policy to exercise discretion in these cases. In my view the exercise of discretion in these cases will not suggest to the industry or its employees that wrongdoing will be tolerated by NRC.

A generic letter, after the required notice to the Commission concerning the exercise of discretion for the integrity issue, should be sufficient to provide licensees with the standard of NRC's expectations for the future. I would also agree with the recommendation of the DPV Panel that a separate letter should be sent to the senior management of each licensee that had a programmatic problem as well as those cases involving licensed operators because of our special relationship with them (see attachment 1).

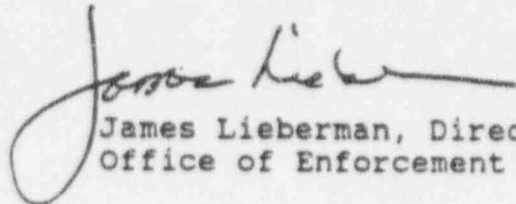
However, I remain of the view that enforcement action is appropriate for the failure to assure that compensatory action was properly implemented. This is a management issue. While the root cause of the logging falsifications may in part be management of day to day activities, the issue in the two enforcement cases is that management failed to assure that the firewatch rounds compensating for known problems were properly performed. Better oversight could have identified the issue. There is a clear distinction between logging activities and

operators are looking for potential problems while in the other case a fire watch is compensating for a known problem.

Fire protection is a major issue of the day. We have relied on effective firewatch programs to compensate for failures to meet fire protection requirements. Many licensees are relying on fire watches as a justification for continued operation. Recently Salem has had to expand its reliance on firewatches because of questions with insulation. It has always been my view that we should use enforcement to provide regulatory messages consistent with the agency's safety mission. This is an opportunity to provide a regulatory message to emphasize the importance of compensatory measures and firewatches. Therefore, consistent with our safety mission enforcement is appropriate since in the two cases management did not assure that required compensatory measures were taken for known problems with degraded safety systems.

I recognize that some may argue that the approach may be inconsistent for the two issues. However, I believe that these actions will make it clear that neither falsification of logs or failures to take compensatory actions are acceptable. Both in the future may result in violations of the wrongdoer rule and action against licensees.

In sum, after carefully considering your views, I intend to continue to process these enforcement actions. The Commission memorandum will be modified consistent with this memorandum. If you desire, I will be pleased to attach your DPV, the DPV panel recommendations, and this memorandum. Please let me know your desires by June 4, 1992 so that we can proceed on this matter.

  
James Lieberman, Director  
Office of Enforcement

Enclosure: As stated

cc: J. Sniezek, DEDR  
T. Martin, RI  
J. Partlow, NRR  
J. Roe, NRR  
J. Luehman, OE  
R. Blough, RI

ATTACHMENT 1

PLANTS WITH LICENSED OPERATORS OR POTENTIAL PROGRAMMATIC PROBLEMS  
(MORE THAN 7 FALSIFIED RECORDS)

- |     |                      |  |
|-----|----------------------|--|
| 1.  | Salem and Hope Creek | Fire watch rounds falsified by 19 of 35 personnel.   |
| 2.  | Indian Point 3       | 25 of 30 non-licensed operator- interviewed admitted to falsifying rounds.                                     |
| 3.  | Millstone 1-3        | 6 licensed operators and 19 non-licensed operators falsified rounds.   |
| 4.  | Nine Mile 1 & 2      | 1 licensed operator and 17 non-licensed operators falsified rounds.  |
| 5.  | Seabrook             | 3 licensed and 14 non-licensed operators falsified rounds.   |
| 6.  | Vermont              | 1 licensed operator and 2 non-licensed operators falsified rounds.   |
| 7.  | Maine Yankee         | 2 non-licensed operators with 9 and 11 record falsifications.  |
| 8.  | Turkey Point         | 7 non-licensed operators falsified rounds.   |
| 9.  | Callaway             | 3 non-licensed operators falsified 14 rounds.  |
| 10. | Perry                | 3 non-licensed operators and 2 fire watches falsified 9 records.   |
| 11. | PVNGS                | 28 non-licensed operators falsified rounds.  |
| 12. | WNP-2                | 20 of 39 non-licensed operators falsified rounds, 6 of which involved readings and the rest were fire watches. |



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

APR 01 1993

MEMORANDUM FOR:

Thomas T. Martin, Regional Administrator  
Region I

FROM:

John R. White, Chief  
Reactor Projects Section 2A  
Division of Reactor Projects  
Region I

Edward C. Wenzinger, Chief  
Reactor Projects Branch 2  
Division of Reactor Projects  
Region I

SUBJECT:

DIFFERING PROFESSIONAL VIEW:  
ENFORCEMENT FOR AUXILIARY AND EQUIPMENT  
OPERATORS, AND FIREWATCHES RELATIVE TO  
FALSIFICATION OF RECORDS

The Office of Enforcement (OE) review of the results of TI 2515/115, Verification of Plant Records revealed a number of instances of record falsification have occurred involving many NRC-licensed reactor facilities. The attached enclosure pertains. These findings indicate apparent serious integrity issues involving NRC-licensed personnel and other licensee employees and contractors. The fact that this problem ranges across all regions and involves so many licensee personnel, supports that this situation is neither recent, isolated, or anomalous. Further, it is possible that the results of this TI may be only hinting at the true extent of the problem.

The root cause(s) for such widespread misconduct, among so many personnel (including NRC-licensed operators) is not obvious. While some licensee's may have performed some root cause analysis (e.g., Public Service Electric and Gas Company: Salem and Hope Creek Generating Stations completed an extensive and comprehensive review to determine causal factors and weaknesses that led to fire watch misconduct), other licensees may not have adequately analyzed the occurrences for causal factors. It may be that these numerous examples are only symptoms of a more complicated problem, and may be related to the nature and management oversight of the affected activities. For example, in the case of the Salem/Hope Creek firewatches, the licensee discovered many causal factors, including, (1) significant weaknesses in the training and indoctrination process provided to new employees, (2) poorly communicated performance expectations that were not clarified or reinforced, and (3) the low-self esteem and image that the many of the employees had of themselves and their job.

Compounding this problem is NRC's inconsistent approach to resolve the enforcement questions that these findings generate. Currently, a Generic Letter (GL) has been proposed that essentially



recognizes the extensive nature of the problem (as revealed by the results of TI 2515/115); reiterates the specifications of 10 CFR 50.5 and 50.9 relative to deliberate misconduct, and the completeness and accuracy of information; and references prior communication involving Information Notice 92-30, Falsification of Plant Records. The GL indicates that each instance was evaluated (case by case) for enforcement action; and that for each case it was found that the licensee took appropriate corrective action to adequately address program weaknesses and discipline-involved personnel. The GL indicates that the NRC does not intend to take any enforcement action for these matters. Such exercise of discretion may be appropriate if sufficient bases exist. However, we understand that the application of discretion was likely decided in an effort to conserve the NRC resources that would otherwise have to be expended to evaluate and process the numerous cases that were involved. Though the conservation of limited NRC resources has merit, such consideration does not appear to be within the bounds of established NRC Enforcement Policy.

These cases reveal elements of: (1) breakdown in the control of licensed activities involving numerous related or recurring violations which indicate inattention or carelessness toward licensed responsibilities; (2) failure to conduct adequate oversight of vendors (contractors) resulting in defective services or indeterminate quality of those services; or (3) incomplete or inaccurate information provided to, or required by, the NRC due to inadequate actions on the part of the licensee. These problems have varying degrees of safety significance. Additionally, there may have been willful personnel misconduct in some of these cases. Any of these elements would normally be sufficient bases to pursue some type of enforcement action, particularly since all of these elements are at least a Severity Level III concern (according to 10 CFR 2, Appendix C), and none obviously fit within the parameters established for the exercise of discretion allowed by the current enforcement policy. The policy regarding exercise of discretion (as specified in 10 CFR 2 Appendix C, Section VII) is "...to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violation at issue and conveys the appropriate message to the licensee." As we understand this, when the act is of lesser significance, a lesser penalty may be elected, notwithstanding the normal guidance contained in the policy.

We question...does such action "appropriately reflect the level of NRC concern," and does it "convey the appropriate message to the licensee"? The answer is not readily apparent in our view. The GL, while acknowledging the fact that serious misconduct has already occurred indicates the intent to take no enforcement action over a broad spectrum of cases, i.e., from falsification involving NRC-licensed operators, to falsification involving contracted fire watch personnel. Is it reasonable for us (NRC) to ignore the apparent willful misconduct and lack of management oversight because it may involve the additional expenditure of NRC resources? Such reasoning is not easily reconcilable with a regulatory basis and foundation that relies upon the integrity of the licensee, its employees and contractors.

Potential inconsistency in the agency's reasoning is involved in the proposed treatment of Public Service Electric and Gas Company (PSE&G): Salem and Hope Creek Generating Stations. In this particular case, the misconduct of firewatches is apparently exempted from the "general

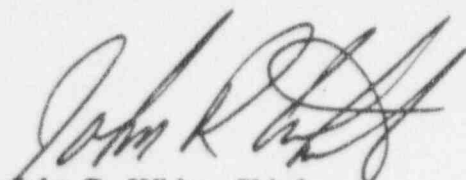
amnesty" granted to all other licensees by the proposed GL. We have indications that escalated enforcement action is contemplated in the Salem/Hope Creek case.

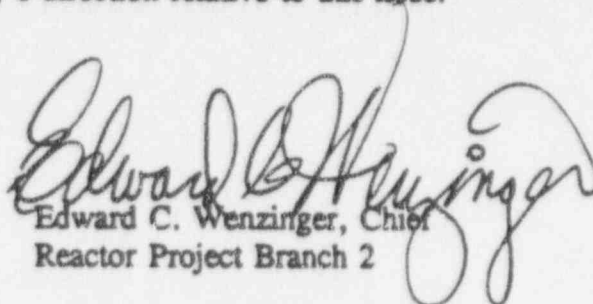
The Salem/Hope Creek case was originally proposed by the Region I staff to utilize discretion (in accordance with NRC Enforcement Policy) to be consistent with the agency's chosen approach to the other falsification cases, i.e., the misconduct is acknowledged but no enforcement action is planned. Upon later discussion with OE, the region modified the proposal as a Severity Level III-without Civil Penalty, in recognition of PSE&G's inability to successfully resolve a similar matter that was previously referred to their attention; and in deference to a similar situation, previously identified at Comanche Peak, in which a \$50,000 civil penalty was issued. However, since the submittal of this latest proposal, the region has been requested to table that proposal in favor of pursuing an enforcement conference with the possible outcome of a civil penalty. Such a decision appears inconsistent with the GL's freedom from enforcement allowed to all other licensees that revealed similar deficiencies, particularly when some of those cases involved record falsification by NRC-licensed personnel. Amplification of this concern is attached.

In summary, our view is that:

- (1) The agency's actions should be consistent with established policy, and be consistently applied. Since diversions from the implementation of established policy are presumably rare occurrences, such occasions should be sufficiently justified, articulated and explained, particularly to those who are required to implement policy.
- (2) Enforcement action may be appropriate in some of these instances of misconduct, even though additional NRC resources may be required to evaluate and process the cases. Enforcement action should be taken, where required, to obtain adequate root cause analysis and sufficient corrective actions to prevent recurrence.

We appreciate the opportunity to express our concerns on this matter. However, we are prepared to act in accord with the agency's direction relative to this issue.

  
John R. White, Chief  
Reactor Projects Section 2A

  
Edward C. Wenzinger, Chief  
Reactor Project Branch 2

Enclosure As Stated

Attachment As Stated

cc:

W. Kane, DRA

J. Wiggins, DRP

D. Holody, EO

W. Lanning, DRP

E. Wenzinger, DRP

J. White, DRP

T. Johnson, DRP-Salem/Hope Creek

S. Barr, DRP-Salem/Hope Creek

S. Pindale, DRP-Salem/Hope Creek

K. Lathrop, DRP-Salem/Hope Creek

## ATTACHMENT

### AMPLIFICATION OF CONCERN: SALEM/HOPE CREEK ENFORCEMENT ACTION VS. ALL OTHER SIMILAR ISSUES

The problems of apparently falsified fire watch rounds has been well documented by the Salem/Hope Creek licensee, PSE&G, in their October 28, 1992 investigation report. PSE&G performed a comprehensive investigation of missed/falsified fire watch rounds after one of their contracted fire watch supervisors personally observed the deliberate misconduct of a round by a contracted firewatch. The NRC has reviewed this report and has found no substantive deficiencies relative to the licensee's analysis, evaluation, assessment, and corrective actions. This is a positive contrast to the licensee's effort to review an allegation that the NRC referred for their review about 2 years ago. In that particular case, the licensee concluded that the matter was unsubstantiated, but failed to develop a sufficient bases for their conclusion.

In the most recent investigation, the licensee found that some fire watch rounds were either falsified or misconducted by several contracted fire watch personnel who were servicing the Salem and Hope Creek sites. Deficiencies were found in the performance of about 19 of the 35 assigned firewatch personnel. In all these cases, appropriate corrective and disciplinary actions were taken by the licensee. Nineteen personnel were subsequently terminated from employment. We note that similar instances of firewatch misconduct were also identified at Perry and WNP-2.

Fire watch personnel are generally employed to frequently verify the status of specifically assigned plant areas (in which there are inoperable fire barriers or fire detection/suppression equipment) to assure that the area is free from fire or the potential of fire. The personnel are instructed to inform appropriate licensee personnel when fire, the potential for fire, or other problems are detected. Fire watch personnel generally take no action, except as allowed by basic general employee training, to suppress or extinguish small fires or smoldering materials. They are not trained or qualified to operate or affect the operation of any plant equipment. In most cases, their essential function is to notify NRC licensed personnel in the control room in the event of a detected fire or other problem. It is the responsibility of trained and qualified licensee personnel to respond to the problems that are reported by fire watch personnel. Training for fire watch personnel is generally minimal and traditionally consists of General Employee Training and some on-the-job training on the performance and documentation of firewatch rounds. No special educational or experience is required. Usually the personnel are hired from the local community. The job is not very intellectual or demanding, is often tedious, and can be unrewarding.

In comparison, NRC licensed and non-licensed operations, maintenance, and technical personnel are generally responsible for the inspection, surveillance and verification of operational status of safety-related equipment and other important to safety components, structures, and equipment. For example, these personnel are trained and qualified to recognize valve and electric circuit breaker positions, instrument readings, equipment condition, equipment status, the presence of unusual noises, elevated temperatures, vibrations, etc., and evaluate the as-found conditions



against specified acceptance criteria. They may also be called on to use their judgement, based on training and experience, to identify and report potential safety problems. Such personnel are required to respond to off-normal conditions in accordance with their training and applicable procedures. The selection, qualification, and training of such personnel is specified by NRC license conditions, plant technical specifications, or licensee commitments. The required qualification and training of NRC licensed operators, and consequently the expectations of their performance far exceeds that of fire watch personnel. Licensed operators train as non-licensed operators, typically for 4-6 years before taking an NRC license examination. Many NRC licensed operators are college graduates; and many have engineering degrees.

In view of this comparison, it is not clear why the same action that the Generic Letter proposes for all other comparable cases involving the falsification of records or misconduct of performance, should not be also directed for the Salem/Hope Creek situation. The fact that a more severe action is being considered for a case of contracted firewatches falsifying their rounds vs. NRC-licensed operators or other licensee technical personnel engaged in similar misconduct appears unreasonable.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
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NOTE TO:

Charles W. Hehl  
Director of Reactor Projects  
Region I

A. Bill Beach  
Director of Reactor Projects  
Region IV

Kenneth Perkins  
Director of Reactor Projects  
Region V

FROM:

William Troskoski  
Senior Enforcement Specialist  
Office of Enforcement

SUBJECT:

LOG FALSIFICATION ISSUE

The Office of Enforcement (OE) has reviewed the inspection reports documenting the completion of TI 2515/115 and a summary of the findings is enclosed. This summary was discussed with Jim Sniezek and it was his view that we should issue Severity Level III violations to the outliers to emphasize the unacceptability of record falsification. It appears that Indian Point-3, Millstone 1-3, Nine Mile Point 1-2, Seabrook, Wolf Creek, Palo Verde and WNP-2 comprise those outliers.

OE would like to setup a conference call with each of you to discuss this issue. We note that one of our options is to issue a Severity Level III NOV without a civil penalty, provided the licensees identified the falsified logs and took adequate corrective action. In such cases, we need not hold an enforcement conference.

Only Seabrook and WNP-2 have clearly documented technical specification violations. Although the inspection reports for the other licensees indicate that there were no technical specification violations, it is not clear to us that required records were not involved (e.g., Appendix B or Technical Specification 6.8.1 - Reg Guide 1.33 required logs). This information would be needed to construct a 10 CFR 50.9 citation.

I will be calling you to setup a meeting.

Enclosure: As Stated



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SUMMARY - TI 2515/115, RECORD FALSIFICATION

The following list summarizes each Region's findings with regard to the TI. There were no findings associated with the sites not listed.

REGION I

Beaver Valley	1 non-licensed operator involved. Suspended; facing termination.
Hope Creek Salem	5 non-licensed operators suspected (claimed either card reader problems or someone else performed rounds); 18 contractor fire watches. The inspection report details provided did not reference the number of false logs nor the disciplinary action taken by the facilities.
Indian Point 3	25 of the 30 non-licensed operators interviewed admitted to falsifying rounds at one time or another. (Licensee interviewed NLOs after first sample found 72 discrepancies for 7 NLOs.) Facility corrective action appears sat. Disciplinary action was limited to counseling and remedial training as the licensee viewed it as a management problem.
Limerick 1&2	1 non-licensed operator falsified rounds. Counseled and given written reprimand.
Maine Yankee	2 non-licensed operators falsified round records on 9 and 11 occasions, respectively. Facility corrective action appears sat; disciplinary action taken.
Millstone 1-3	<u>6 licensed operators</u> and 19 non-licensed operators. 2 licenses revoked and other 4 were suspended for 4 to 6 weeks; 1 NLO was discharged; all 25 issued letters of reprimand and 11 were suspended for periods of 1 to 30 days.
Nine Mile 1&2	<u>1 licensed operator</u> and 17 non-licensed operators involved. The LO and 15 NLOs were discharged and 2 NLOs resigned.



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Oyster-Creek . 5 non-licensed operators involved; suspended for 5 days w/o pay. Other facility corrective action appears sat.

Seabrook 1 3 licensed and 14 non-licensed operators. Facility corrective action appears sat. Facility took progressive disciplinary action depending on how chronic the problem was; rescinded several licenses.

TMI-1 1 non-licensed operator missed 1 round. Suspended for 1 week without pay.

Vermont 1 licensed and 2 non-licensed operators involved. Each received letters of reprimand, 6 month probation, and 1 to 5 day suspensions.

REGION II

Browns Ferry 2 non-licensed operators with multiple examples, disciplinary action taken.

Grand Gulf 2 non-licensed operators falsified fire watch logs. 1 resigned and 1 was terminated.

Sequoyah 3 non-licensed operators, 7 instances.

Turkey Point 7 non-licensed operators, 17 discrepancies identified as a result of an exhaustive search. Appropriate corrective action.

REGION III

Braidwood 2 non-licensed operators falsified 2 records.

Byron 2 non-licensed operators falsified 2 records.

Callaway 3 non-licensed operators falsified 14 round records. Facility appears to have taken adequate corrective action, including time off without pay for the individuals.

Dresden 4 non-licensed operators involved in 5 instances. Facility took corrective action, including disciplinary. [Licensee also found





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20 instances where 8 operators performed rounds quicker than expected. Corrective action addressing.]

Duane Arnold

2 non-licensed operators with numerous discrepancies.



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Enclosure

LaSalle	6 non-licensed operators falsified 6 records.
Monticello	Problem with Rad Protection source checks and licensee response.
Perry	3 non-licensed operators and 2 fire watch techs falsified 9 records.
Quad Cities	1 non-licensed operator falsified 1 record.
Zion	1 non-licensed operator with 3 instances. 2 weeks w/o pay.

REGION IV

ANO	3 non-licensed operators missed several rounds. Facility took appropriate corrective action, including giving the operators 3 days off w/o pay.
Wolf Creek	Problem with how Operations Department looked at numerous problems. Misleading internal memo R IV to look at.

REGION V

SONGS	1 non-licensed operator, 3 days w/o pay.
PVNGS	28 non-licensed operators (1 with 16 instances, 2 with 6, rest had 3 or less). Progressive discipline program used; 9 were given 3 day decision making leave with 1 year probation, 18 received written reprimands.
Diablo Canyon	1 non-licensed operator with 2 instances of going to the wrong unit.
WNP-2	20 of 39 non-licensed operators (6 discrepancies involved readings, the rest were fire watches) (of the fire watches, 3 operators had 20 - 40 discrepancies, 7 had 4-8, and 10 had 1-2). All 20 received disciplinary action ranging from unpaid suspensions to formal reprimands.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20585-0001

May 24, 1993

MEMORANDUM FOR: James Lieberman, Director  
Office of Enforcement

FROM: Jack W. Roe, Director  
Division of Reactor Projects III\IV\V  
Office of Nuclear Reactor Regulation

SUBJECT: RECOMMENDATIONS OF DIFFERING PROFESSIONAL  
VIEW (DPV) PANEL

On May 11, 1993, a DPV panel, consisting of myself, Jim Luehman of your staff, and Randy Blough of Region I, met in the Region I office with the submitters of the April 1, 1993, DPV concerning the proposed resolution of the log falsification issue. After a short presentation on the staff's proposed resolution by Bill Trokoski, the submitters expressed their views and were questioned by the panel members. Following the meeting the panel reconvened separately to discuss the issues and formulate a preliminary recommendation.

The major issue of the DPV is the apparent distinction drawn between the safety importance of different positions at the nuclear power plant. The panel does not recommend drawing a sharp distinction between the responsibilities of those personnel that carry out compensatory actions (e.g., firewatches) and those personnel that carry out other safety and safeguards responsibilities (e.g., licensed reactor operators, non-licensed operators, security personnel). The panel believes that the safety responsibilities of all plant staff and contractors are important to the safe operation of the nuclear power plant. Diligence and attention to detail are important for all positions to meet defense-in-depth for the safe operation of the plant. A missed round by an auxiliary operator can be as safety significant as a missed round by a firewatch considering the circumstances. Drawing a distinction with the enforcement actions for these cases may be read by the staff and industry as drawing a distinction between the safety importance of the positions. Considering the facts of all the cases of falsified records at the numerous plants, the panel does not see the sharp safety distinction that has been drawn and believes that this distinction will be misunderstood by the staff and the industry.

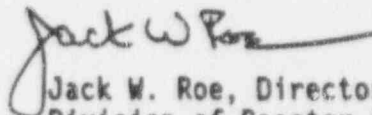
Based on a review of the documents relevant to this issue and the above meetings, the recommendations of the panel are as follows:

1. The proposed Generic Letter should be issued to all licensees after it is modified to stress not only facility licensee

accountability for program oversight, but also facility licensee responsibility for stressing personal accountability. The "Lessons Learned" section of the proposed generic letter touches on this subject, but does not contain a direct statement about the importance of that area to the NRC. The generic letter should also be modified to further emphasize that the NRC considers the watchstanding duties of all departments at a nuclear power plant to be important as well as all types of rounds, whether they are routine or compensatory to be significant.

2. Enforcement discretion should be exercised for all plants, including the two facilities presently being considered for escalated enforcement because of problems with compensatory firewatch rounds. This revised approach stresses the significance of all safety and safeguards related activities of the plant staff and contractors without drawing a distinction between routine and compensatory rounds that may be misunderstood by the industry and the NRC staff.
3. Separate letters should be issued by the appropriate Regional Administrator to licensee senior management (i.e., the chief nuclear officer) of each utility which had a plant with numerous individuals (by the panel's count that is seven to nine plants and includes the two plants that were being considered for enforcement for the firewatch issues) involved in the falsification issues. The letter should stress the NRC's concern with the apparent extent of the problem at those plants. The panel recognizes that there may be a number of reasons why (as discussed in the draft memorandum to the Commission) a few plants indicated a larger problem than the others. However, the fact remains that based on the information available to the NRC those plants had a larger problem and that fact needs to be highlighted to their management.

If you have any questions on the above recommendations please contact me.



Jack W. Roe, Director  
Division of Reactor Projects III/IV/V

cc: Jim Luehman  
Randy Blough  
Tim Martin  
Ed Wenzinger  
~~XXXXXXXXXX~~



**SUPPLEMENT:     DIFFERING PROFESSIONAL VIEW:  
 ENFORCEMENT FOR AUXILIARY AND EQUIPMENT  
 OPERATORS, AND FIREWATCHES RELATIVE TO  
 FALSIFICATION OF RECORDS**

**AMPLIFICATION OF ASSESSMENT OF CONSEQUENCES**

We believe that the following may be consequences if the agency's original position prevails without adjustment or mitigation:

The wrong message will be sent to licensees, to the public, and to our own staff. The message will be, regardless of the wording of any NRC communication that conveys enforcement discretion, the agency does not currently consider falsification of records or activities by NRC licensed individuals (or others having safety significant duties) to have sufficient priority to justify expending resources to pursue escalated enforcement. Further, while excluding enforcement in these matters, the agency will demonstrate gross inconsistency as it aggressively pursues escalated enforcement against licensees for similar misconduct involving firewatch personnel (i.e., unlicensed employees that are assigned to a task requiring rudimentary skills and elemental responsibility). Such regulatory approach is disconcerting, since NRC licensed personnel presumably have a better appreciation of the significance and consequences of their actions relative to potential effect on public health and safety, and are essentially holders of the public's trust for the safe operation of the nuclear facility.

By proceeding on this course, the agency will be damaging a regulatory process that was based on factors and attributes that promote the recognition of safety significance and demonstrate the exercise of enforcement with consistency, fairness, and equal application. If the NRC's approach to regulation or enforcement appears (or is perceived) to be arbitrary and capricious by pursuing the easy enforcement cases (as in the case of Salem/Hope Creek) and failing to pursue matters and issues that have potentially greater safety significance but require more effort (e.g., the falsification of records and activities by NRC licensed personnel), our credibility could be significantly diminished. We will have failed our public trust and ourselves as safety professionals.

In the specific case of the Salem/Hope Creek firewatches, the matter was detected, investigated, analyzed, assessed, documented, and corrected by the licensee without any essential input from the NRC. The licensee demonstrated a level of professional performance and self-assessment that the NRC potentially inspired by our policy of enforcement discretion. However, by doing so, the licensee produced a readily packaged enforcement case that required very little NRC resource to develop for enforcement action. Had PSE&G been less aggressive and effective, it is likely that the licensee would be one of the many others granted relief from enforcement by the proposed Generic Letter.