



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

April 3, 1997

EA 96-470

Otto L. Maynard, President and
Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
P.O. Box 411
Burlington, Kansas 66839

SUBJECT: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$100,000
(NRC INSPECTION REPORT 50-482/96-21)

Dear Mr. Maynard:

This refers to the predecisional enforcement conference held on January 16, 1997, in the NRC's Region IV office in Arlington, Texas. The purpose of the conference was to review the circumstances surrounding apparent violations described in the subject inspection report, which was issued on December 31, 1996. The inspection reviewed the effectiveness of the Wolf Creek Generating Station system and design engineering organizations. The onsite portion of this inspection ended on November 8, 1996. The overall scope and results of the inspection were discussed with your staff on December 31, 1996.

Based on the information developed during the inspection, the information that your staff provided during the conference, and the additional information provided in your staff's January 22, 1997 letter, the NRC has determined that several violations of NRC requirements occurred. These violations are cited in the enclosed Notice of Violation and Proposed Imposition of Civil Penalty. The circumstances surrounding them were described in detail in the subject inspection report. The first violation involves five examples of a violation of 10 CFR Appendix B, Criterion XVI. Specifically, while evaluating and responding to a Quality Assurance finding in 1994, your managers and staff failed to identify and correct conflicting positions between Wolf Creek's Technical Specification Clarifications (TSCs) and the actual Technical Specification requirement. As a result of your staff's use of some of these TSCs, Technical Specifications were violated.

Your staff stated that one cause was a "mind set" that permitted the use of operational knowledge in the application of Technical Specifications which, in some cases, compromised compliance. Although the actual safety significance of this violation was low, the circumstances surrounding it are of regulatory significance because of: (1) the management involvement in the violation, and (2) the fundamental importance of complying with Technical Specification requirements.

The second violation involves an inappropriate application of the regulatory guidance for determining the frequency of Reactor Coolant Pump (RCP) flywheel inspections. This is a violation of 10 CFR 50.59 because your staff changed a procedure described in the safety

9704080249 970403
PDR ADOCK 05000482
Q PDR

analysis report without recognizing that it also involved a change to Technical Specifications. This violation is significant because it resulted in a violation of Technical Specifications.

The third violation involves the continuing existence of TSC 001-94 after we informed your staff at the predecisional enforcement conference that the NRC considered it incorrect. This TSC involved an incorrect interpretation of Technical Specification 3.3.1, Table 3.3-1, Functional Unit 6.b, Action 5, associated with positive reactivity additions in conjunction with an inoperable source range nuclear instrumentation channel. Your staff's position at the conference was that this TSC did not conflict with the Technical Specification requirements. We continue to disagree with your position regarding this TSC. This is of concern to us because your staff did not either rescind the TSC after the inspection, request formal clarification from the NRC, or request a change to the Technical Specifications. Although a situation to implement the incorrect clarification has not occurred, this TSC was still in effect and available for use as of March 21, 1997. In a telephone conversation on that date between Mr. Bill Johnson of this office and Mr. Clay Warren of your staff, we informed your staff that the NRC considered that the continued existence of this TSC constituted a continuing violation. Subsequently, on March 21, 1997, the TSC was removed. We conclude that this incorrect interpretation of Technical Specifications, which remained in effect following our stated position at the predecisional enforcement conference on January 16, 1997 until March 21, 1997, represents an inappropriate instruction for an activity potentially affecting quality and, as such, constitutes a violation of Criterion V of 10 CFR Part 50, Appendix B.

Given the regulatory significance of these violations that resulted in noncompliances with Technical Specifications and failure to take corrective actions, they are classified in the aggregate in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III problem.

In accordance with the Enforcement Policy, a civil penalty with a base value of \$50,000 is considered for a Severity Level III problem. Because your facility has been the subject of escalated enforcement actions within the last 2 years¹, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy.

In evaluating whether credit is warranted for *Corrective Action*, the NRC carefully considered all your corrective actions. At the predecisional enforcement conference, the time at which the judgement of the adequacy of corrective actions is normally made, your corrective actions included: (1) conducting an extensive evaluation of the existing TSCs and deleting or revising several, (2) the Chief Operating Officer issuing a letter to all personnel detailing expectations for compliance with requirements, (3) chartering an

¹ A \$300,000 civil penalty was proposed for three Severity Level III violations/problems on July 1, 1996 (EA 96-124) related to a frazil ice condition which rendered one train of the Emergency Service Water inoperable and the other train degraded, in addition to problems related to a degraded turbine driver auxiliary feedwater pump.

Incident Investigation Team, (4) changing the Onsite Review Committee, and (5) arranging for an outside audit of the plant's corrective action program. Also, corrective actions for the violation involving the RCP flywheel inspections included: (1) performing an operability evaluation, (2) requesting a license amendment, and (3) initiating a change to the Updated Safety Analyses Report.

Our deliberations on *Corrective Action* also considered your staff's position in the enforcement conference that certain TSCs "were reviewed and found to not violate Technical Specification requirements and did not constitute a change to the existing specifications." The inspection report identified these TSCs as examples of the apparent Criterion XVI violation. After the conference, your staff reiterated your position in a letter dated January 22, 1997. One of these involved TSC 002-96 (source range power supplies). Your staff's initial position was that this TSC did not conflict with Technical Specification 3.8.2. After questioning by NRC during the conference, your staff changed its position and agreed with the NRC that the interpretation was not conservative. (This position was confirmed in your staff's letter dated January 22, 1997.) Therefore, your corrective actions were not adequate, in this example, to have identified your staff's nonconservative position at the time of the conference.

Further, as stated above regarding the third violation, TSC 001-94 remained available for use after the NRC stated its conclusion that it conflicted with Technical Specifications. Thus, our position is that your corrective actions were not prompt, in this example, because you did not either: (1) immediately resolve the issue with the NRC, or (2) rescind the TSC until the issue was resolved with the NRC.

Based on the above two examples, which involve nonconservative and erroneous interpretations of Technical Specifications (the basis for the citation), it appears your corrective actions were not sufficiently prompt nor comprehensive. As a result, the NRC cannot justify giving you *Corrective Action* credit.

Therefore, to emphasize the importance of compliance with Technical Specifications and of prompt identification and comprehensive correction of violations, and in recognition of your previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$100,000 for the Severity Level III problem.

At the conference, we also discussed other apparent violations. The first involved four examples of 10 CFR 50.59 violations. At the conference, your staff brought additional information to show that, although the documentation was weak, an evaluation was performed of the Set Point Change Request for the essential service water self cleaning strainer. This is not a violation of 10 CFR 50.59 and is not cited. We have concluded that the remaining 10 CFR 50.59 violations do not represent a programmatic failure and, except the example involving the RCP flywheel inspections discussed above, are therefore cited at Severity Level IV.

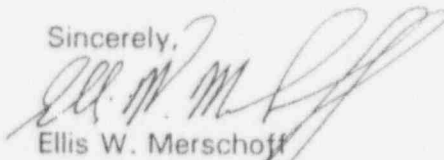
The second apparent violation discussed involved noncompliance with Technical Specification 3.5.4 which requires one centrifugal charging pump to be inoperable when in cold shutdown with the reactor vessel head on. After evaluating all the information, we have decided that citing this as another example of the Criterion XVI violation is more appropriate.

Also, one example of the apparent violation of 10 CFR Part 50 Criterion XVI involved TSC 026-85 (quadrant power tilt ratio [QPTR]). Your staff's position, as described in your January 22, 1997, letter, is that, "Action statements [Technical Specification 3.2.4] a.3, and thus a.4, should not be entered until just prior to 24 hours after exceeding the QPTR limit." We have reevaluated this issue and have determined that the wording of the Technical Specification supports your position. As such, this issue is not a violation of a legally binding requirement. However, we continue to believe that your interpretation is nonconservative. If, for example, an unknown stuck rod situation were to occur, your position would not require operators to "[i]dentify and correct the cause of the out-of-limit condition prior to increasing THERMAL POWER..." until just prior to 24 hours after exceeding the QPTR limit. Your position is nonconservative because it could allow for power increases that could ultimately lead to fuel failure. The Office of Nuclear Reactor Regulation will discuss our concern with you further in separate correspondence.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. With regard to the Criterion XVI violation, we note that your staff and the NRC team identified several examples of conflicts between your TSCs and the Technical Specifications. We limited the citation to the more important issues, those examples that actually resulted in violations of the Technical Specifications. Nevertheless, your corrective actions should be sufficiently comprehensive to identify and correct all other conflicting interpretations so that no future Technical Specification violations occur from this problem. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room (PDR).

Sincerely,



Ellis W. Merschoff
Regional Administrator

Docket: 50-482
License: NPF-42

Enclosure: (see next page)

Wolf Creek Nuclear Operating
Corporation

-5-

Enclosure: Notice of Violation and
Proposed Imposition of Civil Penalty

cc w/Enclosure:

Vice President Plant Operations
Wolf Creek Nuclear Operating Corp.
P.O. Box 411
Burlington, Kansas 66839

Jay Silberg, Esq.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, NW
Washington, D.C. 20037

Supervisor Licensing
Wolf Creek Nuclear Operating Corp.
P.O. Box 411
Burlington, Kansas 66839

Supervisor Regulatory Compliance
Wolf Creek Nuclear Operating Corp.
P.O. Box 411
Burlington, Kansas 66839

Chief Engineer
Utilities Division
Kansas Corporation Commission
1500 SW Arrowhead Rd.
Topeka, Kansas 66604-4027

Office of the Governor
State of Kansas
Topeka, Kansas 66612

Attorney General
Judicial Center
301 S.W. 10th
2nd Floor
Topeka, Kansas 66612-1597

County Clerk
Coffey County Courthouse
Burlington, Kansas 66839-1798

Wolf Creek Nuclear Operating
Corporation

-6-

Public Health Physicist
Division of Environment
Kansas Department of Health
and Environment
Bureau of Air & Radiation
Forbes Field Building 283
Topeka, Kansas 66620

Mr. Frank Moussa
Division of Emergency Preparedness
2800 SW Topeka Blvd
Topeka, Kansas 66611-1287

Wolf Creek Nuclear Operating
Corporation

-7-

DISTRIBUTION:

PDR
LPDR
SECY
CA
EDO (O-17G21)
GCaputo, OI (O-3E4)
JLieberman, OE (O-7H5)
LChandler, OGC (O-15B18)
JGoldberg, OGC (O-15B18)
Director, NRR (O-12G18)
RZimmerman, NRR/ADP (O-12G18)

IE 14

Enforcement Coordinators
RI, RII, RIII
JGilliland, PA (O-2G4)
HBell, OIG (T-5D28)
NUDOCS
EJordan, DEDO (O-17G21)
LTremper, OC/LFDCB (T-9E10)
OE (2 copies) (O-7H5)
OE:EA (O-7H5)
JStone, NRR/PDIV-2 (O-13E16)

RIV DISTRIBUTION:

E-mail to:

OEMAIL	DChamberlain (DDC)	FRingwald (JFR1)
CHackney (CAH)	BHenderson (BWH)	MHammond(MFH2)
WBrown (WLB)	JDyer(JED2)	PGoldberg (PAG)
KPerkins(KEP)	KBrockman (KEB)	TPGwynn (TPG)
AHowell (ATH)	CVandenburg (CAV)	WJohnson (WDJ)
RAzua (RVA)		

Copies to:

RIV Files	MIS Coordinator
RA Reading File	GSanborn EAFile
PAO (Henderson)	RSLO (Hackney)

DOCUMENT NAME: G:\EA\FINAL\EA96470.FIN

To receive copy of document, indicate in box: "C" = Copy without enclosures "E" = Copy with enclosures "N" = No copy

OE <i>by for</i>	NRR <i>by for</i>	D:DRP	D:DRS <i>by</i>	DRA
DNelson <i>for</i>	RZimmerman	PGwynn <i>for</i>	AHowell <i>for</i>	JDyer <i>for</i>
03/27/97	03/12/97	03/15/97	03/28/97	03/31/97
RA	D:OE <i>by for</i>			
EMerschhoff <i>for</i>	JLieberman <i>for</i>			
03/31/97	03/29/97			

OFFICIAL RECORD COPY

080008

