



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

August 24, 2020

IA-20-008

Mr. Joseph Shea
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES (NRC
OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-015)

Dear Mr. Shea:

On January 21, 2020, the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) completed an investigation concerning your activities at the Tennessee Valley Authority (TVA) Corporate Office (OI report 2-2019-015). The purpose of the investigation was to determine whether a former corporate employee was the subject of employment discrimination for participating in a protected activity in violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.7, "Employee Protection."

In a letter dated March 2, 2020, the NRC notified you of an apparent violation of 10 CFR 50.5, "Deliberate Misconduct." Based on the evidence developed during the investigation and subsequent staff analysis, it appeared that you, as the Vice President of Regulatory Affairs, engaged in deliberate misconduct that caused an NRC licensee to be in violation of 10 CFR 50.7, "Employee Protection." Specifically, the NRC determined that a former corporate employee was placed on paid administrative leave and terminated, in part, for engaging in protected activity, including raising concerns about a chilled work environment. To address this apparent violation, the NRC provided you an opportunity to participate in a closed predecisional enforcement conference (PEC). On June 25, 2020, you participated in a remote PEC with the NRC.¹

Based on the NRC OI investigation, statements at the PEC, exhibits, and supplemental information, the NRC has determined that you played a significant role in the decisionmaking process to place a former corporate employee on paid administrative leave on October 15, 2018, and terminate the former corporate employee on January 14, 2019, in part, for engaging in protected activity, including raising concerns about a chilled work environment. The former employee engaged in protected activity when expressing concerns to you regarding the chilled work environment that the former Director of Corporate Nuclear Licensing (CNL) was creating. Further, you received a copy of the TVA Office of General Counsel (OGC) draft report prepared by the TVA OGC attorney that identified the concerns of the former employee.

¹ Due to the ongoing COVID-19 pandemic, the PEC was held remotely via video teleconference.

The former employee suffered an adverse action when you played a significant role in the decisionmaking process to place the former employee on administrative leave and terminate the former employee. There is a nexus between the former employee's protected activity of raising concerns about a chilled work environment and the termination of the former employee. You stated during the PEC that you terminated the former employee for being disrespectful to the former Director of CNL. However, the examples used in the TVA OGC report as evidence that the former employee was disrespectful to the former Director of CNL were: 1) raising concerns about a chilled work environment in a TVA OGC interview; and 2) raising concerns about reprisal directly to you. You admit that you never counseled the former employee about the asserted disrespectful behavior.

The NRC determined that your actions were deliberate and in violation of the requirements in 10 CFR 50.5, "Deliberate Misconduct." The NRC considers deliberate violations of 10 CFR 50.7, "Employee Protection," significant because of the potential that individuals might not raise safety issues for fear of retaliation.

The NRC has determined that your actions warrant issuance of an Order that prohibits your involvement in NRC-licensed activities for a period of 5 years because your actions have resulted in the loss of reasonable assurance that you may be relied upon, at this time, to comply with NRC requirements. This Order, which is set forth in Enclosure 1, requires you to provide to the NRC in writing the name, address, and telephone number of the employer for your first subsequent employment in NRC-licensed activities following completion of the 5-year prohibition. You are required to provide a written answer to this Order. Additionally, you or any other person adversely affected by this Order, may request a hearing on this Order within 30 days of the Order's issuance. Please see the enclosed Order for further instructions regarding acknowledging receipt of the Order and requesting a hearing.

You may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. ADR 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 party (the "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, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC's ADR program can be found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>, as well as NRC brochure NUREG/BR-0317, "Enforcement Alternative Dispute Resolution Program," Revision 2 (ADAMS Accession No. ML18122A101).

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing resolution of this issue through ADR, you must contact ICR at (877) 733-9415 within 10 calendar days of the date of this letter. Additionally, please contact Catherine Thompson at 301-287-9515 or email catherine.thompson@nrc.gov, or Ian Gifford at 301-287-9216 or email ian.gifford@nrc.gov within 10 calendar days of the date of this letter if you choose to participate in ADR. A request

to pursue resolution through ADR will extend the time period to request a hearing. If you wish to pursue ADR, the Director, OE, will consider the ADR request as good cause to relax the Order while the parties pursue resolution of the issue, as long as ADR is performed in a timely manner.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed Order shall be subject to criminal prosecution as set forth in that section. Violation of the enclosed Order may also subject the person to civil monetary penalty.

In accordance with 10 CFR, Section 2.390, of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

Sincerely,

George A. Wilson, Director
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in
NRC-Licensed Activities
2. Notice of Violation to TVA
3. NUREG/BR-0317 Rev. 2, Enforcement
Alternative Dispute Resolution Program

cc: w/ enclosures:

States of Alabama and Tennessee

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OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-015)
DATED: 8/24/2020

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ADAMS Package: ML20219A689

Cover Letter: ML20218A595

Order: ML20219A676

Notice of Violation: ML20232B803

FRN: ML20232C770

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