



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

January 5, 2009

EA-08-211

Mr. William R. Campbell, Jr.
Chief Nuclear Officer and Executive Vice President
Tennessee Valley Authority
6A Lookout Place
1101 Market Street
Chattanooga, TN 37402-2801

**SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2007-025]**

Dear Mr. Campbell:

The enclosed Confirmatory Order is being issued to Tennessee Valley Authority's (TVA) Sequoyah Nuclear Plant (Sequoyah), as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by TVA as part of a settlement agreement involving a contract security sergeant who falsified a security equipment inventory form at Sequoyah.

In a letter dated August 15, 2008, the Nuclear Regulatory Commission (NRC) provided TVA with the results of an investigation completed by the NRC's Office of Investigations (OI). The purpose of the investigation was to determine whether a contract security sergeant falsified an inventory form to conceal the sergeant's failure to verify inventory as required by licensee procedures.

A Factual Summary of the OI investigation was enclosed with our letter, which documented the NRC's conclusion that the security sergeant deliberately falsified an equipment inventory form, and caused TVA to be in apparent violation of 10 CFR 50.9(a), Completeness and Accuracy of Information, the Sequoyah Physical Security Plan, and an implementing procedure.

In addition, our letter of August 15, 2008, offered TVA a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement regarding whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, TVA requested ADR to resolve any differences with the NRC concerning the apparent violation, and to discuss corrective actions. An ADR mediation session was held on September 22, 2008, at which a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order.

As part of the ADR settlement agreement, and as discussed in the enclosed Confirmatory Order, TVA agreed to a number of fleet-wide corrective actions and enhancements related to inventory of security equipment and promotion of the use of TVA's internal programs for resolution of issues/deficiencies. TVA also committed to the conduct of an assessment of the effectiveness of corrective actions and enhancements identified in a recently completed Security Independent Evaluation, and will factor the results of the assessment into its corrective action program. In consideration of the above commitments, the NRC agreed to refrain from proposing a civil penalty and issuing a Notice of Violation or other enforcement action for all matters discussed in the NRC's letter to TVA of August 15, 2008 (EA-08-211). We will evaluate the implementation of your commitments during future inspections.

The NRC also notes that after becoming aware of the falsification issue, TVA conducted an investigation into the matter, performed immediate inventory verification of related security equipment and confirmed the accuracy of related inventory forms, implemented the use of "clear view" magazines fleet-wide to improve the accuracy and efficiency of ammunition inventories, and took disciplinary action as appropriate. In addition, TVA intends to terminate its contract with its security contractor and will begin transitioning to a TVA security force in early 2009 at all of its nuclear facilities.

We have enclosed a Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated December 12, 2008, you agreed to issuance of this letter and Confirmatory Order.

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 this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street, SW Suite 23T85, Atlanta, Georgia 30303-8931.

A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the attached Confirmatory Order, on its website at www.nrc.gov; select Public Meetings and Involvement, then Enforcement. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS).

TVA

3

If you have any questions or comments concerning this letter, please contact Mr. Kriss Kennedy, Director, Division of Reactor Safety, at 404-562-4601.

Sincerely,

/RA Victor M. McCree for/

Luis A. Reyes
Regional Administrator

Docket No.: 50-327, 50-328
License No.: DPR-77, DPR-79

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/encls.:

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(cc w/encls cont'd - see next page)

cc w/encls cont'd:
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Ann Harris
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos.: 50-327, 50-328
Tennessee Valley Authority)	License Nos.: DPR-77, DPR-79
Sequoyah Nuclear Plant)	
)	EA-08-211

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

I

Tennessee Valley Authority (TVA or Licensee) is the holder of Operating License Nos. DPR-77 and DPR-79, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on September 17, 1980, and September 15, 1981, respectively. The license authorizes the operation of Sequoyah Nuclear Plant, Units 1 and 2, (Sequoyah or facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Soddy-Daisy, Tennessee.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on September 22, 2008.

II

On April 18, 2008, the NRC's Office of Investigations (OI) completed an investigation (OI Case No. 2-2007-025) regarding activities at the Sequoyah Nuclear Plant. Based on the evidence developed during the investigation, the NRC staff concluded that on May 31, 2007, a contract security sergeant at Sequoyah deliberately falsified an equipment inventory form, and caused TVA to be in apparent violation of NRC and licensee requirements, including 10 CFR 50.9(a), Completeness and Accuracy of Information, the Sequoyah Physical Security Plan, and

implementing procedure NSDP-26, Weapons Accountability. The results of the investigation were sent to TVA in a letter dated August 15, 2008.

III

On September 22, 2008, the NRC and TVA met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and TVA agreed that a contract security supervisor at Sequoyah failed to conduct an adequate inventory of security equipment. To conceal the inadequate inventory, the supervisor deliberately destroyed the record of the inventory, and falsified a newly created record that replaced the destroyed document. These actions placed TVA in violation of 10 CFR 50.9(a), the Sequoyah Physical Security Plan, and Sequoyah Procedure NSDP-26.
2. Based on TVA's review of the incident and NRC concerns with respect to precluding recurrence of the violation, TVA agreed to corrective actions and enhancements, as fully delineated in Section V of the Confirmatory Order.
3. At the ADR session, the NRC and TVA agreed that the above elements involving the violation, and TVA's corrective actions and enhancements as delineated in Section V, will be incorporated into a Confirmatory Order. The resulting Confirmatory Order will be

considered by the NRC for any assessment of Sequoyah, as appropriate.

4. In consideration of the commitments delineated in Section V of this Confirmatory Order, the NRC agreed to refrain from proposing a civil penalty or issuing a Notice of Violation for all matters discussed in the NRC's letter to TVA of August 15, 2008 (EA-08-211).

5. This agreement is binding upon successors and assigns of the Sequoyah Nuclear Plant and TVA.

On December 12, 2008, the Licensee consented to issuance of this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since the licensee has agreed to take actions to address the violation as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. DPR-77 AND DPR-79 ARE MODIFIED AS FOLLOWS:

- a. TVA will ensure that site security procedures for all TVA nuclear sites are revised such that original documents required to be maintained by site security procedures are not destroyed, and are retained in accordance with regulatory requirements.
- b. As part of first line supervisory training for security supervisors, TVA will provide fleet-wide training related to Civil Treatment/Ethics, Roles of the Supervisor, Communication in the Workplace, Standards of Conduct, Coaching and Counseling Employees, Operational Issues and Operating Experience, Leadership, Administration, Client Interface/Service, Regulatory Reporting Requirements, Safety, and Security Observation Program. Upon completion of TVA's transition to an in-house security force, TVA will ensure that security supervisors receive training consistent with first line supervisors in other disciplines.
- c. TVA will ensure that security personnel at all TVA nuclear sites receive annual training on the use of TVA's internal programs for resolution of issues/deficiencies (e.g., Corrective Action Program, Employees Concerns Program), consistent with training received by TVA personnel requiring unescorted access to the TVA nuclear sites.

- d. Beginning within 30 days of the issuance of this Confirmatory Order, TVA will conduct a minimum of 15 observations of Sequoyah security activities each month, until TVA transitions to an in-house security force.
- e. TVA agrees to complete items V.a through V.d above no later than September 30, 2009.
- f. During TVA's transition to an in-house security force, each TVA nuclear site will conduct meetings at a minimum of twice each month with the security contractor, to monitor the status of corrective actions associated with the Security Independent Evaluation referenced below.
- g. TVA will assess the effectiveness of the corrective actions and enhancements identified in its Security Independent Evaluation, and the results of this follow-up assessment will be factored into the TVA Corrective Action Program. TVA agrees to complete the assessment of the effectiveness of the corrective actions and enhancements no later than June 30, 2010.
- h. Upon completion of the terms of the Confirmatory Order, TVA will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by TVA of good cause.

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a person other than TVA requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC E-filing Final Rule was issued on August 28, 2007 (72 Fed. Reg. 49,139) and was codified in pertinent part at 10 CFR Part 2, Subpart B. The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at

HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.


FOR THE NUCLEAR REGULATORY COMMISSION

/RA Victor M. McCree for/
Luis A. Reyes
Regional Administrator

Dated this 5th day of January 2009

CONSENT AND HEARING WAIVER FORM

Tennessee Valley Authority (TVA), Sequoyah Nuclear Plant, hereby agrees to comply with the commitments described in this letter and agrees to incorporation of these commitments into a Confirmatory Order that will be immediately effective upon issuance. I recognize that by signing below, I, Timothy P. Cleary, Site Vice President, Sequoyah Nuclear Plant, consent to the issuance of the Confirmatory Order, effective immediately, with the commitments described in the NRC's draft Confirmatory Order attached and, by doing so, waive, pursuant to 10 CFR 2.202(a)(3) and (d), the right to request a hearing on all or any part of the Order.



Timothy P. Cleary
Site Vice President
Sequoyah Nuclear Plant

12DEC08

Date