

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants CCNPPI a temporary exemption from the requirements of 10 CFR part 50, Appendix E, Section IV.F.2.c with respect to the rescheduling of the planned offsite full-participation emergency exercise from 2003 to 2004 and subsequent exercises will be scheduled biennially from the year 2003.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (68 FR 71172).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 22nd day of December, 2003.

For the Nuclear Regulatory Commission.

**Eric J. Leeds,**

*Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-186, License No. R-103, EA-02-256]

#### In the Matter of University of Missouri, University of Missouri Research Reactor; Confirmatory Order Modifying License (Effective Immediately)

##### I

The University of Missouri Research Reactor (MURR) is a research reactor regulated by the U.S. Nuclear Regulatory Commission (NRC). MURR is located on the campus of the University of Missouri (MU) in Columbia Missouri.

##### II

On December 18, 2001, the NRC initiated an investigation of the University of Missouri (the licensee) to determine if a former senior research scientist at the MURR facility was the subject of employment discrimination and continued retaliation by management for previous protected activities. The NRC Office of Investigations (OI) concluded in Office of Investigations Report No. 4-2001-054 that the former senior research scientist was the subject of employment

discrimination and continued retaliation by management for previous protected activities.

By letter dated June 4, 2003, the NRC provided the licensee with its conclusions through issuance of an apparent violation of employee protection requirements and a synopsis of the referenced OI report. During subsequent discussions, NRC and MU agreed in principle regarding acceptable actions that, if performed, should better ensure that personnel involved with MURR will not be subject to employment discrimination or retaliation for engaging in protected activity, including raising safety concerns. The details of the agreement are set forth in Section V of this Order.

##### III

The licensee has agreed to take certain actions to modify its access authorization procedures to better ensure transparency and clarity, to assess the work environment at MURR, to perform periodic training, and to modify its organization to better ensure that university senior management is appropriately involved in ensuring a safety conscious work environment (SCWE). The agreed-upon actions noted in Section V of this order focus on (1) modifying the chain of command for MURR; (2) development of a long-term plan, which will better ensure a SCWE; and (3) ensuring timely review of access requests and providing for review of access authorization denials by an independent organization.

##### IV

Since the licensee has committed to take comprehensive actions to address NRC concerns, and since the licensee has committed to assess, train, and develop a long-term plan for ensuring a work environment conducive to employees raising safety concerns or engaging in any form of protected activity without fear of retaliation, the NRC has concluded that its concerns can be resolved through the NRC's confirmation of the licensee commitments as outlined in this Order.

I find that the licensee's commitments as set forth in Section V below 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 these commitments be confirmed by this Order. Based on the above and the licensee's consent, this Order is immediately effective upon issuance. The licensee for MURR is required to provide the NRC with a letter summarizing its actions when all

of the Section V commitments have been completed.

##### V

Accordingly, pursuant to Sections 104c, 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:*

1. The licensee shall modify its chain-of-command for MURR to better ensure oversight of its activities by university senior management. It has been agreed that the modification of Figure 6.0 in the MURR Technical Specifications will reflect MURR reporting to the Office of the Provost, who in-turn, reports to the Office of the President, University of Missouri. The requisite technical specification change shall be submitted to the NRC within 30 days of this Order and upon being granted by the NRC, shall be effective no later than 30 days after the date of the NRC's issuance of the license amendment.

2. The licensee shall develop a long-term plan for ensuring a SCWE. This plan, which shall address a minimum of two years, shall include, at a minimum:

(a) Performance of an employee cultural survey developed by an independent consultant or entity. This survey shall be performed annually for not less than two years. During the two year period, the NRC shall be provided an annual report summarizing the findings of the culture assessment, including the questions used, the methodology applied, and any follow-up actions. The NRC would consider the use or partial use of MU's campus departments (e.g., psychology) to constitute an independent entity for purpose of this action, with the stipulation that a separate independent consultant or entity shall review the assessment, including the questions used and the methodology applied, prepared by the MU campus department.

(b) Annual training of MURR employees and other personnel who routinely use the MURR facility on how to better ensure a SCWE. The first two years of the annual training shall be conducted by an independent consultant or entity with expertise in providing SCWE training. The licensee shall designate a specific manager to be responsible for ensuring annual SCWE training. SCWE training shall include, at a minimum:

1. Policies and programs designed to encourage employees to raise concerns, including a description of the multiple pathways for raising concerns.

2. Discussion of NRC regulations and any applicable federal and state laws pertaining to whistleblower protection, including a discussion of protected activities and adverse actions stated in 10 CFR 50.7.

3. Expectations for management to promote a SCWE

4. Expectations for employees to report concerns, especially safety concerns.

5. Other applicable procedures and processes related to implementing and maintaining a SCWE.

6. Additional training for managers and supervisors describing their specific responsibilities and obligations.

The plan for ensuring a SCWE shall be forwarded to the NRC within sixty (60) days after the date of this Order and implementation shall begin no later than ninety (90) days after the date of this Order.

3. Within forty-five (45) days after the date of this Order the licensee will modify MURR's access authorization procedures to better ensure transparency and clarity in its processes. The licensee shall maintain a process for granting access to the facility with two key components. The first component shall focus on the need for access. The second component shall involve routine background checks consistent with industry practices and other requirements contained in NRC regulations. The procedure modifications will, at a minimum, provide for the following:

(a) A requirement that personnel requesting sponsorship discuss the following issues, at a minimum:

—*Basis*: A detailed description of the basis for requesting access (escorted or unescorted) to the facility.

—*Funding*: Source of funding for the subject project; whether funding has already been obtained or when it is anticipated.

—*Resources*: Necessary project resources (e.g., personnel, equipment, reactor time).

—*Benefits to MURR*: Is the subject project a collaborative project which will lead to credit for participation; does the subject project involve collaboration with MURR staff?

—*Strategic*: Is the subject project consistent with MURR's published strategic plan and research priorities?

(b) Any sponsor denying a written request for sponsorship by an applicant shall provide the Director of MURR in writing with the basis for such denial within fifteen (15) days of receipt of such a request.

(c) Access requests shall be addressed by MURR within sixty (60) days and a

decision by the Director of MURR provided to the requestor in writing within that time. Requestors being denied access shall be informed in writing of the appeal provisions of (e).

(d) The Provost shall be informed of any denial of access by the Director of MURR.

(e) The Ombudsman Panel shall review any decision by the Director of MURR under (c) upon an appeal request in writing by the applicant within fifteen (15) days of receipt of such a denial. The Ombudsman Panel shall provide a report of recommendations regarding the denial to the Office of the Provost for its reconsideration of the Director's decision within forty-five (45) days of receipt of an appeal request.

4. The licensee shall post this Confirmatory Order at the MURR facility and inform MURR employees of its content.

5. The President of the University of Missouri shall within thirty (30) days of the date of this Order issue a letter to all individuals with access to the MURR facility which affirms the licensee's commitment to an SCWE and which provides a summary of the licensee's policy to promote an SCWE.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by the licensee of good cause.

## VI

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 made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, to the Director of the Division of Regulatory Improvement Programs at the same address, and to MU. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101

or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel by means of facsimile transmission to 301-415-3725 or e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If such a person 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 2.714(d).

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 shall be sustained. An answer or a request for a hearing shall not stay the effectiveness date of this Order.

Dated this 19th Day of December, 2003.

For the Nuclear Regulatory Commission.

**Frank Congel,**

*Director, Office of Enforcement.*

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## NUCLEAR REGULATORY COMMISSION

[IA-03-042]

### In the Matter of Scott P. Wolfe; Order Prohibiting Involvement in Certain NRC-Licensed Activities (Effective Immediately)

#### I

Scott P. Wolfe held Nuclear Regulatory Commission (NRC) senior operator's license SOP-43723-1. The license authorized Mr. Wolfe to operate the Waterford-3 Steam Electric Station in accordance with the conditions of the license and 10 CFR part 55. The Waterford-3 Steam Electric Station is a nuclear power plant in Killona, Louisiana, and is operated by Entergy Operations, Inc., under the provisions of NRC operating license NPF-38.

#### II

On May 7, 1990, Mr. Wolfe tested positive for an illegal substance in response to a random fitness-for-duty test. The test results were confirmed positive on May 14, 1990. On June 1, 1990, Mr. Wolfe signed a "re-entry agreement" in which he agreed to participate in Entergy Operation, Inc.'s employee assistance program, agreed to abstain from the use of illegal drugs, agreed to periodic unannounced drug and alcohol testing, and confirmed his understanding that a second positive test for drugs or alcohol may result in his employment being terminated.