November 27, 2002

EA-02-237

Mr. William R. Kanda
Vice President - Nuclear, Perry
FirstEnergy Nuclear Operating Company
P. O. Box 97, A290
Perry, OH 44081

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2002-011

Dear Mr. Kanda:

This refers to information provided to the U.S. Nuclear Regulatory Commission on April 30, 2002, by a representative of First Energy Nuclear Operating Company (FENOC) that a secondary alarm station (SAS) operator deliberately failed to dispatch a responder to a fire alarm on April 16, 2002, at the Perry Nuclear Power Plant. The NRC Office of Investigations (OI) conducted an investigation of the matter. Information from the OI investigation indicated that the SAS operator caused FENOC to be in apparent violation of the Perry Plant fire protection procedures and caused himself to be in apparent violation of the NRC regulation prohibiting deliberate misconduct, 10 CFR 50.5. The synopsis of the OI report is enclosed.

Based on the information developed during the OI investigation, the NRC has concluded that a violation of NRC requirements occurred. In summary, on April 16, 2002, a Secondary Alarm Station (SAS) operator at FENOC's Perry Nuclear Power Plant had been informed that difficulties were being experienced with several fire alarms, including an alarm in the Fuel Handling Building, and those alarms were noted on an impairment list. A fire alarm from the Fuel Handling Building was subsequently received on April 16, 2002. Knowing that the alarm was on the list of impaired alarms, the SAS operator deliberately failed to dispatch a first responder to investigate that alarm and he deliberately failed to inform the Unit Supervisor that the alarm had been received. Immediately dispatching a first responder to investigate the source of the alarm and notifying the Unit Supervisor are requirements of the Perry Plant Fire Emergency Procedure. Fortunately, another employee heard the local alarm, identified the matter, and it was determined that the alarm was false. This violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level IV. Additionally, the actions of the SAS operator on April 16, 2002, placed himself in violation of the NRC regulation prohibiting deliberate misconduct, 10 CFR 50.5.

Corrective actions taken by FENOC in this matter, included: (1) removing the SAS operator's access to the Perry Plant; (2) taking disciplinary action against the SAS operator; and (3) discussing the NRC deliberate misconduct regulation with other plant security employees. Although this violation is willful, it was immediately investigated by FENOC, brought to the attention of the NRC by FENOC, involved the acts of a low-level individual, and significant

remedial action was taken. Therefore, after considering the circumstances of this case and after consulting with the Director, Office of Enforcement, this violation is being treated as a Non-Cited Violation (NCV), consistent with Section VI.A.1 of the Enforcement Policy.

You are not required to respond to this letter unless the description herein does not reflect your corrective actions or your position. If you contest the NCV, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001, with copies to the Regional Administrator and Enforcement Officer, Region III, the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001, and the NRC Resident Inspector at Perry Nuclear Power Plant.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response (should you choose to respond) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document 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.

Sincerely,

/RA/

Cynthia D. Pederson, Director
Division of Reactor Safety

Docket No. 50-440
License No. NPF-58

Enclosure: OI Report Synopsis

cc w/encl: B. Saunders, President - FENOC
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Maintenance Department
V. Higaki, Manager, Regulatory Affairs
J. Messina, Director, Nuclear
Services Department
T. Lentz, Director, Nuclear
Engineering Department
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SYNOPSIS

This investigation was initiated on May 28, 2002, by the U.S. Nuclear Regulatory Commission, Office of Investigations, Region III, to determine whether a Secondary Alarm Station (SAS) operator deliberately violated fire protection program procedures on April 16, 2002, at the Perry Nuclear Power Plant (Perry).

Based upon the evidence developed, OI substantiated that the SAS operator deliberately violated fire protection program procedures on April 16, 2002, at Perry, by dismissing an alarm in the Fuel Handling Building, clear that alarm without determining the cause, and discarding the computer-generated record documenting the alarm, in violation of Perry Technical Specifications, Perry Administrative Procedures, and 10 CFR 50.5.

Case No. 3-2002-011