

SAFEGUARDS INFORMATION

August 18, 2004

EA-03-097

J. W. Moyer
Senior Vice President and Chief Nuclear Officer
Progress Energy
H. B. Robinson Steam Electric Plant, Unit 2
3581 West Entrance Road
Hartsville, NC 29550

SUBJECT: ISSUANCE OF ORDER FOR IMPLEMENTATION OF ADDITIONAL SECURITY MEASURES ASSOCIATED WITH ACCESS AUTHORIZATION FOR H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT 2

Dear Mr. Moyer:

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued the enclosed Order that modifies the current license for your independent spent fuel storage installation (ISFSI) to require compliance with the specified additional security measures (ASMs). The Order applies to all Addressees listed in Attachment 2 to the enclosed Order. The ASMs are listed in Attachment 1 (contains Safeguards Information) to the enclosed Order. The Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. However, in light of the current threat environment, the Commission concludes that these ASMs are necessary, consistent with the established regulatory framework. The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately.

This Order does not eliminate the need for licensees to continue to meet the objectives of the current security protective measures as promulgated by updated security advisories. Licensees must also continue to maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001, and any subsequent Orders issued. The requirements of this Order remain in effect until the Commission determines otherwise.

Warning: Violation of Section 147 of the Atomic Energy Act, "Safeguards Information" is subject to Civil and Criminal Penalties.

Document transmitted herewith contains sensitive unclassified information. When separated from Attachment 1, this document is decontrolled.

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J. Moyer

-2-

The enclosed Order calls for responses and actions within specified time frames. Please contact your Project Manager or Brad Baxter (301-415-6742) to facilitate resolution of any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Margaret V. Federline, Deputy Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: Order w/Attachments

Docket No(s). Included in Addressee List

cc: Service List (w/o SGI)
Mr. William Guthrie, Security Superintendent (w/ SGI)

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-2-

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Mr. William Guthrie, Security Superintendent (w/ SGI)

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RIDS/RES/OD	W. Kane	C. Miller	CFO	RIDS/FSPB/OD	C. PaperielloOGC
RIDS/SFPO/OD	FCongel	A.Thadani			
* See previous concurrence		ADAMS NO. ML042230206			

OFFICE	LPSS		LPSS/ASC		DNS/DD		DNS/D	
NAME	BBaxter*		GWest*		JShea*		GTracy*	
DATE	07/27/04		08/06/04		08/09/04		08/13/04	

OFFICE	NMSS/SFPO		NMSS/SFPO:D		OE		OGC	
NAME	CBarr*		WBrach*		FCongel*		DCummings*	
DATE	08/10/04		08/10/04		08/13/04		08/13/04	

OFFICE	NSIR/D		NMSS/D	
NAME	RZimmerman*		MFederline	
DATE	08/13/04		08/18/04	

OFFICIAL RECORD COPY

SAFEGUARDS INFORMATION

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UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
ALL INDEPENDENT SPENT FUEL STORAGE) EA-03-097
INSTALLATION LICENSEES) Docket Nos. (as shown in Attachment 2)

ORDER MODIFYING LICENSE (EFFECTIVE IMMEDIATELY)

I

The licensees identified in Attachment 2 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing the operation of Independent Spent Fuel Storage Installation (ISFSI) facilities in accordance with the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR) Part 50 and/or 10 C.F.R. Part 72. Commission regulations at 10 C.F.R. 72.184 and 10 C.F.R. 72.212 require these licensee to have a safeguards contingency plan to respond to threats of radiological sabotage, and to protect the spent fuel against the threat of radiological sabotage.

Warning: Violation of Section 147 of the Atomic Energy Act, "Safeguards Information" is subject to Civil and Criminal Penalties.

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Inasmuch as an insider has an opportunity equal to or greater than any other person to commit radiological sabotage, the Commission has determined these measures to be prudent. This Order is being issued to all licensees who currently store spent fuel or have identified near term plans to store spent fuel in an ISFSI.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating independent spent fuel storage installations to put the actions taken in response to the Advisories in the established regulatory framework and to implement additional security enhancements which emerged from the NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to address the current threat environment in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is

imposing requirements, as set forth in Attachment 1¹ of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 1 to this Order in response to previously issued advisories, the October 2002 Order, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require certain additional security measures and these measures must be embodied in an Order, consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, licenses issued pursuant to 10 C.F.R. 72.40 and 10 C.F.R. 72.210 to the licensees identified in Attachment 2 to this Order shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 C.F.R. 2.202, I find that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

¹ Attachment 1 contains SAFEGUARDS information and will not be released to the public.

III

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. 2.202 and 10 C.F.R. Parts 50, 72 and 73, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT ALL LICENSES IDENTIFIED IN ATTACHMENT 2 TO THIS ORDER IS MODIFIED AS FOLLOWS:

- A. All licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The licensees shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation **no later than 180 days from the date of this Order** with the exception of the additional security measures B.4, which shall be implemented **no later than 365 days from the date of this Order**, or the first day that spent fuel is initially placed in the ISFSI, whichever is later.
- B.
 - 1. The Licensee shall, within **twenty (20) days** of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.
 - 2. Any licensee that considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact the safe storage of spent fuel must notify the Commission, within **twenty (20) days** of this Order,

of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirements in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required under Condition B.1.

- C.
 - 1. All licensees shall, within **twenty (20) days** of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 1.
 - 2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 1.
- D. Notwithstanding the provisions of 10 C.F.R. 72.186 and 10 C.F.R. 72.212(b)(5), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise. Licensee's response to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 C.F.R. 72.4. In addition, licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 C.F.R. 73.21. The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

IV

In accordance with 10 C.F.R. 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III or IV as appropriate for the specific facility; and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that requests for a 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 and also to the Office of General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which

his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.714(d).

If a hearing is requested by the Licensee or 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 Order should be sustained.

Pursuant to 10 C.F.R. 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error.

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 III above shall be final twenty (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 III shall be final when the extension expires, if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Margaret V. Federline, Deputy Director
Office of Nuclear Material Safety
and Safeguards

Dated this 18 day of August 2004.

Attachments:

- 1) Additional Security Measures
- 2) List of Addressees

Independent Spent Fuel Storage Installation Addressee List

James E. Ellis
Manager, Morris Operation
General Electric Company
GE Morris Operation Plant
Docket No. 72-1
7555 East Collins Road
Morris, IL 60450-9740

David A. Christian
Senior Vice President and Chief Nuclear Officer
Virginia Electric and Power Company
Surry Power Station, Units 1 and 2
Docket No. 72-2
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

J. W. Moyer
Senior Vice President and Chief Nuclear Officer
Progress Energy
H. B. Robinson Steam Electric Plant, Unit 2
Docket No. 72-3
3581 West Entrance Road
Hartsville, NC 29550

Henry B. Barron
Group Vice President Nuclear Generation and Chief Nuclear Officer
Duke Power Company
Oconee Nuclear Station, Units 1, 2 and 3
Docket No. 72-4
526 South Church Street, EC07H
P.O Box 1006(28201-1006)
Charlotte, NC 28202

John Paul Cowan
Executive Vice President and Chief Nuclear Officer
Nuclear Management Company, LLC
Point Beach Nuclear Plant, Units 1 and 2
Docket No. 72-5
700 First Street
Hudson, WI 54016

John Paul Cowan
Executive Vice President and Chief Nuclear Officer
Nuclear Management Company, LLC
Palisades Nuclear Plant
Docket No. 72-7
700 First Street
Hudson, WI 54016

George Vanderheyden
Vice President
Calvert Cliffs Nuclear Power Plant, Inc.
Calvert Cliffs Nuclear Power Plant, Units 1 and 2
Docket No. 72-8
1650 Calvert Cliffs Parkway
Lusby, MD 20357-4702

Elizabeth D. Sellers
Manager, INEEL
c/o Deeann Long-Security
US DOE, Idaho Operations Office, South
Fort Saint Vrain Power Station
Docket No. 72-9
785 DOE Place
Mailstop 1170
Idaho Falls, ID 83401-1203

John Paul Cowan
Executive Vice President and Chief Nuclear Officer
Nuclear Management Company, LLC
Prairie Island Nuclear Generating Plant
Docket No. 72-10
700 First Street
Hudson, WI 54016

Steve Redecker
Plant Manager, Rancho Seco Nuclear Generating Station
Sacramento Municipal Utility District
Rancho Seco Nuclear Generating Station
Docket No. 72-11
14440 Twin Cities Road
Herald, CA 95638-9799

Michael Kansler
President
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
Docket No. 72-12
440 Hamilton Avenue
White Plains, NY 10601

Jeffrey S. Forbes
Site Vice President
Entergy Nuclear Operations, Inc.
Arkansas Nuclear One, Units 1 and 2
Docket No. 72-13
1448 S. R. 333
Russellville, AR 72802

Gary Leidich
Vice President
First Energy
Davis-Besse Nuclear Power Station
Docket No. 72-14
76 S. Main Street
Akron, OH 44308

Christopher M. Crane
President and Chief Nuclear Officer
Exelon Generation Company, LLC
Oyster Creek Nuclear Generating Station
Docket No. 72-15
4300 Winfield Road
Warrenville, IL 60555

David A. Christian
Senior Vice President and Chief Nuclear Officer
Virginia Electric and Power Company
North Anna Power Station
Docket No. 72-16
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

Stephen M. Quennoz
Vice President Power Supply Generation
Portland General Electric Company
Trojan Nuclear Power Plant
Docket No. 72-17
121 South West Salmon Street
Portland, OR 97204

Elizabeth D. Sellers
Manager, INEEL
c/o Deeann Long-Security
US DOE, Idaho Operations Office, South
Three Mile Island Power Station, Unit 2
Docket No. 72-20
785 DOE Place
Mailstop 1170
Idaho Falls, ID 83401-1203

Bryce L. Shriver
Senior Vice President and CNO
Susquehanna Steam Electric Company
Susquehanna Steam Electric Station, Units 1 and 2
Docket No. 72-28
2 North Ninth Street
Allentown, PA 18101

Christopher M. Crane
President and CNO
Exelon Generation Company, LLC
Peach Bottom Atomic Power Station, Units 2 and 3
Docket No. 72-29
4300 Winfield Road
Warrenville, IL 60555

Michael Meisner
Chief Nuclear Officer
Maine Yankee Atomic Power Company
Maine Yankee Atomic Power Station
Docket No. 72-30
321 Old Ferry Road
Wiscasset, ME 04578-4922

Richard Kackick
Chief Nuclear Officer
Yankee Atomic Electric Company
Yankee Rowe Nuclear Power Station
Docket No. 72-31
19 Midstate Drive, Suite 200
Auburn, MA 01501

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Executive Vice President and Chief Nuclear Officer
Nuclear Management Company, LLC
Duane Arnold Energy Center
Docket No. 72-32
700 First Street
Hudson, WI 54016

Karl Singer
Chief Nuclear Officer
Tennessee Valley Authority
Sequoyah Nuclear Plant, Units 1 and 2
Docket No. 72-34
1101 Market Street 6A Lookout Place
Chattanooga, TN 37402-2801

J. V. Parrish
Chief Nuclear Officer
Energy Northwest MD 1023
Columbia Generating Station
Docket No. 72-35
Snake River Warehouse North Power Loop
Richland, WA 99352

Louis Sumner
Site Vice President
Southern Nuclear Operating Company
Edwin I. Hatch Nuclear Plant, Units 1 and 2
Docket No. 72-36
40 Inverness Center Parkway
Birmingham, AL 35242

Christopher M. Crane
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Exelon Generation Company, LLC
Dresden Nuclear Power Station, Units 2 and 3
Docket No. 72-37
4300 Winfield Road
Warrenville, IL 60555

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Duke Power Company
William B. McGuire Nuclear Station, Units 1 and 2
Docket No. 72-38
526 South Church Street, EC07H
P.O Box 1006(28201-1006)
Charlotte, NC 28202

Wayne A. Norton
President
Connecticut Yankee Atomic Power Company
Haddam Neck Nuclear Plant
Docket No. 72-39
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East Hampton, CT 06424-3099

Henry B. Barron
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Duke Power Company
Oconee Nuclear Station
Docket No. 72-40
526 South Church Street, EC07H
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Charlotte, NC 28202

Harold B. Ray
Executive Vice President
Southern California Edison
San Onofre Nuclear Station, Units 2 and 3
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Rosemead, CA 91770

Mike Stinson
Site Vice President
Southern Nuclear Operating Company
Joseph M. Farley Nuclear Plant, Units 1 and 2
Docket No. 72-42
40 Inverness Center Parkway
Birmingham, AL 35242

Robert A. Fenech
Senior Vice President, Nuclear, Fossil, and Hydro Operations
Consumer Energy Company
Big Rock Point Restoration Site
Docket No. 72-43
1945 W. Parnell Road
Jackson, MI 49201

Gregg R. Overbeck
Senior Vice President
Arizona Public Service Company
Palo Verde Nuclear Generating Station
Units 1, 2 and 3
Docket No. 72-44
5801 South Wintersburg Road Mail Station 7602
Tonopah, AZ 85354-7529

David A. Christian
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Virginia Electric and Power Company
Millstone Power Station, Units 2 and 3
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Innsbrook Technical Center
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Paul Hinnenkamp
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River Bend Station, Unit 1
Docket No. 72-49
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St. Francisville, LA 70775

Michael Kansler
President
Entergy Nuclear Operations
Indian Point Nuclear Generating Station, Units 2 and 3
Docket No. 72-51
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White Plains, NY 10601

Karl Singer
Chief Nuclear Officer
Tennessee Valley Authority
Browns Ferry Nuclear Plant, Units 1, 2 and 3
Docket No. 72-52
1101 Market Street 6A Lookout Place
Chattanooga, TN 37402-2801