

March 23, 2005

IA-05-015

Mr. Richard M. Probasco  
**HOME ADDRESS DELETED  
UNDER 10 CFR 2.390**

SUBJECT: NRC OFFICE OF INVESTIGATION REPORT NO. 1-2004-040

Dear Mr. Probasco:

This letter refers to an investigation initiated by the NRC Office of Investigations (OI), Region I, on August 27, 2004 at Entergy Nuclear Operation's Pilgrim Nuclear Power Station (Pilgrim). This investigation was initiated, in part, to determine if you did not take appropriate corrective actions when you became aware of the inattentiveness of the Control Room Supervisor (CRS) on June 29, 2004. Based on the evidence developed during the OI investigation, it was substantiated that, in careless disregard for requirements, you did not immediately relieve the CRS from duty, have him for-cause fitness-for-duty tested, inform appropriate site personnel, and initiate a Condition Report (CR). A letter to Pilgrim describing the investigation results including a factual summary of OI Investigation 1-2004-040 is enclosed with this letter.

Based on the results of this investigation, an apparent violation of your Senior Reactor Operator License was identified in that you did not immediately relieve the CRS from duty, have him for-cause fitness-for-duty tested, inform appropriate site personnel, and initiate a CR as required by Pilgrim Procedures ENN-NS-102, "Fitness For Duty Program" and ENN-LI-102, "Corrective Action Process." ENN-NS-102 requires supervisors or managers to relieve an individual from duty when the individual is not fit to safely perform their job because of fatigue and to for-cause fitness-for-duty test the individual if their ability to work safely is possibly impaired. Pilgrim Procedure ENN-LI-102 requires any individual who discovers an adverse condition to take immediate actions to minimize the consequences of the condition, notify appropriate site personnel, and document the condition promptly in a CR. Your Senior Reactor Operator License requires that when performing licensed duties, you shall observe the operating procedures and other conditions specific to the facility license. A failure to do so is a violation of your license. This apparent violation is being considered for escalated enforcement action against you in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600. The current Enforcement Policy is included on the NRC's Web site at [www.nrc.gov](http://www.nrc.gov); select **What We Do, Enforcement**, then **Enforcement Policy**. Your actions were considered to be in careless disregard of NRC requirements for the reasons specified in the enclosed OI factual summary.

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Since the NRC has not made a final determination in this matter, no violations are being issued at this time. In addition, please be advised that the number and characterization of the apparent violation described here-in may change as a result of further NRC review.

A closed predecisional enforcement conference to discuss this apparent violation has been scheduled for April 8, 2005 at 1:30 p.m. The decision to hold a predecisional enforcement conference does not mean that the NRC has determined that violations have occurred or that enforcement action will be taken. This conference is being held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether violations occurred, the significance of violations, the identification of the violations, and corrective actions taken or planned to prevent recurrence. The conference will also provide an opportunity for you to provide your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. You should also be prepared to discuss whether and why the NRC should have confidence that you should be returned to licensed duties. In addition, you may have an attorney or personal representative attend the conference but it should be understood that the NRC will address its questions to you.

You will be advised by separate correspondence of the results of our deliberations on this matter. No response regarding the apparent violation is required at this time.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

The NRC will delay placing a copy of this letter into the NRC Public Document Room (PDR) and on the NRC website until a final enforcement decision has been made. However, the enclosed letter to Pilgrim with its attached OI Factual Summary has been placed in the NRC PDR in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice" and will be accessible from the NRC website at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). Should you have any questions regarding this letter, please feel free to contact Mr. Clifford Anderson at (610) 337-5227.

Sincerely,

*/RA/*

A. Randolph Blough, Director  
Division of Reactor Projects

Docket No. 55-61290  
License No. SOP-11768

Enclosure: Letter to Pilgrim (with attached OI factual summary)

Mr. R. M. Probasco

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