

August 1, 2006

EA-06-152

Mr. James H. Lash  
Site Vice President  
FirstEnergy Nuclear Operating Company  
Beaver Valley Power Station  
Post Office Box 4  
Shippingport, Pennsylvania 15077

SUBJECT: BEAVER VALLEY POWER STATION - NRC OFFICE OF INVESTIGATIONS  
REPORT NO. 1-2005-036

Dear Mr. Lash:

This letter refers to information provided by your staff at the FirstEnergy Nuclear Operating Company (FENOC) Beaver Valley Power Station (BVPS) on June 16, 2005, which indicated that a contract engineer provided false information to BVPS. Specifically, you informed the NRC that while placing an approved engineering change package (ECP) into your records system, a clerk identified that certain materials, including required Design Interface Evaluations (DIEs), were missing. You commenced an immediate review and determined that a contract engineer had not completed the required work for ECP 03-541, the Replacement Reactor Vessel Closure Head Project (RRVCHP), yet indicated by signature on the ECP that all work had been completed as required. As a result, the NRC Office of Investigations (OI), Region I, initiated an investigation on August 31, 2005, into the circumstances surrounding this matter.

Based on the results of the OI investigation, one apparent violation was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. 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**. Specifically, the OI investigation results indicated that the contract engineer deliberately provided false information to Beaver Valley which, if not discovered, would have resulted in a violation of 10 CFR 50 Appendix B, Criterion III. The false information involved signing ECP 03-541 as complete when it was not. Even though this falsification was identified and corrected prior to implementation of the design change, this act constitutes an apparent violation of 10 CFR 50.9, "Completeness and Accuracy of Information."

Based on the OI investigation results, the NRC concludes that the action of the former contract engineer was deliberate because he knew that the Design Interface Evaluations (DIEs), as well as other technical information, were required to be completed before he signed ECP 03-541, certifying the package was complete and ready for management approval. While the NRC staff noted that Beaver Valley subsequently identified this issue, BVPS's Quality Assurance Program reviews, a 10 CFR 50.59 review, and management's review and approval of the ECP all failed to identify that the package was incomplete. BVPS also failed to provide the proper level of

oversight and monitoring of the contract employee resulting in an additional missed opportunity to identify and correct this issue prior to it resulting in the apparent violation. A summary of the OI report is enclosed.

We believe that we have sufficient information to make our final enforcement decision for this matter. However, before the NRC makes a final decision, we are providing you an opportunity to either: (1) respond to the apparent violation within 30 days of the date of this letter; (2) request a predecisional enforcement conference (PEC) within 10 days of the date of this letter; or (3) request Alternative Dispute Resolution (ADR) within 10 days of the date of this letter. Please contact Mr. Ronald Bellamy at 610-337-5200 within 10 days of the date of this letter to notify the NRC of your intended response. In addition, to assist NRC in its final enforcement decision, if you choose to reply or if you request a predecisional enforcement conference, we request that FENOC provide the NRC with a copy of any evaluations performed and actions taken by FENOC related to the contract engineer's trustworthiness, site access, and information entries into the PADS database, if any, following FENOC's discovery of this issue.

If you choose to provide a written response, it should be clearly marked as a "Response to An Apparent Violation in OI Report 1-2005-036; EA-06-152" and should include: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a predecisional enforcement conference.

If you request a PEC, it will be held at our office in King of Prussia, PA. Since the PEC will be based on the findings of an OI investigation, it will not be open for public observation, but will be transcribed. The purpose of the PEC is to discuss the apparent violation and the circumstances surrounding it, and to give FENOC an opportunity to provide its perspective on this issue and any other information that FENOC believes is relevant to the NRC's enforcement determination. If a conference is held, the NRC will issue a press release to announce the conference and the fact that it is closed to public observation.

Instead of a written response or a predecisional enforcement conference for the apparent violation of 10 CFR 50.9, you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ during a pilot program, which is now in effect, is mediation. Additional information concerning the NRC's pilot program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violations described herein may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response (if you choose to provide one) 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/**

Brian E. Holian, Director  
Division of Reactor Projects

Docket Nos. 50-334, 50-412  
License Nos. DPR-66, NPF-73

Enclosures:

1. Summary of OI Report 1-2005-036
2. NUREG/BR-0317

cc w/encl 1:

G. Leidich, President and Chief Nuclear Officer  
J. Hagan, Senior Vice President of Operations and Chief Operating Officer  
D. Pace, Senior Vice President, Fleet Engineering  
J. Rinckel, Vice President, Fleet Oversight  
L. Myers, Executive Vice President, Special Projects  
R. Anderson, Vice President, FirstEnergy Nuclear Operating Company  
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D. Jenkins, Attorney, FENOC  
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M. Clancy, Mayor, Shippingport, PA  
D. Allard, PADEP  
C. O'Claire, State Liaison to the NRC, State of Ohio  
Z. Clayton, EPA-DERR, State of Ohio  
Director, Utilities Department, Public Utilities Commission, State of Ohio  
D. Hill, Chief, Radiological Health Program, State of West Virginia  
J. Lewis, Commissioner, Division of Labor, State of West Virginia  
W. Hill, Beaver County Emergency Management Agency  
J. Johnsrud, National Energy Committee, Sierra Club

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**SISP Review Complete:** \_\_\_\_\_ **AAR** \_\_\_\_\_ **(Reviewer's Initials)**

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## Enclosure 1

### FACTUAL SUMMARY OF OI INVESTIGATION REPORT NO. 1-2005-036

An investigation was initiated on August 31, 2005, by the U. S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region I to determine if a contract (Demark Inc.), mechanical engineer working formerly at the Beaver Valley Power Station (BVPS), provided false information to BVPS when the engineer signed an engineering change package (ECP) for the replacement reactor vessel closure head project (RRVCHP) on June 1, 2005, indicating that the required work had been completed, when it had not been completed. Based on evidence developed during its investigation, OI substantiated that the former contract engineer deliberately provided false information to BVPS by signing the RRVCHP ECP indicating that all of the required work had been completed when he knew otherwise.

The evidence supporting the conclusion included information identified by the licensee that certain sections of the written design change package, including the Design Interface Evaluations (DIEs), were not completed as specified by the design change process requirements at BVPS. OI interviewed individuals and reviewed the licensee's documentation associated with the incomplete ECP. During OI's interview with the contractor engineer, he admitted being knowledgeable of the fact that the ECP work was not complete when he signed the package, that he knew that the BVPS design change process procedure required the DIEs be completed prior to his signing the ECP as complete, and he admitted to OI that he probably should not have signed off on the ECP until the missing information had been received. OI noted that while he asserted that he had made management aware of the fact that the required information was not complete, other testimonial and documentary evidence gathered during the OI investigation does not support this claim and revealed that management was unaware of this fact. The contractor engineer also admitted that only two or three of the (~25 total) DIEs were completed, and that some additional technical work had not been completed at the time that he had signed the ECP. As a result of the engineer's admission and lack of supporting evidence into his claim that BVPS management was aware of the incomplete status of the signed ECP, OI concluded that the contractor engineer deliberately provided false information to BVPS when he signed the ECP indicating that the required work was complete, while knowing that the DIEs were not completed.