UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

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March 1, 2007

EA-06-199

Duke Power Company, LLC d/b/a
Duke Energy Carolinas, LLC (Duke)
ATTN: Mr. B. H. Hamilton
Site Vice President
Oconee Nuclear Station
7800 Rochester Highway
Seneca, SC 29672

SUBJECT: RESPONSE TO APPEAL OF FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING AND DENIAL OF NOTICE OF VIOLATION (OCONEE NUCLEAR STATION - NRC INSPECTION REPORT NOS. 05000269/2007007, 05000270/2007007, AND 05000287/2007007)

Dear Mr. Hamilton:

This refers to your letter dated December 20, 2006, in which you appealed the Nuclear Regulatory Commission's (NRC) Final Significance Determination for a White Finding and denied the associated Notice of Violation (NOV), both of which were issued under NRC Inspection Report 05000269,270,287/2006017, on November 22, 2006. The NOV identified non-compliances with Technical Specification (TS) 5.4.1 and 10 CFR 50.65(a)(4) as they relate to the failure of Duke's Oconee Nuclear Station to use adequate procedures to effectively control maintenance activities (i.e., removal of a CO_2 access cover from standby shutdown facility (SSF) flood barrier to facilitate installation of temporary electrical power cables) that could affect safety-related equipment; and therefore, failed to assess and manage the increase in risk from external floods for this maintenance activity. The issue was characterized as White from a defense-in-depth perspective, in that if the SSF was rendered inoperable by the hypothetical external flood scenario it is credited to mitigate, no other event mitigation systems would be available to prevent core damage.

Your letter indicated that the bases for the appeal was that NRC's significance determination process (SDP) was inconsistent with the applicable SDP guidance and lacked justification. Primary points in support of your appeal were:

(1) The SDP Phase III analysis was performed in an overly conservative manner and failed to acknowledge key limitations of the analysis such that the results more closely represent a bounding analysis rather than an expected mean value.

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(2) The 1999 Maintenance Rule Expert Panel evaluation of the SSF flood function was appropriately evaluated in accordance with the provisions of NUMARC 93-01 as endorsed by NRC in Regulatory Guides (RG) 1.160 and 1.182.

Additionally, your stated basis for denying the NOV was that a violation of regulatory requirements did not occur. Primary points presented in support of this position were:

(1) External flooding of the SSF is not part of the Oconee current licensing basis (CLB); therefore Technical Specification (TS) safety-related functions are not affected.

(2) The subject electrical cables were routed through an access opening constructed no lower that the original predicted height of an SSF external flood event.

(3) The access opening does not meet the limited scope of criteria in 10 CFR 50.65 (a)(4) and therefore procedural controls of the access opening in accordance with TS 5.4.1 were not required.

In response to your appeal of the White Finding, and in accordance with Inspection Manual Chapter 0609, Attachment 2, an independent appeal panel was convened to evaluate your contention that our application of the SDP was inconsistent with SDP guidance. That panel, in conjunction with other NRC internal organizations, have also reviewed your denial of the associated NOV. I have considered the results of the appeal panel, as well as the information contained in your letter of December 20, 2006, and the NRC's Final Significance Determination letter dated November 22, 2006. After reviewing this information, I have concluded, in consultation with the NRC's Office of Enforcement, that a violation of regulatory requirements occurred as stated in the NOV. In addition, I agree with the review panel's independent conclusion that the White Finding, as presented in the NRC's November 22nd letter, was appropriately characterized. The details of the independent appeal panel's review is enclosed.

In summary, the appeal panel confirmed that because of the significant uncertainty in the methods and assumptions used in the quantitative evaluation of this finding, the significance determination should consider qualitative as well as quantitative factors. As mentioned in the Final Significance Determination letter and confirmed by the appeal panel's review, the qualitative attributes of the finding, including its impact on defense-in-depth, the significant period of time that the deficiency existed, and the low likelihood that recovery actions would successfully mitigate the performance deficiency, provide sufficient justification to support a White finding.

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Should you have any questions regarding this letter, please contact Mr. Charles Casto, Director, Division of Reactor Projects, at 404-562-4500.

Sincerely,

/CAC RA for/

William D. Travers
Regional Administrator

Docket Nos.: 50-269, 50-270, 50-287
License Nos.: DPR-38, DPR-47, DPR-55

Enclosure: Appeal Panel Review

cc w/encl: (See page 4)

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Letter to Bruce H. Hamilton from William D. Travers dated March 1, 2007

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