

June 22, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: J. E. Dyer, Director */RA/*
Office of Nuclear Reactor Regulation

SUBJECT: CONSIDERATION OF NEW INFORMATION ASSOCIATED WITH A
FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING -
OCONEE NUCLEAR STATION

The purpose of this memorandum is to document that the Office of Nuclear Reactor Regulation (NRR) intends to authorize Region II to review new information related to a White finding, although the information was not docketed prior to the issuance of the Final Significance Determination (FSD) on November 22, 2006 (ML063260154). The FSD of this White finding at the Oconee Nuclear Station was based on the best available information, consistent with our process guidance, and allowed the staff to complete the significance assessment in a timely manner. However, the licensee contends that the information was under development at the time and is now available. The licensee further contends that this information will have a significant effect on the FSD. While the existing guidelines emphasize that newly developed information from licensees will not be considered by the staff following the issuance of the FSD, the staff is recommending a departure from the guidance in this instance based on the unique circumstances involved with this finding, as described below, and on the licensee's assurance that the new information was under development before the FSD was issued.

Discussion:

In an inspection report dated April 28, 2006 (ML0611804510) the staff identified a performance deficiency involving the licensee's failure to effectively control maintenance activities, and to assess and manage the risk associated with removing an access cover in the south wall of the standby shutdown facility (SSF) to facilitate installation of temporary electrical power cables. This was followed by a Choice Letter dated August 31, 2006, (ML062480183) identifying the issue as a preliminary White finding awaiting further consideration based on licensee response. Subsequently, the licensee opted not to attend a regulatory conference and instead provided a written response to the staff dated October 5, 2006 (ML0628902060).

On November 22, 2006, the staff issued the Final Significance Determination Letter notifying the Duke Power Company (the licensee) of the White finding.

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The licensee appealed the finding in a letter dated December 20, 2006 (ML0636200920) expressing disagreement with the staff's results stating its belief that a performance deficiency did not exist. Additionally, the licensee asserted that the NRC's significant determination process SDP Phase 3 evaluation is flawed and the resulting safety significance of the finding should be very low (Green). The appeal process was commenced in accordance with Inspection Manual Chapter 0609, Attachment 2. The staff concluded that a performance deficiency did exist and that the licensee did not provide information consistent with the appeal process that would warrant changing the significance of the finding to Green. The licensee was notified of this in a letter dated March 1, 2007.

In a letter dated May 3, 2007, the licensee requested that the NRC reconsider the FSD based on new information developed concerning the Jocassee Dam fragility analysis. As previously stated, the subject information was under development at the time the staff reached the FSD and during the period when the appeal process took place.

Manual Chapter 0305, "Operating Reactor Assessment Program," requires EDO approval of all deviations from the Action Matrix. NRR does not consider the review of additional information associated with the significance of this finding to be a deviation from the Action Matrix, but nonetheless considers it appropriate to inform you of this action, because this is the first instance that the significance of a finding which has been through the appeal process will be reconsidered.

Additionally the staff is undertaking an assessment of the appeal process and will be developing recommendations for enhancements.

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