



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005

January 11, 2008

EA-07-232

Richard M. Rosenblum
Senior Vice President and
Chief Nuclear Officer
Southern California Edison Company
San Onofre Nuclear Generating Station
P.O. Box 128
San Clemente, CA 92674-0128

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY) [NRC INSPECTION REPORT 05000361/2007016; 05000362/2007016, AND OFFICE OF INVESTIGATIONS REPORT 4-2007-016]

Dear Mr. Rosenblum:

The enclosed Confirmatory Order is being issued to Southern California Edison Company (SCE) as a result of a successful alternative dispute resolution (ADR) mediation session. The enclosed commitments were made by SCE as part of a settlement agreement between SCE and the NRC concerning the falsification, by a contract fire protection specialist, at the San Onofre Nuclear Generating Station (SONGS), of firewatch certification sheets on numerous occasions from April 2001 to December 2006. Our concerns about an apparent violation of 10 CFR 50.9 and San Onofre Units 2 and 3 License Condition 2.C(14), "Fire Protection," were described to your staff during an exit briefing on September 26, 2007, and in our letter dated September 27, 2007. A factual summary of the OI investigation was enclosed with that letter.

In response to our September 27 letter, you requested ADR to address the apparent violation. Subsequently, an ADR mediation session was conducted on December 3, 2007, at which time a preliminary settlement agreement was reached. The elements of the preliminary agreement are contained in the enclosed Order.

As part of the settlement agreement, SCE agreed to take a number of actions. In recognition of these actions, and those corrective actions already completed, the NRC is satisfied that its concerns will be addressed by these actions through the enclosed Confirmatory Order. Therefore, the NRC considers this confirmatory order as the enforcement action related to the issues described in our September 27, 2007, letter to SCE. We will evaluate the implementation of your commitments during future inspections.

As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated January 8, 2008, you agreed to issuance of this letter and Confirmatory Order. Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

If you have any questions or comments concerning this letter, please contact Mr. Michael Vasquez, Senior Enforcement Specialist, at 817-860-8121, or Ms. Karla Fuller, Regional Counsel and Team Leader for the Allegation Coordination and Enforcement Staff, at 817-860-8271.

To the extent possible, any response you provide should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the attached Confirmatory Order, at <http://www.nrc.gov/about-nrc/regulatory/enforcement.html>; then select **Significant Enforcement Actions**. Your response to the Confirmatory Order will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS).

Sincerely,
/RA/

Elmo E. Collins
Regional Administrator

Docket Nos. 50-361, 50-362, 50-206, 72-041
License Nos. NPF-10, NPF-15, DPR-13, General
License Pursuant to 10 CFR 72.210

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc (w/enclosures):

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Riverside, CA 92522

Southern California Edison Company
EA-07-232

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Environmental Management
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Southern California Edison Company
EA-07-232

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Southern California Edison Company
EA-07-232

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JEWhitten		

SUNSI Review Completed: ALF ADAMS: Yes Initials: ALF
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2007\ADR Stuff \Confirmatory Order\DRAFT-Conf_Order-SONGS-Firewatch.doc

ACES:SES	D:DRS	D:DRP	ACES:RC	
GMVasquez	D Chamberlain	A Howell	K Fuller	
<i>/RA/</i>	<i>/RA/</i>	<i>/RA/</i>	<i>/RA/</i>	
12/12/07	12/12/07	12/13/07	12/15/07	
NRR	OGC	D:OE	RA	
J Wiggins	B Jones	C Carpenter	E Collins	
<i>/RA/</i>	<i>J Martin for w/comments</i>	<i>/RA/</i>	<i>/RA/</i>	
12/20/07	12/20/07	1/04/07	12/17/07 & 1/10/08	

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Southern California Edison Company)	Docket Nos. 50-361, 50-362,
San Onofre Nuclear Generating Station)	50-206, 72-041
)	License Nos. NPF-10, NPF-15
)	DPR-13, General License
)	Pursuant to 10 CFR 72.210
)	EA-07-232

CONFIRMATORY ORDER
(EFFECTIVE IMMEDIATELY)

Southern California Edison Company (SCE or Licensee) is the holder of reactor operating licenses, License Nos. NPF-10 and NPF-15, issued by the Nuclear Regulatory Commission (NRC or Commission), pursuant to 10 CFR Part 50, on September 07, 1982, and September 16, 1983, respectively. The licenses authorize the operation of San Onofre Nuclear Generating Station (SONGS) Units 2 and 3, respectively, in accordance with conditions specified therein. In addition, SCE is the holder of License No. DPR-13, which authorizes decommissioning of its Unit 1 facility; and SCE is the holder of a General License Pursuant to 10 CFR 72.210, which authorizes the storage of spent fuel in an independent spent fuel storage installation. These facilities are located on the Licensee's site in San Clemente, CA. This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on December 3, 2007.

II

On January 9, 2007, the NRC Office of Investigations (OI) began an investigation (OI No. 4-2007-016) at SONGS. As a result of the staff's review of the information, the NRC was concerned that a qualified contract fire protection specialist appeared to have engaged in

Enclosure 1

deliberate misconduct. Specifically, on multiple occasions from April 2001 to December 2006, the fire protection specialist appeared to provide inaccurate information on firewatch records to indicate that hourly firewatch rounds had been completed when they had not been completed. The NRC's preliminary findings were discussed in a letter to SCE dated September 27, 2007. That letter identified an apparent violation of 10 CFR 50.9 that was being considered for escalated enforcement action, and identified the NRC's concern that the fire protection specialist's actions may have involved willfulness in the form of deliberate misconduct. The NRC's assessment concluded that the missed firewatch rounds, absent willfulness, have very low safety significance based on a bounding risk analysis, as discussed in our September 27, 2007, letter. However, the NRC was considering escalated enforcement in this case because the apparent violation involved willfulness and because of the lack of management oversight over firewatches during the midnight shifts for a period of approximately 5 ½ years.

Both SONGS and the NRC noted that the NRC has substantiated several instances of willful violations at SONGS in the past year.

- 1) On November 1, 2006, one SL IV NCV (licensee-identified) was issued to SONGS involving a radiographer who deliberately failed to follow a Radiation Work Permit (EA-06-084).
- 2) On March 15, 2007, two SL IV cited violations were issued involving security-related information that is not publicly available (EA-06-303).
- 3) On June 29, 2007, one SL IV cited violation was issued involving security-related information that is not publicly available (EA-07-147).
- 4) On November 7, 2007, one SL IV cited violation was issued involving an I&C technician who willfully failed to control the work activities of an unqualified I&C

technician when performing work on safety-related equipment, resulting in inoperability (EA-07-141).

In addition, OI is investigating other instances of willful violations. In an attempt to resolve the issue you requested ADR with the NRC. 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 is mediation. In requesting ADR, SCE noted the high number of substantiated willful violations that have been identified at SONGS during such a short time period, and SCE expressed its concern that SONGS might have an issue related to its safety culture.

On December 3, 2007, the NRC and SCE met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. At the conclusion of the ADR session, SCE and the NRC reached an Agreement in Principle. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During the December 3, 2007, ADR session, a preliminary settlement agreement was reached. Pursuant to the ADR agreement, the following are the terms and conditions agreed upon in principle by SCE and the NRC relating to the issues described in the NRC's letter to SCE dated September 27, 2007.

Whereas, the NRC and SCE agree that a contract firewatch person deliberately failed to perform firewatch rounds and falsified associated documentation as described in EA-07-232 dated September 27, 2007.

Whereas, the NRC and SCE agree that an I&C on-the-job trainer willfully did not adequately control the actions of a trainee as described in EA-07-141 dated November 7, 2007.

Whereas, the NRC and SCE agree that several apparent willful violations have occurred from 2005 to present that may involve safety culture issues.

The following are the specific actions that were agreed upon.

1. By January 31, 2008, SCE will perform a common cause evaluation of known recent events, actually or potentially involving willful events to determine the root and contributing causes for the collective issues. This evaluation will include an analysis to determine if any deficiencies of safety culture components were significant contributors. The results of this evaluation will be factored into the Corrective Action Program and addressed in other ongoing related efforts, as appropriate.
2. By February 29, 2008, SCE will provide the NRC with a Corrective Action Plan that includes the results of Item 1 and provides the following key elements:
 - a. A monitoring program to determine the effectiveness of the Corrective Action Plan developed pursuant to this Item 2.

- b. By June 30, 2008, SCE will conduct multi-day interventions that reinforce fundamental company values. SONGS will ensure that this effort includes the elements of a strong nuclear safety culture to prevent deliberate misconduct – related violation issues. The intent of the interventions will be to focus leaders and managers on the importance of balancing accountability and encouraging workers to self-report errors and the importance of communicating this to their workers.
- c. SCE will expand the Corporate Ethics Program to encompass long-term (i.e., greater than 90 days) managers and supervisors of independent contract workers at SONGS, who will be required to take the integrity training in 2008. SCE will conduct training for SONGS managers and supervisors in 2008 and other SCE SONGS employees in 2009.
- d. SCE will conduct a safety culture assessment by an independent outside organization by April 1, 2008, that will provide trends of key cultural performance indicators related at a minimum, to: (a) Nuclear Safety Culture and Performance, (b) Safety Conscious Work Environment (c) General Culture and Work Environment. By June 30, 2008, the results of this assessment will be factored into the Corrective Action Program and addressed in other ongoing related efforts, as appropriate.
- e. By April 1, 2008, SCE will further enhance the new employee orientation and the general employee training programs to better ensure that new and periodically retrained personnel clearly understand that deliberate acts of non-compliance with regulations or procedures will not be tolerated and could result in a significant disciplinary action up to and including termination.

- f. By September 30, 2008, SCE will develop and begin conducting training (for managers and supervisors) on techniques that can be used to monitor that workers are implementing procedures as instructed.
- g. By April 1, 2008, SCE will enhance its existing disciplinary process to provide more detailed guidance in cases involving a deliberate misconduct-related violation. This process will communicate to the workforce specific escalating disciplinary actions that may be taken in response to initial and/or repeat deliberate misconduct by individual contributors and supervisors/managers. Communication of process enhancements will focus personnel on the importance of balancing accountability and encouraging workers to self-report errors and the importance of communicating this with their workers.
- h. By April 1, 2008, SCE will revise the SONGS training lesson for On-the-Job Training (OJT) trainers and provide this training to all OJT trainers and trainees. The revised OJT training will reinforce the responsibilities of the trainer and the trainees. Emphasis will be placed on the expectations of a trainer while his/her trainee is performing work during an OJT session.
- i. SCE will take steps to incentivize on-site service contractors to help SCE address the issues that have resulted in deliberate misconduct-related violations. If SCE is unable to negotiate acceptable programs by a particular contractor, then SCE will impose additional oversight to ensure the performance of the contractor and its personnel meets specified criteria.
- j. By April 1, 2008, SCE will incorporate into the SONGS oversight surveillance program, periodic sampling of repetitive rounds and log-keeping activities to provide reasonable assurance that actions to deter and detect instances of

deliberate non-compliance are effective. This oversight will include sampling of SCE and contractor activities.

- k. SCE will use multiple site-wide communication tools (e.g., "All Hands" meetings, monthly "Manager and Supervisor Forum" meetings, and written communications) to emphasize to employees and contractors at SONGS the need to comply with job rules, regulations, and procedures and potential consequences when compliance does not occur.
- l. Upon completion of the terms of the Confirmatory Action Order, SCE will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

For the period of 6 months following issuance of this Order, the NRC will grant enforcement discretion if it concludes that the provisions of Section VII.B.4 of the Enforcement Policy have been met. Similar violations identified after this 6-month period may be actionable under the NRC Enforcement Policy.

Based on the above actions, the NRC agrees to refrain from issuing a civil penalty or a Notice of Violation for EA 07-232. The resulting Confirmatory Order will, however, be considered by the NRC for any assessment of SONGS plant performance under the NRC's Reactor Oversight Process, as appropriate.

By 30 days after issuance of the Order, SCE will provide to the NRC under separate letter its response to the three issues addressed by the NRC in its letter dated September 27, 2007, (EA 07-232) and for NRC letter dated November 7, 2007, (EA 07-141), the extent to which

trainers may fail to follow the procedural requirements of Section 6.3.2 of SONGS Training Procedure SO123-XV-27.

On January 8, 2008, SCE consented to issuing this Order with the commitments, as described in Section V below. SCE further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Since SCE has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202, and 10 CFR

Parts 50 and 72, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOs. NPF-10, NPF-15, and DPR-13, and SCE's General License Pursuant to 10 CFR 72.210, ARE MODIFIED AS FOLLOWS:

1. By January 31, 2008, SCE will perform a common cause evaluation of known recent events, actually or potentially involving willful events to determine the root and contributing causes for the collective issues. This evaluation will include an analysis to determine if any deficiencies of safety culture components, as defined by NRC's Inspection Manual Chapter (IMC) 0305, "Operating Reactor Assessment Program," were significant contributors. The results of this evaluation will be factored into the Corrective Action Program and addressed in other ongoing related efforts, as appropriate.
2. By February 29, 2008, SCE will provide the NRC with a Corrective Action Plan that includes the results of Item 1 and provides the following key elements:
 - a. A monitoring program to determine the effectiveness of the Corrective Action Plan developed pursuant to this Item 2.
 - b. By June 30, 2008, SCE will conduct multi-day interventions that reinforce fundamental company values. SONGS will ensure that this effort includes the elements of a strong nuclear safety culture to prevent deliberate violations. The intent of the interventions will be to focus leaders and managers on the importance of balancing accountability and encouraging workers to self-report errors and the importance of communicating this to their workers.
 - c. SCE will expand the Corporate Ethics Program to encompass long-term (i.e., greater than 90 days) managers and supervisors of independent contract

workers at SONGS, who will be required to take the integrity training in 2008.

SCE will conduct training for SONGS managers and supervisors in 2008 and other SCE SONGS employees in 2009.

- d. SCE will conduct a safety culture assessment by an independent third-party organization by April 1, 2008. By June 30, 2008, the results of this assessment will be factored into the Corrective Action Program and addressed in other ongoing related efforts, as appropriate.
- e. By April 1, 2008, SCE will further enhance the new employee orientation and the general employee training programs to better ensure that new and periodically retrained personnel clearly understand that deliberate acts of non-compliance with regulations or procedures will not be tolerated and could result in a significant disciplinary action up to and including termination.
- f. By September 30, 2008, SCE will develop and begin conducting training (for managers and supervisors) on techniques that can be used to monitor that workers are implementing procedures as instructed.
- g. By April 1, 2008, SCE will enhance its existing disciplinary process to provide more detailed guidance in cases involving a deliberate misconduct-related violation. This process will communicate to the workforce specific escalating disciplinary actions that may be taken in response to initial and/or repeat deliberate misconduct by individual contributors and supervisors/managers. Communication of process enhancements will focus personnel on the importance of balancing accountability and encouraging workers to self-report errors and the importance of communicating this with their workers.

- h. By April 1, 2008, SCE will revise the SONGS training lesson for OJT trainers and provide this training to all OJT trainers and trainees. The revised OJT training will reinforce the responsibilities of the trainer and the trainees. Emphasis will be placed on the expectations of a trainer while his/her trainee is performing work during an OJT session.
- i. SCE will take steps to develop and implement incentives for on-site service contractors to help SCE address the issues that have resulted in deliberate misconduct-related violations. If SCE is unable to negotiate acceptable programs by a particular contractor, then SCE will impose additional oversight to ensure the performance of the contractor and its personnel meets specified criteria.
- j. By April 1, 2008, SCE will incorporate into the SONGS oversight surveillance program, periodic sampling of repetitive rounds and log keeping activities to provide reasonable assurance that actions to deter and detect instances of deliberate non-compliance are effective. This oversight will include sampling of SCE and contractor activities.
- k. SCE will use multiple site-wide communication tools to emphasize to employees and contractors at SONGS the need to comply with job rules, regulations, and procedures and potential consequences when compliance does not occur.
- l. Upon completion of the terms of the Confirmatory Action Order, SCE will provide the NRC with a letter discussing its basis for concluding that the Order has been satisfied.

3. By 30 days after issuance of the order, SCE will provide to the NRC under separate letter its response to the three issues addressed by the NRC in its letter dated September 27, 2007, (EA 07-232) and for NRC letter dated November 7, 2007, (EA 07-141), the extent to which trainers may fail to follow the procedural requirements of Section 6.3.2 of SONGS Training Procedure SO123-XV-27.

For the period of 6 months following issuance of this Order, the NRC will grant enforcement discretion if it concludes that the provisions of Section VII.B.4 of the Enforcement Policy have been met. Similar violations identified after this 6-month period may be actionable under the NRC Enforcement Policy.

Based on the above actions, the NRC agrees to refrain from issuing a civil penalty or a Notice of Violation for EA 07-232. The resulting Confirmatory Order will, however, be considered by the NRC for any assessment of SONGS plant performance under the NRC's Reactor Oversight Process, as appropriate.

The Regional Administrator, NRC Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by SCE of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than SCE, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given

to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Fed. Reg. 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear

Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person other than SCE requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.309(d).

If a hearing is requested by 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 Confirmatory Order should be sustained.

AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

Elmo E. Collins, Regional Administrator

Dated this 11th day of January, 2008