



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**

REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

January 22, 2008

IA-07-028

Mr. William Johns  
[NOTE: HOME ADDRESS  
DELETED UNDER 10 CFR 2.390(a)]

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)  
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2006-012]

Dear Mr. Johns:

The enclosed Confirmatory Order is being issued to you as a result of a successful alternative dispute resolution (ADR) session on September 11, 2007. The enclosed commitments were made by you as part of a settlement agreement concerning your involvement in an apparent violation that occurred at Florida Power and Light Company's (FPL) Turkey Point Nuclear Plant in October of 2005.

In a letter dated May 30, 2007, the NRC provided you with the results of an investigation completed by the NRC's Office of Investigations (OI). As indicated in our letter, the NRC reached a preliminary conclusion that you deliberately failed to make a one-hour report to the Commission of an event involving the interruption of normal operations of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls, including the security system. In this case, the tampering event involved the breaking of a firing pin for a contingency response weapon, a component of the security system. The NRC reached a preliminary conclusion that you were in apparent violation of 10 CFR 50.5, in that your actions caused FPL to not report this event to the NRC as required by 10 CFR Part 73, Appendix G.I.(a)(3). A Factual Summary of the OI investigation was enclosed with our letter.

Our letter of May 30, 2007, offered you a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, you requested ADR to resolve differences you had with the NRC concerning the apparent violation. An ADR mediation session was held on September 11, 2007, at which a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order. Consistent with the purposes of ADR, you and the NRC acknowledged that the session was not for the purposes of reaching any conclusions regarding any facts or circumstances as discussed in the NRC's letter of May 30, 2007.

As part of the ADR settlement agreement, you agreed to take certain actions, including your commitment not to seek employment in NRC-regulated activities for a period of time. You also agreed that, prior to seeking re-employment in any NRC-regulated activities, you will provide the NRC with a letter discussing the steps you have taken to ensure you understand the NRC's security reporting requirements.

The NRC is satisfied that its concerns will be addressed by making your commitments legally binding through the enclosed Confirmatory Order. Therefore, the NRC has agreed not to pursue any further enforcement action in connection with the issues described in our May 30, 2007, letter to you.

We have enclosed a copy of the Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated January 16, 2008, you agreed to issuance of this 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.

You are not required to respond to this letter. However, because this issue involves security-related information and disclosure to unauthorized individuals could present a security vulnerability, if you choose to respond, you must mark your entire response "Proprietary Information in accordance with 10 CFR 2.390(d)(1)" and follow the instructions for withholding in 10 CFR 2.390(b)(1). If you choose to provide a response, please provide your response to NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street SW Suite 23T85, Atlanta, Georgia 30303-8931, within 30 days. In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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). This letter will be maintained by the Office of Enforcement (OE) in a 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/foia-privacy.html>.

W. Johns

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Questions or comments concerning this letter and Confirmatory Order should be addressed to Ms. Carolyn Evans, Enforcement Officer and Regional Counsel, Region II, at 404-562-4414.

Sincerely,

**/RA/**

Victor M. McCree  
Acting Regional Administrator

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

CERTIFIED MAIL: 7006 2760 0000 8494 4902  
RETURN RECEIPT REQUESTED

cc:

M. Stan Blanton  
Balch & Bingham, L.L.P.  
1710 Sixth Avenue  
North Birmingham, Alabama 35203

Distribution w/encls:

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 J. Stewart, RII  
 K. Clark, RII  
 R. Hannah, RII  
 R. Trojanowski, RII  
 OEMAIL  
 PUBLIC

X PUBLICLY AVAILABLE     NON-PUBLICLY AVAILABLE     SENSITIVE     NON-SENSITIVE  
 ADAMS:  Yes    ACCESSION NUMBER: \_\_\_\_\_

OFFICE	RII COUNSEL	RII:DRS	RII:DRS	RII:ORA	RII:ORA	
SIGNATURE		/RA/	/RA/	/RA/	/RA/	
NAME		JMUNDAY	JSHEA	CCASTO	VMCCREE	
DATE		1/18/2008	1/18/2008	1/17/2008	1/22/2008	
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OGC	NSIR	OE			
SIGNATURE	/RA via email/	/RA via email/	/RA via email/			
NAME	M. Clark	R. Correia	N. Hilton			
DATE	1/16/2008	1/16/2008	1/16/2008			
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YESNO	YESNO

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
Mr. William Johns

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IA-07-028

CONFIRMATORY ORDER  
(EFFECTIVE IMMEDIATELY)

I

Mr. William Johns is the former Security Manager at the Turkey Point Nuclear Plant (Turkey Point) operated by Florida Power & Light Company (FPL or Licensee). FPL holds License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR Part 50. The license authorizes the operation of Turkey Point, Units 3 & 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

In August 2005, a broken firing pin from a contingency response weapon was discovered at FPL's Turkey Point facility. FPL conducted an investigation into the circumstances surrounding the broken pin. As the Security Manager at Turkey Point at that time, Mr. Johns was advised of the status and progress of the FPL investigation. Based on his understanding of the circumstances of the matter and his understanding of reporting requirements and guidelines, in approximately September 2005, Mr. Johns ensured or allowed the event to be documented into

Enclosure 1

the plant security log at that time, and concluded that this incident would not be reported to the NRC in accordance with 10 CFR Part 73, Appendix G.I.(a)(3).

### III

In February 2006, the NRC's Office of Investigations (OI) initiated an investigation into the circumstances surrounding the broken firing pin. Based on the OI investigation, the NRC reached a preliminary conclusion that Mr. Johns deliberately failed to make a one-hour report to the Commission of an event involving the interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls, including the security system. In this case, the tampering event involved the breaking of a firing pin for a contingency response weapon. As a result, the NRC concluded that Mr. Johns was in apparent violation of 10 CFR 50.5, in that his actions caused FPL to be in violation of 10 CFR Part 73, Appendix G.I.(a)(3).

The results of the NRC's preliminary conclusion were provided to Mr. Johns by letter dated May 30, 2007. The NRC's letter informed Mr. Johns that the NRC was considering the apparent violation for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered Mr. Johns a choice to: (1) attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether a violation occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, Mr. Johns requested ADR to resolve the matter. Mr. Johns and the NRC participated in an ADR session in Atlanta, Georgia, on September 11, 2007. As the result of the ADR session, Mr. Johns and the NRC reached a settlement agreement. The elements of the Agreement in Principle consisted of the following:

1. Mr. Johns disagreed with certain facts supporting a conclusion that he violated 10 CFR 50.5, and he denied that he engaged in any deliberate misconduct. At the ADR session, Mr. Johns elaborated on the circumstances surrounding his involvement in the apparent violation, in support of his view that his actions did not represent deliberate misconduct. In particular, Mr. Johns stated that his actions in not reporting the incident in accordance with 10 CFR Part 73, Appendix G were consistent with his previous practice and experience with reporting such incidents, and the fact that the underlying issue did not appear to be a result of a malevolent intent. Mr. Johns further stated that his decision to enter the event in the plant security log, rather than make a one-hour report to the NRC, was consistent with his understanding of NRC guidance in Generic Letter 91-03, Reporting of Safeguards Events.
2. Mr. Johns indicated that since approximately February 2006, he has not been involved in any activities at any facility that is subject to NRC regulations. Mr. Johns also indicated that, as of the date of the ADR session, he had no intention of working or seeking employment in any activities or at any facility that is subject to NRC regulations, and that he would not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.
3. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to assure he understands the NRC's security reporting requirements in effect at the time.
4. The NRC concluded that Mr. Johns' agreement to not seek employment requiring his

participation in NRC-regulated activities until after July 15, 2008, and his agreement to provide the NRC a letter explaining the steps he has taken to ensure he understands the NRC's reporting requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter dated May 30, 2007.

5. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.
6. The NRC and Mr. Johns agreed that the above elements will be incorporated into a Confirmatory Order.
7. Mr. Johns agreed to waive the right to request a hearing regarding all or any part of the Confirmatory Order.

#### IV

Because Mr. Johns has agreed to take actions to address the NRC's 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 Mr. Johns' commitments set forth in Section V below are acceptable and necessary, and I 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



Mr. Johns' commitments be confirmed by this Order. Based on the above and Mr. Johns' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Mr. Johns will not seek employment requiring his participation in NRC-regulated activities before July 15, 2008.
2. Prior to seeking future employment in NRC-regulated activities, Mr. Johns will submit to the NRC a letter explaining the steps he has taken to ensure he understands the NRC's security reporting requirements in effect at the time.

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

VI

Any person adversely affected by this Confirmatory Order, other than Mr. William Johns, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to 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,

Washington, DC 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street SW Suite 23T85, Atlanta, GA, 30303-8931; and to Mr. William Johns. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Johns 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 CFR 2.309(d) and (f).

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.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

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

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/  
Victor M. McCree  
Acting Regional Administrator

Dated this 22<sup>nd</sup> day of January 2008