November 13, 2009

EA-2009-166

Mr. Christopher Costanzo
Vice President
Duane Arnold Energy Center
3277 DAEC Road
Palo, IA 52324-9785

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A SECURITY-RELATED GREATER THAN GREEN FINDING FOR DUANE ARNOLD ENERGY CENTER (NUCLEAR REGULATORY COMMISSION INSPECTION REPORT 05000331/2009201)

Dear Mr. Costanzo:

This letter provides you the final results of our significance determination of the preliminary Greater than Green finding identified in U.S. Nuclear Regulatory Commission (NRC) inspection report 05000331/2009201, dated August 18, 2009.

At your request, a Regulatory Conference was held on October 9, 2009, to further discuss your views on this issue. During the meeting, your staff described your assessment of the significance of the finding, the corrective actions taken to resolve it, and the root cause of the finding.

After considering the information developed during the inspection, the information you provided at the conference, and the additional information provided on October 15, 2009, the NRC has concluded that the inspection finding is appropriately characterized as a Greater than Green finding, (i.e., a finding having more than very low security significance). Enclosure 1 to this letter provides the final significance determination, while Enclosure 2 provides our evaluation of the information you presented during the Regulatory Conference and the additional information provided on October 15, 2009. The finding also had a cross-cutting aspect in the area of Human Performance because personnel failed to conduct an adequate assessment review.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified Greater than Green finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2.

Enclosure transmitted herewith contains safeguards Information. When separated from enclosure, this transmittal document is decontrolled.

As a result of our review of Duane Arnold's security performance, we have determined your performance to be beyond the Licensee Response column of the NRC's Security Action Matrix. Therefore, we plan to conduct a supplemental inspection when your staff has notified us of your readiness for this inspection. The inspection is conducted to provide assurance that the root cause and contributing causes of risk significant performance issues are understood, the extent of condition is identified, and the corrective actions are sufficient to prevent recurrence.

Additionally, the NRC identified a finding Green non-cited violation (NCV). This finding was determined to have an associated cross-cutting area in Problem Identification and Resolution, within the area of Corrective Action Program under P1.c, "Evaluates Problems," because the initial effectiveness review of the security strategy was inadequate to verify that the licensee thoroughly evaluated problems such that the resolutions address causes and extent of condition The deficiency was promptly corrected or compensated for, and the plant was in compliance with applicable physical protection and security requirements within the scope of this inspection before the NRC left the site.

If you contest the subject or severity of a NCV, you should provide a response within 30 days of the date of this inspection report, with the basis for your denial, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission - Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532-4352; the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and the Resident Inspector Office at the Duane Arnold Energy Center.

In accordance with Title 10 of the *Code of Federal Regulation* (10 CFR*)* 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at: http://www.nrc.gov/reading-rm/adams.html. However, because of the security-related information contained in the enclosure, and in accordance with 10 CFR 2.390, a copy of this letter's enclosure will not be available for public inspection.

Because this issue involves security-related information, your response, should you choose to respond in writing, will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the NRC Web site at: http://www.nrc.gov/reading-rm/adams.html. The material enclosed herewith contains

Safeguards Information as defined by 10 CFR Part 73.21 (or 10 CFR Part 95 for classified information) and its disclosure to unauthorized individuals is prohibited by Section 147 of the Atomic Energy Act of 1954, as amended.

Sincerely,

/RA/

James T. Wiggins, Director
Office of Nuclear Security and Incident Response

Docket No.: 50-331
License No.: DPR-49

Enclosures: (Contain Safeguards Information (SGI))
1. Final Significance Determination (SGI)
2. Evaluation of Regulatory Conference Information (SGI)

cc w/enclosure:
SPEB R/F – D. Brady, STSB
S. Orth, R-III
B. Orlikowski, SRI, Duane Arnold
J. Curry, DDSO/DSO

cc w/o enclosure:
K. Feintuch, PM - NRR
T. Howard, PMDA

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J. Curry, DDSO/DSO
M. Nazar, Senior Vice President & Chief Nuclear Officer
M. Rasmusson, State Liaison Officer, State of Iowa

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DATE	11/3/2009		10/30/2009		11/9/09			

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