

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Robert C. Robbirds

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IA-09-036

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. Robert C. Robbirds was employed as a Nuclear Security Officer at the Southern Nuclear Operating Company, Inc's. (SNC) Joseph M. Farley Nuclear Plant (FNP) (Licensee) in June of 2008. The Licensee is the holder of License Nos. NPF-2 (Unit 1) and NPF-8 (Unit 2), issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on June 25, 1977 and March 31, 1981, respectively, and both licenses were renewed on May 12, 2005. The licenses authorize the operation of the Farley Nuclear Plant (facility), Units 1 and 2, in accordance with the conditions specified therein. The facility is located on the Licensee's site in Columbia, Alabama.

II

On March 5, 2009, an investigation was completed by the NRC's Office of Investigations at the Licensee's facility at Columbia, AL. The purpose of the investigation was to review the circumstances surrounding a fitness for duty incident that occurred at the Licensee's facility on June 27, 2008. The incident involved Mr. Robert C. Robbirds, a Nuclear Security Officer (NSO) at the time, who deliberately consumed alcohol for several hours prior to arriving for work at the facility, and entered the facility with alcohol concealed in bottles containing a mixture of alcohol

and water. After Mr. Robbirds had been on duty as an armed responder inside the protected area for approximately five to six hours, he then consumed alcohol and was found shortly thereafter by Licensee personnel to be in an unresponsive state and not fit for duty.

Title 10 of the Code of Federal Regulations (10CFR73.55(f) states that each guard, watchman or armed response individual on duty shall be capable of maintaining continuous communication with an individual in each continuously manned alarm station required by paragraph (e)(1) of this section, who shall be capable of calling for assistance from other guards, watchmen, and armed response personnel and from local law enforcement authorities. On June 27, 2008, Mr. Robbirds, an NSO at the Licensee's facility, consumed alcohol before reporting for duty and while on post as an armed responder inside the protected area, rendering himself incapable of maintaining continuous communication with an individual in each continuously manned alarm station.

III

Based on the above, NRC has concluded that Mr. Robert C. Robbirds, formerly an employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 50.5, "Deliberate Misconduct" that caused the Licensee to be in violation of 10 CFR 73.55(f). The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to maintain continuous communication with an individual in each continuously manned alarm station.

Mr. Robbirds' actions have raised serious doubt as to his trustworthiness and reliability and whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Robert C. Robbirds were permitted at this time to be involved in NRC-licensed activities. Therefore, in the interest of the public health, safety and the common defense and security, Mr. Robert C. Robbirds shall be prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order. Additionally, Mr. Robbirds is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Robbirds' conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Mr. Robert C. Robbirds is prohibited for three years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities authorized by the NRC including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. If Mr. Robert C. Robbirds is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. For a period of one year after the three year period of prohibition has expired, Mr. Robert C. Robbirds shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in NRC-licensed activities.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Robbirds of good cause.

V

In accordance with 10CFR 2.202, Mr. Robert C. Robbirds must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the *Federal Register*. In addition, Mr. Robert C. Robbirds and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the Federal Register. 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, Washington, D. C. 20555-0001, 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 in the NRC's Rules of Practice (10CFR2). The E-Filing rule 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 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, excluding government holidays. The help line number is (866) 672-7640.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10CFR 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 Mr. Robert C. Robbirds 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 10CFR 2.309(d).

If a hearing is requested by Mr. Robert C. Robbirds or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Robert C. Robbirds, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. 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 IV above shall be final 20 days from the date this Order is published in the Federal Register without further order or proceedings. If an

extension of time for requesting a hearing has been approved, the provisions specified in Section IV 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/

Cynthia A. Carpenter, Director
Office of Enforcement

Dated this 29th day of October 2009