



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

February 16, 2012

EA-11-046

Mr. George H. Gellrich, Site Vice President
Constellation Energy Nuclear Group, LLC
Calvert Cliffs Nuclear Power Plant, LLC
1650 Calvert Cliffs Parkway
Lusby, MD 20657-4702

SUBJECT: NOTICE OF VIOLATION - CALVERT CLIFFS NUCLEAR POWER PLANT
NRC Investigation Report No. 1-2011-015 and Inspection Report No. 05000317,
05000318/2012403

Dear Mr. Gellrich:

On August 30, 2011, the U. S. Nuclear Regulatory Commission (NRC) issued you a Final Significance Determination for a greater than green security finding (ML112430514). Our letter noted that Constellation Energy Nuclear Group, LLC (Constellation) had taken immediate corrective actions to address any security-related vulnerability associated with the finding. Our letter also stated that any enforcement action for related violation(s) would be handled by separate correspondence at a later date. The letter did not divulge the nature of the security-related issues because it is considered to be sensitive information and therefore was included as a non-public enclosure.

On January 11, 2012, the NRC issued you a letter stating that the NRC's Office of Investigations (OI) completed an investigation on September 29, 2011, regarding whether acts associated with the finding were willful. Based on evidence gathered during the OI investigation, the NRC concluded that willful acts were associated with the finding. Specifically, one individual deliberately, and three other individuals willfully, with careless disregard, caused your facility to be in violation of NRC requirements. The determinations regarding careless disregard were made because these individuals admitted to OI that during the time the issues were occurring, they personally considered or questioned whether or not their actions were in violation of NRC requirements but did not raise the issues or discontinue such practices. Although other

The enclosure transmitted herewith contains Sensitive Unclassified Non-Safeguards Information. When separated from the enclosure, this transmittal document is DECONTROLLED.

individuals working in the security department may have caused a violation of NRC requirements, the NRC was unable to substantiate willfulness on their parts, since they stated in interviews with OI that, at the time the violation was occurring, they did not question the appropriateness of their actions.

The January 11, 2012, letter also stated that based on the results of this investigation, apparent violation(s) was/were identified and was/were being considered for escalated enforcement action. You were provided an opportunity to respond in writing, by attending a predecisional enforcement conference, or by participating in an Alternative Dispute Resolution mediation session. On January 19, 2012, in a conversation with Mr. Silas Kennedy and subsequently, Mr. James Trapp of my staff, Mr. Doug Lauver, Director of Licensing, declined the options described above.

Therefore, based on the information developed during the investigation, the NRC has determined that a violation of NRC requirements in 10 CFR Part 73, "Physical Protection of Plants and Materials," occurred, on occasions prior to May 2011. The violation is cited in the enclosed Notice of Violation, which includes security-related, sensitive information and is not included in this letter, but is in a non-public enclosure. The NRC has characterized the violation as Severity Level (SL) III. The significance determination was based on the Enforcement Policy violation examples provided in Section 6.13.

In accordance with the Enforcement Policy, a base civil penalty is considered for a violation characterized at SL III. Because the violation was willful, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC has concluded that credit is warranted for identification, since the individual responsible for a deliberate aspect of the violation self-reported the issue to Constellation, and then Constellation promptly reported the issue to the NRC. Regarding corrective action, the NRC determined that credit is also warranted, because the corrective actions were prompt and comprehensive. The root causes, and the actions planned and taken, were provided in the Supplemental Inspection Report Nos. 05000317/2011406 and 05000318/2011406 issued on January 9, 2012.

Therefore, to encourage identification of violations, and prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of a violation categorized at SL III constitutes escalated enforcement action that may subject licensees to increased inspection effort.

The NRC has concluded that information regarding the following: (1) the reason for the violation; (2) the actions planned or already taken to correct the violation and prevent recurrence; and, (3) the date when full compliance was achieved, is adequately addressed on the docket in Enclosure 2 of this letter, and in the Supplemental Inspection Report Nos. 05000317/2011406 and 05000318/2011406. Therefore, you are not required to respond to this letter unless the descriptions provided in the aforementioned correspondence do not accurately reflect Constellation's position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 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 and from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. However, because of the security-related

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information contained in the enclosure, and in accordance with 10 CFR 2.390, a copy of the enclosure will not be available for public inspection. In addition, the NRC is waiving the affidavit requirements for your response, if any. This practice will ensure that your response, if you choose to provide one, will not be made available electronically for public inspection in the NRC Public Document Room or from ADAMS. If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. Otherwise, mark your entire response, "Security-Related Information – Withhold Under 10 CFR 2.390," and follow the instructions for withholding in 10 CFR 2.390(b)(1).

If you have any questions concerning this matter, please contact Mr. James Trapp of my staff at 610-337-5186.

Sincerely,

/RA/

William M. Dean
Regional Administrator

Docket No. 50-317, 50-318
License No. DPR-53, DPR-69

Non-Public Enclosure: Notice of Violation

cc w/encl; w/OUO:

D. Bartnik, Director, Nuclear Security
T. Levering, Emergency Response Director, State of Maryland
A. Lauland, Homeland Security Advisor, State of Maryland

cc w/o encl; w/o OUO-SRI: Distribution via ListServ

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SUNSI Review Complete: AED (Reviewer's Initials)

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DATE	1/20/2012		1/23/2012		1/23/2012		1/25/2012		1/26/2012	
OFFICE	RI/RC		RI/ORA		HQ/NSIR		HQ/OE		RI/ORA	
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Region I OE Files (with concurrence)