



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

May 6, 2013

EA-12-145

Mr. Tom A. Lynch
Vice President
Southern Nuclear Operating Company, Inc.
Joseph M. Farley Nuclear Plant
P.O. Drawer 470, BIN B500
Ashford, AL 36312

SUBJECT: CONFIRMATORY ORDER (NRC OFFICE OF INVESTIGATIONS REPORT
NO. 2-2011-018)

Dear Mr. Lynch:

The enclosed Confirmatory Order is being issued to Southern Nuclear Operating Company, Inc.'s (SNC) Farley Nuclear Plant (FNP), as a result of a successful alternative dispute resolution (ADR) session. The commitments were made by FNP as part of the settlement agreement reached during the ADR session involving the failure to ensure that radiation worker training (RWT) exams for security officers were not compromised.

In a letter dated January 9, 2013, the U.S. Nuclear Regulatory Commission (NRC) provided SNC with the results of an investigation completed by the NRC's Office of Investigations (OI). The NRC's letter documented an apparent violation that occurred during calendar years 2010 and 2011, when FNP security personnel proctoring the annual RWT exams failed to ensure that exams were not compromised. Specifically, the proctors (ultimately, FNP could only confirm that the incident involved one proctor) compromised the integrity of the RWT exams by helping other security officers cheat on the exams by either suggesting or giving answers, or taking the actual exam in place of the security officers. These actions caused FNP to be in apparent violation of FNP Technical Specification 5.4.1.a, Procedures, and FNP procedure NMP-TR-208, "Examination and Examination Security."

In addition, our letter of January 9, 2013, offered SNC 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 regarding whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, SNC requested ADR to resolve any differences with the NRC concerning the apparent violation, and to discuss corrective actions. An ADR mediation session was held on March 15, 2013; a preliminary settlement agreement was reached during this session. The

elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order. As part of the ADR settlement agreement, and as discussed in the enclosed Confirmatory Order, SNC acknowledged and clarified that one security officer inappropriately proctored annual RWT exams and failed to ensure that exams were not compromised, as required by SNC procedures. In addition, FNP confirmed that one security officer received inappropriate assistance on RWT exams. SNC completed a number of corrective actions and agreed to implement additional corrective actions and enhancements, including several actions affecting the SNC nuclear fleet, as fully discussed in the enclosed Confirmatory Order.

In consideration of the corrective actions and commitments outlined in the Confirmatory Order, the NRC agreed to refrain from proposing a civil penalty and issuing a Notice of Violation or other enforcement action for all matters discussed in the NRC's letter to SNC of January 9, 2013 (EA-12-145). We will evaluate the implementation of your commitments during future inspections.

We have enclosed a Confirmatory Order to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated April 29, 2013, 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.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at NRC Region II, ATTN: Regional Administrator, 245 Peachtree Center Avenue, NE, Suite 1200, Atlanta, Georgia 30303-1257.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," 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, Agencywide Documents Access and Management 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, on its Web site at www.nrc.gov; the letter can be found on this website by selecting the "Public Meetings and Involvement" link and then the "Enforcement" link. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

If you have any questions or comments concerning this letter, please contact Mr. Terrence Reis, Director, Division of Reactor Safety, at 404-997-4600.

Sincerely,

/RA/

Frederick D. Brown
Deputy Regional Administrator
for Construction

Docket No.: 50-348, 50-364
License No.: NPF-2, NPF-8

Enclosure:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc: (See page 4)

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Sincerely,

/RA/

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☒ PUBLICLY AVAILABLE

☐ NON-PUBLICLY AVAILABLE

☐ SENSITIVE

☒ NON-SENSITIVE

ADAMS: ☒ Yes

ACCESSION NUMBER: ML13127A136

☒ SUNSI REVIEW COMPLETE ☒ FORM 665 ATTACHED

OFFICE	RII: DRS	RII: EICS	RII: DRS	RII: ORA	OGC	NRR	OE
SIGNATURE	/RA/	/RA/	/RA/	/RA/	/RA via email by R. Carpenter for/	/RA via email by R. Carpenter for/	/RA/
NAME	BBonser	CEvans	TReis	LWert	MAibert	MHalter	RCarpenter
DATE	3/25/2013	3/22/2013	4/4/2013	4/8/2013	4/24/2013	4/24/2013	4/24/2013
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME:

cc:

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cc continued: (See page 5)

cc continued:

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Letter to Tom A. Lynch from Frederick D. Brown dated May 6, 2013.

SUBJECT: CONFIRMATORY ORDER (NRC OFFICE OF INVESTIGATION REPORT
NO. 2-2011-018)

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