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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II

245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

January 18, 2017

EA-16-137

Mr. B. Keith Taber
Vice President
Southern Nuclear Operating Company, Inc.
Vogtle Electric Generating Plant
7821 River Road
Waynesboro, GA 30830

SUBJECT: VOGTLE ELECTRIC GENERATING PLANT – U.S. NUCLEAR REGULATORY COMMISSION SECURITY INSPECTION REPORT 05000424/2016407 AND 05000425/2016407 AND INVESTIGATION REPORT NO. 2-2015-043; AND APPARENT VIOLATION

Dear Mr. Taber:

This refers to the investigation completed on June 15, 2016, by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) concerning activities at the Vogtle Electric Generating Plant. The purpose of the investigation, in part, was to determine whether Vogtle Nuclear Security Officers (NSOs) deliberately violated fitness for duty regulatory requirements by failing to report the use and/or distribution for use, of prescription pain medication. A Factual Summary of the OI investigation is provided as Enclosure 1.

Based on the results of the investigation, one apparent violation (AV) was identified which is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The AV is discussed in Enclosure 2.

Before the NRC makes its enforcement decision, we are providing you an opportunity to: (1) respond to this AV in writing within 30 days of the date of this letter; (2) request a Pre-decisional Enforcement Conference (PEC); or (3) request Alternative Dispute Resolution as discussed below. If a PEC is held, the NRC will issue a press release to announce the time and date of the conference; however the PEC will be closed to public observation since it is associated with an OI report, the results of which have not been publicly released. The PEC will also be transcribed. If you decide to participate in a PEC, or pursue ADR, please contact Binoy Desai at 404-997-4519 within 10 days of the date of this letter. A PEC should be held within 30 days and an ADR session within 45 days of the date of this letter.

~~Enclosure(s) transmitted herewith contain(s) SUNSI. When separated from enclosure(s), this transmittal document is decontrolled.~~

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If you choose to provide a written response, it should be clearly marked as a “Response to Apparent Violation in NRC Inspection Report 05000424,425/2016407 and Investigation Report No. 2-2015-043, EA-16-137” and should include (1) the reason for the AV or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. Additionally, your response should be sent to the NRC’s Document Control Center, with a copy mailed to Anthony Gody, Director of Reactor Safety, Region II, 245 Peachtree Center Avenue NE, Atlanta, GA 30303, within 30 days of the date of this letter. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on these matters and any other information that you believe the NRC should take into consideration before making an enforcement decision. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be conducted to obtain information to assist the NRC in making an enforcement decision. The topics discussed during the conference may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned.

In lieu of a PEC, you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a third party neutral. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the “mediator”) works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC’s program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC’s program as a neutral third party. Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC’s “Rules of Practice and Procedure,” a copy of this letter, and your response, if you choose to provide one, 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>. If Security Related Information is necessary to provide an acceptable response, please mark your entire response Security-Related Information in accordance with 10 CFR 2.390(d)(1) and follow the instructions for withholding in 10 CFR 2.390(b)(1). In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response.

B. Taber

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Enclosures 1 and 2 contain Security-Related Information in accordance with 10 CFR 2.390(d)(1) and its disclosure to unauthorized individuals could present a security vulnerability. Therefore, the material in the enclosures will not 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>. Should you have any questions concerning this letter, please contact Mr. Binoy Desai at 404-997-4519.

For administrative purposes this letter is issued as Inspection Report 05000424, 425/2016407 and the apparent violations are designated as AV 05000424, 425/2016407-01, Failure to Implement Fitness for Duty Requirements.

If you have any questions concerning this matter, please contact Mr. Binoy Desai of my staff at 404-997-4519.

Sincerely,

/RA/

Anthony T. Gody, Director
Division of Reactor Safety

Docket No.: 50-424 and 50-425
License No.: NPF-68 and NPF-81

Enclosures:

1. Factual Summary
2. Apparent Violation

cc: See page 4

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(*) – See previous pages for concurrences

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 ADAMS: Yes
 ACCESSION NUMBER: _____
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OFFICE	RII:DRS	RII:DRS	RII:EICS	RII:ORA/RC	OE	OGC	NSIR
SIGNATURE	JHW2 *	BBD *	MXK7 *	SAP1 *	DXF4 VIA EMAIL	MRR2 VIA EMAIL	AXR2/MCL VIA EMAIL
NAME	JWALLO	BDEASI	MKOWAL	SPRICE	DFURST	MRING	ARICHARDSON MLAYTON
DATE	1/5/2017	1/9/2017	1/10/2017	1/17/2017	1/ 13/2017	1/13 /2017	1/13 /2017
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B. Taber

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cc:

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Letter to Mr. B. Keith Taber from Mr. Anthony T. Gody dated January 18, 2017.

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