ML 19029B321

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

January 29, 2019

EA-18-032

Mr. Stephen P. McGavin
Fleet Security Director
Southern Nuclear Operating Co., Inc.
Joseph M. Farley Nuclear Plant
40 Inverness Center Parkway (Bin B042)
Birmingham, AL 35242

SUBJECT: CONFIRMATORY ORDER RELATED TO THE NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-2017-022

Dear Mr. McGavin:

The enclosed Confirmatory Order is being issued to Southern Nuclear Operating Company, Inc. (SNC), as a result of a successful Alternative Dispute Resolution (ADR) mediation session. The commitments in the Confirmatory Order were made by Mr. Mike Meier, Vice President, Regulatory Affairs, SNC, as part of a settlement agreement with the U.S. Nuclear Regulatory Commission (NRC). The mediation was related to an apparent violation of NRC requirements, as described in an enclosure to the NRC's inspection report 05000348/2018411 and 05000364/2018411, dated July 27, 2018 (Agency-wide Documents Access and Management System (ADAMS) accession number ML18208A305).

Our July 27, 2018, inspection report provided you the results of an investigation by the NRC's Office of Investigations (OI), conducted at SNC's Farley Nuclear Plant (FNP). Based on the investigation, the NRC identified one apparent violation. The apparent violation involved a former Nuclear Security Officer at FNP, who in August of 2016, deliberately failed to store Safeguards Information (SGI) in a locked security storage container while unattended, and failed to maintain an inventory of SGI documents located inside a security storage container and document the retrieval of SGI when in use. These actions were in apparent violation of 10 CFR 73.21 and an SNC procedure.

Our inspection report of July 27, 2018, also informed you that the apparent violation was being considered for escalated enforcement action, including a Civil Penalty, in accordance with the NRC's Enforcement Policy. The NRC provided you the option of responding to the apparent violation in writing, participating in a pre-decisional enforcement conference, or requesting ADR with the NRC in an attempt to resolve the issue.

In response to our letter, SNC requested ADR. An ADR mediation session was consequently held on September 21-22, 2018, and a preliminary settlement agreement was reached. As

evidenced by the signed "Consent and Hearing Waiver Form" (Enclosure 1), dated January 9, 2019, Mr. Meier agreed to issuance of a Confirmatory Order confirming the commitments outlined in the settlement agreement. In light of the corrective actions SNC agreed to take, as described in the Confirmatory Order (Enclosure 2), the NRC is satisfied that its concerns will be addressed by making the commitments legally binding.

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 Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

The Confirmatory Order will be administratively tracked under Inspection Report Nos. 05000348/2018440 and 05000364/2018440.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, along with its enclosures, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS, accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The Confirmatory Order will be published in the Federal Register. The NRC also publishes Confirmatory Orders on its Web site under Significant Enforcement Actions at http://www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

Catherine Haney

Catherine Haney
Regional Administrator

Docket Nos. 50-348, 50-364,
License Nos. NPF-2, NPF-8

Enclosures:
1. Consent and Hearing Waiver
2. Confirmatory Order

cc: (See page 3)

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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 Confirmatory Order shall be subject to criminal prosecution, as set forth in that section. Violation of this Confirmatory Order may also subject the person to civil monetary penalties.

The Confirmatory Order will be administratively tracked under Inspection Report Nos. 05000348/2018440 and 05000364/2018440.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, along with its enclosures, will be made available electronically for public inspection in the NRC Public Document Room or from ADAMS, accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html. The Confirmatory Order will be published in the Federal Register. The NRC also publishes Confirmatory Orders on its Web site under Significant Enforcement Actions at http://www.nrc.gov/about-nrc/regulatory/enforcement.html.

Sincerely,

/RA/

Catherine Haney
Regional Administrator

Docket Nos. 50-348, 50-364,
License Nos. NPF-2, NPF-8

Enclosures:
1. Consent and Hearing Waiver
2. Confirmatory Order

cc: (See page 3)

cc:
Steven M. Shipman
Fleet Security Project Manager
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Site Security Manager
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SUBJECT: CONFIRMATORY ORDER RELATED TO THE NRC OFFICE OF INVESTIGATIONS REPORT NO. 2-2017-022 dated January 29, 2019

DISTRIBUTION:
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Region II Regional Coordinator, OEDO
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S. Price, RII, ORA/RC
M. Kowal, RII, EICS
K. Sloane, RII, EICS
OEMAIL Resource
RidsNrrDirs Resource
Public

*See previous page for concurrence

☒ PUBLICLY AVAILABLE ☐ NON-PUBLICLY AVAILABLE ☐ SENSITIVE ☒ NON-SENSITIVE
ADAMS: ☒ Yes ACCESSION NUMBER: ML 19029B321 ☒ SUNSI REVIEW COMPLETE ☐ FORM 665

OFFICE	RII:DRS	RII:ORA	RII:ORA	NSIR	OE	OGC	RII:ORA
SIGNATURE	ATG	MXK7	SAP1	SMS4	DXF4	MTL4	CXH
NAME	TGODY	MKOWAL	SPRICE	S.PRASAD	D. FURST	M. LEMONCELLI	C. HANEY
DATE	9/ 28 /2018	10/ 4 /2018	10/ 21 /2018	11/13 /2018	12/ 19 /2018	12/ 19 /2018	1/ 29 /2019
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME:

CONSENT AND HEARING WAIVER FORM

On behalf of Southern Nuclear Operating Company, Inc., Mike Meier, Vice President, Regulatory Affairs, hereby agrees to comply with the terms and conditions of Confirmatory Order arising out of an alternative dispute resolution process to be issued relating to enforcement action No. EA-18-032. The Confirmatory Order will be immediately effective upon its issuance. By signing below, Southern Nuclear Operating Company, Inc., consents to the issuance of the referenced Confirmatory Order, effective immediately upon its issuance and, by doing so, agrees to waive the right to request a hearing on all or any part of the Confirmatory Order.

Mike Meier
Vice President, Regulatory Affairs
Southern Nuclear Operating Company, Inc.

January 9, 2019
Date

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
Southern Nuclear Operating Company, Inc.	)	Docket Nos. 50-348, 50-364;
Joseph M. Farley Nuclear Plant	)	License Nos. NPF-2, NPF-8;
Units 1 and 2	)	
	)	EA-18-032
	)	
	)	

CONFIRMATORY ORDER MODIFYING LICENSE

(EFFECTIVE UPON ISSUANCE)

I

Southern Nuclear Operating Company, Inc., (SNC or Licensee) is the holder of Operating License Nos. NPF-2, NPF-8, DPR-57, NPF-5, NPF-68, NPF-81, and Combined Licenses NPF-91 and NPF-92, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 50 and part 52 of title 10 of the Code of Federal Regulations (10 CFR). The licenses authorize the operation of the Joseph M. Farley Nuclear Plant (FNP) Units 1 and 2, the Edwin I. Hatch Nuclear Plant, Units 1 and 2, the Vogtle Electric Generating Plant, Units 1 and 2, and the combined construction and operation of Vogtle Electric Generating Plant, Units 3 and 4, in accordance with conditions specified therein. These facilities are located in Columbia, Alabama, Baxley, Georgia, and Waynesboro, Georgia, respectively.

This Confirmatory Order (CO) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on September 21-22, 2018.

II

On April 21, 2017, the U. S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) initiated an investigation, to determine if a former Force-on-Force/Target Set Coordinator, who was also a Nuclear Security Officer (NSO) at Farley Nuclear Plant (FNP), deliberately failed to properly secure safeguards information (SGI) and plant procedures. The investigation was completed on March 29, 2018, and the results were documented in OI Report No. 2-2017-022.

The NRC conducted a review of the OI report, and documented the results of this review in NRC Inspection Report 05000348/2018411 and 05000364/2018411, dated July 27, 2018 (Agency-wide Documents Access and Management System (ADAMS) accession number ML18208A305). The inspection report identified one apparent violation (AV), involving the licensee's failure to store SGI in a locked security storage container while unattended and the failure to maintain an inventory of SGI documents located inside a security storage container and to document the retrieval of SGI when in use. The specific AV was stated as follows:

> 10 CFR 73.21(a)(1), Protection of Safeguards Information: Performance requirements, states, in part, Each licensee, or other person who produces, receives, or acquires Safeguards Information [SGI] shall ensure that it is protected against unauthorized disclosure. To meet this general performance requirement, such licensees, or other persons subject to this section shall: (i) Establish, implement, and maintain an information protection system that includes the applicable measures for Safeguards Information specified in 10 CFR 73.22 related to power reactors.
>
> 10 CFR 73.22(c)(2), Protection of Safeguards Information: Specific requirements, states in part, that while unattended, Safeguards information shall be stored in a locked security storage container.

Southern Nuclear Company (SNC) Procedure NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," Version 2.1, requires SGI custodians to maintain an inventory of documents inside a security storage container and log any retrieval of an SGI document for use. This procedure also requires that, while unattended, SNC Safeguards Information shall be stored in an approved Security Storage Container.

Contrary to the above, on multiple dates in August, 2016, the licensee failed to store SGI in a locked security storage container while unattended and failed to maintain an inventory of SGI located inside a security storage container and to document the retrieval of SGI when in use. Specifically, a former Force-on-Force/Target Set Coordinator, who served as an SGI custodian, failed to store SGI in a locked security storage container while unattended on the following occasions: 1) SGI was left unattended in the employee's private residence on or approximately August 18-20, 2016; 2) SGI was left unattended in a hotel room for approximately 1.5 hours on August 20, 2016; 3) SGI was left unattended in a rental car on August 25, 2016, for approximately 11 hours; and 4) A laptop computer containing SGI was left unattended in the employee's private residence on or approximately August 25-26, 2016. Additionally, the licensee failed to maintain an inventory and document the retrieval of SGI from the security storage container when the employee reproduced an SGI document, placed the SGI in a binder and removed it for use from the security storage container.

The NRC's inspection report of July 27, 2018, also documented that the OI investigation was conducted to determine whether the FNP employee deliberately failed to properly secure safeguards information (SGI) and follow plant procedures. In this case, the employee indicated his knowledge of regulatory and procedural requirements involving the handling of SGI.

Additionally, the employee had received SGI training and had a clear understanding of SNC's SGI handling requirements. However, the Farley employee deliberately failed to follow SNC procedures, and his actions were determined by the NRC to be in violation of 10 CFR 50.5.

In response to the NRC's inspection report of July 27, 2018, SNC advised of its desire to participate in the Agency's ADR program to resolve the enforcement aspects of this matter.

III

On September 21-22, 2018, the NRC and SNC met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This CO is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and SNC agreed that the issue described in Section II of this CO represents a violation of regulatory requirements, the NRC and SNC concluded that the violation occurred due to the deliberate misconduct of a former Force-on-Force/Target Set Coordinator at FNP.

2. Based on a review of the incident, SNC completed a number of corrective actions and enhancements to preclude recurrence of the violation, including but not limited to the following:

    a. Immediate/interim corrective actions included: initiated a corporate security investigation; stopped all transportation of SGI without approval from the site

security manager; briefed all SGI custodians and verified their understanding of how to properly use and handle SGI; performed the SGI safe inventory at Farley Nuclear Plant; issued a security department instruction on NMP-AD-013-003 requirements for SGI on laptop hard drives; evaluated if gaps existed in their Behavior Observation Program as related to the individual; developed a communication strategy for both internal and external communications related to the issue; performed an assessment to determine how effectively FNP had responded and what additional actions should be taken by means of an external resource knowledgeable of security; and issued a security department instruction to revise the approval authority for off-site transport of SGI to the Fleet Security Director;

b. Other prompt/intermediate corrective actions included: revised the SGI procedures to address issues identified during the root cause evaluation; briefed all SNC Safeguards Information custodians on the findings of the root cause including Operating Experience (OE) and lessons learned; and conducted external benchmarking with other utilities regarding SGI controls during off-site transportation.

3. Based on SNC's review of the incident and NRC's concerns with respect to precluding recurrence of the violation, SNC agreed to implement the following corrective actions and enhancements:

a. Within 4 months of the issuance date of the Confirmatory Order (CO), SNC shall revise procedures to periodically and randomly audit SGI records to determine compliance with existing procedures and regulatory requirements. At a minimum, three random audits of SGI records shall be performed at each

SNC nuclear plant each year, for a period of three years from the date of issuance of this CO. Identified deficiencies shall be entered into the CAP for tracking corrective actions to completion, consistent with existing SGI requirements. The audit shall be conducted by personnel knowledgeable of SGI, independent from the station. The results of such audits shall be made available for NRC review.

b. Upon issuance of the CO, SNC shall maintain applicable SGI procedures to provide specific direction for transporting SGI away from the Protected Area and Owner Controlled Area of an SNC facility, including packaging requirements and guidance on positive controls on business travel that may involve an overnight stay, consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1.

c. Upon issuance of the CO, SNC shall maintain applicable SGI procedures to ensure that SGI handling requires the conduct of a pre-job brief for all qualified individuals requesting to check out SGI for use, consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1.

d. Internal Communication:

    i. Within 2 months of the issuance date of the Confirmatory Order, an SNC senior executive shall develop a Communication (either verbal, written, electronic, or video) describing the circumstances leading to this CO, explain that willful violations will not be tolerated, and, as a result, SNC shall be undertaking efforts to confirm whether individuals are engaging in such conduct at any of its sites. The Communication shall stress the importance of procedural use and adherence and ensuring that documents are complete and accurate. The Communication shall also stress the potential consequences for

engaging in willful noncompliance. This message shall be balanced with the recognition that people do make mistakes, and when that happens action shall be taken by SNC to address the mistake. The contents of this communication shall be retained and made available for NRC review consistent with the terms of this CO.

ii. Within 6 months of the completion of Section III.3.d.i, this Communication will be distributed to all SNC employees and contractors with unescorted access authorization to the SNC operating sites. Each recipient of the Communication referenced in Section III.3.d.i shall read and sign a "commitment to compliance" statement included with the Communication (subject to any collective bargaining obligations that may apply).

iii. Within 2 months of the completion of Section III.3.d.i, and for three years following the issuance of this CO, this Communication will be provided to all individuals receiving unescorted access authorization to the SNC operating sites.

iv. With respect to the Vogtle 3&4 site:

1. Within 6 months of the completion of Section III.3.d.i, and for a period of 3 years from the date of the CO, SNC supervisors and above shall receive the Communication (referenced in Section III.3.d.i). Each recipient of the Communication referenced in Section III.3.d.i shall read and sign a "commitment to compliance" statement included with the Communication (subject to any collective bargaining obligations that may apply). During this 3 year period individuals promoted to a supervisory position shall receive the

Communication and read and sign the "commitment to compliance" statement.

2. The contractor superintendents covered by this paragraph will include those who are superintendents when SNC initiates actions described in Section III.3.d.iv.1. Within a period of 6 months from the date of issuance of this CO, all contractor superintendents and above who have fitness for duty or unescorted access authorization to the controlled construction area will receive the Communication and read and sign the "commitment to compliance" statement included with the Communication referenced in Section III.3.d.i above. Additionally, contractor personnel covered by Section III.3.d.iv.2 shall commit to inform their reports of the contents of the Communication.

3. Within 2 months of completion of Section III.3.d.i and for three years following the issuance of this CO, all individuals receiving fitness for duty or unescorted access authorization to the controlled construction area will receive the Communication prior to the granting of access.

e. Within 6 months of the issuance date of the Confirmatory Order and at 12 month intervals thereafter, SNC shall complete retraining of all SNC SGI custodians regarding SGI control, access, receipt, transportation, inventory, transmittal, and storage.

f. Upon issuance of the CO, SNC shall maintain SGI procedures regarding storage of SGI originating from other permanent repositories and the inventory of SGI, consistent with NMP-AD-013-003, "Physical Protection of Safeguards

Information (SGI)," revision 5.1.

g. Upon issuance of the CO, SNC shall maintain certain sections of SGI procedures as "reference use" (i.e., the procedure is required to be present when performing the associated action steps) consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1, and NMP-AD-013-005, "Transmittal and Receipt of Safeguards Information (SGI)," Revision 3.0.

h. Within 12 months from the date of this Confirmatory Order, SNC shall deliver a presentation describing the event that formed the basis for this violation to include corporate and site oversight, and accountability responsibilities. The presentation shall also emphasize procedural adequacy, procedural adherence, and the need for management ownership of integrity issues. The presentation shall be delivered at one of the following: the Nuclear Security Working Group Meeting, the Security/Emergency Preparedness Summit, the NRC's Regulatory Information Conference, the NEI Regulatory Affairs Forum, or the ANS Utility Working Group Conference. In the event that SNC cannot deliver a presentation at one of the aforementioned events, SNC shall seek approval from the NRC for an alternative venue. The presentation shall be made available for NRC review.

i. Within 4 months of the issuance date of the Confirmatory Order, SNC shall revise procedures to require that all transportation of SGI material outside of the owner controlled area shall require approval of an SNC Corporate Security Manager.

j. Within 3 months from the date of this Confirmatory Order, SNC shall revise procedures to provide additional instruction following an incident having the potential for a Part 73 violation of green or higher significance. The instruction

shall require that an SNC Security organization not involved in the event provides oversight in determining the proper corrective action program response (e.g., corporate led security investigation or fact finding). Documentation shall be retained and made available for NRC review consistent with the terms of this CO.

k. Within 9 months of the issuance date of the Confirmatory Order, SNC shall conduct a benchmarking activity of at least two other non-SNC entities which handle SGI, for the purposes of determining best practices related to the SGI program. Based on the best practices identified by SNC, SNC shall revise program elements to facilitate SGI program improvements. The results of such benchmarking shall be made available for NRC review.

l. Within 6 months of the issuance date of the Confirmatory Order, SNC shall complete an independent assessment of the effectiveness of prior corrective actions since 2011 and an assessment of adverse trends that are associated with SGI incidents at SNC fleet facilities and the SNC corporate office. The results of this assessment shall be made available for NRC review.

m. At approximately 18 months after the issuance date of the CO, SNC shall conduct an effectiveness review of the required actions documented in Section V of this CO and those Corrective Action Reports (CARs) identified in Technical Evaluation (TE) 984092. SNC shall make available to the NRC the results of this review and its proposed actions to address any identified performance gaps.

4. For future NRC civil penalty assessment purposes, this CO shall be considered an escalated enforcement action for the FNP (50-348, 50-364) dockets only.

5. The NRC concludes that the security significance of the SGI incident, including the deliberate aspects is consistent with escalated enforcement as described in the NRC Enforcement Policy. Additionally, a civil penalty would likely have been proposed, consistent with the Enforcement Policy civil penalty assessment approach. However, in consideration of the commitments delineated in Section V of this CO, the NRC agrees not to cite the violation, and agrees not to propose a civil penalty for all matters discussed in the NRC's IR to SNC dated July 27, 2018 (EA-18-032).

6. Upon completion of the terms of items of the CO, SNC shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.

7. The NRC and SNC agree that the above elements shall be incorporated into issuance of a Confirmatory Order.

8. This agreement is binding upon successors and assigns of SNC.

On January 9, 2019, SNC consented to issuance of this Confirmatory Order with the commitments, as described in Section V below. SNC further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

IV

Because SNC has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this CO.

I find that SNC's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that SNC's commitments be confirmed by this CO. Based on the above and SNC's consent, this CO is effective upon issuance.

V

Accordingly, pursuant to Sections 104b., 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 and 10 CFR part 50, IT IS HEREBY ORDERED, THAT LICENSE NOS. NPF-2, NPF-8, DPR-57, NPF-5, NPF-68, NPF-81, NPF-91, AND NPF-92 ARE MODIFIED AS FOLLOWS:

1. SNC agrees to implement the following corrective actions and enhancements:

    a. Within 4 months of the issuance date of the Confirmatory Order (CO), SNC shall revise procedures to periodically and randomly audit SGI records to determine compliance with existing procedures and regulatory requirements. At a minimum, three random audits of SGI records shall be performed at each SNC nuclear plant each year, for a period of three years from the date of issuance of this CO. Identified deficiencies shall be entered into the CAP for tracking corrective actions to completion, consistent with existing SGI requirements. The audit shall be conducted by personnel knowledgeable of SGI, independent from the station. The results of such audits shall be made available for NRC review.

    b. Upon issuance of the CO, SNC shall maintain applicable SGI procedures to provide specific direction for transporting SGI away from the Protected Area

and Owner Controlled Area of an SNC facility, including packaging requirements and guidance on positive controls on business travel that may involve an overnight stay, consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1.

c. Upon issuance of the CO, SNC shall maintain applicable SGI procedures to ensure that SGI handling requires the conduct of a pre-job brief for all qualified individuals requesting to check out SGI for use, consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1.

d. Internal Communication:

   i. Within 2 months of the issuance date of the Confirmatory Order, an SNC senior executive shall develop a Communication (either verbal, written, electronic, or video) describing the circumstances leading to this CO, explain that willful violations will not be tolerated, and, that as a result, SNC shall be undertaking efforts to confirm whether individuals are engaging in such conduct at any of its sites. The Communication shall stress the importance of procedural use and adherence and ensuring that documents are complete and accurate. The Communication shall also stress the potential consequences for engaging in willful noncompliance. This message shall be balanced with the recognition that people do make mistakes, and when that happens action shall be taken by SNC to address the mistake. The contents of this communication shall be retained and made available for NRC review consistent with the terms of this CO.

   ii. Within 6 months of the completion of Section V.1.d.i, this Communication will be provided to all SNC employees and contractors with unescorted access authorization to the SNC operating sites.

Each recipient of the Communication referenced in Section V.1.d.i shall read and sign a "commitment to compliance" statement included with the Communication (subject to any collective bargaining obligations that may apply).

iii. Within 2 months of the completion of Section V.1.d.i, and for three years following the issuance of this CO, this Communication will be provided to all individuals receiving unescorted access authorization to the SNC operating sites.

iv. With respect to the Vogtle 3&4 site:

1. Within 6 months of the completion of Section V.1.d.i, and for a period of 3 years from the date of the CO, SNC supervisors and above shall receive the Communication referenced in Section V.1.d.i. Each recipient of the Communication referenced in Section V.1.d.i shall read and sign a "commitment to compliance" statement included with the Communication (subject to any collective bargaining obligations that may apply). During this 3 year period individuals promoted to a supervisory position shall receive the Communication and read and sign the "commitment to compliance" statement.

2. The contractor superintendents covered by this paragraph will include those who are superintendents when SNC initiates actions described in Section V.1.d.iv.1. Within a period of 6 months from the date of issuance of this CO, all contractor superintendents and above who have fitness for duty or unescorted access authorization to the controlled construction

area will receive the Communication and read and sign the "commitment to compliance" statement included with the Communication referenced in Section V.1.d.i above. Additionally, contractor personnel covered by Section V.1.d.iv.2 shall commit to inform their reports of the contents of the Communication.

3. Within 2 months of the completion of Section V.1.d.i and for three years following the issuance of this CO, all individuals receiving fitness for duty or unescorted access authorization to the controlled construction area will receive the Communication prior to the granting of access.

e. Within 6 months of the issuance date of the Confirmatory Order and at 12 month intervals thereafter, SNC shall complete retraining of all SNC SGI custodians regarding SGI control, access, receipt, transportation, inventory, transmittal, and storage.

f. Upon issuance of the CO, SNC shall maintain SGI procedures regarding storage of SGI originating from other permanent repositories and the inventory of SGI, consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1.

g. Upon issuance of the CO, SNC shall maintain certain sections of SGI procedures as "reference use" (i.e., the procedure is required to be present when performing the associated action steps) consistent with NMP-AD-013-003, "Physical Protection of Safeguards Information (SGI)," revision 5.1, and NMP-AD-013-005, "Transmittal and Receipt of Safeguards Information (SGI)," revision 3.0.

h. Within 12 months from the date of this Confirmatory Order, SNC shall deliver a

presentation describing the event that formed the basis for this violation and including corporate and site oversight, and accountability responsibilities. The presentation shall also emphasize procedural adequacy, procedural adherence, and the need for management ownership of integrity issues. The presentation shall be delivered at one of the following: the Nuclear Security Working Group Meeting, the Security/Emergency Preparedness Summit, the NRC's Regulatory Information Conference, the NEI Regulatory Affairs Forum, or the ANS Utility Working Group Conference. In the event that SNC cannot deliver a presentation at one of the aforementioned events, SNC shall seek approval from the NRC for an alternative venue. The presentation shall be made available for NRC review.

i. Within 4 months of the issuance date of the Confirmatory Order, SNC shall revise procedures to require that all transportation of SGI material outside of the owner controlled area shall require approval by an SNC Corporate Security Manager.

j. Within 3 months from the date of this Confirmatory Order, SNC shall revise procedures to provide additional instruction following an incident having the potential for a Part 73 green or higher violation. The instruction shall require that an SNC Security organization not involved in the event provides oversight in determining the proper corrective action program response (e.g., corporate led security investigation or fact finding). Documentation shall be retained and made available for NRC review consistent with the terms of this order.

k. Within 9 months of the issuance date of the Confirmatory Order, SNC shall conduct a benchmarking activity of at least two other non-SNC entities which handle SGI, for the purposes of determining best practices related to the SGI program. Based on the best practices identified by SNC, SNC shall revise

program elements to facilitate SGI program improvements. The results of such benchmarking shall be made available for NRC review.

l. Within 6 months of the issuance date of the Confirmatory Order, SNC shall complete an independent assessment of the effectiveness of prior corrective actions since 2011 and an assessment of adverse trends that are associated with SGI incidents at SNC fleet facilities and the SNC corporate office. The results of this assessment shall be made available for NRC review.

m. At approximately 18 months after the issuance date of the CO, SNC shall conduct an effectiveness review of the required actions documented in section 5 of this CO and those Corrective Action Reports (CARs) identified in Technical Evaluation (TE) 984092. SNC shall make available to the NRC the results of this review and its proposed actions to address any identified performance gaps.

2. Upon completion of the terms of items of the CO, SNC shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.

3. The NRC and SNC agree that the above elements shall be incorporated into issuance of a Confirmatory Order.

4. The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by SNC of good cause.

5. This agreement is binding upon successors and assigns of SNC.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than SNC, may request a hearing within 30 calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to 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, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at (301) 415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an

electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at https://www.nrc.gov/site-help/e-submittals/getting-started.html. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at https://www.nrc.gov/site-help/e-submittals.html. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at https://www.nrc.gov/site-help/e-submittals.html.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE System. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at https://www.nrc.gov/site-help/e-submittals.html. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-

Filing 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 E-Filing 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC Web site at https://www.nrc.gov/site-help/e-submittals.html, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at https://adams.nrc.gov/ehd/, unless excluded pursuant to an order of the Commission, or the 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, unless an NRC regulation or other law requires submission of such information. 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 submission.

If a person (other than SNC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

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 V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a

hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Atlanta, Georgia, this 29th day of January 2019..

For the Nuclear Regulatory Commission

Catherine Haney

Catherine Haney
Regional Administrator

hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Atlanta, Georgia, this 29th day of January 2019..

For the Nuclear Regulatory Commission

/RA/

Catherine Haney
Regional Administrator