



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE N.E., SUITE 1200
ATLANTA, GEORGIA 30303-1200

July 20, 2021

IA-21-018

Mr. Leonardo Capera
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, NUCLEAR REGULATORY COMMISSION OFFICE OF
INVESTIGATIONS REPORT NO. 2-2019-025

Dear Mr. Capera:

This letter refers to the investigation completed on November 10, 2020, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) at the Florida Power and Light (FPL) Turkey Point Nuclear Generating Station (Turkey Point). The purpose of the investigation was to determine if two instrumentation and control (I&C) technicians, an I&C Supervisor, and you in your capacity at the time as the I&C Department Head at Turkey Point, deliberately maintained incomplete and inaccurate information. The OI investigation also sought to determine whether you deliberately failed to immediately notify the main control room (MCR) of a mispositioned plant component as required by plant procedures. The incident under OI review occurred on July 10, 2019, when two I&C technicians were assigned to perform a work order on a Unit 4C charging pump oil pressure switch but instead inadvertently performed work on the Unit 3C charging pump oil pressure switch, causing the Unit 3C charging pump to trip.

The NRC's letter of February 4, 2021, provided you the preliminary results of the NRC's review, included a Factual Summary of the OI investigation, and documented one apparent violation (AV) regarding your engagement in deliberate misconduct, contrary to the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.5, "Deliberate Misconduct." This requirement prohibits an employee of a licensee from engaging in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license issued by the Commission.

The NRC's February 4, 2021, letter provided you the opportunity to address the apparent violation by either attending a pre-decisional enforcement conference (PEC) or by providing a written response before the NRC made a final enforcement decision. In a letter dated March 19, 2021, you provided a written response to the apparent violation. In your response, you stated that the technicians involved in this event did not immediately provide a clear picture of what occurred in the field. You explained that after you returned from the MCR, you questioned the technicians further and, after obtaining additional information that led you to understand the impact of the charging pump trip and the need to immediately notify the Operations Shift Manager, you proceeded to notify management of the situation. Additionally, your written response acknowledged the need to maintain the highest standards as a manager, expressed regret that the incident was not immediately reported, and expressed that had you remained employed with the licensee you would without hesitation maintain the highest standards with your future actions.

Based on the information developed during the investigation and the information that you provided in your written response, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice (Enclosure 1). In summary, after two I&C technicians assigned to perform a work order on a Unit 4C charging pump oil pressure switch inadvertently performed work on the Unit 3C charging pump oil pressure switch (causing the Unit 3C charging pump to trip), you failed to comply with the requirements of FPL procedure OP-AA-100-1002, Rev. 20, "Plant Status Control Management." In this case, the NRC concluded that you deliberately failed to comply with Section 3.6, paragraph 7 of the procedure, when you did not immediately notify the Operations Shift Manager of mispositioning of plant components.

Your deliberate actions placed FPL in violation of 10 CFR 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings," and you in violation of 10 CFR 50.5, "Deliberate Misconduct." Enclosure 2 includes a copy of the letter and Notice of Violation and Proposed Imposition of Civil Penalty issued to FPL.

The violation did not cause any actual consequences to the plant because FPL's Unit 3 licensed MCR operators responded promptly, and in accordance with plant procedures, to the charging pump trip by placing another charging pump in service. However, the potential consequences of a deliberate violation are significant and concerning to the NRC. As discussed in the NRC Enforcement Policy, willful (i.e., deliberate misconduct) violations are of particular concern because the NRC's regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. As an I&C Department Head at the time, you held a particular responsibility to ensure that your actions, and the actions of others, rigorously complied with regulatory requirements. Considering the above regulatory concerns with deliberate violations, your supervisory role at the time, and your deliberate actions, this violation had been categorized at Severity Level II in accordance with the NRC Enforcement Policy.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an order prohibiting your involvement in NRC-licensed activities because of your actions. However, because you are no longer employed by FPL and have been placed in the Personnel Access Data System (PADS), which prohibits site access, and because you eventually ensured the MCR was notified, expressed regret regarding the incident, and acknowledged the need to maintain the highest standards as a manager, I have decided to issue the enclosed Notice of Violation in lieu of a prohibition order.

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal penalties.

The NRC has concluded that information regarding the violation is already adequately addressed on the docket in our February 4, 2021, letter to you, and in your written response of March 19, 2021. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your 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 "Agency Rules of Practice and Procedure," a copy of this letter, its enclosures, and any response 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>. 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/>). In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions concerning this matter, please contact Mr. Dave Dumbacher of my staff at 404-997-4628.

Sincerely,

/RA/

Laura A. Dudes
Regional Administrator

Enclosures:

1. Notice of Violation
2. Notice of Violation and Proposed Civil Penalty to FPL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SUBJECT: NOTICE OF VIOLATION, NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS REPORT NO. 2-2019-025

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DATE	7/13/2021	7/12/2021	7/15/2021	7/15/2021	6/24/21
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NAME	J. Peralta	M. Simon	L. Dudes		
DATE	6/24/2021	7/19/21	7/20/2021		

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Mr. Leonardo Capera
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-21-018

During U.S. Nuclear Regulatory Commission (NRC) investigations completed on November 10, 2020, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 CFR 50.5(a)(1), "Deliberate Misconduct" requires in part that employees of a licensee are prohibited from engaging in deliberate misconduct that causes or would have caused a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Title 10 CFR 50.5(c) states, in part, that, for the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows (1) would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition or limitation of any license issued by the Commission; or (2) constitutes a violation of a requirement, procedure, instruction or policy of a licensee.

Title 10 CFR Part 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings," requires in part that activities affecting quality shall be prescribed by document instructions appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings.

Florida Power and Light (FPL) procedure OP-AA-100-1002, Rev. 20, "Plant Status Control Management," in part establishes requirements for standardized response to mispositioned plant equipment. Section 3.6, paragraph 7, states that site personnel are to "immediately notify the Operations Shift Manager of any inadvertent bumping or mispositioning of plant components."

Contrary to the above, on July 10, 2019, Mr. Leonardo Capera, at the time the Instrumentation and Controls (I&C) Department Head, engaged in deliberate misconduct that caused a licensee to be in violation of 10 CFR Part 50, Appendix B, Criterion V. Specifically, I&C technicians were assigned to perform planned maintenance on the Unit 4C charging pump. However, the I&C technicians inadvertently began the maintenance activity on the Unit 3C charging pump, causing the Unit 3C charging pump to trip. Upon learning that the I&C technicians had conducted maintenance on the wrong pump, causing plant components to be mispositioned, Mr. Capera failed to immediately notify the Operations Shift Manager of the mispositioning of plant components, as required by FPL procedure OP-AA-100-1002, Rev. 20, "Plant Status Control Management," Section 3.6, paragraph 7.

This is a Severity Level II violation.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in our letter to you of February 4, 2021, and in your written response of March 19, 2021. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, IA-21-018," and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Document Control Desk, Washington, DC 20555-0001.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Should you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 20th day of June 2021