

Stephen A. Byrne
Senior Vice President, Nuclear Operations
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May 29, 2003
RC-03-0113

Mr. Samuel J. Collins
Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Collins:

SUBJECT: VIRGIL C. SUMMER NUCLEAR STATION
DOCKET NO. 50/395
OPERATING LICENSE NO. NPF-12
RESPONSE TO APRIL 29, 2003, ORDER REQUIRING COMPLIANCE WITH
REVISED DESIGN BASIS THREAT FOR OPERATING POWER REACTORS
(EA-03-086)

Section IV of the April 29, 2003, Order Requiring Compliance with Revised Design Basis Threat for Operating Power Reactors (EA-03-086) ("Order") states that, in accordance with 10 CFR §2.202, a licensee must submit an answer to the Order and may request a hearing on the Order within 35 days of the date of the Order. This letter constitutes the response of the Virgil C. Summer Nuclear Station (VCSNS) to the Order.

Section II of the Order states that "[i]n order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the guard training and qualification plans required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT."

VCSNS fully intends to comply with the Order, consistent with the further clarification provided by the Commission in response to the five DBT issues provided in the safeguards attachment to the letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003.

Because the NRC has used force-on-force testing as a standard by which compliance with the DBT was evaluated, VCSNS requests that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to safeguards contingency plans, security plans and security officer training and qualification plans.

Specifically, VCSNS needs a clear delineation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate licensee compliance with the Design Basis Threat?). Similarly, the success criteria for the force-on-force exercise needs to be established (e.g., is the criteria prevention of a release large enough to cause at least one prompt fatality, which would be consistent with the basis for risk-informing NRC regulations, or some other criteria?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee's ability to protect against the Design Basis

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Threat, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target which is counter to the Commission's Principles of Good Regulation.

To enable VCSNS to meet the compliance dates specified in the Order, those clarifications are needed as soon as possible, but if they cannot be provided by October 1, 2003, we respectfully request that the dates for submitting the revision to the security plan and safeguards contingency plan and for full implementation be extended on a day-for-day basis until such clarifications are provided.

VCSNS also hereby confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues or questions, and to integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plans, security plans and security officer training and qualification plans.

I certify under penalty of perjury that the foregoing is true and correct.

5/29/03

Executed on

Stephen A. Byrne

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Senior Vice President, Nuclear Operations

SBR/SAB/dr

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