



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

January 9, 2013

EA-12-240

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

SUBJECT: NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS
REPORT NO. 2-2012-011 AND NRC INSPECTION REPORT
05000348/2012008 AND 05000364/2012008

Dear Mr. Lynch:

This letter refers to an investigation initiated on February 2, 2012, by the U.S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The purpose of the investigation was to review the circumstances surrounding missed fire watches that occurred at Farley Nuclear Plant (FNP) between September and December 2011. The enclosure to this letter provides additional details concerning the investigation.

Based on the results of this investigation, two apparent violations of NRC requirements were identified and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The Enforcement Policy is located on the NRC's Web site at www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html.

The apparent violations occurred between September and December 2011 when multiple Williams Plant Service's (WPS) employees deliberately failed to complete fire watch rounds required to ensure that Farley remained in compliance with 10 CFR 50.48, Fire Protection. In addition, these same employees falsified fire watch logs by annotating that hourly fire watches were completed when in fact they had not been performed.

The apparent violations are summarized as follows:

10 CFR 50.48, *Fire Protection*, requires that a licensee must have a fire protection plan that, in part, outlines the plans for fire protection, fire detection, suppression capability, and limitation of fire damage. Site Procedure FNP-0-SOP-0.4 requires that hourly fire watches be conducted for degraded fire barriers or increase in combustibles in an area. Contrary to the above, from September 2011 through December 2011, roving fire watch patrols assigned to monitor specific fire protection (FP) areas with degraded barriers for indication of the presence of a fire, in the non-radiological portions of the plant, failed to

conduct hourly fire watch patrols as required by FNP-0-SOP-0.4. For administrative tracking purposes, this issue will be tracked as apparent violation (AV), AV 05000348, 05000364/2012008-01: Failure to Perform Required Fire Watches.

10 CFR 50.9(a), *Completeness and Accuracy of Information*, states, in part, that information required by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects. Farley Administrative procedure FNP-0-AP-39, "Fire Patrols and Watches," Section 5.4, "Hourly Fire Watch Patrols," states: "Document the performance of the fire watch in accordance with forms similar to Figures 1 as applicable." Contrary to the above, from September 2011 through December 2011, the licensee maintained records of hourly fire watch patrols that were not complete and accurate in all material respects. Specifically, fire watch patrol documentation as required by FNP-0-AP-39 annotated that hourly fire watches were completed when in fact such fire watches had not been performed. The hourly fire watch patrol data is material to the NRC in that it provides sufficient evidence of compliance with regulatory requirements. For administrative tracking purposes, this issue will be tracked as apparent violation (AV), AV 05000348, 05000364/2012008-02: Falsification of Records.

Before the NRC makes its enforcement decision, we are providing you an opportunity to (1) respond to the apparent violations addressed in this inspection report within 30 days of the date of this letter, (2) request a Pre-decisional Enforcement Conference (PEC), or (3) request Alternative Dispute Resolution (ADR). If a PEC is held, it will be closed to public observation in accordance with the NRC Enforcement Policy because the findings are based on an NRC Office of Investigations report that has not been publicly disclosed. If you decide to participate in a PEC or pursue ADR, please contact Frank Ehrhardt at (404) 997-4611 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.

If you choose to provide a written response, it should be clearly marked as a "Response to Apparent Violations in Inspection Report 05000348, 364/2012008; EA-12-240," and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation; (2) the corrective steps that have been taken and the results achieved; including control of contractor activities; (3) the corrective steps that will be taken to avoid further violations; 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. 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.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violations and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether the violations occurred, information to determine the significance of the violations, information related to the identification of the violations, and information related to any corrective actions taken or planned to be taken, including control of contractor activities. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations.

In lieu of a PEC, you may also request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts outside of court using a neutral third party. 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 ADR 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.

Please be advised that the number and characterization of the apparent violations described herein 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.

Please contact Mr. Frank Ehrhardt, Chief, Projects Branch 2, Division of Reactor Projects, at (404) 997-4611, within 10 days of the date of this letter to notify the NRC of your intended response. For administrative purposes, this letter is issued as NRC Inspection Report 05000348, 364/2012008.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," after completion of enforcement related activities in this matter, a copy of this letter and enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). To the extent possible, if you choose to respond, 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 you have any questions, please call Frank Ehrhardt at (404) 997-4611.

Sincerely,

/RA/

Richard P. Croteau, Director
Division of Reactor Projects

Enclosure: Factual Summary Office of Investigation Report No. 2-2012-011

cc w/encl: (See page 4)

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cc w/encl: (See page 4)

☐ PUBLICLY AVAILABLE ☒ NON-PUBLICLY AVAILABLE ☒ SENSITIVE ☐ NON-SENSITIVE

ADAMS: ☐ Yes ACCESSION NUMBER: ☒ SUNSI REVIEW COMPLETE ☒ FORM 665 ATTACHED

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SIGNATURE	RPC /RA/	FJE /RA/	CFE /RA/			Via email	Via email
NAME	RCroteau	FEhrhardt	C. Evans	SPrice	SSparks	OGC	OE
DATE	01/09/2013	01/08/2013	01/08/2013			01/08/2013	01/08/2013
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

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LETTER 2012008.DOCX

DOCUMENT NAME: G:\DRPI\RPB2\FARLEY\REPORTS\2012\IR\2012008\FARLEY CHOICE

T. Lynch

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Letter to T. A. Lynch from Richard P. Croteau dated January 9, 2013

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05000348/2012008 AND 05000364/2012008

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FACTUAL SUMMARY

OFFICE OF INVESTIGATIONS REPORT NO. 2-2012-011

On February 2, 2012, an investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II (RII), to determine whether contract fire watch personnel employed at the Farley Nuclear Plant deliberately falsified fire watch records. The NRC investigation was prompted after receiving information from officials at the Farley Nuclear Plant relative to several Williams Plant Services (WPS) employees who falsified fire watch records from September through December 2011.

The NRC's OI investigation, and subsequent NRC staff review, concluded that on multiple occasions from September through December 2011, at least four employees of WPS willfully failed to perform fire watches and subsequently falsified fire watch records to indicate that fire watches had been completed. This conclusion was based on a comparison between WPS employee badge access transaction records and computerized entries that WPS employees made signifying that they had completed fire watches in certain areas of the plant. The WPS employees failed to complete the watches and falsified the records despite being knowledgeable of procedural requirements and responsibilities for performing fire watches as specified in Farley Administrative Procedure FNP-0-AP-39, "Fire Patrols and Watches."

Enclosure