



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

March 18, 2014

EA-14-022

Mr. Joseph Plona
Senior Vice President and
Chief Nuclear Officer
Detroit Edison Company
Fermi 2 - 210 NOC
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: FERMI POWER PLANT, UNIT 2
NRC SPECIAL INSPECTION REPORT 05000341/2013408
PRELIMINARY GREATER THAN GREEN FINDING

Dear Mr. Plona:

On February 6, 2014, the U.S. Nuclear Regulatory Commission (NRC) completed a Special Inspection at your Fermi Power Plant, Unit 2. The inspection was conducted to evaluate the circumstances surrounding Corrective Action Requirements Document (CARD) 13-27100, which stated, in part, that during a security assessment conducted by an independent contractor, an issue was discovered in which a vulnerability in a safeguards system could provide unmonitored access to the Protected Area. Specifically, the vulnerability could have allowed unauthorized or undetected access to the Protected Area for which sufficient compensatory measures had not been employed prior to discovery. Based on the risk and deterministic criteria specified in Management Directive 8.3, "NRC Incident Investigation Program," a special inspection was initiated in accordance with Inspection Procedure 93812, "Special Inspection." The Special Inspection Charter (i.e., Attachment 1 of the Enclosure) provides the basis and focus areas for the inspection.

The enclosed inspection report documents the inspection results, which were discussed with Mr. T. Connor and other members of your staff at the exit meeting on February 6, 2014. The determination that the special inspection would be conducted was made on October 8, 2013, and the onsite inspection commenced on December 16, 2013.

The inspection examined activities conducted under your license as they relate to security and compliance with the Commission's rules and regulations and with the conditions of your license. The inspectors reviewed selected procedures and records, observed activities, and interviewed personnel.

This report documents a finding that has the potential for a significance of greater than very low security significance (i.e., greater than Green as determined by the Physical Protection

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Significance Determination Process (SDP)). The final resolution of this finding will convey the increment in the importance to safety by assigning the corresponding color. The deficiencies were corrected or compensated for, and the plant was in compliance with applicable physical protection and security requirements within the scope of this inspection before the inspector left the site.

One cross-cutting aspect was assigned to this finding in the area of Human Performance, Change Management (H.3), because the licensee failed to use a systematic process for evaluating and implementing change so that nuclear safety (security) remains an overriding priority. If you disagree with the cross-cutting aspect assigned in this report, you should provide a written response within 30 days of the date of this inspection report, with the basis for your disagreement, to the Regional Administrator, Region III, and the NRC resident inspector at Fermi Power Plant.

The finding is also an apparent violation (AV) of NRC requirements and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy can be found at the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement>.

In accordance with Inspection Manual Chapter (IMC) 0609, Significance Determination Process, we intend to complete our evaluation using the best available information and issue our final determination of security significance within 90 days of the date of this letter.

The SDP encourages an open dialogue between the NRC staff and the licensee; however, the dialogue should not impact the timeliness of the staff's final determination. Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) present to the NRC your perspectives on the facts and assumptions used by the NRC to arrive at the finding and its significance at a Regulatory Conference; or (2) submit your position on the finding to the NRC in writing. If you decline to request a Regulatory Conference or submit a written response, your ability to appeal the final SDP determination can be affected, in that by not doing either, you fail to meet the appeal requirements stated in the Prerequisite and Limitation Sections of Attachment 2 of IMC 0609.

If you request a Regulatory Conference, it should be held within 30 days of the receipt of this letter and we encourage you to submit supporting documentation at least one week prior to the conference in an effort to make the conference more efficient and effective. In the interest of protecting sensitive, security-related information, if a Regulatory Conference is held, it will not be open for public observation. If you decide to submit only a written response, such submittals should be sent to the NRC within 30 days of the receipt of this letter. Because this issue involves security-related information, if you choose to respond, your response will not be made available electronically for public inspection in the NRC Public Document Room or the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.22. Otherwise, mark your entire response "Security-Related Information – Withhold Under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Please contact Richard Skokowski, Chief, Plant Support Branch at 630-829-9757 and in writing within 10 days of the date of this letter to notify the NRC of your intended response. If we have

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not heard from you within 10 days, we will continue with our significance determination and enforcement decision and you will be advised by separate correspondence of the results of our deliberations on this matter.

Since the NRC has not made a final determination in this matter, no Notice of Violation is being issued for this inspection finding at this time. In addition, please be advised that the number and characterizations of the AV described in the enclosed inspection report may change as a result of further NRC review.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records System (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). However, the material enclosed herewith contains 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 enclosure will not be made available electronically for public inspection in the NRC Public Document Room or from the PARS component of NRC's ADAMS. If you choose to provide a response and Security-Related Information is necessary to provide an acceptable response, please mark your entire response "Security-Related Information-Withhold from public disclosure under 10 CFR 2.390" 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.

Sincerely,

/RA/

Gary L. Shear, Director
Division of Reactor Safety

Docket No. 50-341
License No. NPF-43

Nonpublic Enclosure:
Inspection Report 05000341/2013408
w/Attachment:

1. Supplemental Information
2. Special Inspection Charter
3. IMC 0609 Appendix E – Part I,
Section 06.01 - "Significance Screen Process"

cc w/encl: N. Simonian, NSIR/DSO/DDSO/ST
E. Wharton, NSIR
T. Dimitriadis, RI
B. Desai, RII
M. Haire, RIV
K. Yale, State Liaison Officer, State of Michigan

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Letter to Joseph Plona from Gary L. Shear dated March 18, 2014

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