

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Mr. Thomas B. Saunders) IA-19-027

CONFIRMATORY ORDER
EFFECTIVE UPON ISSUANCE

I

Mr. Thomas B. Saunders held the position of Contracts and Procurement Director for Construction at Southern Nuclear Operating Company's (SNC's) Vogtle Electric Generation Plant (Vogtle), Units 3 and 4. SNC is the holder of Combined License Nos. NPF-91 (Vogtle Unit 3) and NPF-92 (Vogtle Unit 4) issued by the U.S. Nuclear Regulatory Commission (NRC), pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 52, on February 10, 2012.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on August 15, 2019 in Rockville, Maryland.

II

On November 20, 2018, the NRC Office of Investigations (OI), issued a report (2-2017-032) related to SNC, Vogtle Units 3 and 4, currently under construction. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR Part 52.5, "Employee Protection," and determined that the apparent violation of 10 CFR 52.5 was willful. A mechanical planner at Vogtle was first employed by Black Diamond Services, a contractor for Chicago Bridge and Iron. During this first period of employment, which spanned part of 2014 and 2015, the employee raised numerous safety-related welding and module fit-up concerns.

The individual returned to Vogtle on July 11, 2017. On July 13, 2017, Mr. Saunders had an SNC official remove the mechanical planner from the site, an apparent violation of 10 CFR 52.5, "Employee protection." At the time he had the mechanical planner removed, Mr. Saunders was aware that the mechanical planner had engaged in protected activity by raising numerous safety-related welding and module fit-up concerns. The mechanical planner was terminated from employment on July 14, 2017.

By letter dated June 12, 2019, the NRC notified Mr. Saunders of the results of the investigation with an opportunity to: (1) attend a predecisional enforcement conference or (2) to participate in an ADR mediation session in an effort to resolve this this concern.

In response to the NRC's offer, Mr. Saunders requested the use of ADR. On August 15, 2019, the NRC and Mr. Saunders participated in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This CO is issued pursuant to the agreement reached during the August 15, 2019, ADR mediation session.

III

During the ADR session, Mr. Saunders and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

1. Mr. Saunders acknowledges that a violation of 10 CFR 52.5 (Employee Protection) occurred.
2. Within 120 days from the issuance of the CO, Mr. Saunders will present as an individual or participate in a panel discussion, as applicable, lessons learned regarding the importance of employee protection (to include contractors), why it is necessary to ensure proper follow-up in response, and proper follow-up when evaluating any potentially adverse personnel decisions. Mr. Saunders will submit the presentation materials to the

Director, Office of Enforcement, for comment and approval prior to making these presentations. Specifically, Mr. Saunders will present at:

- a. Southern Nuclear's new employee orientation training on Employee Protection based on Mr. Saunders' personal case study and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

- b. One corporate and one site level leadership meeting at Southern Nuclear on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

In the event that Southern does not agree to have Mr. Saunders make these presentations, he will inform the Director, Office of Enforcement.

3. Within one year of the issuance of the CO, Mr. Saunders will make presentations at five industry forums, including the following:
 - ANS (American Nuclear Society)
 - INPO (Institute of Nuclear Power Operations)
 - NAYGN (North American Young Generation in Nuclear)
 - WIN (Women in Nuclear)

Mr. Saunders will select a fifth industry forum, and will notify the Director, Office of Enforcement, for review and approval of the forum. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and

approval prior to making these presentations.

Mr. Saunders will also submit an article for publication to an industry forum. Prior to submission to the industry forum, Mr. Saunders will submit the article to the Director, Office of Enforcement, for review and approval.

4. If asked by the NRC, Mr. Saunders will present at the annual Regulatory Information Conferences Mr. Saunders' personal case study, and honestly answer their questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department) which is the subject of this agreement.

The NRC agrees to not pursue any further enforcement action in connection with the NRC's June 12, 2019 letter to Mr. Thomas B. Saunders.

On October 1, 2019, Mr. Saunders consented to issuing this CO with his commitments, as described in Section V below. Mr. Saunders further agreed that this CO is to be effective upon issuance, the agreement memorialized in this CO settles the matter between the parties, and that he has waived his right to a hearing.

IV

I find that Mr. Saunders' commitments as set forth in Section V below, 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 Mr. Saunders' commitments be confirmed by this CO. Based on the above and Mr. Saunders' consent, this CO is effective upon issuance.

V

Accordingly, pursuant to sections 103, 161b, 161i, 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 52, IT IS HEREBY ORDERED, EFFECTIVE UPON THE DATE OF ISSUANCE, THAT:

1. Within 120 days from the issuance of the CO, Mr. Saunders will present as an individual or participate in a panel discussion, as applicable, lessons learned regarding the importance of employee protection (to include contractors), why it is necessary to ensure proper follow-up in response, and proper follow-up when evaluating any potentially adverse personnel decisions. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval 14 days prior to making these presentations. Specifically, Mr. Saunders will present at:
 - a. Southern Nuclear's new employee orientation training on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow the STAR protocol, i.e., Stop, Think, Act, Review; seek advice from management; consult with the applicable human resources organization (HR); and engage with the consolidated concerns department).
 - b. One corporate and one site level leadership meeting at Southern Nuclear on Employee Protection, based on Mr. Saunders' personal case study, and will honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department).

In the event that Southern does not agree to have Mr. Saunders make these presentations, he will inform the Director, Office of Enforcement.

2. Within one year of the issuance of the CO, Mr. Saunders will make presentations at five industry forums, including the following:
 - ANS (American Nuclear Society)
 - INPO (Institute of Nuclear Power Operations)
 - NAYGN (North American Young Generation in Nuclear)
 - WIN (Women in Nuclear)

Mr. Saunders will select a fifth industry forum, and will notify the Director, Office of Enforcement, for review and approval of the forum. If any of the forums listed above do not allow Mr. Saunders to present, Mr. Saunders will notify the Director, Office of Enforcement with a proposed substitute. Mr. Saunders will submit the presentation materials to the Director, Office of Enforcement, for comment and approval 14 days prior to making these presentations.

3. Mr. Saunders will also submit an article for publication to an industry forum. 14 days prior to submission for publication, Mr. Saunders will submit the article to the Director, Office of Enforcement, for review and approval.
4. If asked by the NRC, Mr. Saunders will present at one of the annual Regulatory Information Conferences Mr. Saunders' personal case study, and honestly answer questions about what he failed to do (follow STAR, seek advice from management, consult with HR, and engage with the consolidated concerns department) which is the subject of this agreement.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Saunders of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than Mr. Saunders, may request a hearing within thirty (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 (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's 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 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 (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory

document (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 the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is 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's 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 document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. 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 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, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents 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 the 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. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law

requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than Mr. Saunders) 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 hearings. 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.

For the Nuclear Regulatory Commission

/RA/

George A. Wilson, Director
Office of Enforcement
Nuclear Regulatory Commission

Dated this 21st day of October, 2019